The Reach of EU Disability Norms in Eastern Partnership Countries

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Plagiarism Declaration

I hereby certify that this material, which I now submit for assessment on the programme of study leading to the award of PhD in Law and Criminology, is entirely my own work and has not been taken from the work of others save and to the extent that such work has been cited and acknowledged within the text of my work.

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Thesis Summary

Over the last few decades, the European Union (EU) has enhanced its role as a global actor in human rights broadly and disability rights, in particular. By concluding the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2010 and assuming an obligation to promote disability rights externally under Article 32 CRPD, the EU has increasingly integrated disability rights into its external action to support the implementation of the CRPD in third countries.

Among the broad spectrum of the EU's relations globally, this thesis focuses on the EU's role as a promoter of disability rights in the European Neighbourhood Policy (ENP) and, particularly in its Eastern dimension, the Eastern Partnership (EaP). Arguably, establishing an area of prosperity around its borders to ensure its own stability and security remains one of the EU's main objectives in its foreign policy. With this in mind, this thesis investigates the disability facet of the ever-evolving EU's cooperation with the EaP countries – Ukraine, the Republic of Moldova (Moldova), Georgia, the Republic of Armenia (Armenia), and the Republic of Azerbaijan (Azerbaijan). Through the lens of the 'global reach of EU law' as a theoretical framework, it discusses which mechanisms and tools stimulate the transfer of EU disability norms into the legal orders of partner countries. To this end, conditionality and socialisation, as the main modes of the EU's governance in the EaP, are scrutinised to investigate how they support the reach of EU disability norms. It then examines how EU disability norms transfer impacts the national legal orders of the EaP countries and presents a case study of Ukraine.

Abbreviations

AA/DCFTA	Association Agreement / Deep and Comprehensive Free Trade Area
ATU	Autonomous Territorial Unit
AVMSD	Audiovisual Media Services Directive
CA	Cooperation Agreement
CAAA	Common Aviation Area Agreement
CCP	Common Commercial Policy
CFDP	Common Foreign and Defence Policy
CFR	Charter of Fundamental Rights of the EU
CFSP	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
CoE	Council of Europe
CORLEAP	Conference of the Regional and Local Authorities for the Eastern Partnership
CSDP	Common Security and Defence Policy
CSF	Civil Society Forum
CUA	Custom Union Agreement
DAC	Development Assistance Committee
EAGGF	European Agricultural Guidance and Guarantee Fund
EDF	European Disability Forum
EEA	European Environment Agency
EEAS	European Union External Action Service
EEC	European Economic Community
EESC	European Economic and Social Committee

EIDHR	European Instrument for Democracy and Human Rights
ENI	European Neighbourhood Instrument
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood and Partnership Instrument
EPF	European Peace Facility
EU	European Union
EUAM	European Union Advisory Mission in Ukraine
EUMA	European Union Mission in Armenia
EUMM	European Union Monitoring Mission in Georgia
FTA	Free Trade Agreement
GSP	Generalised System of Preferences
GSP +	Generalised System of Preferences Plus
HR/VP	High Representative for the Common Foreign and Security Policy and Vice President of the Commission
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICF	International Classification of Functioning
ILC	International Law Commission
ILO	International Labour Organization
ITC	International Trade Centre
LGBTIQ	Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer
MDG	Millennium Development Goal(s)
MIP	Multiannual Indicative Programme

MoU	Memorandum of Understanding
NATO	North Atlantic Treaty Organization
NDICI	Neighbourhood, Development and International Cooperation Instrument
NIP	National Indicative Programme
NIS	New Independent States
NPBCU	National Public Broadcasting Company of Ukraine
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commission for Human Rights
OSCE	Organization for Security and Co-operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PCA	Partnership and Cooperation Agreement
PCD	Policy Coherence for Development
PGG	Partnership for Good Governance
PP	Partnership Priorities
QRM	Quick Response Mechanism
RM	Republic of Moldova
SAA	Stabilisation and Accession Agreement
TACIS	Technical Assistance to the Commonwealth of Independent States
TAIEX	Technical Assistance and Information Exchange
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UDHR	Universal Declaration of Human Rights

UN	United Nations
UNDP	United Nations Development Programme
USSR	Union of Soviet Socialist Republics
VAT	Value Added Tax
VLAP	Visa Liberalisation Action Plan
WTO	World Trade Organization

Introduction

1. Background and Overarching Aim of the Thesis

From its very foundation, the European Union (EU) has been developing an 'increasingly active, visible and self-conscious role'[1] in its relations with the wider world. Since the landmark case *Commission v Council* (ERTA),[2] which recognised the implied powers of the EU in external action, EU external relations have evolved into a fully-fledged field of EU law,[3] attracting sustained and growing scholarly attention.

By acquiring an international legal personality via Article 47 Treaty on European Union (TEU)[4] and being endowed with the specific objectives to pursue in external action via Articles 3(5) and 21 TEU, the EU has consolidated its status of a global actor in the international arena, increasingly extending 'its global reach through multiple policies and international cooperation'.[5] While the EU's global actorness revolved initially around economic areas,[6] Articles 3(5) and 21 TEU have mandated it to pursue broader objectives, beyond the economic domain, including upholding, advancing, and protecting human rights in its external relations.

Among the broad spectrum of EU external relations in the human rights field, its cooperation with neighbouring countries in the framework of the European Neighbourhood Policy (ENP) holds a distinct place. Specifically, Article 8 TEU mandates the EU to 'develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union', therefore conferring onto the EU a sort of 'transformative

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[1] Marise Cremona, 'Introduction' in Marise Cremona (ed), *Developments in EU External Relations Law* (Oxford University Press 2008) 8.
[2] Case 22/70 *Commission v Council* (ERTA) [1971] ECLI:EU:C:1971:32.
[3] Graham Butler and Ramses A Wessel, 'EU External Relations Law and Navigating the Case Law of the Court of Justice of the European Union' in Graham Butler and Ramses A Wessel (eds), *EU External Relations Law: The Cases in Context* (Hart 2022) 2.
[4] Consolidated Version of the Treaty on European Union [2012] OJ C326/13.
[5] Areg Navasartian Havani, 'Carrots or Sticks? How the European Union Aims to Achieve Respect for Fundamental Rights Beyond its Borders' (3 CLEER Papers, 2022) 73.
[6] Jan Wouters, Dominic Coppens and Bart De Meester, 'The European Union's External Relations after the Lisbon Treaty' in Stefan Griller and Jacques Ziller (eds), *The Lisbon Treaty: EU Constitutionalism Without a Constitutional Treaty?* (Springer 2008) 146.

mandate' in relation to neighbouring countries.[7] In essence, the ENP framework envisages extensive cooperation across multiple areas of EU external relations, including human rights, upon which '[t]he EU's own stability is built'.[8]

As Cremona argues, the ENP allows the EU to 'address common problems and shared threats through law',[9] which often results in the 'external reach of EU law'.[10] In that regard, Schimmelfennig asserts that the ENP has become a key driver for the development of the EU external governance concept,[11] which 'seeks to capture the expanding scope of EU rules beyond borders'.[12] While the expansion of EU norms has been widely studied in economically oriented domains,[13] the human rights dimension of such external reach has received comparatively limited scholarly attention.[14] Looking in particular at disability rights – conceived of as a broad category of human rights pertaining to persons with disabilities – the literature discussing the reach of EU norms related to these rights (hereafter 'EU disability norms') in partner countries is

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[7] Christophe Hillion, 'Anatomy of EU Norm Export Towards the Neighbourhood: The Impact of Article 8 TEU' in Peter Van Elsuwege and Roman Petrov (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union*: *Towards a Common Regulatory Space?* (Routledge 2014) 19.

[8] Commission and High Representative of the Union for Foreign Affairs and Security Policy, 'Towards a New European Neighbourhood Policy: Review of the European Neighbourhood Policy' JOIN(2015) 50 final 2.

[9] Marise Cremona, 'Extending the Reach of EU Law: The EU as an International Legal Actor' in Marise Cremona and Joanne Scott (eds), *EU Law Beyond EU Borders: The Extraterritorial Reach of EU Law* (Oxford University Press 2019) 65.

[10] Ibid 110.

[11] Frank Schimmelfennig, 'Beyond Enlargement: Conceptualizing the Study of the European Neighbourhood Policy' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 18.

[12] Sandra Lavenex and Frank Schimmelfennig, 'EU Rules Beyond EU Borders: Theorizing External Governance in European Politics' (2009) 16(6) Journal of European Public Policy 791, 791.

[13] See Elaine Fahey, *The EU as* a *Global Digital Actor: Institutionalising Global Data Protection, Trade, and Cybersecurity* (Cambridge University Press 2022); Natasha Georgiou, 'The External Dimension of the EU Internal Market and its Effect on the Russian Gas Sector: An Analysis of the Extraterritoriality of EU law and its Global Reach in the Energy Sector' (2023) 48(1) European Law Review 3; Petr Michal, 'Approximation of Competition Laws: Lessons Learned in Central Europe' in Nadežda Šišková (ed), *From Eastern Partnership to the Association: A Legal and Political Analysis* (Cambridge Scholars Publishing 2014); Edward Stoddard, 'EU Energy Security Policy in the Eastern Neighbourhood: Towards Europeanisation?' in Paul Flenley and Michael Mannin (eds), *The European Union and its Eastern Neighbourhood* (Manchester University Press 2018).

[14] See Jan Orbie and Lisa Ann Tortell (eds), *The European Union and the Social Dimension of Globalization: How the EU Influences the World* (Routledge 2009); Hélène Lambert, Jane McAdam and Maryellen Fullerton (eds), *The Global Reach of European Refugee Law* (Cambridge University Press 2013); Laure Delcour, 'Multiple External Influences and Domestic Change in the Contested Neighbourhood: The Case of Food Safety' (2016) 57(1) Eurasian Geography and Economics 43.

underdeveloped. As yet, there has been no attempt to discuss the reach of EU disability norms in the EaP countries.

This PhD thesis seeks to fill this gap by carrying out a comprehensive study on how EU disability norms reach the legal orders of the Eastern Partnership (EaP) countries, an Eastern dimension of the ENP. The EaP includes six countries, five of which are the subject of research in this thesis: Ukraine, the Republic of Moldova (Moldova), Georgia, the Republic of Armenia (Armenia), and the Republic of Azerbaijan (Azerbaijan). As the Republic of Belarus suspended its participation in the EaP in 2021, it will not be included in the analysis.[15] The fact that EaP countries are (or might be) considered as potential candidates for EU membership provides a broader range of cooperation tools for EU disability norms transfer compared to the 'Southern dimension'[16] of the ENP, whose countries are not (currently) eligible for membership. As such, the EaP countries possess a larger 'normative arsenal' for investigating this process.

In doing so, this PhD thesis interrogates the EU's actorness as a global disability rights advocate.[17] This actorness has emerged relatively recently, following the conclusion of the United Nations Convention on the Rights of Persons with Disabilities (CRPD)[18] by the EU (alongside its Member States) in 2010.[19] Notably, as it will be discussed further in this thesis, the CRPD has triggered a quantitative and qualitative shift in how the EU addresses disability rights.[20] While developing legislation on disability rights to implement CRPD obligations, the EU has embraced a rights-based approach

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[15] 'EaP CSF Steering Committee statement on the decision made by Belarusian authorities to suspend Belarus' participation in the Eastern Partnership and the Readmission agreement' (Eastern Partnership Civil Society Forum, 08 July 2021) <https://eap-csf.eu/project/sc-statement-on-the-suspension-of-belarus-participation-in-the-eap/> accessed 29 September 2025.

[16] The 'Southern dimension' of the ENP includes ten countries not eligible for membership in the EU: Algeria, Israel, Lebanon, Morocco, Syria, Egypt, Jordan, Libya, Palestine, Tunisia.

[17] Commission, 'Union of Equality: Strategy for the Rights of Persons with Disabilities 2021–2030' COM(2021) 101 final 5.

[18] Convention on the Rights of Persons with Disabilities, Resolution adopted by the General Assembly on 13 December 2006, entry into force 3 May 2008, A/RES/61/106.

[19] Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities [2010] OJ L 23/35.

[20] Delia Ferri, 'The UN Convention on the Rights of Persons with Disabilities in the EU Legal Framework and the Development of EU Disability Policies after 2020: What is Coming is Better than What is Gone?' in Michael Ganner and others (eds), *The Implementation of the UN Convention on the Rights of Persons with Disabilities in Austria and Germany* (Innsbruck University Press 2021) 208.

to disability, ie the view of disability as a result of the interaction of an individual with external barriers and the understanding of people with disabilities as rights holders (rather than objects of pity or charity).[21] With regard to external relations, the CRPD imposes an obligation to promote disability rights externally through international cooperation, which has prompted the EU to advocate for disability rights globally. In the context of the ENP, and by extension the EaP, the EU has pledged to pay 'particular attention'[22] to upholding disability rights in its engagement with partner countries,[23] thus, reinforcing its role as a 'watchdog' and promoter of disability rights in the neighbourhood.

In line with this overarching aim, this thesis introduces the intersection of EU external relations and EU disability law with the ambition to advance the state of the art and open up new avenues for research.

2. Objectives of the Thesis and Key Research Questions

This section expounds the objectives of this PhD thesis and key research questions. As noted above, it aims to investigate how the EU promotes disability rights in the EaP countries and which mechanisms and tools of EU external relations stimulate EU disability norms transfer in the legal orders of partner countries. No academic literature has yet discussed the reach of EU disability norms in the legal order of the EaP partners. Still, this phenomenon is treated as a hypothesis on the basis of the well-established literature on the global reach of EU law in other fields,[24] which constitutes the theoretical framework in this thesis, and based on scholarship confirming that 'export of EU values' is inherent to EU external relations.[25]

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[21] See subsection 3.2 of the Introduction. See also Delia Ferri, 'Disability Rights', *Elgar Encyclopedia of European Law (*Edward Elgar 2025 forthcoming).
[22] Commission, 'Union of Equality' (n17) 23.
[23] Ibid.
[24] See Elaine Fahey, *Global Reach of EU Law* (Routledge 2017); Marise Cremona and Niamh Nic Shuibhne, 'Integration, Membership, and the EU Neighbourhood' (2022) 59(SI) Common Market Law Review 155; Hélène Lambert, Jane McAdam and Maryellen Fullerton (eds), *The Global Reach of European Refugee Law* (Cambridge University Press 2013); Christopher Kuner, 'The Internet and the Global Reach of EU Law' in Marise Cremona and Joanne Scott (eds), *EU Law Beyond EU Borders: The Extraterritorial Reach of EU Law* (Oxford University Press 2019); Cremona, 'Extending the Reach of EU Law' (n9).
[25] Peter Van Elsuwege and Roman Petrov, 'Setting the Scene: Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union' in Peter Van Elsuwege and Roman Petrov (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union*: *Towards a Common Regulatory Space?* (Routledge 2014) 1.

Against this backdrop, this PhD thesis revolves around three main research questions:

1. How does the EU promote disability rights in the EaP countries?

2. What mechanisms and tools stimulate the transfer of EU disability norms into the legal orders of the EaP countries?

3. How does the transfer of EU disability norms impact the legal orders of the EaP countries?

To address the third research question, a case study of Ukraine will be undertaken. In doing so, this thesis will trace the transfer process, including the adoption of EU disability norms, to determine whether it advances the national legal framework protecting disability rights in Ukraine. Particularly, Ukraine was selected for the case study due to several considerations. First, among all EaP countries, Ukraine, alongside Moldova, has the highest degree of rule-transfer,[26] primarily driven by their membership aspirations. Sasse contends that these countries essentially determined 'the shape and pace of the ENP' due to their consistent strategic course towards membership,[27] as will be discussed in Part Three. Among these frontrunners in the EU acquis adoption, the EU's cooperation with Ukraine is uncontestably regarded as 'the most elaborate relationship under the ENP'.[28] According to Cremona, the Association Agreement with Deep and Comprehensive Free Trade Area (AA/DCFTA) concluded between the EU and Ukraine is 'the most far-reaching instrument of the ENP' and is often presented as evidence of the EU's normative power.[29] Described as a unique legal tool in many aspects,[30] the rule-transfer of the EU acquis under the AA/DCFTA, albeit not straightforward, is an 'instance of EU law operating beyond EU boundaries'.[31] Second, Ukraine constitutionalised its strategic course towards full

[26] Tom Casier, 'To Adopt or Not to Adopt: Explaining Selective Rule Transfer under the European Neighbourhood Policy' (2011) 33(1) Journal of European Integration 37, 40.
[27] Gwendolyn Sasse, 'The ENP and the EU's Eastern Neighbours: Ukraine and Moldova as Test Cases' in Richard G Whitman and Stefan Wolff (eds), *The European Neighbourhood Policy in Perspective: Context, Implementation and Impact* (Palgrave Macmillan 2010) 181.
[28] Olga Burlyuk, 'Variation in EU External Policies as a Virtue: EU Rule of Law Promotion in the Neighbourhood' (2015) 53(3) Journal of Common Market Studies 509, 511.
[29] Marise Cremona, 'Extending the Reach of EU Law' (n9) 99.
[30] Roman Petrov, Guillaume Van der Loo and Peter Van Elsuwege, 'The EU–Ukraine Association Agreement: A New Legal Instrument of Integration Without Membership?' (2015) 1 Kyiv-Mohyla Law and Politics Journal 1, 2.
[31] Marise Cremona, 'Extending the Reach of EU Law' (n9) 99.

membership in the EU[32] and, in doing so, formally anchored its commitment to European values and the European integration path.

3. Conceptual Scope

After having outlined the research questions that this PhD thesis aims to answer, this section presents key concepts that inform the analysis conducted.

3.1. EU Disability Norms

This PhD thesis employs the term 'EU disability norms' to denote the body of provisions related to the promotion of disability rights. The notion of 'norms' is deliberately adopted to encompass not only the broad set of principles, rules, and legal standards that inform the EU's external action in the field of disability (what has been defined as EU disability law)[33] but also the values and principles underpinning its external relations by virtue of Articles 3(5) and 21 TEU. The term 'EU disability norms' is understood to encompass the standards and principles of the CRPD in their entirety, which the EU has endorsed and is obliged to promote externally under Article 32 CRPD. Notably, the EU should also externally promote the realisation of the CRPD in its entirety by making use of all its powers and policies, even in areas where it only enjoys supporting competence or in areas that, for the most part, remain under the remit of the Member States and therefore does not possess a developed 'normative arsenal'.

Within this PhD thesis, EU disability law is understood as being part of EU disability norms. This thesis builds on the literature that has investigated EU disability law as a standalone field of EU law and an academic discipline.[34] To this end, EU disability law is defined as a field of law that encompasses a legal framework comprising disability-specific laws, legal acts, and policies, as well as disability-related

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[32] Article 102 Constitution of Ukraine.

[33] Delia Ferri and Andrea Broderick, 'Introduction to the Research Handbook on EU Disability Law', in Delia Ferri and Andrea Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020) 2.

[34] See Delia Ferri and Andrea Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020); Delia Ferri and Eva S Krolla (eds), *Actors and Roles in EU Disability Law* (Hart 2025); Anna Lawson, 'The UN Convention of the Rights of Persons with Disabilities and European Disability Law: A Catalyst for Cohesion?' in Oddný Mjöll Arnardóttir and Gerard Quinn (eds), *The UN Convention on the Rights of Persons with Disabilities: European and Scandinavian Perspectives* (Martinus Nijhoff Publishers 2009).

provisions.[35] It encompasses both 'traditional social policy' measures[36] and non-discrimination and equality laws and policies,[37] advancing the human rights of persons with disabilities. As it will be discussed later in this thesis, two key milestones catalysed the development of EU disability law: the adoption of the Treaty of Amsterdam in 1999 and the conclusion of the CRPD by the EU in 2010. They significantly influenced the development of disability-related EU acquis and the emergence of a self-standing field as EU disability law.[38] The spread of provisions promoting disability rights particularly derives from the general obligations of the EU to implement the CRPD. In particular, under Article 4(c) CRPD, disability rights have to be taken into account in all policies and programmes. Ferri and Broderick have identified various principal challenges currently confronting EU disability law. [39] Among those, the inconsistency in the application and interpretation of certain CRPD concepts – such as the social-contextual conceptualisation of disability – within EU law[40] is also relevant for this PhD thesis. This inconsistency raises concerns regarding the EU's ability to fully integrate the obligations arising under the CRPD into EU disability law and, in turn, questions the EU's ability to be a global advocate for disability rights. Chapter VI addresses this issue in detail by examining whether the EU, through the transfer of EU disability norms, advances the legal framework promoting disability rights in Ukraine.

3.2. Rights-Based Approach to Disability

This thesis adopts a rights-based approach to disability as a conceptual framework underpinning the choice of cases selected to analyse EU disability norms transfer. In particular, among the vast array of EU acquis that partner countries are obliged to adopt under cooperation framework agreements, as well as sectoral agreements with

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[35] Andrea Broderick and Delia Ferri, *International and European Disability Law and Policy: Text, Cases, and Materials* (Cambridge University Press 2019) 4.
[36] Anne Waldschmidt, 'Disability Policy of the European Union: The Supranational Level' (2009) 3(1) European Journal of Disability Research 8, 9.
[37] Anne Waldschmidt and Eva S Krolla, 'The Surge of EU Disability Policy: Historical Developments, Current Issues and the Role of Different Actors' in Delia Ferri and Eva S Krolla (eds), *Actors and Roles in EU Disability Law* (Hart 2025) 71.
[38] Delia Ferri and Andrea Broderick, 'Introduction to the Research Handbook on EU Disability Law' (n33) 2.
[39] Andrea Broderick and Delia Ferri, 'Conclusion to the Research Handbook on EU Disability Law' in Delia Ferri and Andrea Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020) 449.
[40] Ibid 450.

the EU, provisions on non-discrimination and equality with respect to persons with disabilities fall under scrutiny in Chapters V and VI.

The rights-based approach 'recognises the human rights of people with impairments and demands the removal of barriers to their participation and equality'[41] and informs social and human rights models of disability, which will be discussed separately in Chapter III. In line with the rights-based approach, disability is understood as exclusion 'resulting from societal barriers'.[42] Therefore, people with disabilities are viewed as right-holders,[43] whereas the EU and partner countries are considered as duty-bearers. The rights-based approach, constituting the ethos of the CRPD, is opposed to the needs-based perception of disability, which reduces people with disabilities to mere objects of charity or welfare.[44]

A rights-based approach to disability is exemplified, including but not exclusively through non-discrimination and equality laws and policies. Non-discrimination and equality constitute general principles underpinning the CRPD,[45] and are fundamental principles of EU law,[46] including EU disability law.

Non-discrimination and equality are complementary and mutually reinforcing concepts under the CRPD, which are considered as both overarching principles under Article 3 and rights under Article 5.[47] Equality is a broader concept encompassing non-discrimination alongside 'duty to recognise differences between people and to take

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[41] Mark Priestley, 'Disability Assessment, Mutual Recognition and the EU Disability Card' (PETI Committee, European Parliament, 2022) 25.
[42] Anna Lawson, 'The EU Rights-Based Approach to Disability: Some Strategies for Shaping an Inclusive Society' (2005) 6(4) International Journal of Discrimination and the Law 269, 272.
[43] Gerard Quinn and Teresia Degener, 'Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability' (United Nations Press, 2002).
[44] Theresia Degener, 'A New Human Rights Model of Disability' in Valentina Della Fina, Rachele Cera and Giuseppe Palmisano (eds), *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary* (1st edn, Springer 2017) 42.
[45] Lisa Waddington, 'The European Union and the United Nations Convention on the Rights of Persons with Disabilities: A Story of Exclusive and Shared Competences' (2011) 18(4) Maastricht Journal of European and Comparative Law 431, 436.
[46] Valentina Della Fina, 'Article 3 [General Principles]' in Valentina Della Fina, Rachele Cera and Giuseppe Palmisano (eds), *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary* (1st edn, Springer 2017) 125.
[47] UN CRPD Committee, 'General Comment No 6 (2018) on Equality and Non-Discrimination' (2018) UN Doc CRPD/C/GC/6 3.

positive action',[48] which is regarded as an inclusive equality model under the CRPD. In particular, the introduction of reasonable accommodation as a form of discrimination, as well as recognition of multidimensional discrimination, supported the development of an inclusive equality model, going beyond the 'formal equality' conceptualisation limited to combating direct discrimination.[49] Inclusive equality requires positive actions that support equal protection and equal opportunities for persons with disabilities, as outlined in Article 5(1) CRPD.[50] To achieve this, reasonable accommodation, accessibility, and individual support are often required to ensure equal protection.[51] Therefore, throughout this thesis, the examination of the EU's legal and policy framework, as well as that of partner countries, is grounded in the understanding that equality and non-discrimination serve as key benchmarks for the analysis.

4. Theoretical Framework

After having explained the conceptual scope underpinning this thesis, this section focuses on the theoretical framework.

4.1. Global Reach and Effects of EU Law

This PhD thesis employs the 'global reach and effects of EU law' concept as a theoretical framework to investigate the spread of EU disability norms in the EaP countries. This choice is grounded in both conceptual and methodological considerations.

The evolution of the EU 'as a global regulatory power'[52] through the expansion of EU law beyond its borders increasingly impacts the legal orders of partner countries. Lavenex notes that the EU's direct promotion of its rules is pervasive within the ENP framework,[53] thereby providing a compelling context for this thesis. Simultaneously, the globalisation of disability rights, boosted by the ratification of the CRPD

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[48] Daniel Moeckli, 'Equality and Non-Discrimination' in Daniel Moeckli and others (eds), *International Human Rights Law* (4th edn, Oxford University Press 2022) 152.
[49] UN CRPD Committee, 'General Comment No 6' (n47) 3.
[50] Ibid.
[51] Ibid 4.
[52] Joanne Scott, 'Extraterritoriality and Territorial Extension in EU Law' (2014) 62(1) American Journal of Comparative Law 87.
[53] Sandra Lavenex, 'The Power of Functionalist Extension: How EU Rules Travel' (2014) 21(6) Journal of European Public Policy 885, 890.

worldwide, imposed obligations on the Parties to the CRPD to actively promote its objectives globally.

Within this thesis, the 'global reach and effects of EU law', introduced by Fahey,[54] is understood as a more advanced concept of the 'global reach of EU law',[55] offering a more nuanced approach to studying the transfer of EU rules beyond its borders from a methodological perspective. Specifically, the 'global reach and effects of EU law' concept provides a methodological lens that focuses on the content, process, and form to develop a 'richer perspective'[56] of the rule-making. To this end, it engages with both internal and external dimensions of EU law. The 'global reach and effects of EU law' allows for a more thorough examination of the effects of EU law on the legal orders of other countries. Although from the conceptual point of view both notions seem to refer to the same phenomenon, ie 'variety of situations where the EU acts as a 'rule-exporter' to […] countries, organisations and associations.'[57] Hence, under this thesis, the terms 'global reach and effects of EU law' and 'global reach of EU law' will be used interchangeably except where methodological differences need to be highlighted.

As a complex and multi-faceted phenomenon,[58] the global reach of EU law can manifest in different actions, measures, and approaches taken by the EU. However, considering the objectives of this thesis and the area under investigation, particularly disability rights, this PhD thesis does not engage with such phenomena enabling the global reach of EU law as extraterritoriality, territorial extension, and the Brussels effect.[59] The main reason is grounded in the fact that they are all associated with 'the effects of unilateral legislative instruments and regulatory action beyond the EU's borders'.[60] Extraterritoriality primarily refers to the instances where the EU's internal rules display external effects in connection with its own citizens rather than

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[54] See Fahey, *Global Reach of EU Law* (n24).
[55] See Joanne Scott, 'The Global Reach of EU Law' in Marise Cremona and Joanne Scott (eds), *EU Law Beyond EU Borders: The Extraterritorial Reach of EU Law* (Oxford University Press 2019).
[56] Fahey, *Global Reach of EU Law* (n24) 150.
[57] Elaine Fahey, 'The Global Reach of EU Law and Brexit: Between Theory and Praxis?' (2017) 20(1) Irish Journal of European Law 16, 17.
[58] Fahey, *Global Reach of EU Law* (n24) 5.
[59] More on extraterritoriality and territorial extension of EU law see Joanne Scott, 'The Global Reach of EU Law' (n55) 22.
[60] Marise Cremona and Joanne Scott, 'Introduction: EU Law Beyond EU Borders' in Marise Cremona and Joanne Scott (eds), *EU Law Beyond EU Borders* (Oxford University Press 2019) 2.

territories.[61] The application of the measures by the EU to regulate the foreign conduct of citizens is an example of extraterritoriality.[62] However, apart from this, the instances of extraterritoriality of EU law remain to be 'exceptionally rare'.[63] Territorial extension of EU law is applicable when a certain EU's measure is 'triggered by a territorial connection but in applying the measure the regulator is required […]to take into account conduct or circumstances abroad'.[64] However, according to Scott, the EU actions that give rise to territorial extension predominantly pursue the EU's internal objectives.[65] Such an understanding of the territorial extension of EU law may at first glance resemble the Brussels effect, a concept coined by Bradford.[66] The Brussels effect similarly refers to the market-driven 'externalization of one jurisdiction's standards'.[67] However, as Scott argues, 'not all measures that give rise to territorial extension will give rise to the Brussels effect' and vice versa.[68] Both concepts display a strong unilateral character and an EU-centric perspective, rendering them less attractive for the disability rights examination under the EaP. The EaP is framed around bilateral cooperation framework agreements and is guided by the principle of 'shared ownership', which is primarily expressed through the joint institutional bodies responsible for the implementation of the agreements. While this thesis does not discount the possibility that EU disability norms may be transferred through the EU's unilateral actions under the EaP, to date, these actions have not had observable effects on the legal systems of the EaP countries.

In turn, this thesis adopts a broader perspective on the global reach of EU law. In line with Kuner, the global reach of EU law can be expressed through 'asserting EU values and interests in international organisations and the conclusion of international treaties; influencing the adoption of legislation in third countries; requiring compliance with EU legal standards outside its borders; and undertaking regulatory investigations in third countries'.[69] The EU's promotion of international law, to which it itself adheres,

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[61] Scott, 'The Global Reach of EU Law' (n55) 22.
[62] Ibid.
[63] Scott, 'Extraterritoriality and Territorial Extension in EU Law' (n52) 94.
[64] Ibid 90.
[65] Scott, 'The Global Reach of EU Law' (n55) 29.
[66] See Anu Bradford, *The Brussels Effect* (Oxford University Press 2020).
[67] Ibid 42.
[68] Scott, 'The Global Reach of EU Law' (n55) 32.
[69] Kuner, 'The Internet and the Global Reach of EU Law' (n24) 113.

in partner countries is argued to be one of the facets of the global reach of EU law.[70] Therefore, the global reach of EU law extends beyond the transfer of EU law stricto sensu to include the EU 'values-based acquis', which encompasses adherence to standards set out by the Council of Europe (CoE), the Organization for Security and Co-operation of Europe (OSCE),[71] or the United Nations (UN).

Hence, the thesis adopts the understanding that various EU actions, measures, and approaches directly or indirectly leading partner countries to adopt EU disability norms are perceived as instances of the global reach of EU law.

4.2. Operationalisation of the Global Reach and Effects of EU Law

Following the legal theorisation of the global reach and effects of EU law introduced by Fahey, this PhD thesis employs the concept of the 'rule-transfer' as a 'means or process by which EU legal rules are adopted in third country legal orders'.[72] Schimmelfennig and Sedelmeier argue that such an adoption envisages institutionalisation at the national level, which may involve the transfer of the EU acquis into national legislation together with the restructuring of national institutions, or the adjustment of national political practices to align with EU rules.[73] The concept of rule-transfer is conceived of as a complex process that extends beyond mere norm transposition. It encompasses a set of measures enabling a norm to take root in the national legal order of a partner country and ultimately be 'domesticated'. In this respect, the notion of 'adoption' within the rule-transfer process is employed in a broad sense, referring not only to the formal recognition of a norm in the national legal order but also to institutionalisation and further permeation in the wider legal system of a partner country. The dynamics of this process will be examined in Chapter VI.

Looking at *how* the rule-transfer occurs, this thesis acknowledges that categorising the mechanisms within the EaP that stimulate the rule-transfer process is not a

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[70] Cremona and Scott, 'Introduction: EU Law Beyond EU Borders'(n60) 2.
[71] Peter Van Elsuwege and Roman Petrov, 'Legal Perspectives on the Study of the European Neighbourhood Policy' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 111.
[72] Fahey, *Global Reach of EU Law* (n24) 8.
[73] Frank Schimmelfennig and Ulrich Sedelmeier, 'Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe' (2004) 11(4) Journal of European Public Policy 661, 670.

straightforward task, given the 'hybrid legal nature'[74] of the ENP and the inherent complexity of the rule-transfer process itself. Further, the scholarship in both political science and law tends to adopt a predominantly EU-centric lens in studying the rule-transfer, offering limited insight into equally significant facet of this process as 'adoption of EU law' by a partner country.[75] While there are numerous methodological frameworks in political science investigating various facets of the rule-transfer, legal scholarship in this area remains scarce. Giusti points to the importance of maintaining the balance and not to 'overemphasize' the normative facets of the EU's actorness, as this may lead to the 'underestimation of the power politics and geopolitical implications' under the EaP.[76] With this in mind, this PhD thesis embraces the view that the transfer of EU disability norms occurs via two key modes of the EU's external governance in the ENP: conditionality and socialisation.[77] In doing so, it supports the Casier's claim that 'the dominant explanation for rule-transfer [under the ENP] is related to conditionality'.[78] This categorisation is consistent with the one proposed by Kuner,[79] who distinguishes four mechanisms: emulation and learning; international negotiation; coercion and conditionality; and blocking recognition of third country legal measures.[80] The first two (emulation and learning, and international negotiation) can be subsumed under socialisation, and the other do connect to a broader understanding of conditionality. Finally, this thesis follows the methodology of Nowak and Podstawa[81] in categorising the tools through which conditionality and socialisation are channelled. This will be discussed in detail in Chapter I.

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[74] Bart Van Vooren and Ramses A Wessel, *EU External Relations Law: Text, Cases and Materials* (1st edn, Cambridge University Press 2014) 548.
[75] Elaine Fahey, *Global Reach of EU Law* (n24) 10.
[76] Serena Giusti, 'The EUs Transformative Power Challenged in Ukraine' (2016) 21(2) European Foreign Affairs Review 165, 166.
[77] See Lavenex and Schimmelfennig, 'EU Rules beyond EU Borders' (n12); Sandra Lavenex, 'On the Fringes of the European Peace Project: The Neighbourhood Policy's Functionalist Hubris and Political Myopia' (2017) 19(1) The British Journal of Politics and International Relations 63; Gwendolyn Sasse, 'The European Neighbourhood Policy: Conditionality Revisited for the EU's Eastern Neighbours' (2008) 60(2) Europe-Asia Studies 295.
[78] Tom Casier, 'To Adopt or Not to Adopt' (n26) 39.
[79] Kuner, 'The Internet and the Global Reach of EU Law' (n24) 130.
[80] Ibid 130–134.
[81] See Manfred Nowak and Karolina Podstawa, 'The EU's (Strategic) Use of Human Rights Tools and Instruments' in Jan Wouters and others (eds), *The European Union and Human Rights: Law and Policy* (Oxford University Press 2020).

4.3. Global Reach and Effects of EU Law v Legal Transplant

While this thesis focuses on rule-transfer, it acknowledges the long-standing theorisation and discussion of 'legal transplant'.[82] This concept is one of the most elaborated in comparative law, from both theoretical and methodological perspectives. The concept of legal transplant, as advanced by Watson,[83] was initially introduced to capture 'legal development in comparative legal scholarship'.[84] Watson defined a legal transplant as 'moving of a rule […] from one country to another, or from one people to another'.[85] As a tool for comparative analysis, it primarily focuses 'on finding similarities between different systems of law'.[86] This concept has been subject to considerable critique due to its narrow interpretation of law as separated from broader cultural, political, and sociological narratives.[87] Seemingly, it has not been applied within the ENP context and, within this thesis, does not fit for tracing EU disability norms transfer due to the following considerations.

First, as Fahey argues, the concept of legal transplant captures 'only haphazardly and micro-analytically specific instruments, rules or practices, less the overall process or overarching conduct of the EU and its relevance to global actions'.[88] In this regard, this thesis sustains that the legal transplant, as a comparative analysis tool, is insufficient for examining the transfer of EU disability norms – a complex and multidimensional process involving a multitude of actors. Secondly, legal transplant, as a process of borrowing rules from a 'dominant system',[89] accords the EU as the dominant system. At the same time, it is not always the case with respect to disability rights. For instance, as the EU lacks competence to legislate in areas related to the disability assessment system or deinstitutionalisation, it does not have formal legal rules that can be transplanted. Nonetheless, under the EaP, the EU has consistently

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[82] See Alan Watson, *Legal Transplants: An Approach to Comparative Law* (Scottish Academic 1974).
[83] Ibid 21.
[84] Justine K Collins, *Tracing British West Indian Slavery Laws: A Comparative Analysis of Legal Transplants* (Routledge 2022) 5.
[85] Watson, *Legal Transplants* (n82) 21.
[86] Collins, *Tracing British West Indian Slavery Laws'* (n84) 5.
[87] Pierre Legrand, 'The Impossibility of "Legal Transplants"' 4 Maastricht Journal of European and Comparative Law 111, 116.
[88] Fahey, *Global Reach of EU Law* (n24) 12.
[89] Cassandra Steer, 'Legal Transplants or Legal Patchworking? The Creation of International Criminal Law as a Pluralistic Body of Law' in Elies Van Sliedregt and Sergey Vasiliev (eds), *Pluralism in International Criminal Law* (Oxford University Press 2014) 50.

advocated – often successfully – for partner countries to reform their disability assessment systems and advance deinstitutionalisation, relying on the CRPD standards and Member States' practice. This action falls within the concept of the global reach of EU law.

5. Research Methodology

For the purpose of this thesis, the methodology is understood as the design of the research, which includes the choice of a discrete approach in line with its objectives, whereas methods refer to concrete activities that 'the researcher performs in order to answer the research questions'.[90] Both methodology and methods will be discussed in this section.

5.1. Legal Doctrinal Core of the Thesis

The methodology adopted in this PhD thesis is legal doctrinal, which is regarded as 'the most frequently applied, and professionally a more popular, method of legal research'.[91] This choice is guided by the nature of the research questions and the theoretical framework, which necessitate the collection and systematisation of legal knowledge into a coherent framework,[92] along with a critical legal analysis of the EU's internal and external relations in the disability area. The instruments supporting this analysis include legally-binding sources, such as legislation and international agreements, as well as non-binding instruments such as dialogues, action agendas, and international law norms.[93] The doctrinal methodology is particularly well suited to this inquiry as it involves 'a critical conceptual analysis of all relevant legislation and case law to reveal a statement of the law relevant to the matter under investigation'.[94] According to Hoecke and Ost, legal doctrine pursues two objectives: describing and 'systematising' the law.[95] By exploring the reach of EU disability norms in the EaP countries, this thesis contributes to the systematisation and understanding of EU

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[90] Sanne Taekema and Wibren Van der Burg, *Contextualising Legal Research: A Methodological Guide* (Edward Elgar 2024) 5.
[91] Padil Ishwara Bhat, *Idea and Methods of Legal Research* (Oxford University Press 2020) 143.
[92] Taekema and Van der Burg, *Contextualising Legal Research* (n90) 45.
[93] Cremona and Scott, 'Introduction: EU Law Beyond EU Borders' (n60) 2.
[94] Terry Hutchinson, 'Valé Bunny Watson? Law Librarians, Law Libraries and Legal Research in the Post-Internet Era' (2014) 106(4) Law Library Journal 579, 584.
[95] Mark Van Hoecke and François Ost, 'Legal Doctrine in Crisis: Towards a European Legal Science' (1998) 18(2) Legal Studies 197, 197.

disability law. Westerman describes doctrinal legal research as a type of research which relies 'on the legal system as the main supplier of concepts, categories and criteria'.[96] Consistent with this understanding, EU external relations law alongside EU law and EU disability law will constitute the main (though not the only) source of concepts for this thesis.

However, doctrinal legal research, while remaining undoubtedly 'the core legal method'[97] in legal scholarship, in a new age of research and academia,[98] might be too restrictive in some instances. In order 'to understand the law in the world', it is crucial to go beyond the legal doctrinal research and also study 'realities of all forms of law as social practices'.[99] Legal scholars tend more often to infuse non-doctrinal methods into the doctrinal research framework or to use the results of non-doctrinal methods, such as statistics or social science evidence, to broaden and enrich the normative scope of research.[100] Bhat similarly argues that the social nature of law calls for 'collaboration between doctrinal legal research and non-doctrinal legal research for a positive outcome'.[101] In line with this scholarly account, this thesis blends interdisciplinary approaches, incorporating theories from political science while also applying contextual legal analysis to enhance and support the doctrinal legal research.

5.2. Interdisciplinary Approaches

Some scholars argue that doctrinal legal research, as a process of 'acquisition of social knowledge', has an interdisciplinary nature.[102] Adams adopts an unorthodox view on this account, claiming that 'law has never been a fully autonomous discipline and legal research is ever interdisciplinary'.[103] They sustain that law has always, albeit often

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[96] Pauline Westerman, 'Open or Autonomous: The Debate on Legal Methodology as a Reflection of the Debate on Law' (2009) SSRN Electronic Journal 1, 7.
[97] Terry Hutchinson and Nigel Duncan, 'Defining and Describing What We Do: Doctrinal Legal Research' (2012) 17(1) Deakin Law Review 83, 85.
[98] Terry Hutchinson, 'The Doctrinal Method: Incorporating Interdisciplinary Methods in Reforming the Law' (2015) 8(3) Erasmus Law Review 130, 130.
[99] William Twining, 'Globalisation and Comparative Law' in Esin Örücü and David Nelken (eds), *Comparative Law: A Handbook* (Hart 2007) 77.
[100] See Hutchinson, 'The Doctrinal Method' (n98); Esin Örücü, 'Methodological Aspects of Comparative Law'' (2006) 8(1) European Journal of Law Reform 29.
[101] Bhat, *Idea and Methods of Legal Research* (n91) 143.
[102] Ibid 147.
[103] Maurice Adams, 'Doing What Doesn't Come Naturally. On the Distinctiveness of Comparative Law' in Mark Van Hoecke (ed), *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* (Hart 2011) 236.

unconsciously, applied methods and content of other disciplines.[104] Even though such a strong scholarly position may be subject to debate in certain contexts, the nature of this thesis, which is deeply intertwined with political science, inevitably necessitates the integration of interdisciplinary elements.

While the perspective of this PhD thesis remains legal, it builds on the extensive body of political science literature. Klink and Taekema distinguish four forms of interdisciplinary legal research depending on how determinative other disciplines are for the research.[105] In the first type, the research problem is defined within the legal field and insights from other disciplines serve 'only as a source of argument or inspiration'.[106] In the second type, the legal research questions cannot be addressed solely through law, hence input from other disciplines is required, though its role remains supportive.[107] This input serves as an essential contribution to the legal argument. The third type, defined as multidisciplinary, treats two disciplines as equally significant, and the transfer of knowledge between disciplines is 'two-way'.[108] The fourth type, interdisciplinary research, requires 'integration of disciplinary perspectives with transformative potential for the scholars methodological outlook'.[109] This thesis can be defined as a second type of research whereby political science literature is 'only one element in a larger legal framework', and the outcome of this thesis still lies within the legal domain.[110] In particular, insights from political science contribute to understanding the nature of EU external relations in the EaP as well as provide the concepts underpinning the rule-transfer. Political science thus remains an 'auxiliary discipline',[111] and theories rather than methodologies of this discipline will be used in this thesis.

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[104] Ibid.
[105] Bart Van Klink and Sanne Taekema, 'A Dynamic Model of Interdisciplinarity: Limits and Possibilities of Interdisciplinary Research into Law' (2008) 8(2) Tilburg Working Paper Series on Jurisprudence and Legal History 1, 18.
[106] Ibid 19.
[107] Ibid.
[108] Adams, 'Doing What Doesn't Come Naturally' (n103) 238.
[109] Mátyás Bódig, *Legal Doctrinal Scholarship: Legal Theory and the Inner Workings of a Doctrinal Discipline* (Edward Elgar 2021) 174.
[110] Van Klink and Taekema, 'A Dynamic Model' (n105) 19.
[111] Taekema and Van der Burg, *Contextualising Legal Research* (n90) 122.

This thesis also has an interdisciplinary component in that it conceives of EU disability norms as profoundly influenced by disability studies.[112] In this respect, it can be referred to as the first type of legal interdisciplinary research, as classified by Klink and Taekema. In doing so, it draws selectively on insights from human rights-based disability research[113] within disability studies to integrate key perspectives into the analysis of EU disability norms.

Given that the CRPD itself borrows from disability studies and the articulation of the social model of disability,[114] this thesis is inevitably underpinned by those. In fact, the CRPD, as it will be discussed later, is an integral part of the EU legal order and 'represents a benchmark against which EU disability initiatives must be assessed'.[115] In that regard, this thesis also embraces and promotes the CRPD principles, standards, and values.

In this connection, this thesis looks at how disability rights, guaranteed in the CRPD, can be best implemented and promoted through the rule-transfer. To this end, it engages with various areas of the CRPD, such as accessibility, anchored in Articles 9 and 21 CRPD, international cooperation under Article 32 CRPD, as well as general principles of the treaty under Article 4 CRPD. Hence, areas under investigation within this PhD thesis are anchored to the standards and principles of the CRPD, which serves as the world compass for understanding disability rights.

5.3. Law in Context

The interdisciplinary approach also supports the adoption of a 'law in context' approach. The latter would require taking 'a deep dive into non-doctrinal approaches, methods, conventions and literatures'[116] to advance legal knowledge. Taekawa and Van der Burg distinguish between two types of law in context research depending on

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[112] Delia Ferri, 'The Role of Disability Studies in the Advancement of EU Law Scholarship' in Rossana Deplano and others (eds) *Interdisciplinary Research Methods in EU Law: A Handbook* (Edward Elgar 2024) 39.
[113] See Anna Arstein-Kerslake and others, 'Introducing a Human Rights-Based Disability Research Methodology' (2020) 20(3) Human Rights Law Review 412.
[114] Rosemary Kayess and Phillip French, 'Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities' (2008) 8(1) Human Rights Law Review 1, 7.
[115] Broderick and Ferri, *International and European Disability Law and Policy* (n35) 3.
[116] Claire Kilpatrick and Joanne Scott, 'Introduction' in Claire Kilpatrick and Joanne Scott (eds), *New Legal Approaches to Studying the Court of Justice* (Oxford University Press 2020) 2.

the place non-doctrinal methods take in the research.[117] *Contextual* doctrinal research applies only insights and data from other disciplines without including their research methods.[118] On the contrary, *interdisciplinary* doctrinal research employs other methods, such as those from historical studies or empirical social sciences, to contextually assess certain legal accounts and support answering the doctrinal question.[119] Against this background, this thesis embraces contextual doctrinal research in that it brings insights and data from other disciplines without including their research methods. When the nature of the research questions extends beyond traditional doctrinal sources, 'placing law in its context' is essential to better address them.[120] Specifically, this PhD thesis, through a contextual doctrinal analysis in Chapters V and VI, will critically investigate the EU's cooperation framework with five EaP countries within their domestic contexts. This analysis will support answering the second research question by investigating cases of the rule-transfer considering the local contexts. Through the case study of Ukraine in Chapter VI, this thesis will examine the interlink between the domestic context and the transfer of EU disability norms, and the extent to which this process advances the legal framework promoting disability rights. Both the country overviews and the case study cover the period from the moment each country gained independence in 1991 until 25 August 2025, which serves as the cut-off date.

5.4. Tracing EU Disability Norms Transfer: Methodological Considerations

As indicated in section 4, this PhD thesis adopts a broad conception of the global reach and effects of EU law, encompassing a wide range of phenomena that directly or indirectly facilitate the rule-transfer in the EaP countries. These phenomena vary in the ease with which the reach of EU norms could be traced: from the direct transfer of norms explicitly mandated by the cooperation framework to a more indirect support for the adoption and implementation of international human rights instruments, such as the CRPD, for instance, as a means of aligning legal systems. Cases of EU disability norms transfer in Chapters V and VI were therefore selected for analysis on the basis

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[117] Taekema and Van der Burg, *Contextualising Legal Research* (n93) 94.
[118] Ibid.
[119] Ibid.
[120] David Nelken, 'Comparative Law and Comparative Legal Studies' in Esin Örücü and David Nelken (eds), *Comparative Law: A Handbook* (Hart 2007) 19.

of two criteria: the existence of an explicit EU requirement or a partner country's commitment, expressed under the cooperation framework, to undertake such transfer and the explicit acknowledgement of this process following the adoption of the legal or policy instrument at the national level. These criteria were verified through the doctrinal research combined with an assessment of the local context, analysing the following sources. Obligations to adopt selected EU acquis norms are typically set out in the annexes to cooperation framework agreements or sectoral agreements, as will be discussed in Chapter II. Commitments of partner countries to transfer the EU acquis are typically outlined in national progress reports and national action plans, which are designed to implement obligations under the cooperation framework with the EU. Explicit acknowledgement of the rule-transfer, upon the adoption of a legal or policy instrument, is frequently incorporated into the preamble of the adopted instrument, included in the explanatory note to the legal act, reflected in the national progress reports or in the EU's reports assessing the partner country's progress. Therefore, these sources were taken into account in establishing instances of EU disability norms transfer. The analysis was conducted through a review of both official and unofficial (typically performed by international organisations) English and Russian language translations of the aforementioned sources in Chapter V for Moldova, Georgia, Armenia, and Azerbaijan, as well as a systemic analysis of legislative acts and secondary sources in Ukrainian to inform the discussion in Chapter VI. This approach was adopted to identify and analyse cases of EU disability norms transfer facilitated by both conditionality and socialisation mechanisms.

6. Terminology

In line with its overall objective and the research questions mentioned above, this thesis adopts a distinct terminology.

First, the cooperation framework between the EU and the EaP countries comprises a wide range of legal and policy tools that use varying terminology, often interchangeably, to describe the rule-transfer process and norm adoption. The employment of inconsistent terminology has already been the subject of scholarly

criticism.[121] Terms such as 'legal approximation' or 'gradual approximation' are widely used in the Partnership and Cooperation Agreements (PCA).[122] The AA/DCFTA employs formulations such as 'gradual approximation', 'convergence',[123] and 'harmonisation'.[124] More seldom, and predominantly in the context of cooperation in research and adaptation of technologies in the area of the environment, the AA/DCFTA uses the term 'diffusion'.[125] These terms have different conceptual meanings and often depict similar, yet still different, processes. For instance, Matta offers an analysis of differentiated methods of EU acquis export, drawing a clear line between approximation, convergence, harmonisation, and unification.[126] As the analysis of methods of the rule-transfer falls outside the scope of this PhD thesis, it employs a deliberately neutral term, 'alignment', when discussing both the adherence of the EU acquis to the CRPD and the correspondence of adopted disability norms by the EaP countries with the EU acquis. Where this thesis uses other terms that are contextually essential to preserve original meaning, they are presented in quotation marks.

Second, the term 'disability rights' within this PhD thesis is understood as a broad range of 'protections and entitlements' to ensure non-discrimination and equality for persons with disabilities.[127] In this context, this thesis adopts the umbrella terms 'promoting disability rights' and 'advancing disability rights', which are used interchangeably or together to encompass a variety of actions that positively impact, directly or indirectly, the realisation of disability rights for persons with disabilities.

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[121] See Rilka Dragneva and Kataryna Wolczuk, 'Integration and Modernisation: EU's Association Agreement with Ukraine' in Maryna Rabinovych and Anne Pintsch (eds), *Ukraine's Thorny Path to the EU* (Springer 2025) 54; Aaron Matta, 'Differentiating the Methods of Acquis Export: The Case of the Eastern Neighbourhood and Russia' in Peter Van Elsuwege and Roman Petrov (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union: Towards a Common Regulatory Space?* (Routledge 2014) 29; Guillaume Van der Loo, *The EU–Ukraine Association Agreement and Deep and Comprehensive Free Trade Area: A New Legal Instrument for EU Integration without Membership* (Brill Nijhoff 2016) 254.

[122] See Article 50 Partnership and Cooperation Agreement (PCA) with Moldova; Article 43 PCA with Azerbaijan.

[123] See Articles 5(1), 279(a), and 283 AA/DCFTA with Georgia; Article 70 Comprehensive and Enhanced Partnership Agreement (CEPA) with Armenia.

[124] See Article 71 (h) CEPA with Armenia.

[125] See Article 52 (d) CEPA with Armenia; Article 308 (d) AA/DCFTA with Georgia.

[126] Matta, 'Differentiating the Methods of Acquis Export' (n121) 21-45.

[127] Lisa Vanhala, 'The Diffusion of Disability Rights in Europe' (2015) 37(4) Human Rights Quarterly 831, 833.

Therefore, actions aimed at respecting, protecting, realising,[128] and mainstreaming disability rights are all considered integral to promoting and advancing them. In this respect, the rule-transfer is also treated as one of the actions through which disability rights are promoted and advanced.

Third, throughout this PhD thesis, the term 'cooperation framework agreement(s)' is used to denote trade agreements between the EU and EaP countries, which currently include the following types: the AA/DCFTA,[129] the Comprehensive and Enhanced Partnership Agreement (CEPA),[130] and the PCA.[131] While these trade agreements establish different levels of trade relations with partner countries, they all constitute the legal foundation for cooperation between the EU and each respective EaP partner.

7. Contribution to the State of the Art

This PhD thesis is part of a large-scale project 'Protecting the Right to Culture of Persons with Disabilities and Enhancing Cultural Diversity in European Union Law: Exploring New Paths' (DANCING),[132] which aims at bringing the EU law scholarship in a new direction by exploring, among others, the extent to which disability rights are protected and promoted through the EU's external action. While fulfilling this objective of the DANCING project, this thesis contributes to advancing the state of the art in four main ways.

First, this thesis endeavours to introduce a new field of investigation, which is the to-date unexplored relationship between EU disability law and EU external relations law.

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[128] More on the 'respect, protect, and fulfill' framework for human rights, see David Jason Karp, 'What is the Responsibility to Respect Human Rights? Reconsidering the "Respect, Protect, and Fulfill" Framework' (2020) 12(1) International Theory 83.

[129] Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part [2014] OJ L 161/3; Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part [2014] OJ L 260/4; Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part [2014] OJ L 261/4.

[130] Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part [2018] OJ L 23/4.

[131] Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part [1999] OJ L 246/3.

[132] The DANCING project has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 Research and Innovation programme (Grant Agreement No 864182). More on the DANCING project, see the webpage: <https://ercdancing.maynoothuniversity.ie> accessed 30 September 2025.

This builds upon existing fundamental scholarship in areas of law such as EU disability law and EU external relations law. Academic work on the EU's human rights obligations in external relations[133] provides essential avenues for this research, even though it does not engage with disability norms as such. To date, scholarship exploring the promotion of EU disability norms via external action remains extremely limited. Thus, this research is particularly innovative in that it investigates an uncharted terrain by exploring how disability rights are promoted within the EaP framework, which itself encompasses key EU external competences. In this way, this thesis explores broadly disability rights mainstreaming in the Common Commercial Policy (CCP), the EU's development policy, the Common Foreign and Security Policy (CFSP), and the EU's external human rights policy, which provides new avenues for further research.

Second, by examining the adoption of EU disability norms outside the EU through the lens of 'global reach and effects of EU law', this thesis contributes to the scholarship on rule-transfer and global reach of EU law. In particular, this research contributes to legal and non-legal scholarship that has examined the various facets of the rule-transfer process in domains such as market access,[134] data protection,[135] environment,[136] bringing a disability perspective to it. By investigating the impact of the transfer of EU disability norms into the legal order of Ukraine, this thesis will enrich scholarship on 'practice-based' rule-transfer, which so far has been evident only in limited fields.[137]

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[133] See Clair Gammage, 'A Critique of the Extraterritorial Obligations of the EU in Relation to Human Rights Clauses and Social Norms in EU Free Trade Agreements' (2018) 2(1) Europe and the World: A law review; Monika Heupel, 'How Do States Perceive Extraterritorial Human Rights Obligations? Insights from the Universal Periodic Review' (2018) 40(3) Human Rights Quarterly 521; Annabel Egan and Laurent Pech, 'Respect for Human Rights as a General Objective of the EU's External Action' in Sionaidh Douglas-Scott and Nicholas Hatzis (eds), *Research Handbook on EU Law and Human Rights* (Edward Elgar 2017).

[134] See Peter Van Elsuwege 'Exporting the Internal Market Beyond the EU's Borders: Between Political Ambition and Legal Reality' in Fabian Amtenbrink and others (eds), *Internal Market and the Future of European Integration: Essays in Honour of Laurence W. Gormley* (Cambridge University Press 2019).

[135] More on data protection, see Fahey, *The EU as* a *Global Digital Actor* (n13); Thomas Horsley, 'Eurozone Crisis Management, Citizenship Rights and the Global Reach of EU Data Protection Law: EU Legal Developments in 2015' (2016) 54(9) Journal of Common Market Studies 117.

[136] See Scott, 'The Global Reach of EU Law' (n55).

[137] Fahey, *Global Reach of EU Law* (n24) 12.

Third, this thesis contributes to the strand of scholarship on the ENP and the EaP. As Wolczuk notes, 'little has been written about the EU's impact on domestic change in non-member states, outside the context of accession'.[138] While expounding on the concept of 'the global reach and effects of EU law', this thesis explores methodological and conceptual solutions for tailoring the analysis of the rule-transfer to the EaP framework and disability rights. In doing so, it contributes to the theory-informed study of the EaP policy through legal scholarship. Whereas the analysis draws on insights from other disciplines, it remains within the remit of legal doctrinal research. As Fahey argues, despite the term 'rule-transfer' having been initially deployed in non-legal scholarship, it has a 'distinctive legal component'.[139] Advancing this concept in legal scholarship may support further scholarly endeavours investigating instances of EU law adoption by neighbouring countries that are not formal candidates for membership in the EU.

Fourth, this thesis advances Ukrainian scholarship by engaging with the, to date, limited body of research on disability within the EU–Ukraine cooperation framework under the EaP. Moreover, it contributes to both conceptual understanding and the domestic academic discourse of disability as a human rights area, which remains significantly underexplored.

8. Structure of the Thesis

This thesis adopts the following structure. The research is divided into three interrelated parts, which examine, respectively: EU external relations in human rights area generally and with the focus on the EaP, particularly; the EU's legal and policy framework supporting disability rights promotion internally and externally; and the transfer of EU disability norms into the EaP countries, analysed through the country overviews and the case study of Ukraine. This thesis integrates what have traditionally been distinct areas of academic inquiry: EU external relations law (discussed in Chapters I and II) and disability rights within the EU's legal framework (discussed in Chapters III and IV). The research then narrows to critically investigate the transfer of EU disability norms under the EaP framework. This is accomplished through a

[138] Kataryna Wolczuk, 'State Building and European Integration in Ukraine' (2019) 60(6) Eurasian Geography and Economics 736, 737.
[139] Fahey, *Global Reach of EU Law* (n24) 95.

regional overview of four EaP countries in Chapter V, covering Moldova, Georgia, Armenia, and Azerbaijan, and a more focused case study on Ukraine in Chapter VI.

In particular, Chapter I explores EU external relations, both in general terms and within the domain of human rights. It examines the legal and institutional framework supporting EU external relations, including its scope and tools, as well as the division of competences between the EU and its Member States in external relations. In doing so, this chapter establishes the contextual and conceptual foundation for the analysis carried out in the subsequent chapters. Chapter II narrows the focus to the ENP analysis, exploring its human rights dimension, of which disability rights are part, and further investigating its regional dimension, the EaP, which is the primary focus of this thesis. Chapter III turns to EU disability law, ie the EU's internal legal and policy framework supporting disability rights. It examines the scope and normative facets of EU disability law, including the place of the CRPD in the EU's legal order. Thereof, it sets the stage for understanding how the internal developments of disability rights and standards of EU disability law may shape and inform the EU's actions beyond its borders. Chapter IV explores the EU's legal and policy framework that promotes disability rights in its external relations. It aims to investigate to what extent the EU's capacity to transfer disability norms under the EaP is rooted in its internal commitments and structures. Chapter V presents a contextual analysis of disability rights in the cooperation framework between the EU and four EaP countries, with the aim of identifying cases of EU disability norms transfer. This chapter tests the EU's legal framework against diverse local contexts to investigate what mechanisms and tools stimulated the rule-transfer process in each country. In order to further examine the effects of such a rule-transfer more closely, Chapter VI undertakes a case study of Ukraine, analysing to what extent EU disability norms transfer advances the legal framework supporting disability rights in Ukraine. The final chapter draws together the key findings of this thesis, situates them within broader academic debates on EU external relations and human rights, and identifies avenues for future research.

Part One
The European Union, Human Rights, and the Eastern Partnership

Chapter I

EU External Relations Law: Setting the Scene

1. Introduction

This chapter examines the scope and context of EU external competences, with an in-depth focus on the human rights realm, which is key to understanding the transfer process of EU disability norms. As noted in the Introduction, for the purpose of this PhD thesis, EU disability norms are informed and underpinned by EU values and principles, including the respect for human rights in line with Article 3(5) TEU. This chapter aims to support the analysis conducted in Part III of this thesis. It also lays the foundation for the analysis conducted in Chapters II and IV.

Chapter I is structured as follows. Section 2 examines the EU's role in the international arena and its position within the international legal order. Section 3 then focuses on the structural principles underpinning the framework of EU external relations and the catalogue of EU competences, defining the scope and limits of its external actions. Section 4 then examines key EU external competences and policies, relevant to this PhD thesis, to explore the extent to which human rights are embedded in their framework: the Common Commercial Policy (CCP), the EU's development policy, the European Neighbourhood Policy (ENP), and the EU's external human rights policy. The Common Foreign and Security Policy (CFSP), being a distinct competence of the EU, is discussed separately in section 5. Section 6 summarises the main human rights tools, the EU utilises it is external action, in a toolbox. This categorisation of human rights tools will support the analysis of the mechanisms governing the EU's relations with the Eastern Partnership (EaP) countries and of their role in the rule-transfer process, presented in Chapter II. Section 7 explores multilateral cooperation in achieving EU external relations objectives by investigating its legal framework. In this respect, it supports the analysis of multilateral cooperation as a tool for human rights promotion in Chapter II, and for EU disability norms transfer in Chapters IV and VI. A final section provides concluding remarks.

2. The EU as an International Actor

The legal nature of the EU remains a contested issue in legal scholarship and has been interpreted differently.[1] Due to the distinctive characteristics of the EU legal order, its normative classification using 'pre-existing terminology' has proven particularly challenging for scholars.[2] This thesis acknowledges that the definition of the EU's legal nature remains controversial and open and does not attempt to provide a novel definition. Instead, this section, on account of the direct connection between the EU's internal sphere and external identity,[3] examines the main features shaping the EU's international legal personality and its 'actorness' in the global arena, to provide the conceptual foundation for the analysis conducted in this PhD thesis.

2.1. The Legal Nature of the EU

Conceived of as an international organisation in 1957, the European Economic Community (EEC), later the European Community (EC), and then the EU, acquired powers and competences in various areas as well as developed its own identity in the international arena. In that regard, the nature of the EU still maintains incorporated aspects of an 'international organisation'[4] but also features that are typical of a 'federation of states', [5] and even a 'state-like actor'.[6] Among many others that are in favour of the federalist perception of the EU, Ferri and Šubic underline a 'quasi-federal nature of the EU system'.[7] Some scholars tend to place the EU's legal nature

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[1] See Delia Ferri and Neža Šubic, 'The European Union: Federal Trends in Disability Rights' in Delia Ferri, Francesco Palermo and Giuseppe Martinico (eds), *Federalism and the Rights of Persons with Disabilities: The Implementation of the CRPD in Federal Systems and its Implications* (Hart 2023); Bruno De Witte, 'EU Law: Is it International Law?' in Catherine Barnard and Steve Peers (eds), *European Union Law* (4th edn, Oxford University Press 2023).

[2] Bart Van Vooren and Ramses A Wessel, *EU External Relations Law: Text, Cases and Materials* (1st edn, Cambridge University Press 2014) 2.

[3] Christina Eckes, *EU Powers Under External Pressure: How the EU's External Actions Alter its Internal Structures* (Oxford University Press 2019) 2.

[4] See Jan Klabbers, 'Sui Generis? The European Union as an International Organization' in Dennis M Patterson and Anna Södersten (eds), *A Companion to European Union Law and International Law* (Wiley-Blackwell 2016); De Witte, 'EU Law: Is it International Law?'(n1); Ferri and Šubic, 'The European Union: Federal Trends' (n1).

[5] See Robert Schütze, *European Union Law* (2nd edn, Cambridge University Press 2018) 43–74; Joxerramon Bengoetxea, 'The EU as (More Than) an International Organization' in Jan Klabbers and Åsa Wallendahl (eds), *Research Handbook on the Law of International Organizations* (Edward Elgar 2011).

[6] For 'state-like' actions of the EU, see: Christina Eckes and Ramses A Wessel, 'The European Union: An International Perspective' in Robert Schütze and Takis Tridimas (eds), *Oxford Principles of European Union Law Volume I: The European Union Legal Order* (Oxford University Press 2018).

[7] Ferri and Šubic, 'The European Union: Federal Trends' (n1) 24.

somewhere between 'statehood' and 'organisationhood'.[8] For instance, in line with this understanding, Wyatt and Dashwood describe the EU as 'a developed form of international organisation which displays characteristics of an embryonic federation'.[9] Notably, the TEU and the Treaty on the Functioning of the European Union (TFEU),[10] together referred to as the Treaties in this thesis, leave the question of the nature of the EU unanswered. Article 1 TEU only indicates that the EU is a successor of the EC, which was a 'creature of international law',[11] without explicitly mentioning that it succeeds its 'international organisation' identity as well.

International soft law also has limited evidence of the EU's explicit attempts to provide an answer to its legal nature. Some evidence was identified in the EU's Communication with the International Law Commission (ILC) during the latter's work on the provisions regarding the responsibility of international organisations.[12] The EU, namely, repeatedly identified itself as a 'regional (economic) integration organization',[13] distinguishing itself from the 'traditional organisations' in the comments to the draft provisions. In the meaning of Article 44(1) United Nations Convention on the Rights of Persons with Disabilities (CRPD), the EU 'falls squarely within the definition of a 'regional integration organisation'.[14]

An alternative perception of the EU's legal nature as neither an international organisation nor a state, but something 'unique', was introduced by the Court of Justice of the European Union (CJEU) in its famous judgment *Van Gen den Loos v Nederlandse Administratie der Belastingen*.[15] The CJEU stated that the EU

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[8] See Neil Walker, 'The Place of European Law' in Gráinne De Búrca and Joseph Weiler (eds), *The Worlds of European Constitutionalism* (Cambridge University Press 2012) 60; Marlene Wind, 'The European Union as a Polycentric Polity: Returning to a Neo-Medieval Europe?' in J H H Weiler and Marlene Wind (eds), *European Constitutionalism Beyond the State* (1st edn, Cambridge University Press 2001).

[9] Anthony Arnull and others, *Wyatt and Dashwood's European Union Law* (5th edn, Sweet & Maxwell 2006) 132.

[10] Consolidated Version of the Treaty on the Functioning of the European Union [2012] OJ C 326/47.

[11] De Witte, 'EU Law: Is it International Law?'(n1) 200.

[12] International Law Commission, 'Responsibility of Internaitonal Organisations:Comments and Observations Received from International Organizations' (2011) A/CN.4/637 37 ff.

[13] Ibid 138.

[14] Anna Lawson, 'The European Union and the Convention on the Rights of Persons with Disabilities: Complexities, Challenges and Opportunities' in Valentina Della Fina, Rachele Cera and Giuseppe Palmisano (eds), *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary* (1st edn, Springer 2017) 62.

[15] Case 26/62 *Van Gend en Loos v Nederlandse Administratie der Belastingen* [1963] ECLI:EU:C:1963:1.

'constitutes a new legal order of international law'[16] and confirmed this approach in its later judgments.[17] Thus, the CJEU consistently underlined the special status of the EU 'by referring to the 'autonomous' legal order that was created', in which the relationship between Member States was governed by EU law rather than international law.[18] Such a position of the CJEU gave rise to the theory of 'uniqueness' and 'sui generis nature' of the EU, favouring its 'supranational' status, and emphasising its incompatibility with any existing forms of union or governance.[19]

So, what is the EU? The truth might be 'in the eye of the beholder'. The perception of the EU's legal nature is somewhat contested in legal literature. For example, Schütze notes that 'the sui generis idea is not a theory, because it refuses to search for commonalities',[20] thus, places the EU into 'conceptual paucity'.[21] He also underlines the relativity of this terminology, recalling that, at an earlier stage of their constitutional development, the United States legal order as well as the legal structure of the British Commonwealth were described as 'sui generis'.[22] EU law scholars and lawyers, by appealing to the 'the high degree of 'constitutional' development',[23] the primacy of EU law, and the limitation of sovereignty of the Member States,[24] are keen to identify the EU as a 'constitutional entity'[25] and a 'quasi-federation by aggregation'[26] while still acknowledging its evolving transitional nature, stemming from its origins of 'international organisation'. In contrast, international law scholars, despite the EU's jurisdiction and competence expansion 'to a level without parallel

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[16] Ibid 2.
[17] The CJEU in Case 6/64 *Flaminio Costa v ENEL* stated that 'by contrast with ordinary international treaties, the EEC Treaty has created its own legal system' (p 593). In the Joined Cases C-402/05 P and C415/05 P *Kadi and Al Barakaat v Council,* the Court held that 'an international agreement cannot affect the allocation of powers fixed by the Treaties or, consequently, the autonomy of the Community legal system' (para 282).
[18] Ramses A Wessel, 'Close Encounters of the Third Kind: The Interface between the EU and International Law after the Treaty of Lisbon' (8 SIEPS Report, 2013) 11.
[19] The term 'supranational' firstly appeared in Article 9 European Coal and Steel Community Treaty (1951) and often applies to the EU describing its supranational nature.
[20] Schütze, *European Union Law* (n5) 44.
[21] Jan Klabbers, 'Sui Generis? The European Union as an International Organization' (n4) 3.
[22] Schütze, *European Union Law* (n5) 73.
[23] Bengoetxea J, 'The EU as (More Than) an International Organization' (n5) 449.
[24] Case 6/64 *Flaminio Costa v ENEL* [1964] ECLI:EU:C:1964:66.
[25] Giuseppe Martinico, *The Tangled Complexity of the EU Constitutional Process: The Frustrating Knot of Europe* (2nd edn, Routledge 2022) 42.
[26] Csongor István Nagy, 'The Rebellion of Constitutional Courts and the Normative Character of European Union Law' (2024) 73(1) International & Comparative Law Quarterly 65, 68.

among international organizations',[27] prefer to consider it as an international organisation situated within the international legal system, though with an 'exceptional' status.[28] One of the essential arguments used by academics to support this scholarly account is the 'extraordinary flexibility of international law', allowing for a broad range of cooperation between states with almost no legal limits.[29] Thus, it is assumed that there is no need to create something new but rather to expand the perception and concept of what already exists in legal premises.

In sum, despite various scholarly proposals and theories, as well as an array of case law, the terminology that best reflects the EU's international legal nature, extensive Member State powers, and constitutional mode of functioning has not yet been settled in the academic literature.[30] This PhD thesis, while acknowledging that the EU is not (yet) a 'state-like actor', does confirm that it has outgrown the powers and capacities of a traditional international organisation, particularly, such regional organisations as the Council of Europe (CoE) and the Organization for Security and Co-operation in Europe (OSCE), as will be discussed in greater depth in Chapter II.

2.2. The International Legal Personality of the EU

Whereas, as discussed above, the legal nature of the EU is highly debated primarily on the basis of its 'internal considerations',[31] its international legal personality seems less contested. International legal personality is a multifaceted definition encompassing various legal and policy aspects of EU external relations. The Treaties contain multiple provisions that shape the EU's so-called 'code of conduct' in its external action, through values, objectives, and principles governing the division of competences, as well as the institutional framework for representation in international fora, thereby providing a clear understanding of what the EU is as an international actor.

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[27] Andrew Moravcsik, 'The European Constitutional Settlement' in Sophie Meunier and Kathleen R McNamara (eds), *Making History: European Integration and Institutional Change at Fifty* (Oxford University Press 2007) 23.
[28] On exceptionalist conceptualisation of international organisation, see: Lorenzo Gasbarri, *The Concept of an International Organization in International Law* (Oxford University Press 2021).
[29] De Witte, 'EU Law: Is It International Law?'(n1) 193.
[30] Bruno De Witte, 'The European Union as an International Legal Experiment' in Gráinne De Búrca and J H H Weiler (eds), *The Worlds of European Constitutionalism* (Cambridge University Press 2012) 51.
[31] Eckes and Wessel, 'The European Union: An International Perspective' (n6) 81.

In this regard, Wessel and Larik put forward a definition of the EU as international actor, which seems to best reflect its legal personality and 'actorness' in the global arena. In the global context, the EU as international actor is defined by these authors as an 'entity' with a 'stand-alone identity composed of values, interests, and policies which it seeks to define and promote internationally as its own'.[32]

The 'stand-alone identity' refers to the EU's international legal personality, *the ability to 'assume legally binding obligations'*,[33] which derives from its legal personality granted by virtue of Article 47 TEU. As an international actor, the EU is 'subject to international law in its relations with third states and international organizations' and is bound by customary international law.[34]

Another facet of the EU's international legal personality is characterised by EU principles governing its external relations. Initially developed in the EU internal legal order, they are now equally applicable to external action.[35] Cremona defines them as structural principles, as they inform the entire internal and external EU system.[36] Found in the Treaties and developed by the CJEU, the structural principles define the basis for multi-level cooperation among various actors, such as Member States, EU institutions, and partner countries, in external relations.[37] These principles include but are not limited to the duty of cooperation, the principles of subsidiarity, autonomy, conferral, institutional balance, and mutual solidarity. As they essentially form the foundation of EU external relations, the structural principles will be analysed in detail in the following sections.

The legal framework governing the international representation of the EU was streamlined with the entry into force of the Treaty of Lisbon in 2009.[38] Namely,

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[32] Ramses A Wessel, 'The European Union as a Global Legal Actor' in Ramses A Wessel and Joris Larik (eds), *EU External Relations Law: Text, Cases and Materials* (2nd edn, Hart 2020) 2.
[33] Henri De Waele and Jan-Jaap Kuipers, 'Emerging International Identity of the European Union – Some Preliminary Observations' in Henri De Waele and Jan-Jaap Kuipers (eds), *The European Union's Emerging International Identity* (Brill Nijhoff 2013) 12.
[34] Eckes and Wessel, 'The European Union: An International Perspective' (n6) 82.
[35] Loïc Azoulai, 'Structural Principles in EU Law: Internal and External' in Marise Cremona (ed), *Structural Principles in EU External Relations Law* (Hart 2018) 33.
[36] See Marise Cremona, 'Structural Principles and Their Role in EU External Relations Law' (2016) 69(1) Current Legal Problems 35.
[37] Ibid 46.
[38] Jan Wouters and others, *The Law of EU External Relations: Cases, Materials, and Commentary on the EU as an International Legal Actor* (3rd edn, Oxford University Press 2021) 26.

Articles 27 and 34 TEU introduced the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission (HR/VP) and the European External Action Service (EEAS). Together with the President of the European Council, these new settings are tasked to represent a coherent voice of the EU in the global arena.

2.3. The EU 'Actorness' in External Relations

Whereas the EU's legal personality determines the status within the international legal order, the competences of the EU define the EU's 'actorness' in the global arena,[39] ie its capacity to act in specific fields of external relations. These competences are limited by the principle of conferred powers anchored in Article 5(2) TEU. This fundamental principle means that the EU can act internationally as an autonomous legal person only in areas where the Member States have agreed to give it competence to do so. The role of the EU in external relations shifts depending on the competence and area, as will be explored further in this chapter, in order to achieve a certain level of coherence with the Member States' external policies.[40]

The specific objectives of EU external relations, codified in Articles 3(5) and 21 TEU, represent another fundamental aspect of the EU international 'actorness'. The external objectives reflect global ambitions of the EU as 'a rule-based global actor'[41] and cover an unprecedentedly broad scope of policy areas. Their open-ended character and disconnection from specific external policies provide for greater liberty for the EU in selecting means and legal 'manoeuvres' to achieve these objectives.[42] Despite this significant autonomy and large room for action in pursuing external goals, various scholars[43] note that in practice these goals cannot be achieved by the EU alone but rather require cooperation with other international actors. Essentially, Article 21(1) TEU calls on the EU to apply a multilateral approach to its external action, involving

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[39] Ramses A Wessel, 'The Inside Looking Out: Consistency and Delimitation in EU External Relations' (2000) 37(5) Common Market Law Review 1135, 1141.
[40] Wessel, 'Close Encounters of the Third Kind' (n18) 21.
[41] Anne Thies 'Principles of EU External Action' in Ramses A Wessel and Joris Larik, *EU External Relations Law: Text, Cases and Materials* (2nd edn, Hart 2020) 33.
[42] Cremona, 'Structural Principles and Their Role in EU External Relations Law' (n36) 40.
[43] See Joris Larik, 'Entrenching Global Governance: The EU's Constitutional Objectives Caught Between a Sanguine World View and a Daunting Reality' in Bart Van Vooren, Steven Blockmans and Jan Wouters, *The EU's Role in Global Governance* (Oxford University Press 2013); Cremona, 'Structural Principles and Their Role in EU External Relations Law' (n36).

various actors, to pursue these goals. Therefore, when acting externally, it seems that the EU must be not only an influential global actor but also an effective 'team player'.

On the whole, the EU's active global 'actorness' appears to be a remarkable aspect of the EU's international legal identity in its own right. It tallies with the specific powers conferred on the EU by the Treaties, but also reflects the EU's ambitions 'to be an active global player'.[44] Thus, legal competences to act externally and the legal boundaries of EU external relations law need to be viewed also in light of what has been characterised as 'ethical power',[45] 'global normative power',[46] 'global governance actor',[47] or even as a 'regulatory imperialist'.[48] The expanding influence of the EU beyond its own borders is of particular interest within this PhD thesis as it epitomises the global reach of EU law.

3. EU External Competence: Core Tenets

As indicated in the previous section, the EU has its own legal personality, allowing it to act autonomously in the international arena by concluding international agreements with partner countries and international organisations, and by pursuing a wide range of policies and actions to support, among others, human rights and to promote EU values externally. Indeed, Article 21(2) TEU outlines a broad set of general and specific objectives for the EU to pursue externally. The latter includes, among other things, promoting an international system based on stronger multilateral cooperation and good global governance, preserving peace, preventing conflicts, and strengthening international security. Cremona argues that the objectives mentioned in the TEU 'do not serve to create or delimit competence'[49] but rather aim to shape EU external

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[44] Wessel, 'Close Encounters of the Third Kind' (n18) 11.
[45] See Lisbeth Aggestam, 'Introduction: Ethical Power Europe?' (2008) 84(1) International Affairs 1.
[46] See Marise Cremona, 'The Union as a Global Actor: Roles, Models and Identity' (2004) 41(2) Common Market Law Review 553.
[47] See Gráinne De Búrca, 'EU External Relations: The Governance Mode of Foreign Policy' in Bart Van Vooren and others (eds), *The EU's Role in Global Governance: The Legal Dimension* (Oxford University Press 2013); Bruno De Witte and Anne Thies, 'Why Choose Europe? The Place of the European Union in the Architecture of International Legal Cooperation' in Bart Van Vooren, Steven Blockmans and Jan Wouters (eds), *The EU's Role in Global Governance: The Legal Dimension* (Oxford University Press 2013).
[48] Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press 2020) 3.
[49] Cremona, 'Structural Principles and Their Role in EU External Relations Law' (n36) 40.

relations and define 'the international identity the EU wishes to project'.[50] While acknowledging that legal notions mentioned in Articles 3(5) and 21 TEU are not 'full-fledged objectives' under Article 5 TEU, Cannizzaro claims that they enlarge 'the functional scope of the substantive competences of the EU's external action'.[51]

As flows from Article 21(3) TEU, general objectives aim to promote greater coherence of action between the EU and its Member States externally. Thus, this PhD thesis posits that these objectives shape the identity of the EU as a global actor, whereas the structural principles developed by the Treaties and case law define essentially the EU's ethos. Furthermore, the far-reaching external competence is governed both by the TEU and the TFEU. Particularly, the TEU covers the CFSP and the Common Security and Defence Policy (CSDP), alongside the ENP, the EU's external policy which does not confer additional competences. The TFEU regulates specific external powers such as the CCP, the EU's development policy, migration policy, and others. The principles and the different strands of EU external competence are discussed below.

3.1. Structural Principles Governing EU External Relations

According to Cremona, structural principles, by shaping the decision-making and policy-making processes of EU external relations, ensure the 'smooth articulation of the EU's system of external action'.[52] They are composed of relational and systemic principles. Relational principles define the power division between the EU and its Member States externally and include but are not limited to: the principle of conferral, proportionality, sincere cooperation, and institutional balance.[53] Codified in primary law, they can 'constitute grounds for reviewing the legality of legal acts or rules adopted by the institutions'.[54] Accordingly, the CJEU decided on an array of case law

[50] Marise Cremona, 'External Relations of the European Union: The Constitutional Framework for International Action' in Paul Craig and Gráinne De Búrca (eds), *The Evolution of EU Law* (3rd end, Oxford University Press 2021) 476.
[51] Enzo Cannizzaro, 'The Value of the EU International Values' in Wybe Thijs Douma and others (eds), *The Evolving Nature of EU External Relations Law* (Springer 2021) 15.
[52] Marise Cremona, 'External Competences and the Principle of Conferral' in Robert Schütze and Takis Tridimas (eds), *Oxford Principles of European Union Law Volume I: The European Union Legal Order* (Oxford University Press 2018) 1112.
[53] Cremona, 'Structural Principles and Their Role in EU External Relations Law' (n36) 52.
[54] Ibid 48.

in respect of the breach of these principles.[55] Systemic principles work on building 'the EU's identity as a coherent, effective and autonomous actor in the world' and support relational principles.[56]

The most important relational principle, which is foundational to the EU itself, is the *principle of conferral,* codified in Article 5(2) TEU. It establishes the major limit of EU external action stating that the EU shall act 'within the limits of the competence conferred upon it by the Member States in the Treaties'. Competences not conferred upon the EU remain with the Member States.[57] According to Dashwood, this principle implies that, the EU's 'powers cannot be generated within the order itself' beyond those already conferred.[58] As a principle, which informed the foundation of the EU,[59] it must be respected in both its internal and external actions. Express and implied external competences, which will be analysed in the next section, are subject to the principle of conferred powers.[60]

The *duty of sincere cooperation* or *to cooperate loyally* requires the EU and its Member States to assist each other in exercising tasks envisaged by the Treaties.[61] It is especially important in external action where the EU and the Member States must coordinate their external powers under mixed agreements.[62] The CJEU, in its turn, ia in *Commission v Council*, emphasised that 'mutual sincere cooperation in external action triggers a closely circumscribed process of concerted action and consultation between the EU institutions'.[63] This principle is equally applicable to the institutions of the EU.[64] However, the principle of sincere cooperation pursuant to Article 13(2) TEU should be exercised 'within the limits of the powers conferred by the Treaties on

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[55] See, for instance, Case C-73/14 *Council v Commission* (ITLOS) [2015] EU:C:2015:663; Case 28/12 *Commission v Council* [2015] EU:C:2015:282; Case C-48/14 *European Parliament v Council* [2015] EU:C:2015:91.
[56] Cremona, 'Structural Principles and Their Role in EU External Relations Law' (n36) 52.
[57] Article 4(1) TEU.
[58] Alan Dashwood, 'The Attribution of External Relations Competence', in Alan Dashwood and Christophe Hillion (eds), *The General Law of EC External Relations* (Sweet & Maxwell 2000) 116.
[59] Paul Craig and Gráinne De Búrca, *EU Law: Text, Cases, and Materials* (6th edn, Oxford University Press 2015) 322.
[60] Cremona, 'External Competences and the Principle of Conferral' (n52) 1112.
[61] Article 4(3) TEU.
[62] Schütze, *European Union Law* (n5) 301.
[63] Case C-425/13 *Commission v Council* [2015] EU:C:2015:483 para 64.
[64] Article 13(2) TEU.

each institution'.[65] Particularly, this principle cannot 'detract from the duty to respect the principle of conferral'.[66]

The purpose of the principle of *institutional balance* is to 'maintain the division of powers between institutions'.[67] This principle is becoming increasingly important in light of the EU's dynamically evolving ''informalised' external activity',[68] especially by means of non-legally binding instruments. As derived from *Commission v France II*,[69] the principle of institutional balance and, more broadly, the structural principles governing EU external relations must be applied when the EU utilises both hard and soft law instruments in its external relations.[70]

Among systemic principles, the *principle of autonomy and effectiveness* is certainly a key principle in the context of EU external relations law. It derives predominantly from case law. The principle of effectiveness flows from the interpretation of the principle of conferral in *ERTA*.[71] It is closely conflated with the doctrine of implied competences, anchored in Article 216 TFEU, which is considered a derivative of the former.[72] The principle of autonomy, in turn, complements the rule of law principle as interpreted by the CJEU in *Kadi I*.[73] Also, Van Vooren[74] is keen to identify *the principle of coherence* as constitutional, as it can be found in various external policies of the EU across the TFEU and TEU.[75]

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[65] Case C-48/14 *Parliament v Council* [2015] EU:C:2015:91 para 58.
[66] Geert De Baere and Timothy Roes, 'EU Loyalty as Good Faith' (2015) 64(4) International and Comparative Law Quarterly 829, 836.
[67] Jean-Paul Jacqué, 'The Principle of Institutional Balance' (2004) 41(2) Common Market Law Review 383, 385.
[68] Paula García Andrade, 'Respect for Institutional Balance in the Adoption of Non-Legally Binding Agreements: France v Commission II' in Graham Butler and Ramses A Wessel (eds), *EU External Relations Law: The Cases in Context* (Hart 2022) 450.
[69] Case C-233/02 *French Republic v Commission of the European Communities* (France v Commission II) [2004] ECLI:EU:C: 2004:173.
[70] Paula García Andrade, 'Respect for Institutional Balance' (n68) 453.
[71] Case 22/70 *Commission v Council (ERTA)* [1971] ECLI:EU:C:1971:32.
[72] Geert De Baere, *Constitutional Principles of EU External Relations* (1st edn, Oxford University Press 2008) 17.
[73] Joined Cases C-402/05P and C-415/05P *Kadi and Al Barakaat International Foundation v Council and Commission (Kadi I)* [2008] EU:C:2008:461.
[74] See Bart Van Vooren, *EU External Relations Law and the European Neighbourhood Policy: A Paradigm for Coherence* (Routledge 2012).
[75] Article 21(3) TEU defines the principle of coherence as a general obligation of EU external relations law. Further principle of coherence is mentioned in Articles 205, 208(1), 212, 214 TFEU.

3.2. Categories of EU External Competence

The Treaty of Lisbon provided a competence catalogue, which includes exclusive, shared, and supporting competences.[76] The codification of competences aimed to strengthen the EU as a global actor by increasing the coherence of EU external relations and clarifying the division of competences between the EU and its Member States.[77] Whether it eventually served its purpose remains subject to discussion,[78] however, undoubtedly the revised Treaties increased the visibility of 'external policy'[79] and clarified legal strands at least of the EU's exclusive competence.

Exclusive competence, rooted in Article 2 TFEU, stipulates that in certain areas only the EU can legislate and adopt legally binding acts. Article 3(1) TFEU provides a list of six areas where the EU can exercise its a priori exclusive competence: the CCP, customs union, competition policy for the internal market, monetary policy, and protection of marine biological resources under the common fisheries policy. The CCP and customs union are external competences. However, even those areas that concern EU internal matters 'have significant external dimensions'.[80] The EU's 'exclusive nature' of external competences is highlighted in Article 3(2) TFEU, referring to the circumstances in which the EU shall exercise exclusive competence to conclude international agreements[81] in other areas than foreseen by Article 3(1) TFEU: if a conclusion is provided for in a legislative act of the Union; necessary to enable the EU to exercise its internal competence; if a conclusion of an agreement may affect common rules or alter their scope.

These criteria derive mainly from the case law developed by the CJEU. The first criterion originates from *Opinion 1/94,*[82] where the CJEU stated that, when the internal

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[76] Articles 3,4, and 6 TEU.
[77] Andrea Ott, 'EU External Competence' in Ramses A Wessel and Joris Larik (eds), *EU External Relations Law: Text, Cases and Materials* (2nd edn, Hart 2020) 64.
[78] For the critical analysis of competence catalogue, introduced by the Treaty of Lisbon, see Sacha Garben and Inge Govaere, 'The Division of Competences Between the EU and the Member States: Reflections on the Past, the Present and the Future' in Sacha Garben and Inge Govaere (eds), *The Division of Competences Between the EU and the Member States: Reflections on the Past, the Present and the Future* (Hart 2017).
[79] Fernando Castillo De la Torre, 'The Court of Justice and External Competences After Lisbon: Some Reflections of the Latest Case Law' in Piet Eeckhout and Manuel Lopez-Escudero (eds), *European Union's External Action in Times of Crisis* (Hart 2019) 130.
[80] Van Vooren and Wessel, *EU External Relations Law* (n2)101.
[81] Opinion 2/15 (Singapore), *Opinion of AG Sharpston* [2016] ECLI:EU:C:2016:992 [64].
[82] Opinion 1/94 (WTO Agreement) [1994] ECLI:EU:C:1994:384.

legislative acts 'expressly conferred on its institutions powers to negotiate with non-member countries, [the EU] acquires exclusive external competence in the spheres covered by those acts'.[83] The second criterion derives from *Opinion 1/76*.[84] In the absence of internal legislation, the competence can also be implied to pursue the objectives of the Treaties.[85] The third criterion derives from the famous *ERTA* doctrine, according to which the Member States cannot conclude international agreements if they affect common rules or alter the scope of these common rules.[86] In this way, the CJEU introduced a doctrine of implied powers, which stipulates that the 'external competence is not limited to what is expressly provided, but extends potentially to all fields covered by the EU Treaties'.[87] The aim of this doctrine is to prevent an international agreement concluded by the Member State individually or collectively from compromising 'the uniform and consistent application of the Community rules and the proper functioning of the system which they establish'.[88]

Shared competence entails that both the EU and its Member States can act in a given area, though not simultaneously. Article 4 TFEU defines a non-exhaustive list of 'principle areas'[89] in which the EU and the Member States can share competence such as the internal market, social policy, economic, social, and territorial cohesion, agriculture and fisheries (excluding the conservation of marine biological resources), environment, consumer protection, transport, trans-European networks, energy, area of freedom, security, and justice, and some public health matters. In practice, the Member States can exercise their competence in a field 'to the extent that the Union has not exercised its competence' in line with Article 2(2) TFEU. This provision underpins the EU's 'right of pre-emption' in choosing to start exercising one of the shared competences listed in Article 4 TFEU.[90] Once the EU occupies the field within its shared competence, it begins to enjoy de facto exclusive competence.[91] If the EU

[83] Opinion 1/94 (WTO Agreement) [1994] ECLI:EU:C:1994:384 [95].
[84] Opinion 1/76 (Laying-up Fund) [1977] ECLI:EU:C:1977:63.
[85] Van Vooren and Wessel, *EU External Relations Law* (n2) 89.
[86] Case 22/70 *Commission v Council (ERTA)* [1971] ECLI:EU:C:1971:32.
[87] Inge Govaere, 'Implied Powers of the EU, Limits to Political Expediency and Internationally Inspired Pragmatism: Commission v Council (ERTA)' in Graham Butler and Ramses A Wessel (eds), *EU External Relations Law: The Cases in Context* (Hart 2022) 9.
[88] Opinion 1/03 (Lugano Convention) [2006] ECLI:EU:C:2006:81 [133].
[89] Opinion 2/15 (n81) [59].
[90] Ibid [61].
[91] Ibid.

decides to cease exercising its de facto exclusive competence in a particular area, it returns to the Member States under the scope of shared competence. Shared competence often results in the joint participation of the EU and its Member States in international agreements. The mixed nature of such agreements refers to the process of their negotiation, conclusion, and implementation. If multilateral treaties fall within the scope of shared competence, as the United Nations Convention on the Rights of Persons with Disabilities (CRPD) does, for instance, Member States act independently from the EU, and the EU's commitments do not influence the obligations of the Member States.[92] Bilateral mixed agreements, as the cooperation framework agreements within the ENP, are concluded by the EU alongside the Member States as ''one' party' to the agreement.[93] Concomitantly, prior to conclusion, ratification by each Member State is required. As the Treaties do not have specific provisions on the negotiation of mixed agreements,[94] this procedure is covered by Article 218 TFEU on the conclusion of international agreements, as confirmed by the CJEU in *Commission v Council.*[95]

Finally, the EU may support, coordinate, or supplement the actions of the Member States without substituting their competences in certain areas. Particularly, supporting competence is generally defined in Article 4(3) and (4) TFEU and covers areas such as research, technological development, space, development, and humanitarian aid. This also refers to policies such as the coordination of economic, employment, and social policies, [96] as well as culture, education, and other areas mentioned in Article 6 TFEU. Within supporting competence, the EU may adopt incentive measures, recommendations,[97] or guidelines, without superseding the competence of the

[92] Cremona, 'External Relations of the European Union' (n49) 461.
[93] Federico Casolari and Ramses A Wessel, 'EU Member States as States: Between EU and International Roles and Obligations' in Kenneth A Armstrong, Joanne Scott and Anne Thies (eds), *EU External Relations and the Power of Law: Liber Amicorum in Honour of Marise Cremona* (1st edn, Hart 2024) 107.
[94] Castillo De la Torre, 'The Court of Justice and External Competences' (n78) 170.
[95] Case C-28/12 *Commission v Council* [2015] EU:C:2015:282.
[96] Article 5 TFEU.
[97] Ricardo Gosalbo-Bono and Frederik Naert, 'The Reluctant (Lisbon) Treaty and its Implementation in Practice of the Council' in Piet Eeckhout and Manuel Lopez-Escudero (eds), *The European Union's External Action in Times of Crisis* (Hart 2019) 21.

Member States. The EU may adopt legally binding acts, but they must not entail the harmonisation of national laws or regulations.[98]

The CFSP is the only competence which cannot be defined as either exclusive, shared, or supportive.[99] Some scholars qualify it as a parallel competence,[100] since the Member States continue to formulate and conduct their national foreign policies alongside the EU's powers in this area,[101] albeit such policies are 'subject to an obligation of loyalty to Union policy positions and actions'.[102] Thus, as a 'sui generis' competence within the EU's legal order,[103] the CFSP falls outside the scope of this section and will be separately analysed in section 5.

3.3. Express and Implied EU External Powers

Whereas the provisions mentioned above define the 'exclusive nature' of EU external competences, the *existence* of EU external competences is determined by Article 216(1) TFEU.[104] Namely, this provision highlights four situations when the EU may conclude international agreements with partner countries or international organisations: if the Treaties so provide; when a conclusion is necessary to achieve the objectives envisaged in the Treaties; if the legally binding act of the EU so provides; and if such an agreement would affect common rules or alter their scope. Thus, evidently, the EU may conclude international agreements 'outside areas where such possibility is specifically provided for'.[105]

When Article 216(1) TFEU indicates that the EU may conclude agreements 'where the Treaty so provides', it refers to express external competence. The EU's development policy is an example of the express power, as Article 209(2) TFEU provides the EU with a treaty-making power to conclude agreements with partner countries and international organisations to achieve the objectives of the Treaties, in

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[98] Article 2(5) TFEU.
[99] Marise Cremona, 'EU External Competence – Rationales for Exclusivity' in Sacha Garben and Inge Govaere (eds), *The Division of Competences Between the EU and the Member States: Reflections on the Past, the Present and the Future* (Hart 2017) 136.
[100] See: Van Vooren and Wessel, *EU External Relations Law* (n2) 347; Ramses A Wessel and Joris Larik (eds), *EU External Relations Law: Text, Cases and Materials* (2nd edn, Hart 2020) 285.
[101] Declaration 13 concerning the common foreign and security policy.
[102] Cremona, 'EU External Competence – Rationales for Exclusivity' (n99) 137.
[103] Paula García Andrade, 'Tackling Migration Externally Through the EU Common Foreign and Security Policy: A Question of Legal Basis' 8(2) European Papers 959, 966.
[104] Opinion 2/15 (n81) [64].
[105] Gosalbo-Bono and Naert, 'The Reluctant (Lisbon) Treaty' (n97)137.

particular in the development cooperation domain.[106] Similar provisions in the TFEU, which explicitly allow the EU to conclude international agreements, cover relevant areas for this chapter, such as the CCP, the conclusion of association agreements,[107] humanitarian aid,[108] and development cooperation.[109] Express competence to conclude international agreements can also be found in some internal policy areas with an external dimension, such as research, technological development, and the space spheres, under Article 186 TFEU.[110]

EU external relations is the only area 'where implied competences have become a central element of the constitutional framework'.[111] Developed by the CJEU,[112] the implied external power enables the EU to conclude international agreements in areas not explicitly mentioned in the Treaties. Particularly, it is anchored in Article 216(1) TFEU through three other situations. According to Ott, the interpretation of two situations mentioned in Article 216(1) TFEU, in particular, when a legally binding act of the EU provides for a conclusion of an international agreement and a conclusion of international agreement is likely to affect common rules or alter their scope, are burdened by the overlap with Article 3(2) TFEU, thus 'disentangling the conditions of exercise and scope of competence' remain the subject to case law.[113] In its turn, Schütze has strongly critisised the situations related to concluding an international agreement to achieve objectives in the Treaties and when a legally binding act of the EU provides for a conclusion of an international agreement, as those cannot 'ever go beyond' the first situation 'if the Treaties so provide', claiming it is 'a result of fundamental confusion within the minds of those drafting the text'.[114] Therefore, while implied power enables the EU to expand its areas of engagement in external relations, its complex nature and vaguely formulated limits in the TFEU mean it often remains subject to clarification through case law.

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[106] Piet Eeckhout, *EU External Relations Law* (2nd edn, Oxford University Press 2011) 122.
[107] Article 217 TFEU.
[108] Article 214(4) TFEU.
[109] Article 209(2) TFEU.
[110] Ott, 'EU External Competence' (n77) 73.
[111] Castillo De la Torre, 'The Court of Justice and External Competences' (n78) 137.
[112] Case 22/70 *Commission v Council* (ERTA) [1971] ECR 263, ECLI:EU:C:1971:32; Case 3/76 *Cornelis Kramer and Others* (Kramer) [1976] ECLI:EU:C:1976:114.
[113] Ott, 'EU External Competence' (n77) 73.
[114] Schütze, *European Union Law* (n5) 277.

A notable example in this regard is the EU's conclusion of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (Marrakesh Treaty).[115] Given that the Member States asserted shared competence over the ratification process, the Commission sought clarification from the CJEU.[116] In its *Opinion 3/15*, the CJEU clarified that the scope of obligations under the Marrakesh Treaty is 'within an area that is already covered to a large extent by common EU rules and the conclusion of that treaty may thus affect those rules or alter their scope', [117] hence its ratification should fall within the EU's exclusive competence.

4. Overview of EU External Competences and Policies

After having analysed the catalogue of EU external competences and express and implied external powers, this section examines selected external competences and policies and their nexus with human rights. In particular, it investigates the CCP, the EU's development policy, the ENP, and the EU's external human rights policy. This analysis complements and supports the discussion in Chapter II on the EaP and Chapter IV, which examines disability in EU external relations.

4.1. The Common Commercial Policy

The CCP is considered to be the most developed and powerful EU external competence,[118] as it stands at the origins of EU external relations and, like no other competence, demonstrates explicitly the interlink between its internal and external domains.[119] Generally, the EU enjoys exclusive competence over the negotiation and conclusion of international agreements within the scope of the CCP, even when it lacks the power to legislate internally on this matter.[120] Although in some instances, competence is shared with the Member States, or the Member States even exercise it alone under the provisions of the CCP agreements. For instance, environmental

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[115] Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (2013) WIPO Doc VIP/DC/8.
[116] Delia Ferri and Katie Donnellan, 'The Implementation of the Marrakesh Treaty in the European Union: An Important Piece in the Accessibility Jigsaw?' (2022) 49(3) Legal Issues of Economic Integration 269, 271.
[117] Opinion 3/15 [2017] ECLI:EU:C:2017:114, paras 129-130.
[118] Eeckhout, *EU External Relations Law* (n106) 439.
[119] Joris Larik, 'Common Commercial Policy' in Ramses A Wessel and Joris Larik (eds), *EU External Relations Law: Text, Cases and Materials* (2nd edn, Hart 2020) 209.
[120] Ibid.

protection, social protection, and intellectual property protection provisions in the Free Trade Agreements (FTAs) fall within the shared competence of the EU.[121] Non-direct foreign investment provisions within the FTAs remain within Member States' competence.[122]

The European Parliament and the Council of the EU (Council) are the central decision-making institutions that adopt measures through regulations for implementing the CCP.[123] As a general rule, the measures are adopted by the ordinary legislative procedure, ie by a qualified majority vote. However, circumstances requiring the Council to act unanimously are listed in Article 207(4) TFEU.

As a part of EU external relations, the CCP is guided by specific objectives laid down in the Preamble to the TFEU[124] and Article 206 TFEU, as well as by the principles and objectives of the EU's external actions generally.[125] The Treaty of Lisbon brought about significant changes for the CCP in this regard. In particular, it has explicitly placed trade 'in the context of the EU's broader objectives of external action' under Article 21 TEU.[126] According to Hachez and Marx, this 'explicit linkage' acknowledges a significant impact of the EU's trade policy on the protection and promotion of human rights globally.[127]

Among the EU's CCP tools for promoting human rights globally, the Generalised System of Preferences Plus (GSP+)[128] and trade agreements are particularly prominent and hold significance for this PhD thesis. At present, trade agreements form underpin the EU's cooperation with the EaP countries, while the GSP+ was instrumental in promoting human rights during the period this scheme was active the EaP.

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[121] Opinion 2/15 of the Court (Full Court) [2017] ECLI:EU:C:2017:376 para 22.
[122] Ibid para 23.
[123] Article 207(2) TEU.
[124] Preamble TFEU specifies that the EU contributes 'by means of a common commercial policy to the progressive abolition of restrictions on international trade'.
[125] Article 207(1) TFEU.
[126] Sieglinde Gstöhl and Dominik Hanf, 'The EU's Post-Lisbon Free Trade Agreements: Commercial Interests in a Changing Constitutional Context' (2014) 20(6) European Law Journal 733, 734.
[127] Nicolas Hachez and Axel Marx, 'EU Trade Policy and Human Rights' in Jan Wouters and others (eds), *The European Union and Human Rights: Law and Policy* (1st edn, Oxford University Press 2020) 365.
[128] Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 [2012] OJ L 303/1.

4.1.1. The Generalised System of Preferences

The Generalised System of Preferences (GSP) is regarded as one of the key instruments through which the EU supports developing countries in reducing poverty.[129] Launched in 1971, this system provided 'unilateral and non-reciprocal trade preferences to developing countries, ostensibly in order to encourage their integration in the global trading system'.[130] The 'standard' GSP partially removes customs duties on a range of products originating from low- and lower-middle-income countries. The GSP+ is a special incentive system 'for sustainable development and good governance' that provides duty-free access for various products from developing countries that commit to implementing 27 international conventions on human rights, labour rights, protection of the environment, and good governance.[131]

The EaP countries are no longer beneficiaries of the GSP+. With the conclusion of the Association Agreement with Deep and Comprehensive Free Trade Area (AA/DCFTA), Ukraine, Moldova, and Georgia were removed from the list of the GSP+ beneficiary countries. Armenia and Azerbaijan were excluded from the list as they were reclassified as upper-middle-income countries in 2021 and 2013, respectively. Nonetheless, this tool will be analysed in Chapter V with respect to the transfer of EU disability norms during the period it was active in the EaP countries.

4.1.2. Trade Agreements

Trade agreements constitute another CCP tool for supporting human rights promotion globally and, by extension, expanding the EU's global reach.[132] Faccio recalls that trade agreements can take the form of association agreements (AA), FTAs, partnership and cooperation agreements (PCA or CA), and customs union agreements (CUA).[133]

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[129] Commission, 'Developing Countries, International Trade and Sustainable Development: The Function of the Community's Generalised System of Preferences (GSP) for the Ten-year Period from 2006 to 2015' COM(2004) 461 final.
[130] Olivier De Shutter, 'Generalised Systems of Preferences: A Tool to Ensure Linkage Between Access to Markets and Sustainable Development' (3 Working Paper, CRIDHO, 2015) 1, 5.
[131] Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 [2012] OJ L 303/1.
[132] Clair Gammage, 'A Critique of the Extraterritorial Obligations of the EU in Relation to Human Rights Clauses and Social Norms in EU Free Trade Agreements' (2018) 2(1) Europe and the World: A law review 1, 2.
[133] Sondra Faccio, 'Disability in EU Trade and Investment Agreements' in Delia Ferri and Andrea Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020) 397.

Within the EaP, the EU regulates its trade relations through the AAs with Ukraine, Moldova, Georgia, the PCA with Azerbaijan, and the Comprehensive and Enhanced Partnership Agreement (CEPA) with Armenia, specifically tailored to this country and whose depth and scope come close to that of an AA. The AAs and the CEPA are regarded as 'integration-type' agreements,[134] as the main instrument for achieving their objectives is essentially the export of the EU acquis.[135] In this way, the EU intends to create a 'substantive law uniformly applicable to a territorial area comprising the EU'[136] and a partner country. Therefore, these agreements can display a stronger impact on human rights externally. According to Mancini, in overall 'when it comes to trade and human rights linkages, [the EU] emerges as a leading actor'.[137] As discussed earlier, the conclusion of trade agreements falls within the EU's exclusive competence.[138] Therefore, as the sole 'custodian of human rights'[139] under the CCP, the EU is obliged to develop and incorporate a human rights perspective into its trade policy in accordance with the Treaties. Human rights obligations are typically integrated in the form of a human rights clause, which remains an important instrument for human rights promotion under the CCP, despite growing criticism on account of its efficiency.[140] A more detailed analysis of the human rights clauses in trade agreements is provided in Chapter II.

4.2. The EU's Development Policy

Together with the CCP, the EU's development policy is one of the oldest policies, standing at the origins of the European integration project. Through this policy, the

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[134] Guillaume Van der Loo, Peter Van Elsuwege and Roman Petrov, *The EU–Ukraine Association Agreement: Assessment of an Innovative Legal Instrument* (9 EUI Working Papers, 2014) 2.
[135] Kataryna Wolczuk and others, 'The Association Agreements as a Dynamic Framework: Between Modernization and Integration' (6 Working Paper, EU-STRAT, 2017) 7.
[136] Cécile Rapoport, 'Autonomy of the EU Legal Order and International Agreements Extending the Acquis: Opinion 1/00 (European Common Aviation Area)' in Graham Butler and Ramses A Wessel (eds), *EU External Relations Law: çThe Cases in Context* (Hart 2022) 425.
[137] Isabella Mancini, 'Fundamental Rights in the EU's External Trade Relations: From Promotion 'Through' Trade Agreements to Protection 'In' Trade Agreements' (1 CLEER Papers, 2020) 62.
[138] Ott, 'EU External Competence' (n77) 62.
[139] Philip Alston and J H H Weiler, 'An "Ever Closer Union" in Need of a Human Rights Policy' (1998) 9(4) European Journal of International Law 658, 679.
[140] See Katharina L Meissner and Lachlan McKenzie, 'The Paradox of Human Rights Conditionality in EU Trade Policy: When Strategic Interests Drive Policy Outcomes' (2019) 26(9) Journal of European Public Policy 1273; Anne-Carlijn Prickartz and Isabel Staudinger, 'Policy vs Practice: The Use, Implementation and Enforcement of Human Rights Clauses in the European Union's International Trade Agreements' (2019) 3(1) Europe and the World: A law review 1.

EU started assisting the EaP countries after they gained independence from the Union of Soviet Socialist Republics (USSR) in 1991.[141] Therefore, it also stands at the origins of the cooperation with the EaP countries. This subsection provides an overview of the legal and policy framework of the EU's development policy, its central tenets, as well as an analysis of its nexus with human rights. In this way, it foregrounds the study of disability rights in the EU's development policy in Chapter IV.

4.2.1. General Overview

The EU views development policy as an essential tool for building cooperation with partner countries in both political and economic domains, as well as promoting its values globally.[142] With the adoption of the Treaty of Lisbon, the EU's development policy was introduced as a stand-alone external competence under Article 4(4) TEU. For a long period, however, it appears to have been overlooked in legal and policy literature due to its 'low politics' nature[143] and complexities[144] discussed below in contrast to the CCP or the CFSP, which enjoy significant public presence and a high level of scrutiny.[145]

The EU's development policy is governed by Articles 208-211 TFEU. As follows from these provisions, the policy is shaped by three key principles, often referred to in the literature as the 'three C's': complementarity, coherence, and coordination.[146]

Complementarity relates to the nature of this EU competence.[147] Article 208(1) TFEU calls upon the EU and its Member States, while implementing their development policies, to 'complement and reinforce each other',[148] thus defining it as a non-pre-emptive shared competence of the EU and the Member States. Article 4(4) TFEU

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[141] See more in Chapter II.
[142] Karin Arts and Anna K Dickson 'EU Development Cooperation: From Model to Symbol*?'* in Karin Arts and Anna K Dickson (eds), *EU Development Cooperation: From Model to Symbol* (Manchester University Press 2004) 1.
[143] Paul James Cardwell and Davor Jančić, 'The European Parliament and Development Cooperation: Democratic Participation in the "Low Politics" of EU External Relations' (2019) 41(3) Journal of European Integration 365, 365.
[144] For more on the complexities of the EU's disability policy as a research area, see Sarah Delputte and Jan Orbie, 'EU Development Policy' in Hubert Heinelt and Sybille Münch (eds), *Handbook of European Policies: Interpretive Approaches to the EU* (Edward Elgar 2018).
[145] Cardwell and Jančić, 'The European Parliament and Development Cooperation' (n143) 366.
[146] Van Vooren and Wessel, *EU External Relations Law* (n2) 312.
[147] Morten Broberg, 'EU Development Policy' in Ramses A Wessel and Joris Larik (eds), *EU External Relations Law: Text, Cases and Materials* (2nd edn, Hart 2020) 249.
[148] Article 208(1) TFEU.

emphasises that the exercise of this competence shall not prevent the Member States from exercising theirs. The CJEU, in *Parliament v Council,*[149] confirmed the complementary nature of the EU's development policy. Hence, both the EU and its Member States can deploy actions under development cooperation either jointly or individually.[150]

According to Van Vooren, in order to attain coherence and positive synergy in EU external relations, the conflicts between norms, actors, and instruments should be avoided, or resolved if they arise, and 'tasks should be allocated effectively'.[151] Coherence in the EU's development policy is rooted in Article 208(1) TFEU, which requires the EU and the Member States to consider the objectives of the EU's development policy in all other competences that might affect developing countries. Moreover, the cross-sectoral nature of its objectives was confirmed by the CJEU in *Commission v Council,*[152] which clarified that the EU's development policy should also contribute to the economic and social development goals. Whereas Article 208(1) TFEU refers to internal coherence, namely the synchronisation of actions between the EU and its Member States, as well as between institutions responsible for implementing other policies, Article 208(2) TFEU calls for coherence within the overarching international development framework. In doing so, it obliges the EU and its Member States to comply with the objectives of the UN and other international organisations. As noted by Broberg, the need for coherence is a recurring concern in policy-making, which ultimately gave rise to the concept of 'policy coherence for development' (PCD).[153] The PCD was introduced by the Organisation for Economic Co-operation and Development's (OECD) Development Assistance Committee (DAC) in 1991. In 1993, the EU assumed the responsibility for implementing it by adopting it through the Maastricht Treaty.[154] The PCD initially aimed to establish 'synergies between non-aid policies and aid policies' in a given country or

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[149] Case C-316/91 *European Parliament v Council of the European Union* [1994] ECLI:EU:C:1994:76 [20–42].
[150] Ibid [26].
[151] Bart Van Vooren, *EU External Relations Law and the European Neighbourhood Policy: A Paradigm for Coherence* (Routledge 2012) 69.
[152] Case C-91/05 *Commission v Council* [2008] ECLI:EU:C:2008:288 [67].
[153] Broberg, 'EU Development Policy' (n147) 262.
[154] Harlan Koff and Sandra Häbel, 'Normative Coherence for Development: What Relevance for Responsive Regionalism?' (2022) 40(S1) Development Policy Review 1, 2.

organisation.[155] Evolved eventually into a multi-complex approach to policy-making for sustainable development, it currently encompasses three elements: fostering synergies and enhancing benefits across various policy areas; balancing domestic policy objectives with internationally recognised sustainable development goals (SDGs); and addressing the impacts of policies, including those likely to affect developing countries.[156]

Various institutional mechanisms and approaches, thematic guidelines, and strategies have been introduced at the EU level 'to consolidate a comprehensive operational framework'[157] and ensure coherence of the EU aid and development initiatives advancing and promoting human rights globally. For instance, the framework document, defining the course of the EU's action under the EU's development policy, the New Consensus on Development: Our World, our Dignity, our Future (New Consensus on Development 2017),[158] addresses the need for coherence between the Member States and the EU in addressing various interlinked cross-sectoral spheres. Essentially, this document introduces joint implementation as a 'way for a more coherent, effective and coordinated EU support based on shared objectives in selected sectors or on specific cross-sectoral themes'.[159]

Coordination as a principle supports complementarity and coherence in the EU's development policy. Article 210 TFEU lays down the obligation for the EU and the Member States to coordinate and consult on development cooperation in order to promote the complementarity and efficiency of their action. As previously discussed, when implementing the development policy, the EU must consider not only the specific objectives of the relevant competences but also the general objectives of external action, which are relevant to other policies. Therefore, according to Broberg, 'intra-EU coordination between different institutions and bodies or within institutions

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[155]Sandra Häbel, 'Normative Policy Coherence for Development and Policy Networks' (2020) 10(1) Regions & Cohesion 1, 3.
[156] Organisation for Economic Co-operation and Development, 'Recommendation of the Council on Policy Coherence for Sustainable Development' (2025) OECD/LEGAL/0381 7.
[157] Brecht Lein, 'Human Rights in EU Development Cooperation' in Jan Wouters and others (eds), *The European Union and Human Rights: Law and Policy* (Oxford University Press 2020) 386.
[158] Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission, 'The European Consensus on Development: Our World, Our Dignity, Our Future' [2017] OJ C 210/1.
[159] Ibid 39.

is crucial'.[160] It is especially relevant for coordinating legislative work between key institutions responsible for the development and implementation of the EU's development policy, such as the Council, Commission, European Parliament, and the EEAS.

4.2.2. The EU, Sustainable Development, and Human Rights

Since the 1990s, human rights have been progressively integrated into the EU's development policy,[161] driven by both internal and external dynamics. At the international level, the main catalyst was the Resolution 'UN Millennium Declaration' (UN Millennium Declaration),[162] adopted in 2000 and endorsed by the EU and all Member States. It established eight Millennium Development Goals (MDGs) aimed at achieving a just and lasting peace in the world by 2015, in alignment with the purposes and principles of the UN Charter. The EU and its Member States recognised 'a collective responsibility to uphold the principle of human dignity, equality and equity at the global level'[163] and committed to taking actions in this regard. Despite criticism on account of the lack of accountability mechanisms and the insufficient integration of the principle of non-discrimination within the framework,[164] the MDGs informed various EU policy instruments designed to meet these goals by 2015. In particular, the main framework document adopted at the EU level to implement the MDGs was the European Consensus from 2006.[165] It recognised the progress in the protection of human rights, good governance, and democratisation as a fundamental element of poverty reduction and sustainable development and outlined specific actions to contribute to achieving this objective.

With the adoption of the Treaty of Lisbon in 2009, Article 208 TFEU reaffirmed the development policy's primary objective of reduction and ultimately eradication of

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[160] Broberg, 'EU Development Policy' (n147) 272.
[161] Gordon Crawford, 'Human Rights and Democracy in EU Development Co-Operation: Towards Fair and Equal Treatment' in Marjorie Lister (ed), *European Union Development Policy* (Palgrave Macmillan 1998) 131.
[162] UN General Assembly, 'United Nations Millennium Declaration' (2000) A/RES/ 55/2.
[163] Ibid para 2.
[164] Laura Beke and others, 'Report on the Integration of Human Rights in EU Development and Trade Policies' (Leuven Centre for Global Governance Studies, 2014) 90.
[165] Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on the development policy of the European Union, 'The European Consensus' [2006] OJ C46/1.

poverty, while also linking with the general principles and objectives of the EU's external action under Article 21 TEU, such as democracy, the rule of law, human rights, and fundamental freedoms and more specific objectives of sustainable economic, social, and environmental development of developing countries.[166] In this way, human rights, alongside other cross-cutting objectives, were further reinforced in the EU's development policy framework.

The Resolution 'Transforming our World: the 2030 Agenda for Sustainable Development'[167] (2030 Agenda for Sustainable Development), adopted in 2015 to replace the UN Millennium Declaration, further reinforced the multidimensional and cross-sectoral character of development cooperation. The EU recognised the necessity of eradicating poverty and achieving sustainable development through balancing the economic, social, and environmental dimensions, which must be pursued 'as a whole and not selectively'.[168] To this end, the New Consensus on Development 2017, adopted to meet the objectives of the 2030 Agenda for Sustainable Development, conceptualises poverty as a multidimensional phenomenon encompassing economic, social, environmental, cultural, and political aspects.[169] Given the cross-sectoral nature of the EU's development policy, which spans various areas of the EU's action, Lein distinguishes between two critical elements of the EU's development policy relevant to human rights promotion: human rights mainstreaming and a human rights-based approach to development cooperation.[170] The latter is regarded as an advancement of human rights mainstreaming. It is premised on the understanding that human rights should not be merely mainstreamed as 'a concern' but rather 'constitute the foundation of conceptualising, planning and implementing development programmes'.[171] To this end, the EU and its Member States have committed to implementing a human rights-based approach to development cooperation, which is underpinned by key principles such as inclusion and participation, non-discrimination, equality and equity, transparency and accountability.[172] Thus, it adopts an all-encompassing perspective

[166] Article 21(2)(d) TEU.
[167] UN General Assembly, 'Transforming our World: the 2030 Agenda for Sustainable Development' (2015) A/RES/70/1.
[168] Joint statement, 'The New European Consensus on Development'(n158) 6, 4.
[169] Ibid 9.
[170] Lein, 'Human Rights in EU Development Cooperation' (n157) 387.
[171] Beke and others, 'Report on the Integration of Human Rights' (n164) 93.
[172] Joint statement, 'The New European Consensus on Development'(n158), 7.

on human rights promotion to ensure 'no one is left behind'.[173] In doing so, it reframes the whole development concept by putting 'forward the accomplishment of human rights as an essential condition and a key catalyst to achieve any development objective',[174] including poverty reduction.

4.3. The European Neighbourhood Policy: Setting the Scene

Whereas a more thorough examination of the ENP will be provided in Chapter II, this subsection provides an introductory analysis of this policy and its key principles.

With the adoption of the European Security Strategy in 2003, the EU situated the ENP within the foreign and security policy context.[175] Launched in 2004, the ENP was primarily conceived of as an 'instrument of security policy',[176] designed to increase stability, security, and prosperity of the EU.[177] However, to fully grasp the ethos of the ENP, two accounts must be considered. First, while conflict management and resolution have become increasingly important aspects of the ENP, particularly in light of the protracted conflicts affecting all EaP countries, the ENP was not designed to address them.[178] Instead, its core focus, as confirmed by the policy revisions in 2011 and 2015,[179] lies in promoting economic integration, sectoral reforms, and adherence to common values. These measures are expected to contribute to conflict resolution objectives[180] rather than offer direct solutions to conflicts. In this way, the EU's

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[173] Ibid 4.
[174] Lein, 'Human Rights in EU Development Cooperation'(n156) 402.
[175] Barbara Lippert, 'The EU Neighbourhood Policy – Profile, Potential, Perspective' (2007) 42(4) Intereconomics 180, 180.
[176] Pernille Rieker, 'Integration, Security and the European Neighbourhood: The Importance of the ENP as a Security Policy Instrument' (2012) 65(1) Studia Diplomatica 69, 69.
[177] Peter Van Elsuwege, 'The EU and its Neighbours' in Ramses A Wessel and Joris Larik (eds), *EU External Relations Law: Text, Cases and Materials* (2nd edn, Hart 2020) 447.
[178] Dimitris Bouris and Madalina Dobrescu, 'The EU and Civilian Missions in the Neighbourhood' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 259.
[179] Commission and High Representative of the Union for Foreign Affairs and Security Policy, 'A New Response to a Changing Neighbourhood: A Review of European Neighbourhood Policy' COM(2011) 303 final; Commission and High Representative of the Union for Foreign Affairs and Security Policy, 'Towards a New European Neighbourhood Policy: Review of the European Neighbourhood Policy' JOIN(2015) 50 final.
[180] Sabine Freizer, 'The Revised European Neighbourhood Policy and Conflicts in the South Caucasus: The EU's Growing Conflict Transformation Role' in Dimitris Bouris and Tobias Schumacher (eds), *The Revised European Neighbourhood Policy: Continuity and Change in EU Foreign Policy* (Palgrave Macmillan 2017) 164.

'regional security' actorness is supposed to be fulfilled through projecting common rules, norms, and values to the ENP countries.[181]

Second, while the ENP is an expression of the CFSP, it does not fall solely under its competence.[182] The ENP is often referred to as an 'umbrella policy',[183] as it compounds all external policies of the EU but at the same time does not belong to any of them, hence, being 'horizontal in nature'.[184] In fact, achieving security and stability in the region is a comprehensive task that must be fulfilled not only through the CFSP but also through the EU's development policy and humanitarian action, alongside the CCP.[185]

From the perspective of its 'personal scope', the ENP encompasses neighbouring countries which are not eligible for membership at all or are not considered as such, thus falling outside the enlargement policy remit.[186] Nonetheless, the 'European states', in line with Article 49 TEU, may apply for EU membership if they satisfy the criteria and conditions of eligibility and admission. Therefore, for eligible countries, the ENP can be considered a potential stepping stone for further integration with the EU, as exemplified by Ukraine, Moldova, and Georgia.

From a functional perspective, the ENP was initially underpinned by three core principles: conditionality, differentiation, and shared ownership. Declour and Soler i Lecha define conditionality as 'the provision of incentives tied to the fulfilment of EU demands'.[187] This principle was considered a driving force of the EU's relations with the ENP countries, however, it was eventually abandoned due to its ineffectiveness. Differentiation, in its turn, focuses on tailoring approaches to partner countries based on their needs and interests. This principle underpinned the design of the ENP Action

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[181] Rieker, 'Integration, Security and the European Neighbourhood' (n176) 75.
[182] Van Elsuwege, 'The EU and its Neighbours' (n177) 448.
[183] Van Vooren, *EU External Relations Law and the European Neighbourhood Policy* (n151) 225.
[184] Van Elsuwege, 'The EU and its Neighbours' (n177) 448.
[185] Thomas Henökl, 'The European Neighbourhood Policy and the CFSP/CSDP: From the European Security Strategy to the Global Strategy' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 534.
[186] Commission, 'Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours' COM(2003) 104 final 3.
[187] Laure Declour and Eduard Soler i Lecha, 'European Neighbourhood Policy Mechanisms: Conditionality, Socialisation and Differentiation' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 445.

Plan for each partner country, taking into account geographic location, political and economic situations, needs and capacities, among other factors.[188] Also, in line with the principle of differentiation, the extent of cooperation offered by the EU depended on the level of ambition demonstrated by each partner country.[189] Shared ownership refers to 'a stronger role for EU Member States and partner countries' both in the design and implementation of the ENP and the identification of priorities.[190] However, as will be discussed in the next chapter, all three principles have been questioned by the partner countries as not being efficiently embedded in the cooperation framework. Conditionality as an overarching ENP principle was eventually abandoned with the second ENP revision in 2015. Hence, differentiation and shared ownership were reinforced with the new principles such as 'flexibility' and 'focus', and became cornerstone principles of the ENP.[191]

From an institutional perspective, the general course of partnership with each ENP country is defined by the Commission together with the Council, even though the role of the European Parliament is growing in this process. The policy revision process is held by the Commission and the EEAS and usually involves extensive consultations with the Member States, the European Parliament, the ENP country governments, and civil society.[192]

4.4. The EU's External Human Rights Policy

Despite the absence of a standalone human rights competence for the EU,[193] the Treaty of Lisbon put a 'greater and clearer emphasis'[194] on the protection of human rights

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[188] Yaniss A Stivachtis, 'The EU and the Middle East: The European Neighborhood Policy (ENP)' in Yannis A Stivachtis (ed), *Conflict and Diplomacy in the Middle East: External Actors and Regional Rivalries* (E-International Relations Publishing 2018) 114.
[189] Sieglinde Gstöhl, 'The Social Dimension of EU Neighbourhood Policies' in Jan Orbie and Sieglinde Gstöhl (eds), *The European Union and the Social Dimension of Globalization: How the EU Influences the World* (1st edn, Routledge 2009) 71.
[190] European Commission and High Representative of the Union for Foreign Affairs and Security Policy, 'Towards a New European Neighbourhood Policy' SWD(2015) 500 final 19.
[191] Ibid 2.
[192] Mark Furness, 'European Neighbourhood Policy Decision-Making at Critical Junctures: EU Institutions, the Member States and Neighbourhood Countries' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 206.
[193] Areg Navasartian Havani, 'Carrots or Sticks? How the European Union Aims to Achieve Respect for Fundamental Rights Beyond its Borders' (3 CLEER Papers, 2022) 77.
[194] Laurent Pech and Joelle Grogan, 'EU External Human Rights Policy' in Ramses A Wessel and Joris Larik (eds), *EU External Relations Law: Text, Cases and Materials* (2nd edn, Hart 2020) 330.

externally as an 'overarching objective' in the whole field of EU external relations. This subsection provides an analysis of the EU's external human rights policy, which was consolidated with the adoption of the Treaty of Lisbon and now represents an important, albeit often complementary, facet of the EU's relations with the EaP countries.

4.4.1. Constitutional Perspective

As discussed earlier, Article 21(1) TEU introduced a set of general principles and objectives, such as human rights, democracy, the rule of law, human dignity, equality, and solidarity, as well as respect for the principles of the UN Charter and international law, to be respected in the EU's action on the international scene. In a similar vein, Article 3(5) TEU obliges the EU to uphold and promote its values, including human rights, in its external relations. Nonetheless, these objectives do not constitute a legal basis for acting externally.[195] Even when acting to pursue objectives within Article 21 TEU, the EU still has to rely on other provisions in the Treaties that empower it to act externally. For instance, the legal basis for establishing a financing instrument for democracy and human rights worldwide was Articles 209 and 212 TFEU.[196]

Additionally, the Treaty of Lisbon expanded the scope of objectives of EU external relations, including support of human rights, to the field of investment policy and some specific trade measures,[197] for instance, those embedded in Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (recast)[198] and Regulation (EU) 2019/125 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (codification).[199]

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[195] Ibid 334.
[196] Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide [2014] OJ L 77/85.
[197] Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Human Rights and Democracy at the Heart of EU External Action EU – Towards More Effective Approach' COM(2011) 886 final 12.
[198] Regulation (EC) No 428/2009 of the Council of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items [2009] OJ L 134/1.
[199] Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (codification) [2019] OJ L 30/1.

Further, with the Treaty of Lisbon, the Charter of Fundamental Rights (CFR) acquired legal force[200] and an equal status with the Treaties. In this way, the EU concluded a nearly half-century path of gradual 'valorisation' and 'validation' of human rights within its legal order. Practically, from a mere recognition of human rights as 'fundamental elements of European Identity'[201] in the soft law back in 1973, they were eventually integrated into the EU's constitutional body and recognised as a foundational value of the EU. The CFR is often defined as a 'legal cornerstone of making human rights in the EU's internal and external policies operational'.[202] Characterised by a high level of innovativeness, it does not enshrine, though, other objectives or tasks than the one laid down in the Treaties.[203] From the external relations perspective, the CFR's main 'breakthrough' refers to the absence of a territorial clause, which implies its applicability to both the EU's internal and external policies.[204] Apart from several provisions specifically protecting the rights of EU citizens in Title V, and those targeting non-EU citizens, the CFR does not distinguish between EU and non-EU citizens.[205] In fact, *Front Polisario v Council,*[206] is an essential example of the application of the CFR provisions externally. The General Court recognised the obligation of the EU before concluding an agreement with a partner country to conduct an impact assessment 'in order to ensure that the production of goods for export is not conducted to the detriment of the population of the territory concerned, or entails infringements of fundamental rights'[207] protected by the CFR. Thus, CFR can serve

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[200] Article 6 TEU.
[201] Member States of the European Community, 'Declaration on the European Identity' (1973) 12 Bulletin of the European Communities 118.
[202] Chiara Altafin, Karin Lukas, and Manfred Nowak, 'The Normative Framework of the EU's Commitment to Human Rights: The Treaties, the Charter, Member States' Constitutional Traditions, and International Law' in Jan Wouters and others (eds), *The European Union and Human Rights : Law and Policy* (Oxford University Press 2020) 115.
[203] Gabriel N Toggenburg, 'The EU Charter: Moving from a European Fundamental Rights Ornament to a European Fundamental Rights Order' in Giuseppe Palmisano (ed), *Making the Charter of Fundamental Rights a Living Instrument* (Brill Nijhoff 2014) 13.
[204] Altafin and others, 'The Normative Framework' (n202) 84.
[205] Antal Berkes, 'The Extraterritorial Human Rights Obligations of the EU in its External Trade and Investment Policies' (2018) 2(1) Europe and the World: A law review 2, 5.
[206] Case T-512/12 *Front Polisario v Council* [2015] ECLI:EU:T:2015:953. For the appeal see Case C-104/16 P *Council v Front Polisario* [2016] ECLI:EU:C:2016:973 (this case was concerned with the Association Agreement and the Liberalisation Agreement between the EU and Morocco); on this judgement see for more Eva Kassoti, 'The Council v. Front Polisario Case : The Court of Justice's Selective Reliance on International Rules on Treaty Interpretation (Second Part)' (2017) 2(1) European Papers 23. See also Case C-266/16 *Western Sahara Campaign UK* [2018] ECLI:EU:C:2018:118 and Joined Cases T-279/19 and T-344/19 *Front Polisario v Council* [2021] ECLI:EU:T:2021:639.
[207] Case T-512/12 (n205) [228].

as a legal tool for protecting 'individuals against extraterritorial effects of EU policies'.[208]

4.4.2. Strategic Frameworks

The *promotion* of human rights has been proclaimed as an objective of EU external relations since the Treaty of Maastricht in 1992,[209] whereas the requirement to *mainstream* human rights across all EU external relations, as one of its core principles, was first set out[210] in the communication from the Commission on the role of the EU in promoting human rights in 2001.[211] However, it is only after the Treaty of Lisbon that a comprehensive strategic framework on human rights emerged. In particular, the Strategic Framework and Action Plan on Human Rights and Democracy (Strategic Framework and Action Plan),[212] which was adopted in 2012, represented a first-ever[213] comprehensive visionary document defining the course of EU external relations on human rights. Adopted to fulfil the EU's commitments under Article 3(5) TEU,[214] it was described as 'the most ambitious and focused document on the EU's global human rights policy'.[215] It declared the promotion of human rights to be an objective in all external action, without exception, including in trade, investment, technology, telecommunications, the Internet, energy, environmental, corporate social responsibility, and development policies, as well as the external dimensions of employment, among others. In the area of development cooperation, a human rights-based approach was proposed to assist partner countries in implementing their international human rights obligations.[216] According to Wouters and Ovádek, the

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[208] Berkes, 'The Extraterritorial Human Rights Obligations'(n205) 6.
[209] Chloé Brière and Areg Navasartian,'*Lex Generalis* and the Primacy of EU Law as a Source of the EU's Duty to Respect Human Rights Abroad: Lessons Learned from The Case-Law of the CJEU' (1 CLEER Papers, 2020) 13.
[210] Annabel Egan and Laurent Pech, 'Respect for Human Rights as a General Objective of the EU's External Action' in Sionaidh Douglas-Scott and Nicholas Hatzis (eds), *Research Handbook on EU Law and Human Rights* (Edward Elgar 2017) 251.
[211] Commission, 'The European Union's Role in Promoting Human Rights and Democratisation in Third Countries' COM(2001) 252 final.
[212] Council, 'EU Strategic Framework and Action Plan on Human Rights and Democracy' (2012) 11855/12.
[213] Pech and Grogan, 'EU External Human Rights Policy' (n194) 344.
[214] Vivian Kube, 'The European Union's External Human Rights Commitment: What is the Legal Value of Article 21 TEU?' (10 EUI Working Papers, 2016) 10.
[215] Rosa Balfour, 'The Role of EU Delegations in EU Human Rights Policy' (European Parliament Directorate General for External Policies of the Union, 2013) 12.
[216] Council, 'EU Strategic Framework and Action Plan' (n212) 2.

Strategic Framework and Action Plan served as an 'overarching policy anchor' to preserve human rights on the agenda of EU external relations.[217]

The current central reference point for the EU's external human rights commitments is set out in the EU Action Plan on Human Rights and Democracy 2020–2024, extended until 2027 (Action Plan 2020–2027).[218] In addition to reaffirming existing commitments, they introduced new priority areas such as digital technologies and climate change.

To better connect the commitments under the Action Plan 2020–2027 to the local context, EU delegations are tasked with developing EU Human Rights and Democracy Country Strategies (Country Strategy) tailored to the specific needs of each country. Between 2020 and 2023, a total of 131 Country Strategies were adopted globally.[219] The Country Strategies are to be endorsed by the Political and Security Committee (PSC) of the Council, spotlighting the interlink between human rights and security matters. Nonetheless, as the Country Strategies are developed as internal documents defining the EU's vision on the human rights and democracy development in a partner country and are not open to the public,[220] it is challenging to assess their efficiency, overall and their role in EU disability norms transfer, in particular. This approach has been widely criticised by various scholars for lacking accountability and reinforcing 'the democratic deficit of the EU'.[221] However, regardless of the secrecy underlying this tool, it must respect the values of the EU enshrined in Article 2 TEU,[222] support the strategic framework discussed above, and complement the EU Human Rights Guidelines.[223] The latter instrument addresses specific human rights issues to guide

[217] Jan Wouters and Michal Ovádek, *The European Union and Human Rights: Analysis, Cases, and Materials* (Oxford University Press 2021) 549.
[218] 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; Council, 'Council Conclusions on the alignment of the EU Action Plan on Human Rights and Democracy 2020–2024 with the Multiannual Financial Framework 2021–2027' (2024) 9508/24.
[219] Council, 'Mid-term Review of the EU Action Plan on Human Rights and Democracy 2020–2024' SWD(2023) 210 final.
[220] Wouters and Ovádek, *The European Union and Human Rights* (n217) 567.
[221] See Balázs Majtényi, Lorena Sosa and Alexandra Timmer, 'Human Rights Concepts in EU Human Rights Dialogues' (Frame Report, Utrecht University, 2016) 8; Wouters and Ovádek, *The European Union and Human Rights* (n217) 567.
[222] Majtényi, Sosa and Timmer, 'Human Rights Concepts' (n221) 8.
[223] Wouters and Ovádek, *The European Union and Human Rights* (n217) 567.

the EU's work externally, thereby contributing to a more coherent policy approach,[224] and presenting 'a strong political signal that they are priorities'[225] of the EU globally. As of 2025, a total of eleven EU Human Rights Guidelines, covering areas such as the death penalty, rights of child, rights of lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) people, freedom of religion and belief, among others, support the work of the EU and its delegations worldwide.

Another policy instrument that keeps the bridge between the strategic goals underpinning the EU's external human rights policy and the local context is Human Rights Dialogues, organised by the EU at the bilateral level with partner countries. The EU Human Rights Dialogues with the EaP countries are based on the cooperation framework agreements,[226] and include a set of priorities predetermined by the EU as well as those to be decided 'on a case-by-case basis'.[227] The issues that should be integrated into the agenda of the Human Rights Dialogues include signing, ratifying, and implementing human rights instruments, cooperating with international human rights mechanisms, and discussing areas highlighted in the EU Human Rights Guidelines.[228]

4.4.3. The Role of the EU Institutions in Defining and Implementing the EU's External Human Rights Policy

The implementation of the EU human rights policy is a collective effort of various institutions and actors, including the HR/VP, the Commission, the EEAS, and EU Delegations, among others.[229]

The task of formulating, implementing, and monitoring EU external relations, including its human rights policy, is shared mainly among the Council, the Commission, and the European Parliament.[230] The European Parliament, beyond putting 'new human rights issues on the EU agenda' and serving as a 'watchdog' in

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[224] Jan Wouters and Marta Hermez, 'EU Guidelines on Human Rights as a Foreign Policy Instrument: An Assessment' (5 CLEER Papers, 2016) 65.
[225] Carmen Márquez Carrasco, 'Human Rights in the EU's Common Security and Defence Policy' in Jan Wouters and others (eds), *The European Union and Human Rights: Law and Policy* (Oxford University Press 2020) 417.
[226] Council, 'EU Guidelines on Human Rights Dialogues with Third Countries' (2008) 16526/08 2.
[227] Ibid 2.
[228] Ibid 6.
[229] Council, 'Council Conclusion on the alignment of the EU Action Plan on Human Rights (n218) 2.
[230] Egan and Pech, 'Respect for Human Rights' (n210) 246.

relation to human rights policies,[231] gives consent to a broad range of international agreements,[232] one of the main external human rights policy tools. The Council, in turn, adopts international agreements after obtaining consent from the European Parliament.[233] In general, as flows from the previous subsections, the functions of these leading institutions in the EU's external human rights policy shift depending on the competence under which the external action is conducted. The Treaty of Lisbon has not radically changed the competence of these institutions on external matters, but rather slightly rearranged them in light of the newly established EEAS. Mainly, functions of the Commission's Directorate General for External Action were transferred to an autonomous body, the EEAS, by virtue of Article 27(3) TEU.

The EEAS's main tasks can be grouped into two broad categories: assisting the HR/VP in fulfilling their mandate and presenting the EU in the international arena and supporting coherence of the EU's external human rights policy.[234] The EU delegations to partner countries and international organisations, which make part of the institutional framework of the EEAS, play an essential role in representing the human rights interests of the EU as an autonomous legal entity abroad. Among multiple functions the HR/VP has to conduct within their mandate is the conduct of political dialogue, representing the EU in matters related to the CFSP, and representing the EU in international organisations,[235] which might be considered fundamental for increasing the visibility of the EU as a human rights actor globally.

Albeit a strong criticism of the EU's external human rights policy relating to the application of 'double standards' internally and externally[236] or reluctance to respond to serious human rights violations by powerful states,[237] the current EU constitutional

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[231] Monika Mayrhofer, 'The EU's Institutional Human Rights Architecture' in Jan Wouters and others, *The European Union and Human Rights: Law and Policy* (Oxford University Press 2020) 122.
[232] Article 218 TFEU.
[233] Ariadna Ripoll Servent, 'The Role of the European Parliament in International Negotiations after Lisbon' (2014) 21(4) Journal of European Public Policy 568, 570.
[234] Christophe Hillion and Steven Blockmans, 'From Self-doubt to Self-assurance: The European External Action Service as the Indispensable Support for a Geopolitical EU' (Report, Task Force 'EEAS 2.0', 2021) 5.
[235] Mayrhofer, 'The EU's Institutional Human Rights Architecture' (n231) 127.
[236] See Giuseppe Balducci, 'The EU's Promotion of Human Rights' in Knud Erik Jørgensen and Katie Verlin Laatikainen (eds), *Routledge Handbook on the European Union and International Institutions: Performance, Policy, Power* (Routledge 2013).
[237] Gráinne De Búrca, 'The Evolution of EU Human Rights Law' in Paul Craig and Gráinne De Búrca (eds), *The Evolution of EU Law* (3rd edn, Oxford University Press 2021) 503.

and policy framework has increasingly supported consistency of the EU's human rights promotion externally as well as visibility of the EU as a 'global force for human rights'.[238]

5. The Common Foreign and Security Policy as a Distinctive EU Competence

After reviewing the key EU external competences and policies that play a crucial role in advancing human rights under the ENP, this section analyses the CFSP, which has been a primary driver of the ENP's adoption.

5.1. General Overview

The CFSP is regarded as a distinctive EU competence[239] as it is 'subject to specific rules and procedures'.[240] The nature of this competence cannot be categorised under either of the competences listed in Articles 3-6 TFEU, analysed above. According to Wessel, it might come closest to the field of supportive or parallel competence,[241] since the provisions in the TEU covering the CFSP do not affect the responsibilities of the Member States 'for [the] formulation and conduct of their foreign policy'.[242] It is recognised as rather a 'sui generis' competence due to its distinguishing elements: different voting procedure, sanction policy, distribution of powers between institutions, as well as limited possibility of the CJEU to rule on the CFSP decisions.

The decision-making process under the CFSP remains strongly intergovernmental, led by the Council.[243] The CFSP decisions are taken unanimously, though Article 31(2) TEU provides for a few circumstances where the qualified majority voting is allowed. All decisions of the CFSP are binding on the Member States, however, the TEU does not provide for a 'mechanisms of enforcement, other than supervision by the Council

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[238] Commission, 'Human Rights and Democracy' (n197) 5.
[239] Luigi Lonardo, 'Common Foreign and Security Policy and the EU's External Action Objectives: An Analysis of Article 21 of the Treaty on the European Union' (2018) 14(3) European Constitutional Law Review 584, 584.
[240] Article 24(1) TEU.
[241] Ramses A Wessel, 'Common Foreign, Security and Defence Policy' in Ramses A Wessel and Joris Larik (eds), *EU External Relations Law: Text, Cases and Materials* (2nd edn, Hart 2020) 285.
[242] Declarations No 13 and 14 concerning the Common Foreign and Security Policy annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed 13 December 2007 [2012] OJ 326/1.
[243] Article 26(2) TEU.

itself'.[244] The CFSP decisions do not establish EU law as they are not adopted in accordance with the legislative procedure.[245]

Whereas Article 13 TEU defines the general EU's institutional framework, which applies to all policy areas, the role and balance between the institutions in implementing the CFSP are slightly different.[246] A leading role in determining the objectives of the CFSP, its strategic interests, as well as general guidelines, is granted to the European Council.[247] Together with the Council, a main decision-making institution,[248] they occupy a pivotal position in the CFSP. At the same time, the Commission and the European Parliament have limited competence in this area. Hence, such a division of powers between institutions under the CFSP distinguishes it from other external policies.

Article 24(1)(2) TEU and Article 275(1) TFEU limit the CJEU's jurisdiction regarding acts relating to the CFSP. Particularly, Article 275(1) TFEU states that the CJEU cannot adjudicate with respect to 'the provisions relating to the common foreign and security policy nor with respect to acts adopted on the basis of those provisions'. The CJEU, tough, is not 'entirely powerless'[249] in this area. It can monitor compliance with Article 40 TEU and assess the legality of the CFSP restrictive measures imposed on natural or legal persons.[250] In fact, cases *Bank Refah*,[251] *Rosneft*,[252] *Elitaliana*,[253] *SatCen*[254] demonstrate that, after the Treaty of Lisbon, the CJEU exhibited particularly 'expansionary tendencies with regard to the scope and the available proceedings that can be instigated against CFSP acts'.[255]

The EU's sanction policy is a unique instrument used to promote the objectives of the CFSP, as well as to support EU external competences and policies, discussed earlier,

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[244] Eeckhout, *EU External Relations Law* (n106) 467.
[245] Article 24(1)(2) TEU.
[246] Van Vooren and Wessel, *EU External Relations Law* (n2) 368.
[247] Article 22 TEU.
[248] Article 26(2) TEU.
[249] Peter Van Elsuwege, 'Upholding the Rule of Law in the Common Foreign and Security Policy: *H v. Council*' (2017) 54(3) Common Market Law Review 841, 841.
[250] Ibid.
[251] Case C-134/19 *Bank Refah Kargaran v Council* [2020] EU:C:2020:793.
[252] Case C-72/15 *Rosneft e.a. v Council* [2017] EU:C:2017:236.
[253] Case C439/13 P *Elitaliana v EULEX Kosovo* [2015] EU:C:2015:753.
[254] Case C-14/19 P *CSUE v KF* [2020] EU:C:2020:492.
[255] Lorin-Johannes Wagner, 'A Deconstruction of the Jurisdiction of the CJEU in CFSP Matters – Enlightenment at the End of the Tunnel?' (8 Graz Law Working Paper, 2020) 2.

by preventing the escalation of conflicts or human rights violations.[256] Particularly, the new global human rights sanctions regime, introduced in 2020,[257] aims to equip the EU with a 'framework that will allow it to target individuals, entities and bodies – including state and non-state actors – responsible for, involved in or associated with serious human rights violations and abuses worldwide'.[258] In this way, this tool is not primarily perceived as promoting human rights, but rather as reacting to human rights violations[259] to prevent potentially future ones, and is restrictive in nature.[260]

The CFSP, due to its intergovernmental procedural regime, is distinct from EU competences under the TFEU, which are of a 'supranational in character'.[261] Article 40 TEU protects EU policies and the CFSP from mutual interference. However, in practice, the CFSP affects, for instance, 'the exercise of [the CCP] in various ways'.[262] In the absence of a clear-cut understanding of what objectives under Article 21 TEU should be pursued by each policy, the boundaries between the competences are more 'blurred' than they seem.

5.2. The Common Foreign and Security Policy and Human Rights

As with other areas of EU external competence, Articles 3(5) and 21 TEU oblige the EU to uphold and promote human rights in all areas of its external relations, while Article 23 TEU connects this objective to the CFSP, albeit not explicitly. In particular, Article 23 TEU stipulates that the CFSP 'shall be guided by the principles, shall pursue the objectives of, and be conducted in accordance with the general provisions' in Chapter 1 TEU, which includes Articles 3(5) and 21. Despite the lack of an explicit connection between the CFSP and human rights in the Treaties, the CJEU case law consistently confirms that the objectives of the TEU, aimed at consolidating and

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[256] Commission, 'The European Economic and Financial System: Fostering Openness, Strength and Resilience' COM(2021) 32 final.
[257] Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses (2020) OJ L 410; Council Decision (CFSP) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses (2020) OJ L 410.
[258] Commission, 'Trade Policy Review – An Open, Sustainable and Assertive Trade Policy' COM(2021) 66 final.
[259] Peter Kotzian, Michèle Knodt and Sigita Urdze, 'Instruments of the EU's External Democracy Promotion: Instruments of the EU's External Democracy Promotion' (2011) 49(5) Journal of Common Market Studies 995, 1013.
[260] Van Vooren and Wessel, *EU External Relations Law* (n2) 395.
[261] Schütze, *European Union Law* (n5) 277.
[262] Eeckhout, *EU External Relations Law* (n106) 439.

supporting democracy, the rule of law, human rights, and the principles of international law, are to be considered as the CFSP objectives. In an array of General Court judgments,[263] the CSFP was referred to in conjunction with Article 21 TEU. In *Yanukovych v Council,*[264] the General Court examined the validity of restrictive measures adopted in response to the situation in Ukraine following the violent suppression of demonstrations in February 2014. The applicant contended that the CFSP sanctions imposed upon him did not actually serve to pursue the declared CFSP objectives, as it had not been established that the applicant had undermined democracy, the rule of law, or human rights in Ukraine. The General Court confirmed the validity of the sanctions after scrutinising the compatibility of the act imposing sanctions with the objectives of the CFSP stated in Article 21 TEU,[265] thus acknowledging that consolidation and support of democracy, the rule of law, and human rights are one of the CFSP objectives. Similarly, the General Court confirmed the link between Article 21(2) TFEU and the CFSP objectives in *Ivanyushchenko v Council*, holding that the objectives of the CFSP are defined, in particular, in Article 21(2)(b) TEU.[266]

In addition to pursuing human rights objectives under the CFSP, the EU has long-standing commitments to mainstream human rights across the CFSP tools. The policy document 'Mainstreaming Human Rights Across CFSP and other EU Policies',[267] adopted by the PSC in 2006, placed human rights mainstreaming at the core of both the CFSP and the Common Security and Defence Policy (CSDP), a policy which forms an integral part of the CFSP in line with Article 42(1) TEU. Many of the tools employed by the EU in its external relations, including in the ENP, are cross-cutting in nature. They are underpinned by various external competences and policies, including the CFSP, and are linked to cooperation framework agreements, Human Rights Dialogues, Human Rights Guidelines, and EU delegations. Arguably, the EU

[263] See Case T-200/11 *Al Matri v Council* [2013] ECLI:EU:T:2013:275; Case T-133/12 *Ben Ali v Council* [2014] ECLI:EU:T:2014:176; Case T-190/12 *Tomana and Others v Council* [2015] ECLI:EU:T:2015:222.
[264] Case T-348/14 *Yanukovych v Council* [2016] ECLI:EU:T:2016:508.
[265] Ibid [117].
[266] Case T-246/15 *Ivanyushchenko v Council* [2017] ECLI:EU:T:2017:789 [68].
[267] Council, 'Mainstreaming Human Rights Across CFSP and other EU Policies' (2006) 10076/06.

civilian missions under the CSDP, alongside the EU's sanction policy discussed earlier, are regarded as tools intrinsic to the CFSP.

Regarding EU civilian missions, over the years, the EU has made a significant 'indirect contribution' to human rights protection in partner countries through its civilian missions.[268] Human rights mainstreaming in the EU civilian missions is regulated by the Civilian CSDP Compact,[269] a policy document that sets commitments and deliverables to enhance the EU's ability 'to deliver outcomes'.[270] When conducting the EU civilian missions, the EU commits to promoting and systematically mainstreaming human rights, including women's rights, to ensure compliance with international law, in particular international human rights law, and international humanitarian law.[271] With that aim, the EEAS is tasked to include human rights impact and risk analysis in all planning documents of the EU civilian missions.[272] As missions currently operate in four EaP countries – Ukraine, Moldova, Georgia, and Armenia – they will be more thoroughly analysed in Chapter IV with respect to disability rights mainstreaming.

Thus, originally conceived as an intergovernmental framework for cooperation and coordination among the Member States in the peace and security domain, the modern CFSP functions as an overarching policy pursuing all the EU's external objectives, including human rights. The analysis of the nexus between the CFSP and human rights demonstrates that despite the non-interference approach between the CFSP and other EU competences, there is a tendency towards more developed common policies,[273] especially when it comes to pursuing general objectives of EU external relations under Articles 3(5) and 21 TEU.

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[268] Hadewych Hazelzet, 'Common Security and Defence Policy: What Nexus Between Human Rights and Security?' (CLEER Working Papers, 2012) 11.
[269] Council, 'Civilian CSDP Compact' (2021) 14740/21.
[270] Giovanni Faleg, 'The "Civilian Compact": Three Scenarios for the Future' in Daniel Fiott (ed), *The CSDP in 2020: the EU's Legacy and Ambition in Security and Defence* (EU Institute for Security Studies, 2020) 136.
[271] Van Vooren and Wessel, *EU External Relations Law* (n2) 427.
[272] European External Action Service, 'Civilian CSDP Compact – Towards More Effective Civilian Missions' (2023) 23.
[273] Eeckhout, *EU External Relations Law* (n106) 502.

6. Human Rights Promotion Toolbox in EU External Relations

To systematise the array of tools and instruments for external human rights promotion, this thesis refers to the categorisation introduced by Nowak and Podstawa. According to Nowak and Podstawa, the EU's human rights promotion toolbox can be divided into two sub-groups depending on the tool's function: tools 'serving the attainment of the linear objectives', and tools used together or in parallel with the first one to achieve the same objectives.[274] Within this PhD thesis, they are referred to as substantial and complementary tools. Therefore, strategic, legal, and enforcement tools are considered as substantial tools, while diplomatic, reflexive, and outreach, information, monitoring and evaluation tools are complementary in nature. [275]

Strategic tools that define the EU's vision and objectives in a given area underpin all its external competences, as examined in this chapter. They promote human rights through mainstream and targeted actions in line with Article 21 TEU. Trade agreements with partner countries are considered 'the chief legal tools'[276] in external relations. As highlighted earlier, the human rights clauses are essential to promoting human rights under the CCP, the development policy, and the ENP. The enforcement tools include conditionality mechanisms in trade agreements, the GSP+, and the comprehensive sanctions policy carried out by the CFSP to protect human rights and prevent further infringements across all areas of EU external relations. Although the CJEU has a more limited jurisdiction over the CFSP than over other policy areas,[277] as discussed previously, this enforcement tool can be utilised by non-EU citizens seeking to restore violated human rights by the sanction policy.

Complementary tools such as Human Rights Dialogues, action plans to cooperation framework agreements, financial tools support the attainment of objectives under political and legal tools, and can be found across all areas of EU external competences. They ensure that the human rights perspective is consistently included in all EU

[274] Manfred Nowak and Karolina Podstawa, 'The EU's (Strategic) Use of Human Rights Tools and Instruments' in Jan Wouters and others (eds), *The European Union and Human Rights: Law and Policy* (Oxford University Press 2020) 545.
[275] Ibid.
[276] Ibid 549.
[277] Peter Van Elsuwege, 'Judicial Review and the Common Foreign and Security Policy: Limits to the Gap-Filling Role of the Court of Justice' (2021) 58(6) Common Market Law Review 1731, 1731.

external action, and thus, contribute also to the achievement of the overall external objectives.

7. Multilateral Cooperation for Achieving EU External Relations Objectives

Scholars widely agree that states' foreign objectives, such as promoting peace, stability, democracy, and promoting human rights, can predominantly be achieved in cooperation with other international actors.[278] Likewise, over the years, the EU has developed 'a dense web of relations with states, regions, and international organizations'[279] to reinforce the implementation of its external objectives. Against this background, this PhD thesis contends that the EU's multilateral cooperation supports the rule-transfer of the EU acquis in neighbourhood countries. This section provides a general discussion of the role of multilateral cooperation in achieving the EU's external objectives, focusing on its legal and policy framework. In this way, it supports the analysis of the multilateral cooperation as a tool for EU disability norms transfer in Chapters IV and VI.

Multilateral cooperation is understood as a '[set] of implicit or explicit principles, norms, rules and decision-making procedures around which actors expectations converge in a given issue-area.'[280] It is commonly perceived as a form of international cooperation involving three or more parties.[281] In analysing multilateral cooperation as a socialisation tool, the focus is narrowed to the EU's engagement with multilateral institutions, which actively promote human rights in the EaP countries and have, over the years, developed sustainable relations with the EU.

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[278] See De Búrca, 'EU External Relations' (n47) 42; Gesa Kübek and Isabella Mancini, 'EU Trade Policy between Constitutional Openness and Strategic Autonomy' (2023) 19(3) European Constitutional Law Review 518.

[279] Nadia Klein, Tobias Kunstein and Wulf Reiners, 'Assessing EU Multilateral Action' in Caroline Bouchard, John Peterson and Nathalie Tocci (eds), *Multilateralism in the 21st Century: Europe's Quest for Effectiveness* (Routledge 2013) 93.

[280] Akiko Fukushima, *Japanese Foreign Policy: The Emerging Logic of Multilateralism* (Palgrave Macmillan 1999) 9 citing Stephen D Kranser, 'Structural Causes and Regime Consequences: Regimes as Intervening Variables' in Stephen D Krasner (ed), *International Regimes* (Cornell University Press 1983) 1.

[281] Thomas Renard, 'Partnerships for Effective Multilateralism? Assessing the Compatibility between EU Bilateralism, (Inter-)Regionalism and Multilateralism' (2016) 29(1) Cambridge Review of International Affairs 18, 20.

The EU has been a 'staunch promoter'[282] of multilateralism as a key mode of engagement with the world. This 'method of foreign policy'[283] is deeply rooted in the Treaties and the EU's policy framework. As argued by Kübek and Mancini, Articles 3(5) and 21 TEU express 'a constitutional preference for multilateral and international cooperation over unilateralism'.[284] In this way, the EU's external objectives under Article 21 TEU 'form the bedrock of cooperative relations'.[285] In particular, Article 21(2)(h) TEU sets out an objective to 'promote an international system based on stronger multilateral cooperation and good global governance'. The TFEU contains multiple provisions that promote collaboration between the EU and international organisations in areas such as social policy,[286] development cooperation,[287] economic, financial, and technical partnerships with third countries,[288] and humanitarian aid,[289] among others. This cooperation, in line with Article 21(1) TEU, has to be built with those international organisations that share the principles and values of the EU, alongside the partnership itself should be guided by 'the commonly shared principles'.[290]

The Joint Communication on Strengthening the EU's Contribution to Rules-Based Multilateralism,[291] adopted in 2021, represents a key strategic document defining the EU's role in the multilateral order. Aside from setting up ambitious goals such as supporting reinvigoration of the multilateral order, the EU committed to defending and promoting human rights and respect for human dignity, including gender equality, the rights of the child, and the LGBTIQ rights. With this aim, it is ready to 'team up with all those who support' these values, thereby echoing the spirit of Article 21(1) TEU. Aside from this dedicated policy document, multilateral cooperation as a tool to

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[282] Ibid 23.
[283] Jed Odermatt, 'Convergence Through EU Unilateralism' in Elaine Fahey (ed), *Framing Convergence with the Global Legal Order: The EU and the World* (Hart 2020) 53.
[284] Kübek and Mancini, 'EU Trade Policy' (n278) 522.
[285] Commission, 'On Strengthening the EU's Contribution to Rules-Based Multilateralism' JOIN(2021) 3 final.
[286] Article 156 TFEU.
[287] Article 211 TFEU
[288] Article 212 TFEU.
[289] Article 214(4) TFEU.
[290] Thomas Ramopoulos, 'Article 21 TEU' in Manuel Kellerbauer, Marcus Klamert and Jonathan Tomkin (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary* (2nd edn, Oxford University Press 2019) 201.
[291] Commission, 'On Strengthening the EU's Contribution to Rules-Based Multilateralism'(n285).

promote and protect human rights is mainstreamed in the EU's external human rights policy framework to a larger extent. The Action Plan 2020–2027 set up a stand-alone objective of promoting a global system for human rights and democracy, which is 'at the core of the EU's commitment to strengthening multilateralism'.[292]

8. Concluding Remarks

Over time, the EU has progressively consolidated its position as a global actor in the wider world, including in its engagement with neighbouring countries. Two developments were particularly decisive in shaping the EU's global actorness: the CJEU's recognition of the EU's implied external powers and the acquisition of legal personality under Article 47 TEU. Further, Article 21 TEU, which introduced a set of objectives applicable across all EU's external actions, boosted the mainstreaming of human rights externally, thereby stimulating a tendency to more developed common policies with a higher degree of cooperation between them on human rights.

This chapter captured these developments by examining the tenets of EU external competences and policies, with a particular focus on the human rights area. It explored the nexus between human rights and key external competences, including the CCP, the EU's development policy, the CSFP, as well as the ENP and the EU's external human rights policy. In doing so, it set the scene for the subsequent analysis of disability rights in EU external relations, conceived as part of a broader human rights framework.

While the CCP polices appear to be the most evolved and equipped with substantial and complementary tools for effective human rights promotion, the EU's external human rights policy and the EU's development policy tend to be the most cross-cutting in nature. The ENP, in turn, while not conferring new competence upon the EU, is complementary in nature and thus can utilise a broad arsenal of tools from other EU competences and policies to achieve its objectives. This account will be further examined in Chapter II. The CFSP holds a distinct place among EU competences, as it is intergovernmental in nature, though it nonetheless displays a strong influence on

[292] Commission, 'EU Action Plan on Human Rights' (n218) 22.

the human rights externally through its sanction policy as well as the EU civilian missions.

By endorsing the UN Millennium Declaration, the EU acknowledged the importance of multilateral cooperation for achieving democracy, the rule of law, and human rights, and therefore gradually incorporated its commitments across external competences and policies.

This chapter also systematised a wide array of human rights tools into a conceptual 'toolbox', providing a methodological framework for the subsequent analysis of mechanisms and tools supporting the rule-transfer under the EaP, conducted in Chapter II.

Overall, this chapter has laid down the groundwork for further investigation of the EaP in Chapter II, and established a solid foundation for a more in-depth analysis in Chapter IV.

Chapter II

The Eastern Partnership as a Strand of the European Neighbourhood Policy

1. Introduction

After having discussed the scope and tenets of EU competences in external relations, this chapter zooms in on the European Neighbourhood Policy (ENP) with a focus on the Eastern Partnership (EaP). The overview provided underpins the analysis conducted in Part Three of this PhD thesis and foregrounds the examination of mechanisms and tools the EU utilises to transfer EU disability norms in the EaP countries, thereby contributing to answering the first research question. To this end, it examines various dimensions of the EaP, focusing on the legal, policy, and institutional frameworks, as well as the main mechanisms and tools governing the EU's cooperation with partner countries under the EaP.

This chapter is structured as follows. Section 2 broadly explores the evolution of the ENP, with a focus on the EaP as an Eastern regional dimension. Section 3 discusses the legal nature and tools developed specifically under the EaP. This section also provides an analysis of the extent to which human rights were mainstreamed in the ENP before the introduction of the EaP. Section 4 then delves into the evolution of the EaP within the ENP, assessing how human rights considerations have progressively gained significance in the EU's cooperation framework with the EaP countries. Section 5 outlines the EaP's institutional framework, which underpins the EU's cooperation with the EaP countries. Section 6 discusses the legal aspects of rule-transfer within the EaP with respect to Article 8 TEU and evaluates whether the constitutional framework provides or points to mechanisms and instruments that facilitate this process. Building on the analysis conducted in Chapter I, section 7 introduces the key mechanisms that underpin the EU's cooperation framework under the EaP by examining the conceptual framework. Sections 8 and 9 connect the human rights toolbox introduced in Chapter I with the mechanisms to further support the analysis of the rule-transfer of EU disability norms in Part Three. It focuses on the human rights dimension of the EaP, assessing how human rights, which encompass disability rights, are mainstreamed through the mechanisms and tools introduced. The analysis centres on two primary mechanisms: conditionality and socialisation. First, it examines the extent to which human rights are mainstreamed in substantial and complementary tools that channel conditionality, such as cooperation framework

agreements, action plans, and financial instruments. It then explores the key tools for socialisation under the EaP, which mainstream human rights, in particular, support of civil society, technical cooperation, and multilateral cooperation. A final section provides concluding remarks.

2. The Evolution of the European Neighbourhood Policy

The previous chapter has briefly outlined the core tenets of the ENP. This section examines the evolution of this policy and discusses its legal nature, tools, and the extent to which human rights are mainstreamed into its framework.

2.1. The Origin of the European Neighbourhood Policy

Following the dissolution of the Soviet Union in 1991, the EU had to establish official links with the New Independent States (NIS), including Ukraine, the Republic of Moldova (Moldova), Georgia, the Republic of Armenia (Armenia), and the Republic of Azerbaijan (Azerbaijan). Given that the law has historically fulfilled an 'important communicative function'[1] for the EU, it is unsurprising that it sought to develop relations with the NIS through such a legal tool as the Partnership and Cooperation Agreement (PCA). The PCAs for Ukraine, Moldova, Georgia, Armenia, and Azerbaijan were negotiated in the late 1990s.[2]

As an 'entry-level'[3] agreement occupying 'a niche near the bottom of the EU's hierarchy of trade relations',[4] the PCA aimed to establish formal basic trade relations based on political and economic partnership without any European integration or membership perspectives. The agreement, though, incorporated a provision on 'legal

[1] Elaine Fahey, *Global Reach of EU Law* (Routledge 2017) 18.
[2] Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Ukraine, of the other part [1998] OJ L 49/3; Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part [1998] OJ L 181/3; Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia, of the other part [1999] OJ L 205/3; Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Armenia, of the other part [1999] OJ L 239/3; Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part [1999] OJ L 246/3.
[3] Guillaume Van der Loo, *The EU–Ukraine Association Agreement and Deep and Comprehensive Free Trade Area: A New Legal Instrument for EU Integration Without Membership* (Brill Nijhoff 2016) 68.
[4] Steve Peers, 'From Cold War to Lukewarm Embrace: The European Union's Agreements with the CIS States' (1995) 44(4) The International and Comparative Law Quarterly 829, 829.

approximation' with the EU acquis through the so-called 'best endeavour' clause,[5] which encouraged partner countries to make their legislation gradually compatible with the EU law. However, as this clause imposed an obligation to act without mandating specific results, it did not constitute a 'formal legal commitment'.[6] Overall, the PCA lacked 'an articulated underlying strategy'[7] and a 'timetable for regulatory approximation',[8] which did not allow it to progress significantly. Van Elsuwege and Petrov argue that the rule-transfer process 'did not go beyond mere declaratory statements about the importance of legislative approximation'.[9] Generally, the period preceding the launch of the ENP was characterised by various Eastern European scholars as 'the age of ignorance'[10] on the part of the EU. The level of engagement with the NIS under the PCA demonstrated that fostering close partnerships with these countries was not the EU's foremost priority.[11]

The 'historic enlargement'[12] in 2004 and the shift of the EU's borders prompted the EU to reconsider its relations with new neighbours. The need to minimise security threats around the EU's new borders[13] resulted in the launch of the ENP in May

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[5] See Article 51 PCA between the EU and Ukraine; Article 50 PCA between the EU and Moldova; Article 43 PCA between the EU and Georgia; Article 43 PCA between the EU and Armenia; Article 43 PCA between the EU and Azerbaijan.

[6] Van der Loo, *The EU–Ukraine Association Agreement* (n3) 28.

[7] Christophe Hillion, 'Anatomy of EU Norm Export Towards the Neighbourhood: The Impact of Article 8 TEU' in Peter Van Elsuwege and Roman Petrov (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union: Towards a Common Regulatory Space?* (Routledge 2014) 14.

[8] Commission, 'Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours' COM (2003) 104 final 5.

[9] Peter Van Elsuwege and Roman Petrov, 'Setting the Scene: Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union' in Peter Van Elsuwege and Roman Petrov (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union: Towards a Common Regulatory Space?* (Routledge 2014) 3.

[10] Pál Dunay, 'The EU's Engagement with the Eastern Partnership on Human Rights' in Jan Wouters and others (eds), *The European Union and Human Rights: Law and Policy* (Oxford University Press 2020) 229.

[11] Karen E Smith, 'The Outsiders: The European Neighbourhood Policy' (2005) 81(4) International Affairs 757, 758.

[12] Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded [2003] OJ L 236/33.

[13] Richard G Whitman and Stefan Wolff, 'Much Ado About Nothing? The European Neighbourhood Policy in Context' in Richard G Whitman and Stefan Wolff (eds), *The European Neighbourhood Policy in Perspective: Context, Implementation and Impact* (Palgrave Macmillan 2010) 13.

2004,[14] gathering 16 heterogeneous countries[15] around its southern and eastern borders under the one 'umbrella' policy. The ENP primarily pursued an overarching objective of a prosperous, safe, and stable neighbourhood. To this end, it was launched as a project to expand the EU's influence outside its borders predominantly through regulatory and legislative approximation.[16] In fact, to be eligible 'to sign up to the ENP', neighbouring countries had to have a contractual relationship in force with the EU.[17]

The ENP was designed as a dynamic policy enabling the possibility of deeper economic and political integration. Under the formula 'more than partnership less than membership',[18] it constituted 'an open-ended process' allowing neighbouring countries to enhance their cooperation with the EU progressively.[19] This step-by-step process was conditional on the fulfilment of agreed reform targets.[20] In the absence of progress, partner countries would not be offered deeper integration, increased financial assistance, or other incentives.[21] While the formalisation of cooperation with neighbouring countries undoubtedly strengthened relations, the rule-transfer process remained fragmented and lacked a systematic approach. 'Vaguely worded priorities' in the ENP Action Plan,[22] a tool developed to advance the PCA implementation, did not visibly contribute to the achievement of the ENP objectives. This, combined with a deep 'power asymmetry in the ENP countries' relations with the EU',[23] ultimately

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[14] Commission, 'European Neighbourhood Policy – Strategy Paper' COM(2004) 373 final.
[15] At the outset, the ENP policy was composed of 12 countries: Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan Lebanon, Moldova, Morocco, Occupied Palestinian Territory, Tunisia, and Ukraine. Algeria, Belarus, Libya, and Syria were included in the upcoming years.
[16] Sandra Lavenex, 'On the Fringes of the European Peace Project: The Neighbourhood Policy's Functionalist Hubris and Political Myopia' (2017) 19(1) The British Journal of Politics and International Relations 63, 66.
[17] European Parliament Resolution of 13 March 2008 on the Challenge of EU Development Cooperation Policy for the New Member States (2007/2140(INI)) (2009) OJ C 66E.
[18] Romano Prodi, 'A Wider Europe: A Proximity Policy as the Key to Stability', Sixth ECSA-World Conference (2002) SPEECH/02/619 3.
[19] Frank Schimmelfennig, 'Beyond Enlargement: Conceptualizing the Study of the European Neighbourhood Policy' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 19.
[20] Commission, 'Wider Europe'(n8).
[21] Ibid.
[22] Julia Langbein and Kataryna Wolczuk, 'Convergence Without Membership? The Impact of the European Union in the Neighbourhood: Evidence from Ukraine' (2012) 19(6) Journal of European Public Policy 863, 871.
[23] Elena Korosteleva, 'The Challenges of a Changing Eastern Neighbourhood' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 169.

prompted the EU to 'regionalise' this policy',[24] and establish two separate cooperation frameworks under the ENP: the EaP for Eastern neighbours and the Union for the Mediterranean for Southern neighbours.[25] In general, Korosteleva described the EU's approach towards the ENP in that period as experiential.[26]

2.2. The First Revision of the European Neighbourhood Policy

In 2011, the 'Arab Spring' reinforced the first revision of the ENP. Realising that the current format of the ENP was not catching up with the 'rapidly evolving partners',[27] this strategic review claimed to offer a more tailored approach to Southern and Eastern partners. With regard to the EaP, even within a single geographical sub-group composed of Ukraine, Moldova, Georgia, Armenia, Azerbaijan, and Belarus,[28] significant disparities existed between the countries. These differences primarily stemmed from the geographical scope, geopolitical contexts, and diverging ambitions with respect to the EU. Whereas Georgia, Moldova, and Ukraine expressed clear membership aspirations and their dissatisfaction with the current position of just neighbours, Belarus, Armenia, and Azerbaijan did not have an interest in membership. Geographically speaking, Belarus, Ukraine, and Moldova are contiguous with the EU territory, the other three partners, Armenia, Azerbaijan, and Georgia, do not share a common border with the EU. Hence, the EaP could not generate enough interest among all countries, as it did not address their needs and ambitions, which eventually led to limited results of this policy.[29]

Therefore, with the first revision of the ENP, the EU shifted its approach towards mutual accountability and a shared commitment to human rights, supported by a higher level of differentiation 'allowing each partner country to develop its links with the EU as far as its own aspirations, needs and capacities allow'.[30] Further, it

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[24] Ibid.
[25] Commission, 'Barcelona Process: Union for the Mediterranean' COM(2008) 319 final.
[26] Korosteleva, 'The Challenges of a Changing Eastern Neighbourhood' (n23) 169.
[27] Commission and High Representative of the Union for Foreign Affairs and Security Policy, 'A New Response to a Changing Neighbourhood' COM(2011) 303 final 1.
[28] In 2021, Belarus suspended its participation in the EaP. In line with the Council Conclusions 11661/20 of 12 October 2020, the EU continues its cooperation with Belarussian non-state stakeholders such as civil society, independent media, and youth.
[29] Tobias Schumacher and Dimitris Bouris, 'The 2011 Revised European Neighbourhood Policy: Continuity and Change in EU Foreign Policy' in Dimitris Bouris and Tobias Schumacher (eds), *The Revised European Neighbourhood Policy: Continuity and Change in EU Foreign Policy* (Palgrave Macmillan 2017) 2.
[30] Commission, 'A New Response' (2011) (n27) 2.

introduced an incentive-based approach called a 'more for more' principle linking the increased EU support to the progress made by a partner country.[31] In this way, the EU intended to 'reward' partners for positive changes in the reform process.[32]

Another outcome of this revision was the recognition of civil society as an important stakeholder in the democratisation process. Accordingly, the ENP's institutional framework introduced new formats of cooperation with civil society alongside increased financial support for this sector, which will be discussed later in this chapter.

2.3. The Second Revision of the European Neighbourhood Policy

In 2015, during the second revision of the ENP, the Commission significantly reshaped the ENP to adapt it to the new challenges caused by the 'Arab Spring' and the occupation of the Eastern parts of Ukraine.[33] The revised ENP introduced a more individual approach in cooperation with each neighbour in order to integrate, in a more comprehensive fashion, national contexts into the cooperation framework. Underpinned by general principles and objectives of EU external relations, such as democracy, the rule of law, and human rights, the ENP joint priorities after 2015 focused on four main areas: good governance, democracy, the rule of law, and human rights; economic development for stabilisation; security; migration and mobility.[34] Eventually, it abandoned its 'more for more' approach, which was widely criticised for its inefficiency for various reasons, including a lack of commitment on the partners' side and 'the scarcity of incentives'.[35] With that in mind, the EU shifted to more actively engaging with civil, economic, and social actors on the fundamental reforms in those countries which lack political will in this regard.[36] Accordingly, the EU reporting framework was reconsidered. By abandoning 'a single set of progress

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[31] Ibid 28.
[32] Peter Van Elsuwege, 'The EU and its Neighbours' in Ramses A Wessel and Joris Larik (eds), EU External Relations Law: Text, Cases and Materials (2nd edn, Hart 2020) 449.
[33] Commission, 'Review of the European Neighbourhood Policy' JOIN(2015) 50 final.
[34] Commission, 'Revised European Neighbourhood Policy: Supporting Stabilisation, Resilience, Security' (Press Release, 18 May 2017) <https://ec.europa.eu/commission/presscorner/detail/en/ip_17_1334> accessed 29 September 2025.
[35] Filippo Celata and Raffaella Coletti, 'Beyond Fortress Europe. Unbounding European Normative Power and the Neighbourhood Policy: Beyond Fortress Europe' (2016) 10(1) Geography Compass 15, 16.
[36] European Parliament Resolution of 9 July 2015 on the review of the European Neighbourhood Policy (2015/2002(INI)) (2017) C 265/110.

reports on all countries simultaneously',[37] the EU focused on a reporting framework tailored to each partner based on the level of their ambitions.

2.4. The Most Recent Developments

The Russian war of aggression against Ukraine, launched in 2022, directly at the EU's borders, prompted the EU to 'recalibrate' its approach to the neighbourhood.[38] While the third revision of the ENP framework has not yet appeared on the EU's agenda, the geopolitical situation in the region has already prompted the EU to refocus on the securitisation and resilience-building of the Eastern neighbourhood.[39] The future of the ENP as an umbrella policy for Southern and Eastern partners remains uncertain and depends on how fast it can adapt to the shifting geopolitical landscape and respond to the current needs of its neighbours. Overall, whether the ENP has succeeded so far in achieving its overarching objective of a safe and prosperous neighbourhood remains a subject of scholarly debate. This PhD thesis provides a general overview of this policy without a contextual assessment of its efficiency, as it falls outside the scope of the research questions.

3. The European Neighbourhood Policy: Legal Nature, Tools, and the Promotion of Human Rights

After introducing the main developments of the ENP, this section analyses the legal nature and tools of the ENP, as well as the extent to which human rights are integrated into its framework.

3.1. Legal Nature

The ENP is conceived 'without an explicit basis in the Treaties'[40] and is built on existing policies and arrangements with neighbouring countries. Thus, the complementary nature of the ENP allows it to supplement and reinforce other policies

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[37] Commission, 'Review of the European Neighbourhood Policy' (2015) (n33).
[38] Ryhor Nizhnikau and Arkady Moshes, 'The War in Ukraine, the EU's Geopolitical Awakening and Implications for the "Contested Neighbourhood"' (2024) 45(3-4) Policy Studies 489, 498.
[39] See Grzegorz Pożarlik, 'Conceptualising Geopolitical Securitisation of Resilience-Building in the EU's Eastern Neighbourhood' in Gilles Rouet and Gabriela Carmen Pascariu (eds), *Resilience and the EU's Eastern Neighbourhood Countries: Crisis, Transformations and Policies* (Palgrave Mcmillan 2025); Mario Draghi, 'The Future of European Competitiveness' (Publications Office of the European Union, 2024).
[40] Peter Van Elsuwege and Roman Petrov, 'Legal Perspectives on the Study of the European Neighbourhood Policy' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 106.

rather than override them,[41] while concomitantly advancing and reinforcing its own framework. At the same time, such a modus operandi offers greater flexibility in responding to changes in the geopolitical environment. The presence of a 'ring of fire' rather than a 'ring of friends'[42] around its border requires the EU to maintain flexibility and adaptability to achieve its ambitious goal of prosperity and stability in the region. The instability in the neighbourhood compels the EU to reassess its approach and periodically upgrade its relations with neighbours.

With the Treaty of Lisbon, a legal basis for developing cooperation with the neighbouring countries was anchored in Article 8 TEU.[43] In particular, Article 8(1) TEU states that:

> '1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation'.

It delineates the broader objectives of the ENP, such as establishing an area of prosperity and good neighbourliness founded on the values of the EU, without, however, conferring 'new or distinct' competences upon the EU.[44] Although the ENP is now supported by an express provision in the TEU, its complementary character has remained. As Hillion argues, this is evidenced by the placement of Article 8 in the Common Provisions rather than in the specific sections of the TEU governing EU competences.[45] The ENP constitutes rather 'a facet of [the EU's] identity'.[46] In practice, Article 8 TEU has not been used as a legal basis for agreements with the neighbours and has rarely been referred to in the tools supporting the ENP.[47] For instance, the legal basis of the conclusion of the Comprehensive and Enhanced Partnership Agreement (CEPA) with Armenia was the combination of articles regulating agreements in the Common Commercial Policy (CCP), such as Article 37 TEU and Article 207 TFEU, and the EU's development policy, such as Article 209

[41] Commission, 'Wider Europe'(n8) 15.
[42] Ibid 4.
[43] Van Elsuwege, 'The EU and its Neighbours' (n32) 441.
[44] Ibid 442.
[45] Christophe Hillion, 'The EU Neighbourhood Competence under Article 8 TEU' (2013) 3 SIEPS 2.
[46] Marise Cremona and Niamh Nic Shuibhne, 'Integration, Membership, and the EU Neighbourhood' (2022) 59(SI) Common Market Law Review 155, 157.
[47] Van Elsuwege, 'The EU and its Neighbours' (n32) 442.

TFEU.[48] Therefore, Article 8 TEU acts rather 'as a policy point of reference',[49] enhancing 'the political importance' of sustainable relations with neighbours.[50] Also, it provides some insights into the EU's actorness in the neighbourhood, which will be discussed in section 7.

3.2. The European Neighbourhood Tools

When conceived, the ENP was viewed by the EU as a 'truly modern foreign policy, harnessing and integrating instruments from across the spectrum'.[51] This array of tools included both those specifically developed under the ENP and those assimilated from other competences and policies.[52] The ENP-specific tools were designed to complement rather than replace the existing contractual relations.[53] This subsection examines the tools developed specifically under the ENP, while other instruments will be discussed elsewhere in this chapter. It is also essential to note that following the 'regionalisation' of the policy in 2009, marked by the launch of the EaP and the Union for the Mediterranean, the term 'ENP' 'remained in existence as a political umbrella' encompassing all initiatives around its border.[54]

Prior to establishing the EaP, the ENP-specific tools developed to advance cooperation with the partner countries included mainly non-binding tools.[55] The Visa Facilitation Agreement and the Readmission Agreement concluded by all EaP countries[56] are

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[48] Anna Khvorostiankina, 'The EU–Armenia Comprehensive and Enhanced Partnership Agreement: A New Instrument of Promoting EU's Values and General Principles of EU Law' in Stefan Lorenzmeier, Roman Petrov and Christoph Vedder (eds), *EU External Relations Law: Shared Competences and Shared Values in Agreements Between the EU and its Eastern Neighbourhood* (Springer 2021) 196.
[49] Cremona and Shuibhne, 'Integration, Membership, and the EU Neighbourhood' (n46) 158.
[50] Petra Lustigovà, 'The Place and the Status of the Eastern Partnership Policy in the European External Relations Law' in Nadežda Šišková (ed), *From Eastern Partnership to the Association: A Legal and Political Analysis* (Cambridge Scholars Publishing 2014).
[51] Eneko Landaburu, 'From Neighbourhood to Integration Policy: Are There Concrete Alternatives to Enlargement?' (95 CEPS Policy Brief, 2006) 2.
[52] Narine Ghazaryan, 'A New Generation of Human Rights Clauses? The Case of Association Agreements in the Eastern Neighbourhood' (2015) 40(3) European Law Review 391, 394.
[53] Rilka Dragneva and Kataryna Wolczuk, 'The EU–Ukraine Association Agreement and the Challenges of Inter-Regionalism' (2014) 39 Review of Central and East European Law 213, 218.
[54] Bart Van Vooren and Ramses A Wessel, *EU External Relations Law: Text, Cases and Materials* (1st edn, Cambridge University Press 2014) 542.
[55] Laure Delcour, 'Between the Eastern Partnership and Eurasian Integration: Explaining Post-Soviet Countries' Engagement in (Competing) Region-Building Projects' in Andriy Tyushka and Tobias Schumacher (eds), *The European Union and its Eastern Neighbourhood: Whither 'Eastern Partnership'?* (Routledge 2021) 41.
[56] Agreement between the European Community and Ukraine on the facilitation of the issuance of visas [2007] OJ L 332/68; Agreement between the European Community and Ukraine on readmission [2007] OJ L 332/48; Agreement between the European Community and the Republic of Moldova on the facilitation of the issuance of visas [2007] OJ L 334/169; Agreement between the European Community

arguably the only legally binding tools that can be characterised as an ENP tool.[57] These agreements were negotiated as a package, with visa facilitation offered as an incentive for meeting readmission obligations[58] regarding 'third country nationals' and stateless persons. Successful implementation of the Readmission Agreement would, in turn, open the prospect of a dialogue on visa liberalisation, formalised through the Visa Liberalisation Action Plan (VLAP). Whereas these agreements themselves had little direct impact on EU disability norms transfer into the legal orders of partner countries, the VLAP has played a central role in this process and will be examined in section 8 of this chapter alongside in Chapters V and VI.

With regard to the complementary tools, the ENP Action Plan tailored for each partner country is considered a key tool under the ENP.[59] It was 'designed to promote political reform, sustainable economic and social development',[60] by supporting primarily, but not exclusively, the PCA implementation. The ENP Action Plan was postulated mainly by the Commission with participation, albeit limited, of partner countries.[61] Van Vooren views the advantages of the ENP Action Plan in that it, first, as a soft law tool, could be 'speedily adopted' overcoming procedural requirements of binding tools and second, could encompass various EU competences.[62] The assessment of the progress in achieving the objectives of the ENP Action Plan relied on the country reports prepared by the government of a partner country. Based on the partner country report, the Commission, with input from the High Representative of the Union for

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and the Republic of Moldova on readmission [2007] OJ L 334/149; Agreement between the European Union and Georgia on the facilitation of the issuance of visas [2011] OJ L 52/34; Agreement between the European Union and Georgia on the readmission of persons residing without authorisation [2011] OJ L 52/47; Agreement between the European Union and the Republic of Armenia on the facilitation of the issuance of visas [2013] OJ L 289/2; Agreement between the European Union and the Republic of Armenia on the readmission of persons residing without authorisation [2013] OJ L 289/13; Agreement between the European Union and the Republic of Azerbaijan on the facilitation of the issuance of visas [2014] OJ L 128/49; Agreement between the European Union and the Republic of Azerbaijan on the readmission of persons residing without authorisation [2014] OJ L 128/17.

[57] Florian Trauner and Imke Kruse, 'EC Visa Facilitation and Readmission Agreements: Implementing a New EU Security Approach in the Neighbourhood' (290 Working Document, CEPS, 2008) 22.

[58] Ibid 21.

[59] Van Elsuwege and Van Der Loo, 'Continuity and Change (n29) 98.

[60] Jo Leinen and Sandra Weidemann, 'How Does ENP Work? A View from the European Parliament' in Johannes Varwick and Kai-Olaf Lung (eds), *European Neighbourhood Policy: Challenges for the EU-policy Towards the New Neighbours* (Verlag Barbara Budrich 2007) 51.

[61] On the process of development of the ENP Action Plans, see Alexander Duleba, 'The Tools of the European Neighborhood Policy. Lessons Learned and Thinking about a Follow Up' (2008) 17(4) International Issues & Slovak Foreign Policy Affairs 57.

[62] Bart Van Vooren, *EU External Relations Law and the European Neighbourhood Policy: A Paradigm for Coherence* (Routledge 2012) 193.

Foreign Affairs and Security Policy/Vice-President of the Commission (HR/VP) and international organisations,[63] drew the ENP progress report, which is another essential ENP tool. It highlighted the political and economic situation and the state of human rights in the partner country. The ENP progress report was assessed by the Council, which eventually determined if a partner country moves to the next phase of cooperation.[64] Following the conclusion of the AA/DCFTA and the CEPA, and the second revision of the ENP in 2015, the Commission shifted from the ENP progress report to the Association Implementation Report for Ukraine, Moldova and Georgia, Partnership Implementation Report for Armenia, and Cooperation Implementation Report for Azerbaijan, in line with its 'differentiating' approach. Despite the different titles, they all pursue the objective of monitoring the cooperation progress overall and the implementation of the cooperation framework agreements, in particular. Also, in 2015, following the second revision of the ENP, the Commission introduced regular reports tracking the development in the neighbourhood,[65] with a focus on key objectives under Regulation (EU) 232/2014 establishing the European Neighbourhood Instrument (ENI),[66] a financial instrument, which will be discussed in section 8.

3.3. The Promotion of Human Rights under the European Neighbourhood Policy

The EU acknowledged since the very beginning that the ambition of securing prosperity, security, and stability around its border could not be achieved without human rights promotion. In that connection, the EU has gradually expanded the scope of its influence on the human rights agenda in neighbouring countries.

Under the ENP, the EU centred its relations with the neighbouring countries around a joint commitment to shared values, such as democracy, the rule of law, and human rights. Notably, the ENP Strategy Paper,[67] adopted in 2004, referred to the promotion of values formed by international standards, anchored in the European Convention on

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[63] Sieglinde Gstöhl, 'The Social Dimension of EU Neighbourhood Policies' in Jan Orbie and Sieglinde Gstöhl (eds), *The European Union and the Social Dimension of Globalization: How the EU Influences the World* (Routledge 2009) 71.
[64] Bahar Maral Saribay and Seyhun Doğan, 'European Union-Ukraine Relations in the Context of European Neighbourhood Policy' (2022) 20(4) Journal of Management and Economic Research 251, 255.
[65] Commission, 'Review of the European Neighbourhood Policy' (2015) (n33) 5.
[66] Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument [2014] OJ L 77/27.
[67] Commission, 'European Neighbourhood Policy: Strategy Paper' (n14).

Human Rights (ECHR),[68] the UN Charter,[69] and the Universal Declaration of Human Rights (UDHR).[70] Making clear that these values constitute an essential element of the EU's relations with partners within the ENP, it conditioned the progress in cooperation with each partner 'to the extent to which common values are effectively shared'.[71] This condition was channelled via the human rights clause in the PCA, a provision allowing for suspension of the agreement in case of a human rights breach by the other party. This provision allowed the EU to link human rights to other policy areas covered by the PCA.[72] Though the EU had not enforced it in respect of the EaP countries, as scholars contend that the suspension of an agreement would have reduced 'the Union's influence on that country'.[73]

Alongside featuring human rights in all economic and political aspects of the ENP, the EU specified in the so-called 'founding' ENP documents,[74] which constituted its strategic framework, a set of human rights to be prioritised in the first years of the ENP. Particularly, through the ENP Action Plans, due respect had to be paid to the promotion of women, children, and minorities' rights alongside the commitment to fight against the practice of torture, prevention of ill-treatment, and labour rights, among other spheres. Additionally, the promotion of fundamental social rights under the International Labour Organization (ILO) was necessitated under the ENP. The ENP Action Plans also aimed to define individual priorities, 'both ambitious and realistic',[75] for each partner under the common objectives to strengthen commitment to common values such as democracy and the rule of law, human rights, and rights of minorities.

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[68] European Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4 November 1950, ETS 5.
[69] Charter of the United Nations, signed 26 June 1945 in San Francisco, entered into force 24 October 1945.
[70] Universal Declaration of Human Rights, Resolution adopted by the General Assembly UN General Assembly Resolution on 10 December 1948, 217 A (III).
[71] Ibid 3.
[72] Rosa Balfour, 'Human Rights in the European Neighbourhood Policy' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 483.
[73] Van der Loo, *The EU–Ukraine Association Agreement* (n3) 70; See also Van Elsuwege and Petrov, 'Setting the Scene' (n9) 2.
[74] Commission, 'Wider Europe'(n8); Commission, 'Strategy Paper' (n67).
[75] Commission, 'On the Commission Proposal for Action Plans under the European Neighbourhood Policy (ENP)' COM(2004) 795 final.

It is notable that, under the ENP Action Plans, the partner countries were obliged to implement a wide range of reforms across various sectors, including statistics, the judiciary, taxation, labour rights, and human rights, in line with *European standards*. For instance, Georgia had to reform its entire judicial system, national refugee system, and statistical methods in line with European standards.[76] Ukraine had to reform civil, administrative, and criminal procedural codes, alongside ensuring respect for the rights of persons belonging to national minorities.[77] However, in most cases, the ENP Action Plans did not specify what the European standards in certain domains actually entailed. In respect to advancing human rights and fundamental freedoms in line with 'international and European standards', the ENP Action Plan for Ukraine included only one vague action: ensuring implementation of 'core UN and Council of Europe Conventions and related optional protocols',[78] which made its implementation unlikely.

4. The Evolution of the Eastern Partnership as Part of the European Neighbourhood Policy

After expounding on the ENP, this section analyses the key dynamics that prompted the development of the EaP, as well as its current developments in the context of the Russian war of aggression against Ukraine.

4.1. The Origins and Main Developments of the Eastern Partnership

Since the inception of the ENP, the EU's Eastern partners have made it clear that this cooperation format did not meet their expectations. As the cooperation framework under the association agreement format was not foreseen for the Eastern neighbours under the ENP initially, the EU identified a 'new contractual link'[79] in the form of the European Neighbourhood Agreement as a main 'carrot' for effectively meeting the partnership priorities. However, eventually, none of the EaP countries concluded such an agreement, as from the beginning, Ukraine, Moldova, and Georgia expressed their membership aspirations rather than having a 'country next door' status. Armenia and

[76] 'EU/Georgia Action Plan' (2006) <https://www.eeas.europa.eu/sites/default/files/georgia_enp_ap_final_en.pdf> accessed 29 September 2025.
[77] Ibid.
[78] 'EU/Ukraine Action Plan' (2005) <https://europavarietas.org/csdp/files/paueukraine.pdf> accessed 29 September 2025.
[79] Commission, 'Strategy Paper' (n67).

Azerbaijan, in contrast, did not seem to contemplate their future with the EU and upgrade accordingly existing contractual links.

In order to tailor the ENP to the diverse portfolios and ambitions of Eastern partners, the EU reinforced its cooperation in 2009 by introducing a new regional dimension to the otherwise bilateral ENP framework.[80] On 7 May 2009, the EaP was formally launched with the adoption of the Joint Declaration[81] at the Summit of Heads of State of the six partner countries and representatives of the EU and the Member States. In a broad sense, the EaP followed the overarching objective of the ENP to contribute to the stability, security, and prosperity of the EU by having stable democratic states around its borders.[82] In a narrow sense, it pursued the objective of regulatory and legislative approximation of the EaP countries with the EU acquis with a final goal of building a common EU–EaP economic area without their full integration into the EU.

The design of the EaP explicitly envisaged the offer of association to partner countries,[83] the possibility of visa liberalisation for countries meeting the criteria, and the strengthened energy security cooperation.[84]

Thus, the cooperation format has progressed from the PCA to the Association Agreement (AA), which, for Ukraine, Moldova, and Georgia, also included the Deep and Comprehensive Free Trade Area (DCFTA).[85] Armenia concluded the CEPA with the EU,[86] while negotiations continue with Azerbaijan on upgrading the PCA. According to Petrov, this new generation of the AA with integrated DCFTA has become 'one of the most recognizable brands of the EU's external policy'.[87] The AA/DCFTA introduced the objective of political association and economic

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[80] Elena Korosteleva, 'Change of Continuity: Is the Eastern Partnership an Adequate Tool for the European Neighbourhood?' (2011) 25(2) International Relations 243, 244.
[81] Council, 'Joint Declaration of the Prague Eastern Partnership Summit Prague' (2009) 8435/09.
[82] Ibid.
[83] Commission, 'Eastern Partnership' COM(2008) 823 final 3.
[84] Council, 'Joint Declaration' (2009) (n81).
[85] Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part [2014] OJ L 161/3; Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part [2014] OJ L 260/4; Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part [2014] OJ L 261/4.
[86] Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part [2018] OJ L 23/4.
[87] Roman Petrov, 'EU Values in Integration Oriented Agreements with Ukraine, Moldova and Georgia' in Sara Poli (ed), *The European Neighbourhood Policy: Values and Principles* (Routledge 2016) 99.

integration, revolutionary for the EaP countries, as the PCA did not contain a free trade area.[88] Both the AA/DCFTA and the CEPA offered a joint institutional framework to advance their implementation, which will be separately discussed in the following subsection.

Further, to facilitate the mobility of citizens of the partner countries within the Schengen Area, the EU introduced the VLAP for Ukraine, Moldova, and Georgia, which they had to implement to be granted a visa-free travel regime.

As part of the efforts to strengthen the energy security cooperation, Ukraine, Moldova, and Georgia became contracting parties[89] to a sectoral 'integration-type' agreement, the Treaty Establishing Energy Community (Energy Community Treaty).[90] Armenia and Azerbaijan hold observer status within the European Energy Community, a sectoral cooperation framework launched in 2005 to establish a 'stable energy market with a single regulatory space on the territory' of its members.[91] In this way, Ukraine, Moldova, and Georgia undertook a legal obligation to implement the EU acquis in the energy sector, while Armenia and Azerbaijan are subject only to a 'soft commitment'.[92]

Another sectoral 'integration-type' agreement offered by the EU to the EaP countries is the Common Aviation Area Agreement (CAAA). Moldova[93] and Georgia[94] concluded the agreement in 2012, thereby joining 'a single pan-European air transport market, based on a common set of rules'.[95] Ukraine signed the CAAA in 2021[96] but has not yet ratified it as of 2025. Beyond the obligations to align their legislation with

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[88] Van der Loo, *The EU–Ukraine Association Agreement* (n3) 9.
[89] Decision of the Ministerial Council of the Energy Community D/2009/04/MC-EnC on the accession of Ukraine to the Energy Community Treaty (18 December 2009); Decision of the Ministerial Council of the Energy Community D/2009/03/MC-EnC on the accession of the Republic of Moldova to the Energy Community Treaty (18 December 2009); Decision of the Ministerial Council of the Energy Community D/2016/18/MC-EnC on the accession of Georgia to the Energy Community Treaty (14 October 2016).
[90] Treaty Establishing the Energy Community [2006] OJ L 198/18.
[91] Dawid Siudek, 'Energy Dimension of the Eastern Partnership' (2018) 25(25) Eurolimes 127, 130.
[92] Roman Petrov, 'Energy Community as a Promoter of the European Unions "Energy Acquis" to its Neighbourhood' (2012) 39(3) Legal Issues of Economic Integration 331, 337.
[93] Common Aviation Area Agreement between the European Union and its Member States, and the Republic of Moldova [2012] OJ L 292/2.
[94] Common Aviation Area Agreement between the European Union and its Member States, of the one part, and Georgia, of the other part [2012] OJ L 321/3.
[95] Commission, 'Common Aviation Area with the Neighbouring Countries by 2010 – Progress Report' COM(2008) 0596 final 2.
[96] Common Aviation Area Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part [2021] OJ L 387/3.

the EU acquis in the air transport sector, Georgia and Moldova also committed to transpose a wide range of the EU acquis in the areas of environmental protection, social protection, and consumer protection.

The ENP revisions in 2011 and 2015, mentioned in section 2, reshaped the EaP to a considerable extent. The EU renounced the 'more for more' approach which linked enhanced integration to reforms, thereby acknowledging that not all EaP countries seek the same kind of relationship with the EU.[97] In 2017, the EaP framework was reinforced with the adoption of the 'common results-oriented agenda' by the EU, its Member States, and partner countries at the Eastern Partnership Summit in Brussels.[98] Titled '20 Deliverables under 2020', this working tool aimed to strengthen common resilience[99] through the 'extensive reform packages' in various policy spheres.[100] It added more substance to the current EaP framework by presenting a set of concrete deliverables in the economic sphere, good governance, environment, and mobility.

To further reinforce the resilience of the EaP countries, in 2020, the Commission introduced a sophisticated strategy for the EaP development titled 'Eastern Partnership Policy Beyond 2020 Reinforcing Resilience – an Eastern Partnership that Delivers for All' (Eastern Partnership Beyond 2020),[101] accompanied by the Council Conclusions on Eastern Partnership Policy Beyond 2020 (Conclusions on Eastern Partnership).[102] The Post 2020 Eastern Partnership Priorities,[103] a work plan adopted in 2021, focused on strengthening resilience as an overarching policy framework objective, with five long-term strategic objectives structured around two pillars: investment and governance. In this way, by adopting a stand-alone strategic framework, the EaP further shifted away from the vague overarching ENP framework. Nonetheless, they remain complementary and mutually reinforcing.

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[97] Paul Flenley, 'The Limitations of the EU's Strategies for Europeanisation of the Neighbours' in Paul Flenley and Michael Mannin (eds), *The European Union and its Eastern Neighbourhood Europeanisation and its Twenty-first-century Contradictions* (Manchester University Press 2018) 40.
[98] Council, 'Joint Declaration of the Eastern Partnership Summit' (2017) 14821/17.
[99] Ibid Annex 1.
[100] Kornely Kakachia, Agnieszka Legucka and Bidzina Lebanidze, 'Can the EU's New Global Strategy Make a Difference? Strengthening Resilience in the Eastern Partnership Countries' (2021) 28(7) Democratization 1338, 1345.
[101] Commission and High Representative of the Union for Foreign Affairs and Security Policy, 'Eastern Partnership Policy Beyond 2020: Reinforcing Resilience – an Eastern Partnership that Delivers for All' JOIN(2020) 7 final.
[102] Council, 'Council Conclusions on Eastern Partnership Policy Beyond 2020' (2020) 7510/1/20.
[103] Commission and High Representative of the Union for Foreign Affairs and Security Policy, 'Recovery, Resilience and Reform': Post 2020 Eastern Partnership Priorities' SWD(2021) 186 final.

4.2. The Eastern Partnership Following the War in Ukraine

In 2022, after Russia launched a war of aggression against Ukraine, three EaP countries, Ukraine, Moldova, and Georgia, submitted membership applications to the EU. Following the accelerated process, Ukraine and Moldova were granted a candidate status in the same year, and the accession negotiations with both countries were opened late 2023, with a formal launch in 2024. Georgia became a candidate in 2023.[104] This marked a new era for EU external relations, especially its enlargement and the EaP policies, blurring the lines between them.[105]

There is a growing body of academic literature that engages with how the enlargement policy and the EaP should be reconstructed[106] in order to meet demands and expectations of the enlarged queue of candidates, while prioritising the EU's own needs and capacities. On one side, there is a claim that the EaP 'outlived its usefulness',[107] demonstrating 'bureaucratic or political inertia'.[108] The necessity of an 'umbrella policy' that brings together highly diverse countries in the current geopolitical context tends to be questioned.[109] On the other side, the preservation of the EaP holds significant interest for the EU. While Ukraine, Moldova, and Georgia may indeed have prioritised the enlargement policy at the moment and downgraded cooperation within the EaP, this policy may have different relevance for other partner countries. Maintaining the EaP as a 'forum for dialogue and regional cooperation' with so-called 'Eurosceptic' countries is of interest for the EU.[110] Currently, through the

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[104] European Council, 'European Council Meeting (14 and 15 December 2023) – Conclusions)' (2023) EUCO 20/23.
[105] 'Eastern Partnership Index 2023: Charting Performance in the Eastern Partnership: Democracy and Good Governance, Policy Convergence and Sustainable Development' (Eastern Partnership Civil Society Forum, 2023) 16.
[106] See Adam Łazowski, 'EU Enlargement at the Crossroads' (EU Law Live, 30 June 2022) <https://eulawlive.com/op-ed-eu-enlargement-at-the-crossroads-by-adam-lazowski/> accessed 29 September 2025; Allan F Tatham, 'Conflict Between Rhetoric and Reality of Enlargement: The Implications of Opening EU Accession Negotiations with Ukraine' (EU Law Live, 15 October 2022) <https://eulawlive.com/op-ed-conflict-between-rhetoric-and-reality-of-enlargement-the-implications-of-opening-eu-accession-negotiations-with-ukraine-by-allan-f-tatham/> accessed 29 September 2025; Jean F Crombois, 'The Ukraine War and the Future of the Eastern Partnership' (2023) 22(1) European View 104.
[107] Christian Kaunert and Joana de Deus Pereira, 'EU Eastern Partnership, Ontological Security and EU–Ukraine/Russian Warfare' (2023) 31(4) Journal of Contemporary European Studies 1135, 1144.
[108] Kristi Raik, 'Time to Downgrade the Eastern Partnership and Refocus on Enlargement' (2022) 11 Guest Commentary (11 Guest Commentary, SCEEUS 4) 4.
[109] Maryna Rabinovych and Anne Pintsch, 'The Eastern Partnership Initiative: Challenges of Assessing Performance and New Geopolitical Realities' (2023) 61(6) International Politics 1199, 1200.
[110] Ibid.

EaP, the EU can sustain a dialogue with civil society of the Republic of Belarus and the opposition party, as well as advance cooperation with Armenia and Azerbaijan.[111]

Some EaP instruments have already proven their efficiency in the enlargement context. Raik argues that the achievements of Moldova and Ukraine in implementing the AA/DCFTA 'make a major difference' in the accession process.[112] Scholars contend that the scope of the EU acquis required to be adopted under the AA/DCFTA is broader than that in the Stabilisation and Accession Agreements (SAA) concluded with the Western Balkan states at the beginning of their accession negotiation endeavour.[113]

In 2024, during the formal launch of the accession negotiations with Ukraine and Moldova, the parties confirmed that the AA/DCFTA continues to be of essential importance in facilitating and promoting further integration of the partner countries into the EU.[114] It was agreed that the potential of the AA/DCFTA has to be 'fully exploited' in the integration process.[115] In fact, in 2025, rather than replacing, the EU and Ukraine agreed on updating the DCFTA part of the agreement to foster stable trade relations.[116] This implies that the extensively developed joint institutional framework underpinning the implementation of the AA/DCFTA persists, thereby supporting the country's accession journey. Whereas the extent of the EaP overhaul remains uncertain, what seems to be more apparent is that the next policy revision is expected to occur in the 'not-so-distant future'.[117] Although the official policy revision had not been announced at the time of writing this PhD thesis, the EaP Civil Society Forum (EaP CSF), a dialogue platform between the EU and civil society, published a

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[111] Raik, 'Time to Downgrade the Eastern Partnership' (n106) 2.
[112] Ibid.
[113] See Antoaneta L Dimitrova and Rilka Dragneva, 'How the EU–Ukraine Association Agreement and its Consequences Necessitated Adaptation and Drove Innovation in the EU' (2023) 61(6) Journal of Common Market Studies 1454, 1459. Steven Blockmans, 'The Obsolescence of the European Neighbourhood Policy' (CEPS, 2017) 47.
[114] European Council, 'Joint Statement following the 24th EU–Ukraine Summit' (Press Release, 3 February) 2023 <https://www.consilium.europa.eu/de/press/press-releases/2023/02/03/joint-statement-following-the-24th-eu-ukraine-summit/ > accessed 29 September 2025.
[115] Ibid.
[116] Commission, 'EU and Ukraine Reach Agreement in Principle on a Modernised Deep and Comprehensive Free Trade Area' (Press Release, 2 July 2025) <https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1672> accessed 29 September 2025.
[117] Dorina Baltag and Iulian Romanyshyn, 'Special Issue: The European Union and its Eastern Partnership Neighbours – A Framework to Evaluate Performance' (2024) 61(6) International Politics 1059, 1063.

policy paper in 2025 on the future of the EaP, expressing the hope that it would provide an impetus for developing 'a coherent EaP policy post-2025'.[118]

4.3. The Eastern Partnership and Human Rights: Strategic Framework Overview

The EaP was launched on the premise that partners would commit to respecting human rights, the rule of law, good governance, and other principles considered as common values under the cooperation framework.[119] In this respect, the EaP reflected the principles on which the ENP was launched. Until 2020, the Joint Declaration, together with the work plan '20 Deliverables under 2020' from 2017, served as a principal framework providing a conceptual outline and a strategic vision of the partnership, complementing the objectives and principles of the ENP strategic framework. Although the EaP was labelled as 'a more ambitious partnership' than that offered under the ENP,[120] the Joint Declaration offered no greater visibility to human rights. It even omitted including the rights of people belonging to minorities, children, gender equality, and fundamental social rights already mainstreamed in the ENP strategic framework. Partly this gap was addressed in the work plan '20 Deliverables under 2020', which integrated gender equality and non-discrimination as a cross-cutting deliverables across all objectives set up in the document. These measures were to be guided by the 'Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016–2020' (EU Gender Action Plan 2016–2020),[121] the Convention on the Elimination of All Forms of Discrimination against Women[122] and 'anti-discrimination principles'.[123] Stronger engagement with youth and persons belonging to national minorities was also envisaged.

In 2020, as discussed earlier, a renewed strategic framework offering 'a new vision for the partnership'[124] was introduced through the Eastern Partnership Policy Beyond

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[118] Eastern Partnership Civil Society Forum, 'The Future of the Eastern Partnership Policy, its Multilateral Track and the Role of Civil Society' (Position Paper, 2025) 11.
[119] Council, 'Joint Declaration' (2009) (n81) 5.
[120] Ibid.
[121] Commission, 'Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016–2020' SWD(2015) 182 final.
[122] Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.
[123] Council, 'Joint Declaration' (2017) (n96) 12.
[124] Commission, 'Recovery, Resilience and Reform' (n103) 1.

2020,[125] Conclusions on Eastern Partnership,[126] and the Post 2020 Eastern Partnership Priorities,[127] adopted in 2021.

The Eastern Partnership Beyond 2020 introduced new human rights commitments, which have not been previously embedded under either the ENP or the EaP. First, the EU committed to support the partner countries in advancing human rights, including civil and political, economic, social and cultural rights, whereas previously, only fundamental social rights were explicitly included and only in the ENP strategic framework. Second, it committed to *act* to combat all forms of discrimination, including on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Third, a specific commitment with respect to disability rights was anchored. Alongside combating all forms of discrimination, including on the grounds of disability, the EU is also committed to supporting partner countries in their implementation of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). This commitment echoes the obligation of the EU under Article 32 CRPD, which will be discussed in Chapter IV.

However, these ambitious commitments, including those on disability rights, is not further operationalised in the Post 2020 Eastern Partnership Priorities. Human rights actions primarily focus on gender equality and women's empowerment, youth mobility, and employment.[128] Therefore, the human rights mainstreaming in the EaP strategic framework remains uneven, with prioritisation of women's rights and youth empowerment and leaving other non-discrimination commitments unaddressed in the work plan.

Despite that, the EaP's human rights toolkit, especially those tools assimilated from other EU competences and policies, has become more sophisticated, with better mainstreaming of human rights across broader policy areas, making the connection between political and economic development 'more evident'.[129] These tools have been

[125] Ibid.
[126] Council, 'Council Conclusions on Eastern Partnership' (n102).
[127] Commission, 'Recovery, Resilience and Reform' (n103).
[128] Commission, 'Recovery, Resilience and Reform' (n103) 4,8.
[129] Rosa Balfour, 'Human Rights in the European Neighbourhood Policy' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 490.

instrumental in advancing human rights in the EaP and will be examined in detail in sections 8 and 9 of this chapter.

5. Institutional Architecture

After analysing the main developments of the EaP, this section investigates the institutional framework underpinning the EU's cooperation with the EaP countries, both under the EaP and the cooperation framework agreements. In this way, it aims to examine the extent to which the institutional framework supports the rule-transfer process.

5.1. Multilateral Track under the EaP

The current institutional framework of the EaP represents a multilateral track of the policy, organised around platforms for discussing essential priorities for the region. It involves a broad range of stakeholders, thereby stimulating 'regional and sectoral cooperation among the six EaP-countries, for which extra EU funding is available'.[130]

The multilateral track is reflected in the multi-layered decision-making process that operates through the EaP Summits, the EaP foreign affairs and sectoral ministerial meetings, and senior officials' meetings.[131] Furthermore, strategic conferences, broadly divided into investment and governance dimensions, involve decision-makers, experts, civil society, think tanks, and academics.[132] In this way, the strategic conferences echo the main priorities set out in the Post 2020 Eastern Partnership Priorities. They are conducted regularly to support the implementation of priorities. The area of democracy, human rights, and fundamental freedoms falls under the governance dimension.

Additionally, the EaP offers multilateral formats of engagement with various stakeholders across diverse policy areas. In particular, the Euronest Parliamentary Assembly[133] is an interparliamentary forum between the European Parliament and parliaments of partners countries, while Conference of the Regional and Local Authorities for the Eastern Partnership (CORLEAP)[134] is a political forum for local

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[130] Bob Deen, Wouter Zweers and Iris Van Loon, 'The Eastern Partnership: Three dilemmas in a Time of Troubles' (Report, Clingendael Institute, 2021) 11.
[131] Commission, 'Recovery, Resilience and Reform' (n103) 37.
[132] Ibid.
[133] Constituent Act of the Euronest Parliamentary Assembly [2011] OJ C 198/4.
[134] See more on the CORLEAP's work: <https://cor.europa.eu/en/our-work/cooperations-and-networks/eastern-partnership-corleap> accessed 29 September 2025.

and regional authorities from the EU and partner countries. Together with the EaP Civil Society Forum (EaP CSF), the EaP Youth Forum, the Media Conference, and the EaP Business Forum, these modalities reinforce cooperation and exchange in areas strategically important for the EaP and contribute to the implementation of the Post 2020 Eastern Partnership Priorities. Among these platforms, the EaP CSF is particularly relevant, as it embodies the increasingly growing role of civil society in the EU's cooperation framework with the EaP countries. Civil society across all EaP countries has been actively engaging in advancing disability rights locally, including supporting EU disability norm transfer, and thus being an important tool to examine in relation to the transfer of EU disability norms.[135] The work of the EaP CSF will be separately analysed in section 9 of this chapter.

5.2. Joint Institutional Framework under the Cooperation Framework Agreements

The multilateral track of the EaP and the joint institutional framework under the cooperation framework agreements are both complementary and mutually reinforcing formats of engagement between the EU, partner countries, and a broad array of stakeholders. While the EaP multilateral track primarily serves as a platform for dialogue and networking, the main task of the joint institutional framework under the cooperation framework agreements, in particular 'integration-type' agreements, is 'sustaining and facilitating convergence' between the EU acquis and the legal order of a partner country.[136]

As mentioned in the previous section, currently the EaP countries engage with the EU via three forms of trade agreements: the AA/DCFTA, the CEPA, and the PCA. The AA/DCFTA and the CEPA are supported by a complex joint institutional framework with increasing decision-making powers. Particularly, partner countries under the CEPA and the AA/DCFTA manage their relations through the joint institutions with extended authorities, 'sustaining dynamic modes of differentiated engagement'.[137] In

[135] More on the civil society engagement in promoting disability rights in the EaP countries, see Chapter V.
[136] Andriy Tyushka, 'The Power and Performance of "Association Bodies" under the EU's Association Agreements with Georgia, Moldova and Ukraine' (2022) 60(4) Journal of Common Market Studies 1165, 1176.
[137] Andriy Tyushka, David Phinnemore and Wolfgang Weiß, 'Joint Institutional Frameworks in EU Bilateral Agreements: Joint Bodies, Rules and Principles, and Special Procedures' (2022) 60(4) Journal of Common Market Studies 1124, 1124.

contrast, the institutional framework under PCA for Azerbaijan has limited powers, restricted to merely monitoring, consultation, and the coordination of activities.[138]

The AA/DCFTA, as an 'integration-type' agreement, establishes an 'enhanced institutional framework' facilitating the integration of partner countries into the legal and economic system of the EU.[139] The main decision-making body under the AA/DCFTA is intergovernmental[140] in nature, equally represented by the EU and a partner country. Particularly, the AA/DCFTA confers decision-making power to a joint association body such as the Association Council. The Association Council can, without the European Parliament's or partner country's parliamentary consent, exercise a wide range of functions to ensure the effective implementation of the agreement: from law-making and treaty amendment[141] to dispute settlement (apart from disputes related to the interpretation of EU law)[142] and establishment of other bodies, for instance, Association Sub-Committees. Beyond that, the Association Council tracks the progress of a partner country in meeting the agreement's objectives. It has the power 'to update or amend the annexes to the AA without the need to go through an intergovernmental amendment procedure'.[143] This power is primarily prompted by the need to catch up with the rapidly evolving EU acquis and does not allow for expanding the cooperation scope.[144] The everyday work of the Association Council is supported by the Association Committee, to which the Association Council could confer any of its powers, including the power to take binding decisions. The EaP Summit, discussed earlier, provides overall guidance on the implementation of the AA/DCFTA as well as an opportunity to discuss any bilateral or international issues of mutual interest under the broad EaP agenda. Both the EaP Summit and Association

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[138] Andriy Tyushka, 'The Power and Performance' (n136) 1175.
[139] Guillaume Van der Loo, Peter Van Elsuwege and Roman Petrov, 'The EU–Ukraine Association Agreement: Assessment of an Innovative Legal Instrument' (9 Working Papers, EUI, 2014) 1.
[140] Andriy Tyushka, 'The Power and Performance' (n136) 1174.
[141] Ibid 1169.
[142] For further discussion of the dispute settlement mechanisms under bilateral agreements, see Cécile Rapoport, 'Autonomy of the EU Legal Order and International Agreements Extending the Acquis: Opinion 1/00 (European Common Aviation Area)' in Graham Butler and Ramses A Wessel (eds), *EU External Relations Law: The Cases in Context* (Hart 2022).
[143] Dimitrova and Dragneva, 'How the EU–Ukraine Association Agreement and its Consequences Necessitated Adaptation' (n113) 1459.
[144] Guillaume Van der Loo and Tinatin Akhvlediani, 'Catch Me if You Can: Updating the Eastern Partnership Association Agreements and DCFTAs' (CEPS, 2020) 6.

Council proved to be useful for policy dialogue as well as for conveying political messages.[145]

Crucial to the efficient rule-transfer is the Association Committee in Trade Configuration (Trade Committee), a joint body composed of representatives from the EU and a partner country.[146] It assists the Association Council on trade and trade-related matters. As Dragneva and Wolczuk argue, the Trade Committee strengthens the 'protective function of the conditionality'[147] under the DCFTA. Based on the Commission's assessment of the country's progress in 'legal approximation' under the DCFTA chapters, the Trade Committee decides whether or not to grant access to the EU internal market.[148]

The institutional framework of the CEPA largely resembles the AA/DCFTA.[149] The joint bodies established by the CEPA include the Partnership Council and the Partnership Committee, with an essentially identical scope of functions to the Association Council and the Association Committee. The main difference in the institutional framework lies in the absence of the annual Summit meetings.[150] Regular meetings at the ministerial level between the European Parliament and members of the National Assembly of Armenia take place through the Parliamentary Partnership Committee.

The PCA, in turn, establishes a consultative body, the Cooperation Council, which engages mainly with monitoring the implementation of the Partnership Priorities between the EU and Azerbaijan, adopted in 2018[151] in place of the ENP Action Plan.[152] This body has limited functions without any legislative or decision-making powers.

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[145] Katarína Mathernová, 'Ukraine and the European Union' in Ivan Mikloš and Pavlo Kukhta (eds), *Reforms in Ukraine after Revolution of Dignity: What Was Done, Why not More and What to do Next* (Strategic Advisory Group for Support of Ukrainian Reforms, 2019) 150.
[146] Van der Loo and Akhvlediani, 'Catch Me if You Can' (n144) 12.
[147] Rilka Dragneva and Kataryna Wolczuk, 'Integration and Modernisation: EU's Association Agreement with Ukraine' in Maryna Rabinovych and Anne Pintsch (eds), *Ukraine's Thorny Path to the EU: From "Integration without Membership" to "Integration through War"* (Palgrave Macmillan 2025) 54.
[148] Ibid 53.
[149] Khvorostiankina, 'The EU–Armenia Comprehensive and Enhanced Partnership Agreement' (n48) 199.
[150] Ibid.
[151] Recommendation No 1/2018 of the EU–Azerbaijan Cooperation Council of 28 September 2018 on the EU–Azerbaijan Partnership Priorities [2018] OJ L 265/18.
[152] 'EU/Azerbaijan Action Plan' (2006) <https://eeas.europa.eu/archives/docs/enp/pdf/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf> accessed 28 September 2025.

6. Rule-Transfer under the Eastern Partnership: Legal Perspective

After analysing the institutional framework underpinning the EU's cooperation with the EaP countries, this section focuses on the rule-transfer process under the EaP, particularly its legal aspects.

As already discussed in Chapter I, the EU perceives itself as a global actor 'with responsibility to export its values abroad',[153] including in its neighbouring countries. The promotion of common values in the neighbourhood has, over the years, become 'one of the most important dimensions of the EU's external action'[154] within the ENP, turning this policy into 'the overarching framework of EU norm export'.[155] This is now somewhat codified and rooted in the Treaties, particularly Articles 3(5), 8, and 21 TEU.[156]

Article 3(5) TEU commits the EU to promote its values and interests in its relations with the wider world. In doing so, it must be guided by principles of democracy, universality, and indivisibility of human rights, and equality, among others, in line with Article 21 TEU. Hence, these provisions extend the EU's responsibility to respect and promote human rights – one of the EU values under Article 2 TEU – beyond its borders. Cremona argues that the instruments of the global reach of EU law are often presented as mechanisms for promoting its values guided by Articles 3(5) and 21 TEU.[157] However, these Articles remain vague regarding the scope and means to achieve it, broadly stating that the EU must act unilaterally or in cooperation to achieve these objectives. Neither Article 3(5) nor Article 21 TEU provide the EU with new competences.[158] Their objectives have to be achieved through the policies deployed within established competences.

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[153] Sara Poli, 'Promoting EU Values in the Neighbourhood through EU Financial Instruments and Restrictive Measures' in Sara Poli (ed), *The European Neighbourhood Policy: Values and Principles* (Routledge 2018) 35.
[154] Van Elsuwege and Petrov, 'Legal Perspectives' (n40) 111.
[155] Bernd Weber, 'The European Nieghbourhood Policy and Energy' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 384.
[156] See Hillion, 'Anatomy of EU Norm Export' (n7) 15; Roman Petrov and Peter Van Elsuwege, 'Article 8 TEU: Towards a New Generation of Agreements with the Neighbouring Countries of the European Union?' (2011) 36(5) European Law Review 8.
[157] Marise Cremona and Joanne Scott, 'Introduction: EU Law Beyond EU Borders' in Marise Cremona and Joanne Scott (eds), *EU Law Beyond EU Borders* (Oxford University Press 2019) 2.
[158] Vivian Kube, 'The European Union's External Human Rights Commitment: What is the Legal Value of Article 21 TEU?' (1 Working Papers, EUI, 2016) 10.

As noted above in section 3 to this chapter, Article 8 TEU, in a similar fashion, does not confer distinct competences on the EU,[159] however, it appears to be more substantive in nature. According to Hillion, Article 8 'entails a specific, multi-layered and advanced form of EU norm export',[160] or rule-transfer. Article 8(1) TEU states that the EU '*shall* develop a special relationship' (emphasis added), which provides for 'a clear and unconditional obligation' for the EU to act in the neighbourhood.[161] This requires that the EU develop 'a proactive policy of transformation for neighbourhood states' in line with its own values and interests,[162] indicated in Articles 3(5) and 21 TEU. The failure to do so, according to Hillion, could arguably be challenged before the CJEU.[163] The EU's aim at creating an 'area of prosperity and good neighbourliness', as per Article 8(1) TEU, implies a multilateral dimension of the neighbourhood policy.[164] In fact, multilateral cooperation within the EaP has proven to be an essential tool facilitating the rule-transfer, which will be discussed further in this chapter. Principle of good neighbourliness is directly connected to the objective of ensuring stability and security around EU's borders and 'constitutes the foundation of the common European values'.[165] Achievement of this objective happens largely through the supremacy of EU norms and values over those of the neighbouring countries.[166] Further, adherence to EU values as a basis for relations with its neighbours inevitably presupposes an active rule-transfer. Even though, over the years, the EU advanced in building cooperation with Eastern neighbours on the principle of mutual accountability, shared ownership, and adherence to 'common values', conditionality, ie the power asymmetry,[167] still underpins the cooperation under the EaP. This asymmetry creates a conducive environment for the rule-transfer process.

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[159] Van Elsuwege, 'The EU and its Neighbours' (n32) 442.
[160] Hillion, 'Anatomy of EU Norm Export' (n7) 20.
[161] Dimitry Kochenov and Elena Basheska, 'Introduction: Good Neighbourliness Inside and Outside the Union' in Dimitry Kochenov and Elena Basheska (eds), *Good Neighbourliness in the European Legal Context* (Brill Nijhoff 2015) 11.
[162] Hillion, 'Anatomy of EU Norm Export' (n7) 18.
[163] Ibid.
[164] Van Elsuwege, 'The EU and its Neighbours' (n32) 442.
[165] Roman Petrov, 'The Principle of Good Neighbourliness and the European Neighbourhood Policy' in Dimitry Kochenov and Elena Basheska (eds), *Good Neighbourliness in the European Legal Context* (Brill Nijhoff 2015) 292.
[166] Cristian Nițoiu, 'The Narrative Construction of the European Union in External Relations' (2013) 14(4) Perspectives on European Politics and Society 240, 247.
[167] Gwendolyn Sasse, 'The European Neighbourhood Policy: Conditionality Revisited for the EU's Eastern Neighbours' (2008) 60(2) Europe-Asia Studies 295, 302.

Article 8(2) TEU stipulates that the Union may conclude 'specific agreements' with the countries concerned. In this way, it points to the instrument[168] which can facilitate the achievement of the set-out objectives, in particular, 'specific agreements', which 'may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly'.[169] However, this provision should not be viewed as a legal basis for concluding new types of agreements distinct from the association agreements concluded under Article 217 TFEU.[170] As discussed in section 3, it has hardly been included in the ENP policy documents, nor it was used as a legal basis for the conclusion of cooperation framework agreements with the EaP countries.[171] Overall, this provision should be viewed in a similar vein to Articles 3(5) and 21 TEU: indicating key features and objectives of legal cooperation with neighbours.[172] Hence, trade agreements are recognised as a chief tool in promoting the EU's values in the neighbourhood, regardless of their connection to Article 8 TEU as a legal basis.

7. The Eastern Partnership Mechanisms Facilitating the Reach of EU Law

After examining Article 8 TEU through the lens of the rule-transfer process, this section introduces the main mechanisms underpinning the EaP and investigates their role in this process.

As mentioned earlier, the ENP has been launched as an alternative to the enlargement policy and has broadly been compared with it. Indeed, the ENP emulated key methods and principles of the operational enlargement mechanism,[173] such as the legal 'approximation' process,[174] conditionality, monitoring, differentiation,[175] socialisation, and other approaches. The set of tools used in the ENP was also borrowed mainly from the enlargement process, as, for instance, the ENP Action Plans and progress reports.[176] The Technical Assistance and Information Exchange

[168] Van Elsuwege, 'The EU and its Neighbours' (n32) 442.
[169] Article 8(2) TEU.
[170] Van Vooren and Wessel, *EU External Relations Law* (n54) 537.
[171] Van Elsuwege and Van Der Loo, 'Continuity and Change (n29) 98.
[172] Van Vooren and Wessel, *EU External Relations Law* (n54) 537.
[173] Alena Vieira, 'The European Union's "Potential We" between Acceptance and Contestation: Assessing the Positioning of Six Eastern Partnership Countries' (2021) 59(2) Journal of Common Market Studies 297, 303.
[174] Filippo Celata and Raffaella Coletti, 'Beyond Fortress Europe. Unbounding European Normative Power and the Neighbourhood Policy: Beyond Fortress Europe' (2016) 10(1) Geography Compass 15, 17.
[175] Van der Loo, *The EU–Ukraine Association Agreement* (n3) 7.
[176] Sasse, 'The European Neighbourhood Policy' (n167) 297.

(TAIEX),[177] an important socialisation tool, has also been borrowed from the enlargement policy. In that regard, some scholars refer to the ENP strategy as the 'extension of an "enlargement methodology" to neighbouring countries'.[178] It seems that contextually, the ethos of the enlargement policy was transposed into the ENP. However, over time, these two policies have gradually diverged.[179] A fundamental disparity between them manifested in the absence of a main incentive, such as a future EU membership for the ENP countries, which led the ENP to adapt its borrowed instruments and mechanisms to different contexts.[180] Eventually, the ENP evolved into a multi-dimensional, self-contained external policy of the EU, with more differences than similarities to the enlargement policy.

When membership in the EU is at stake, the rule-transfer process is rarely questioned by candidate states, as the EU basically uses 'the accession process to impose regulations'[181] in return for membership. Such a 'highly asymmetrical bargaining power'[182] underpinning the enlargement policy provides for a stronger influence on countries and demonstrates faster results. Under the ENP, the EU ultimately found itself in a continuous 'search for alternative and attractive integration offers below the level of EU membership',[183] which stimulated the expansion of the cooperation toolbox. The following subsections examine conditionality and socialisation mechanisms under the ENP, which constitute the main modes of the EU's governance in the EaP and are scrutinised for their relevance to EU disability norms transfer.

7.1. Conditionality as the Main Governance Mode under the European Neighbourhood Policy

Conditionality is perceived as 'one of the major policy mechanisms in the ENP'[184] and the EU's primary mode of external governance with neighbouring countries. It could

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[177] Sandra Lavenex and Frank Schimmelfennig, 'Relations with the Wider Europe' (2006) 45(S1) Journal of Common Market Studies 143, 154.
[178] Celata and Coletti, 'Beyond Fortress Europe' (n174) 17.
[179] Crombois, 'The Ukraine War' (n106) 106.
[180] Ulrich Sedelmeier, 'The European Neighbourhood Policy: A Comment on Theory and Policy' in Katja Weber, Michael Eugene Smith and Michael Joseph Baun (eds), *Governing Europe's Neighbourhood: Partners or Periphery?* (Manchester University Press 2007) 199.
[181] Anu Bradford, *The Brussels Effect* (Oxford University Press 2020) 69.
[182] Ibid.
[183] Tobias Schumacher, 'The EU and its Neighbourhood: The Politics of Muddling Through' (2020) 58(S1) Journal of Common Market Studies 187, 187.
[184] Laure Declour and Eduard Soler i Lecha, 'European Neighbourhood Policy Mechanisms: Conditionality, Socialisation and Differentiation' in Tobias Schumacher, Andreas Marchetti and

be described as 'the EU's ability to attach specific demands to incentives it offers to the neighbours'.[185] Scholars distinguish diverse forms of conditionality mechanisms based on the area of intervention, effectiveness, enforceability, the incentives offered, and other factors.

Schimmelfennig and Sedelmeier suggest a broad division into democratic and acquis conditionality, both of which stem from the enlargement process. Democratic conditionality is also referred to in the academic literature and policy documents as common values conditionality,[186] or political conditionality, though it is substantially an 'essential element' clause in the agreements allowing the termination of the cooperation in case of violation of fundamental political principles of the EU, such as democracy, rule of law, and human rights.[187] Whereas initially the main external incentive for conducting reforms in these spheres under the ENP was 'establishment of institutional ties, such as association',[188] over time, it shifted to economic incentives.[189] Acquis conditionality targets specific rules of the EU acquis,[190] and was initially underpinned by incentives such as membership or 'pre-accession alignment'.[191] Both forms of conditionality were transferred from the enlargement policy to the ENP and are currently embedded in the EaP cooperation framework. In relation to the AA/DCFTA, acquis conditionality is, in substance, market access conditionality,[192] serving as the main incentive for adopting the EU acquis. In turn, democratic conditionality, under the AA/DCFTA, is primarily expressed through human rights conditionality and is underpinned by economic incentives. Both forms of conditionality under the AA/DCFTA will be analysed in section 8.

Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 445.

[185] Hrant Kostanyan (ed), 'Assessing European Neighbourhood Policy: Perspectives from the Literature' (CEPS, 2017) 8.

[186] Marise Cremona, 'Extending the Reach of EU Law: The EU as an International Legal Actor' in Marise Cremona and Joanne Scott (eds), *EU Law Beyond EU Borders: The Extraterritorial Reach of EU Law* (Oxford University Press 2019) 96.

[187] Frank Schimmelfennig and Ulrich Sedelmeier, 'Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe' (2004) 11(4) Journal of European Public Policy 669, 677.

[188] Ibid.

[189] Tom Theuns, 'Promoting Democracy through Economic Conditionality in the ENP: A Normative Critique' (2017) 39(3) Journal of European Integration 287, 292.

[190] Schimmelfennig and Sedelmeier, 'Governance by Conditionality' (n187) 677.

[191] Ibid.

[192] Szilárd Gáspár Szilágyi, 'Human Rights Conditionality in the EU's Newly Concluded Association Agreements with the Eastern Partners' in Christina M Akrivopoulou (ed), *Defending Human Rights and Democracy in the Era of Globalization* (Information Science Reference 2017) 51.

Positive and negative conditionality[193] concerns the measures that could coerce a partner country to fulfil certain obligations or conditions under the cooperation framework.

In this regard, conditionality as a principle underpinning the ENP framework should be distinguished from the conditionality mechanisms in the cooperation framework agreements. As discussed in the previous sections, negative conditionality, as the ENP principle, was broadly applicable at the initial stages of the ENP and envisaged the termination or suspension of cooperation, in whole or in part, in the event of a breach of specific, commonly agreed-upon values underpinning the cooperation. Understanding that negative conditionality was ineffective, the EU's approach shifted to positive conditionality, based on incentives and rewards, but was then eventually abandoned. Nonetheless, conditionality as a mechanism remains anchored in the cooperation framework agreements and sectoral agreements, financial tools, and other EaP instruments.

Further, Lavenex and Schimmelfennig distinguish between strong and weak conditionality depending on how 'consistently and explicitly the organization links rewards to the fulfilment of conditions'.[194] Scholars widely acknowledge that democratic conditionality has been considered weak, as it has not been consistently invoked in the EaP and is largely underpinned by a vague incentive structure.[195] At the same time, acquis conditionality, often accompanied by measurable benchmarks and clear incentives, has been a main driver of changes under the EaP. Acquis conditionality does not necessarily envisage the transposition of only market-related rules. As Kochenov notes, acquis conditionality also plays a role in 'value export', [196] including human rights, therefore, it represents a particular interest for this thesis and the investigation of EU disability norms transfer.

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[193] For positive and negative conditionality, see Declour and Lecha, 'European Neighbourhood Policy Mechanisms' (n186).
[194] Sandra Lavenex and Frank Schimmelfennig, 'EU Democracy Promotion in the Neighbourhood: From Leverage to Governance?' (2011) 18(4) Democratization 885, 894.
[195] See Dimitry Kochenov, 'The Issue of Values' in Peter Van Elsuwege and Roman Petrov (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union: Towards a Common Regulatory Space?* (Routledge 2014); Tanja Börzel and Bidzina Lebanidze, '"The Transformative Power of Europe" Beyond Enlargement' in Andriy Tyushka and Tobias Schumacher (eds), *The European Union and it's Eastern Neighbourhood: Whither 'Eastern Partnership'?* (Routledge 2022).
[196] Kochenov, 'The Issue of Values' (n195) 59.

7.2. Socialisation: The EU's 'Gentle Parenting' Mode under the European Neighbourhood Policy

Socialisation is another key policy mechanism under the ENP, one of the main modes of the EU's external governance in the EaP. The EU is often referred to as a 'gigantic socialisation agency' and 'teacher of norms'.[197] Generally, socialisation is defined as 'a process for inducing actors into the norms and rules of a given community'.[198] Unlike the conditionality mechanism, it does not 'seek to impose EU rules on neighbouring countries',[199] but rather to influence the adoption of standards and norms in partner countries by 'disseminating practices, norms, and ideas'.[200]

Regarding the forms of socialisation, there is no broad consensus among academics. Whereas Adler-Nissen views emulation, learning, and persuasion as part of a broader socialisation process,[201] Lavenex draws a distinctive line between learning, emulation and socialisation as different mechanisms of 'rule projection'.[202] This PhD thesis adopts a broad view of socialisation, in line with Schimmelfennig's definition, as it best captures the range of tools the EU deploys in the EaP countries. This scholar views socialisation as an umbrella concept comprising 'all EU efforts to 'teach' EU policies, as well as the ideas and norms behind them, to outsiders, to persuade non-members that these policies are appropriate and, as a consequence, to motivate them to adopt EU policies'.[203] Under the ENP, the EU uses networking, multilateral cooperation, and capacity-building programmes at bilateral and multilateral levels to 'teach' EU norms.[204]

While acknowledging that some scholarship suggests that the coexistence of conditionality and socialisation under the ENP may, in certain circumstances, undermine each other,[205] this thesis argues that, in the process of transferring EU

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[197] Tanja Börzel and Thomas Risse, 'From Europeanisation to Diffusion: Introduction' (2012) 35(1) West European Politics 1, 7.
[198] Jeffrey T Checkel, 'International Institutions and Socialization in Europe: Introduction and Framework' (2005) 59(4) International Organization 801, 804.
[199] Declour and Lecha, 'European Neighbourhood Policy Mechanisms' (n184) 448.
[200] Dovilė Rimakute and Karina Shyrokykh, 'The Role of EU Agencies in the Acquis Transfer: The Case of the European Neighbourhood Policy Countries' (14 Working Paper, TARN, 2017) 4.
[201] Rebecca Adler-Nissen, 'Stigma Management in International Relations: Transgressive Identities, Norms, and Order in International Society' (2014) 68(1) International Organization 143, 149.
[202] See Sandra Lavenex, 'The Power of Functionalist Extension: How EU Rules Travel' (2014) 21(6) Journal of European Public Policy 885, 889.
[203] Schimmelfennig, 'Beyond Enlargement' (n19) 23.
[204] Declour and Lecha, 'European Neighbourhood Policy Mechanisms' (n186) 448.
[205] See Schimmelfennig and Sedelmeier, 'Governance by Conditionality' (n187) 199.

disability norms, these mechanisms have demonstrated a tendency to reinforce and complement one another.

8. Conditionality as Primary Mechanism for Human Rights Promotion in the Eastern Partnership

Given that conditionality is part of the EaP 'mechanics', this section provides an analysis of the extent to which human rights, which encompass disability rights, are mainstreamed in the EaP tools that channel conditionality mechanisms. According to Sasse, 'any research on the impact of EU conditionality suffers from the difficulty of isolating the effect of the international environment from the domestic incentives for policy and institutional change'.[206] Kuner further contends that it might also be challenging to determine which mechanism was applied and eventually supported the reach of EU law, as they are often interwoven.[207] Hence, analysis of the rule-transfer process through conditionality is 'context-dependent',[208] and will be separately examined in Chapter VI through a case study of Ukraine.

8.1. Conditionality in the Cooperation Framework Agreements

As outlined in Chapter I, the 'integration-type' agreements constitute the core of the EU's cooperation with the EaP countries, allowing the transfer of a wide range of EU acquis in various areas. This section examines cooperation framework agreements, such as the AA/DCFTA and the CEPA, which have 'in-built' conditionality mechanisms. While sectoral agreements, which also belong to the 'integration-type' agreements family, such as the CAAA and the Energy Community Treaty, do aim to integrate a partner country into a 'limited section of the EU Internal Market',[209] they do not have a developed system of conditionality mechanisms. Nonetheless, as the CAAA includes the obligation to transfer EU disability norms as a general obligation under the agreement, it will be contextually analysed in Chapter V.

The AA/DCFTA concluded by Ukraine, Moldova, and Georgia, alongside the CEPA concluded by Armenia, include conditionality mechanisms as an integral component.

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[206] Sasse, 'The European Neighbourhood Policy' (n167) 300.
[207] Christopher Kuner, 'The Internet and the Global Reach of EU Law' in Marise Cremona and Joanne Scott (eds), *EU Law Beyond EU Borders: The Extraterritorial Reach of EU Law* (Oxford University Press 2019) 130.
[208] Schimmelfennig and Sedelmeier, 'Governance by Conditionality' (n187) 676.
[209] Van der Loo, *The EU–Ukraine Association Agreement* (n3) 311.

Namely, the AA/DCFTA includes two forms of conditionality: market access conditionality and human rights conditionality.[210] Market access conditionality links the gradual opening of the EU internal market to progress in the legislative approximation commitments.[211] Market access conditionality is located in the fifteen DCFTA chapters,[212] aside from two chapters regulating market access for goods and trade remedies, as the liberalisation was granted 'irrespective of its approximation to the EU acquis'.[213]

With that purpose, partner countries are obliged to transfer an 'extreme wide scope'[214] of the EU acquis, going beyond pure trade liberalisation and economic integration to include areas such as competition, energy, public procurement, and intellectual property rights.[215] Additionally, within the remit of economic and sectoral cooperation, all AA/DCFTAs include the obligation to 'approximate' legal standards in such areas as transport, environment, audiovisual media sector, consumer protection, employment, social policy and equal opportunities, among others,[216] which mainstream human rights, including disability rights,[217] to a various extent. In respect to the means of adoption, the AA/DCFTA with Ukraine, for instance, indicates that in relation to the adoption of certain market-related EU acquis, partner countries 'choose the appropriate legal instruments to transpose the obligations [..] according to its own constitutional order'.[218] Whereas similar guidance is absent regarding the adoption of the EU acquis which mainstream disability rights, it is assumed that it follows the same approach. Despite that 'approximation' of laws under economic and sectoral cooperation does not lead directly 'to additional market access', ie not linked to market

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[210] Roman Petrov, Guillaume Van der Loo and Peter Van Elsuwege, 'The EU–Ukraine Association Agreement: A New Legal Instrument of Integration Without Membership?' (2015) 1 Kyiv-Mohyla Law and Politics Journa l, 1.
[211] Cremona, 'Extending the Reach of EU Law' (n186) 97.
[212] The DFCTA chapters: 1. National Treatment and Market Access for Goods 2. Trade Remedies 3. Technical Barriers to Trade 4. Sanitary and Phytosanitary Measures 5. Customs and Trade Facilitation 6. Establishment, Trade in Services and Electronic Commerce 7. Current Payments and Movement of Capital 8. Public Procurement 9. Intellectual Property 10. Competition Trade-Related Energy 12. Transparency 13. Trade and Sustainable Development 14. Dispute Settlement 15. Mediation Mechanism.
[213] Van der Loo, *The EU–Ukraine Association Agreement* (n3) 246.
[214] Ibid 322.
[215] Van Elsuwege and Van Der Loo, 'Continuity and Change (n29) 103.
[216] Van der Loo, *The EU–Ukraine Association Agreement* (n3) 325.
[217] Iryna Tekuchova, 'Disability-inclusive Accession Process to the European Union: Case of Ukraine, Moldova, and Georgia' (EDF, 2024) 22.
[218] See Annex XXI to Chapter 8 Public Procurement AA/DCFTA with Ukraine.

access conditionality, their adoption is 'beneficial for the establishment of the DCFTA',[219] and overall, to progress with the implementation of the AA/DCFTA.

Human rights conditionality 'materializes in the form of human rights clauses'.[220] Typically, it is composed of the 'essential element'[221] and 'non-execution' clauses,[222] forming a uniform mechanism that is included in all AA/DCFTAs. In this way, human rights clauses allow the parties to adopt appropriate measures in the event of a violation of 'common values on which the EU is built',[223] in particular, democracy, respect for human rights and fundamental freedoms, and the rule of law. In this way, negative conditionality is attached to the human rights clause, which could be executed through the suspension of technical cooperation, trade benefits, or even an agreement. The choice of the measure to be adopted depends on the 'nature and seriousness of such infringement'.[224] However, as this conditionality lacks an 'operational mechanism',[225] the efficiency of the human rights clause (overall and in facilitating the rule-transfer, in particular) remains questionable. First, this mechanism would be credible only when activated, and it would expect a partner country to advance human rights to regain the benefits it has lost.[226] Therefore, the human rights clause is not a preventive but rather a sanction mechanism. In this respect, whether sanctions could lead to better human rights protection remains a subject for a contextual assessment, which falls outside the scope of this thesis. Second, even if this provision allows for a suspension of an agreement as a sanction, it does not oblige the EU to do so, as was confirmed in *Muhamad Mugraby v Council and Commission*.[227] In fact, the EU usually turns to suspension as a last resort.[228] Regarding the EaP, for instance, the current backslide in human rights in Georgia, as evidenced by the stifling of civil society, media freedom, and voter rights, required the EU to respond. As an

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[219] Van der Loo, *The EU–Ukraine Association Agreement* (n3) 290.
[220] Szilágyi, 'Human Rights Conditionality' (n192) 52.
[221] Essential element clauses: Article 2 AA/DCFTA with Ukraine; Article 2(1) AA/DCFTA with Moldova; Article 2(1) AA/DCFTA with Georgia.
[222] Non-execution clauses: Article 478(3) AA/DCFTA with Ukraine; Article 455(3) AA/DCFTA with Moldova; Article 422(3) AA/DCFTA with Georgia.
[223] Preamble to the AA/DCFTAs with Ukraine, Moldova, and Georgia.
[224] Case C-581/11 P *Muhamad Mugraby v Council and Commission* [2012] ECLI:EU:C:2012:466 [25].
[225] Nicolas Hachez, '"Essential Elements" Clauses in EU Trade Agreements Making Trade Work in a Way That Helps Human Rights?' (2015) 53 Cuadernos europeos de Deusto 81, 102.
[226] Ibid 99.
[227] Case C-581/11 P (n225) [25].
[228] Sieglinde Gstöhl and Dominik Hanf, 'The EU's Post-Lisbon Free Trade Agreements: Commercial Interests in a Changing Constitutional Context' (2014) 20(6) European Law Journal 733, 740.

appropriate measure, the EU decided to suspend part of a sectoral agreement with Georgia, namely the EU–Georgia Agreement on the facilitation of the issuance of visas,[229] and to put on hold the accession negotiations. The human rights clause under the AA/DCFTA has not been invoked. How proportional are these measures compared to the human rights violations that occurred in Georgia remains unclear. Yet, this is a general issue, as the lack of established procedures, including the criteria for activating the human rights clauses, hampers their effectiveness.[230] Hence, the human rights conditionality can be considered more of a political commitment.[231]

Beyond the market access and human rights conditionality, the AA/DCFTA with Ukraine incorporates a so-called general conditionality clause that consolidates both market access and human rights conditionalities to reinforce Ukraine's obligations. The Preamble to the agreement underscores that the political association and economic integration into the EU are contingent upon Ukraine's progress in implementing the agreement as well as Ukraine's 'track record in ensuring respect for common values and progress in achieving convergence with the EU in political, economic and legal areas'. In this way, the AA/DCFTA with Ukraine explicitly links respect for common values to the depth of political and economic integration, making it an appealing case to study.

The CEPA with Armenia, similarly to the AA/DCFTA, has two types of conditionality mechanisms linked to market access and human rights. Human rights conditionality is anchored in Articles 2(1) and 379 CEPA and allows the parties to adopt appropriate measures in the event of violations of democratic principles, the rule of law, human rights, and fundamental freedoms. Though market access conditionality is weaker than in the AA/DCFTA due to the lack of the DCFTA and, accordingly, its incentives.[232] The economic and trade cooperation is more limited, and the conditionality mechanism often lacks clear benchmarks.[233] This reduces the EU's ability to apply

[229] 'Georgia: EU suspends visa-free travel for diplomats and officials' (EU Neighbours East, 27 January 2025) <https://euneighbourseast.eu/news/latest-news/georgia-eu-suspends-visa-free-travel-for-diplomats-and-officials/> accessed 29 September 2025.
[230] Gaga Gabrichidze, 'The Instrument of Human Rights Clause as a Part of Conditionality in European Union–Georgia Relations' (2017) 1(2) The Review of European Affairs 85, 95.
[231] Szilágyi, 'Human Rights Conditionality' (n190) 79.
[232] Khvorostiankina, 'The EU–Armenia Comprehensive and Enhanced Partnership Agreement' (n48) 211.
[233] Khvorostiankina, 'The EU–Armenia Comprehensive and Enhanced Partnership Agreement' (n48) 212; See also Laure Delcour, 'The Road to Equality? EU Diffusion of Anti-Discrimination Norms in Armenia' (2022) 29(3) Democratization 469.

conditionality[234] in the same way it is applied under the AA/DCFTA. Annex VII to Chapter 15 CEPA, similarly to AA/DCFTAs, includes the list of legislation for 'gradual approximation' in the area of employment, social policy, and equal opportunities. However, given the weak conditionality mechanisms, the enforcement of the CEPA obligations may be less stringent, thereby impacting the rule-transfer process, including EU disability norms transfer. More detailed analysis of this account will be conducted in Chapter V.

8.2. Conditionality in Action Plans: 'Story' of The Visa Liberalisation Action Plan

Whereas action plans, such as the ENP Action Plan or Association Agenda under the cooperation framework agreements generally do not embed conditionality mechanisms, as they aim to support the attainment of objectives set out in substantial tools, the VLAP stands out for its explicit conditional underpinning. Several scholars consider the conditionality mechanism in the visa liberalisation processes for Ukraine, Moldova, and Georgia to be the true 'success story'.[235] This opinion is shared by the EU itself, which has affirmed that visa liberalisation proved to be an important incentive for launching reforms in the EaP countries.[236]

The visa liberalisation process was regulated through the VLAP adopted for Ukraine, Moldova, and Georgia shortly after the launch of the EaP. This tool aimed through the visa liberalisation to 'enhance mobility and people-to-people contact' as fundamental elements of political association and economic integration[237] of partner countries with the EU.

The VLAP embedded a 'phased approach, leading to visa liberalisation under specific conditions and with accompanying measures, including financial assistance'.[238] The

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[234] Anna Khvorostiankina, 'EU–Armenia Comprehensive and Enhanced Partnership Agreement: What Does it Mean for Armenian Legal System?' (2017) 2(7) Armenian Journal of Political Science 5, 29.
[235] See Tetiana Sydoruk and Dmytro Tyshchenko, 'A Review of the Eastern Partnership after Ten Years: The Need to Reconsider its Efficacy' (2018) 18(2) Romanian Political Science Review 213; Laure Delcour and Sandra Fernandes, 'Visa Liberalization Processes in the EU's Eastern Neighbourhood: Understanding Policy Outcomes' (2016) 29(4) Cambridge Review of International Affairs 1259.
[236] Commission, 'Fourth Report on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation' COM(2013) 459 final; Commission, 'Sixth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation' COM (2015) 905 final.
[237] Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Joint Proposal with Regard to the Adoption of a Recommendation on the Implementation of the EU–Ukraine Association Agenda' JOIN/2015/0004 final.
[238] Commission, 'Eastern Partnership' (n83) 6.

progress reports, developed annually by the Commission, to monitor the implementation of the benchmarks, followed a clear structure divided into four blocks, topics, and measurable benchmarks.[239] The four blocks included: Document Security; Irregular Immigration; Public Order and Security; and External Relations and Fundamental Rights. These were identical across all VLAPs. The benchmarks were tailored to the context of each partner country. Human rights benchmarks under the block 'External Relations and Fundamental Rights' for these three countries focused on adopting or improving non-discrimination legislation, advancing minority rights, reducing statelessness, and improving migration policies. Whereas all three countries demonstrated resistance at the national level in respect to the adoption of the non-discrimination legislation, the 'attractiveness of the visa liberalization offer triggered' the necessary legislative reforms,[240] nonetheless. All countries demonstrated significant progress in implementing migration and anti-corruption reforms, as well as advancing human rights, due to the clearly set-out conditions and rewards.[241] Eventually, visa-free regimes were granted to Moldova in 2014 and to Ukraine and Georgia in 2017.

8.3. Conditionality in Financial Tools

Whereas conditionality in the action plans under the EaP is still evolving, conditionality in financial tools is an established EU practice dating back to the early 90s and is the backbone of the cooperation framework. Even before the adoption of the PCA, the EU supported neighbouring countries through the Technical Assistance to the Commonwealth of Independent States (TACIS) programme from 1991 to 1999.[242] Conditionality was underpinned by a 'non-execution' clause, which could be enforced in case of a serious human rights breach in a partner country. Furthermore, within this instrument, the EU conditioned assistance deployment on the 'progress towards free and open democratic systems that respect human rights'.[243] TACIS

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[239] See Commission, 'Sixth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation' SWD(2015) 705 final; Commission, 'Fifth Progress Report on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation' SWD(2013) 473 final; Commission, 'Fourth Progress Report on Georgia's Implementation of the Action Plan on Visa Liberalisation' SWD(2015) 299 final.
[240] Delcour and Fernandes, 'Visa Liberalization Processes' (n235) 1271.
[241] Sydoruk and Tyshchenko, 'A Review of the Eastern Partnership' (n235) 237.
[242] Council Regulation (EURATOM, EEC) No 2053/93 of 19 July 1993 concerning the provision of technical assistance to economic reform and recovery in the independent States of the former Soviet Union and Mongolia [1993] OJ L 187/1.
[243] Ibid 1.

encompassed a sectoral democracy programme, reinforced since 1994 by the European Initiative for Democracy and Human Rights (EIDHR) for 1994–2007,[244] which supported democratisation and human rights in the NIS.[245] The main supported targeted groups within the TACIS democracy programme were: national minorities, women, victims of torture alongside youth and children, refugees, and indigenous people. Indeed, with the development of the PCA, TACIS reinforced its framework as the PCA was considered as 'an umbrella' for its activities.[246] However, the scope of programmes implemented within this instrument indicated a highly fragmented, situational, and certainly not sustainable approach to any efforts aimed at improving human rights in the EaP countries.

In 2006, TACIS was replaced by the European Neighbourhood and Partnership Instrument (ENPI) for 2007–2013. The ENPI was specifically designed to support the implementation of the ENP bilateral instruments by the seventeen partners,[247] including EaP countries. It included a negative conditionality through a 'non-execution' clause indicating that 'the Council [could] suspend assistance in the case of failure to respect the basic values of the EU and its relations with its partners'.[248] While human rights, particularly women's and children's rights, were listed among the areas of cooperation to be supported within ENP, they were not identified as key priorities in the ENPI. Minority rights were not included in the ENPI programme at all, indicating a disconnect between the substantial and complementary tools.[249] The National Indicative Programmes (NIP) for 2007–2010 and 2011–2013, tools defining bilateral assistance under the ENPI, covered a relatively broad range of areas and included objectives and results that were rather vaguely formulated.

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[244] Established by the European Parliament, the EIDHR provided financial support to projects promoting human rights, democratisation and conflict prevention. It complemented other European Community (EC) programs implemented with partner countries, such as TACIS. Its added value lay in the requirement that it be implemented in cooperation with civil society organisations and international organisations.

[245] Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

[246] Commission, 'TACIS Annual Report 1994' (1995) COM(95) 349 final.

[247] Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Palestinian Authority of the West Bank and Gaza Strip, Russian Federation, Syria, Tunisia and Ukraine.

[248] Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument [2006] OJ L 310/1.

[249] More on the substantial and complementary tools, see Chapter I.

Eventually, the ENPI was revised by the Commission as it did not succeed in promoting human rights in the neighbourhood.[250] By replacing it in 2013 with the new financial instrument, the European Neighbourhood Instrument (ENI) for 2014–2020,[251] the EU introduced a more sophisticated approach to the conditions that partner countries must meet. In line with the first ENP revision in 2011, the ENI shifted to the incentive-based approach differentiated in 'form and amounts' and took into account various elements, including the level of ambition of each partner country. Interestingly, that conditionality no longer applied in the sphere of human rights, hence, this area began to enjoy unconditional support, and in the case of 'persistent regression', support for human rights could even be increased.[252] A standard non-execution clause remained, though 'sugarcoated' with soft diplomatic language stating that financial support 'may be reconsidered in the event of serious or persistent regression',[253] without specifying the areas. From the human rights perspective, the ENI offered groundbreaking changes. Firstly, it addressed human rights alongside gender equality as a cross-cutting issue in all the priorities to be supported within this instrument. Secondly, it placed human rights, good governance, and the rule of law at the top of its priorities list. Thirdly, it mentioned respect for human rights as one of the indicators to measure the achievement of the objective set by the ENI.[254] Starting from 2016, the ENI applied a rights-based approach as the 'guiding principle of ENI financial assistance'.[255] Even though the EU did not elaborate on how this concept would be practically integrated into its programming, it seems that, for the first time, a financial instrument comprehensively included a human rights agenda.

In 2020, the ENI was eventually merged into a 'jumbo'[256] financial instrument, the Neighbourhood, Development, International Cooperation Instrument – Global Europe 2021–2027 (NDICI),[257] which unifies eleven EU financial instruments. In this way,

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[250] Rosa Balfour, 'Human Rights in the European Neighbourhood Policy' (n129) 483.
[251] Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument [2014] OJ L 77/27.
[252] Ibid 34.
[253] Ibid 31.
[254] Ibid.
[255] Commission and High Representative of the Union for Foreign Affairs and Security Policy, 'Report on the Implementation of the European Neighbourhood Policy Review' JOIN(2017) 18 final 13.
[256] Loes Debuysere and Steven Blockmans, 'A Jumbo Financial Instrument for EU External Action?' (Bertelsmann Stiftung, 2019) 1.
[257] Council Regulation (EU) 2021/947 of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe [2021] OJ L 209/1.

the EU aimed to avoid 'unnecessary budgetary fragmentation and overlap'[258] of various financial programmes. Disability rights are mainstreamed across key areas such as human rights, good governance, democracy, the rule of law, and the eradication of poverty.[259] Conditionality under the NDICI is incentive-based and depends on countries' performance and progress towards democracy, good governance, human rights, and other reforms that have been jointly agreed upon under bilateral and multilateral frameworks. Similarly to the ENI, support of human rights under the NDICI remains unconditional, and in the case of serious and persistent degression of human rights, democracy, the rule of law, or an increased risk of conflict it 'shall be increased, where possible and appropriate'.[260] However, the NDICI seemingly abandoned the 'non-execution' clause in its entirety, as it no longer includes a provision to suspend or reconsider financial support in case of 'serious or persistent regression'. However, it does not mean that it has abandoned the conditionality mechanism completely. De facto, in line with the incentive-based approach, insufficient progress and performance in the areas indicated above would lead to the deprivation of further financial allocations. This is also evidenced in the Multiannual Indicative Programmes (MIP), developed for each EaP country, for a period 2021–2027 to support the allocation of financial resources under the NDICI, which use such terms as 'smart conditionality' and even 'strict conditionality' when defining EU assistance.[261]

The evolution of the conditionality mechanism in financial tools largely followed the ENP framework and deepened over time. For example, in the case of Ukraine, the Ukraine Facility,[262] a financial instrument established in 2024 to support the country's recovery, was even developed as a fully-fledged, independent, substantial tool with its

[258] Loes Debuysere and Steven Blockmans, 'A Jumbo Financial Instrument for EU External Action?' (Commentary, Bertelsmann Stiftung, 2019) 1.
[259] See Article 8(2), preamble 13, Annex II 1 (c), 2(c) and (f) Annex III 1(1)(a) Council Regulation (EU) 2021/947 (n257).
[260] Ibid Article 20(2).
[261] See Commission, 'ANNEX – Neighbourhood, Development and International Cooperation Instrument (Global Europe): Multiannual Indicative Programme for the Eastern Neighbourhood (2021–2027) Republic of Moldova'; Commission, 'ANNEX – Neighbourhood, Development and International Cooperation Instrument (Global Europe): Multiannual Indicative Programme for the Eastern Neighbourhood (2021–2027) Georgia'.
[262] Regulation (EU) 2024/792 of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility [2024] OJ L.

own objectives and various conditionality mechanisms, unique in its own way. This tool will be analysed separately in Chapter VI.

9. Socialisation: Mechanism Supporting the Promotion of Human Rights

As mentioned in section 7, this PhD thesis, while acknowledging the manifold tools the EU utilises to socialise the EaP countries, focuses on technical assistance, support of civil society, and multilateral cooperation, as these tools are particularly relevant to the subsequent analysis of EU disability norms transfer.

9.1. Technical Assistance

The EU's technical assistance proved to be 'an effective tool to promote legislative convergence and diffuse best practices'[263] and is arguably one of the EU's 'primary means of human rights promotion in the post-Soviet region'.[264] Karolewski contends that technical cooperation pursues a goal of 'transferring European legal and administrative standards to ENP countries.'[265] After providing a general overview of the technical assistance under the EaP, this subsection focuses on the main programmes that directly or indirectly promote disability rights in partner countries: TAIEX, Twinning, and SOCIEUX+ EU Expertise on Social Protection, Labour and Employment (SOCIEUX+).

9.1.1. General Overview

Cooperation with the EaP countries through technical assistance to facilitate 'the approximation of laws' has a long history and was embedded back in the PCA. As evidenced by the analysis of its provisions regulating technical assistance in various areas, the EU envisaged technical assistance to take such forms as the experts' exchange, the provision of early information, especially on relevant legislation, the organisation of seminars, training activities, aid for translation of the EU acquis in the relevant sector,[266] and the allocation of grants.[267] Technical assistance was

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[263] Dovilė Rimakutė and Karina Shyrokykh, 'The Role of EU Agencies in the Acquis Transfer: The Case of the European Neighbourhood Policy Countries' (14 Working Paper, TARN, 2017) 4.
[264] Karina Shyrokykh and Kateryna Busol, 'Three Decades of EU's Human Rights Promotion in Post–Soviet Countries: Success Story or Wasted Effort?' in Lucia Leontiev and Punsara Amarasinghe (eds), *State-building, Rule of Law, Good Governance and Human Rights in Post-Soviet Space: Thirty Years Looking Back* (Routledge 2022) 168.
[265] Ireneusz Pawel Karolewski, 'European Identity Making and Identity Transfer' (2011) 63(6) Europe-Asia Studies 935, 947.
[266] Article 50 PCA with Moldova; Article 51 PCA with Ukraine; Article 43 PCA with Armenia
[267] Article 81 PCA with Ukraine.

mainstreamed across a broad range of areas, from supporting economic reforms[268] to fostering social cooperation.[269] The PCA concluded with Armenia and Georgia went further by including a dedicated provision on cooperation in matters relating to democracy and human rights, in the form of 'technical assistance programmes',[270] intended to support partner countries in drafting and implementing relevant legislation, strengthening the judiciary, and improving the functioning of the electoral system. The AA/DCFTA and the CEPA, which replaced the PCA, adopted a narrower approach to technical assistance by integrating it primarily in the areas of public procurement, trade facilitation, and customs cooperation.

Despite the limited mainstreaming of technical assistance in the current cooperation framework agreements, the overall volume of technical assistance has continued to increase over the years.[271] The second revision of the ENP in 2015 placed more emphasis 'on using technical assistance programs such as TAIEX and Twinning' and participating in EU programs such as Erasmus and Horizon 2020.[272] Twinning and TAIEX, as instruments supporting structural reforms to enhance democratic institutions and public administrations in partner countries, are embedded in the EaP strategic framework.[273] The subsection below provides an overview of these programmes, alongside SOCIEUX+ EU Expertise on Social Protection, Labour and Employment (SOCIEUX+), which are relevant to this thesis. The effectiveness of these programmes in EU disability norms transfer will be further discussed in Chapters V and VI.

9.1.2. Technical Assistance Programmes

TAIEX and Twinning are the largest institution-building instruments providing support to the public administrations of partner countries, including those in the EaP, through knowledge and expertise exchange.[274]

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[268] Article 78 PCA with Ukraine; Article 67 PCA with Armenia.
[269] Article 71 PCA with Ukraine; Article 60 PCA with Armenia.
[270] Article 71 PCA with Georgia; Article 68 PCA with Armenia.
[271] See Commission, 'TAIEX and Twinning 2019 Highlights' (2020).
[272] Agnes Tuka, 'The Eastern Partnership of the EU' in Zoltán Gálik and Anna Molnár (eds), *Regional and Bilateral Relations of the European Union* (Dialóg Campus 2019) 104.
[273] Council, 'Council Conclusions on Eastern Partnership' (n100) 9.
[274] Karina Shyrokykh, 'European Development Co-operation via Technical Assistance: An Outside-in Perspective' (2023) 61(6) Journal of Common Market Studies 1587, 1588.

Launched in 1996 as a short-term targeted assistance programme to candidate countries, TAIEX aimed to facilitate the drafting and adoption of 'EU-related legislation'.[275] Since 2005, TAIEX has been extended to the ENP countries.[276] Through this tool, EU agencies 'support the approximation, application and implementation of EU legislation'[277] in the whole ENP region. Participation in the TAIEX programme is driven by partner countries' requests and is designed to provide rapid specialised expertise tailored to their specific needs[278] through short-term activities. This instrument targets public administrations, judiciary and law enforcement authorities, parliaments, representatives of 'social partners', trade unions, and employers' associations.[279] Partner countries could seek the EU's technical and scientific expertise in various areas, such as agriculture and food safety, freedom, security, justice, an inclusive economy, and others.

Similarly, Twinning was launched in 1998 to support initially candidate countries in reforming public administrations for EU accession. Since 2006, this instrument has been extended to the ENP countries as well.[280] This instrument supports reform and modernisation in the public administration of partner countries in a medium- to long-term perspective. Through Twinning, numerous human rights initiatives have been implemented in the partner countries over the last decade. For instance, Twinning assisted Ukraine in aligning the procedures of the Parliament's Commissioner for Human Rights with EU best practices to better protect citizens' rights.[281] Also, according to the Commission, both TAIEX and Twinning provide technical assistance to partner countries' administrations in preparing reforms to align with the CRPD. [282]

SOCIEUX+ is a specific technical cooperation instrument aiming to expand and improve access to better employment opportunities and inclusive social protection

[275] Commission, 'Proposal for a Council Decision enabling countries eligible for the future European Neighbourhood and Partnership Instrument (ENPI) to benefit from the Technical Assistance and Information Exchange Programme (TAIEX)' (2005) COM(2005) 321 final.
[276] European Parliament, 'Extension of TAIEX to ENPI-eligible countries' [2005] OJ C 286 E/152.
[277] Rimakutė and Shyrokykh, 'The Role of EU Agencies' (n200) 3.
[278] Ibid.
[279] Commission, 'TAIEX and Twinning 2019 Highlights' (2020).
[280] Commission, 'Strengthening the European Neighbourhood Policy' COM(2006) 726 final.
[281] Commission, 'TAIEX and Twinning Activity Report 2018' (2019).
[282] Commission, 'Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD) by the European Union' SWD(2023) 95 final.

systems. This instrument is available in 160 countries, including all EaP, since 2013.[283] It provides short-term technical cooperation, upon request from public institutions or social partners, in the form of knowledge sharing. In 2015, this instrument supported the Ministry of Labour, Social Protection, and Family of Moldova in establishing a small department responsible for services related to the vocational rehabilitation of persons with severe disabilities.[284] Remarkable, that starting from 2018, SOCIEUX+ assisted Armenia through five different projects in introducing a rights-based approach to disability assessment and transitioning towards the International Classification of Functioning (ICF) for disability assessment. In Ukraine, it helped the Ministry of Veterans Affairs of Ukraine to improve coordination with civil society organisations providing social assistance to war veterans and their families.

Aside from benefiting from various technical assistance programmes' formats, partner countries participate, usually as observers, in EU agencies and their internal programmes. Since 2007,[285] this opportunity has been offered to the ENP countries. In doing so, the EU encourages regulatory and administrative reforms and facilitates institution-building in partner countries through developing links[286] and sharing knowledge. The level of participation varies depending on the agency and is largely request-driven. Partner countries can join the EU's programmes on research and development, consumer protection, information, competitiveness and innovation, and others, based on 'mutual interests and available resources'.[287] For instance, since 2016, Ukraine has been fully associated with the EU Horizon 2020 and EURATOM Research and Training programmes. Under the EU Horizon 2020 programme, it participated in 230 projects.[288] In 2014, cooperation projects were launched between the EaP countries and agencies such as the European Environmental Agency, the European Aviation Safety Agency, the European Food Safety Authority, and the

[283] Commission, 'Decent Work Worldwide for a Global Just Transition and a Sustainable Recovery' COM(2022) 66 final.
[284] See overview of activities under SOCIEUX+: <https://socieux.eu/countries/?idCat=41> accessed 30 September 2025.
[285] Commission, 'General Approach to Enable ENP Partner Countries to Participate in Community Agencies and Community Programmes' COM(2006) 724 final.
[286] Declour and Lecha, 'European Neighbourhood Policy Mechanisms' (n184) 448.
[287] Commission, 'General Approach' (n285).
[288] Commission, 'International Cooperation with Ukraine in Research and Innovation' (Commission, 9 June 2022) <https://research-and-innovation.ec.europa.eu/strategy/strategy-research-and-innovation/europe-world/international-cooperation/association-horizon-europe/ukraine_en accessed> accessed 24 February 2025.

European Border and Coast Guard Agency (Frontex).[289] Overall, the EaP countries enjoy access to twice as many agencies as their Southern Mediterranean neighbours.[290] This allows EaP countries to benefit from greater knowledge exchange, practical expertise, and financial support.

9.2. Support of Civil Society: Institutional Aspects

Civil society is commonly defined 'as a sphere of social activities and organisations outside of the state, the market and the private sphere, based on principles of voluntarism, pluralism and tolerance'.[291] For the purpose of this PhD thesis, civil society is understood to encompass not only organised forms, such as civil society organisations,[292] but also individual or collective activism. Despite this, the analysis focuses on instances of positive mobilisation of civil society 'directed at consolidation of resources for the achievement of a specific goal within the existing institutional settings'.[293] Although negative mobilisation, such as protests or manifestations, occurs from time to time across all EaP countries, their role in the transfer of EU disability norms will not be analysed in this PhD thesis due to their limited impact.

Civil society assumes an increasingly active role in the EU's cooperation framework with the EaP countries[294] and remains 'a crucial catalyst of qualitative change within the human rights domain'.[295] Colombo and Shapovalova argue that the EU recognises civil society as an agent in transferring the EU acquis.[296] In fact, by supporting this actor, the EU often puts pressure on the partner countries 'to adopt EU rules'.[297] The EU's support of civil society is multifaceted,[298] and is expressed through various

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[289] Declour and Lecha, 'European Neighbourhood Policy Mechanisms' (n184) 449.
[290] Sandra Lavenex and Philipp Lutz, 'Third Country Access to EU Agencies: Exploring Spaces for Influence' (2023) 61(6) Journal of Common Market Studies 1563, 1573.
[291] Yevgenya Jenny Paturyan and Valentina Gevorgyan, 'Armenian Civil Society after Twenty Years of Transition: Still Post-Communist?' (Turpanjian Center for Policy Analysis, 2014) 12.
[292] Beate Kohler-Koch, 'The Three Worlds of European Civil Society – What Role for Civil Society for What Kind of Europe?' (2009) 28(1) Policy and Society 47, 50.
[293] Marina Muskhelishvili, 'Institutional Change and Social Stability in Georgia' (2011) 11(3) Southeast European and Black Sea Studies 317, 321.
[294] Hrant Kostanyan and Bruno Vandecasteele, 'The Socialization Potential of the Eastern Partnership Civil Society Forum' (2013) 4(2) Easterb Journal of European Studies 95, 98.
[295] Shyrokykh and Busol, 'Three Decades' (n264) 177.
[296] Silvia Colombo and Natalia Shapavalova, 'The European Neighbourhood Policy Promotion of Civil Society' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 502.
[297] Schimmelfennig, 'Beyond Enlargement' (n19) 23.
[298] Jeff Kenner, Katrina Peake and Stuart Wallace, 'The EU's Engagement with Civil Society on Human Rights' in Jan Wouters and others (eds), *The European Union and Human Rights: Law and Policy* (Oxford University Press 2020) 293.

forms, including advocating for a favourable legal and regulatory framework for civil society organisations to operate in a partner country, increasing the capacity of civil society organisations, and ensuring meaningful and structured participation in the decision-making at the national level as well as in the EU programming cycle.[299] Among these forms of support, the establishment of a structured cooperation with civil society under the EaP represents one of the EU's most notable achievements. This cooperation is operationalised primarily through two institutional structures offered by the EaP framework: the EaP CSF, which is part of the EaP multilateral track discussed earlier in this chapter, and the Civil Society Platforms (CSP), which function under the association agreements.

With the launch of the EaP, 'new tools to enhance the involvement of non-governmental actions' were introduced to civil society in partner countries.[300] In particular, in 2009, the Commission established the EaP CSF, a platform 'that promotes socialization and learning'.[301] This platform aims to enhance the EaP 'by adding the perspective of the civil society through recommendations, evaluation and monitoring of EaP activities'.[302] Kostanyan considers the EaP CSF as an instrument allowing civil society of the Member States of the EU and partner countries 'to engage in socialisation, resulting in a high degree of internalisation of European norms and values.'[303] Indeed, the high degree of institutionalisation of the EaP CSF allows it to play an active role in implementing the cooperation framework agreements by providing inputs and participating in the EaP thematic platforms.[304] The Commission increasingly considers the EaP CSF's opinion when drafting the progress reports.[305]

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[299] Commission, 'The Roots of Democracy and Sustainable Development: Europe's Engagement with Civil Society in External Relations' COM (2012) 492 final.
[300] Natalia Shapovalova and Richard Youngs, 'The Changing Nature of EU Support to Civil Society' in Timm Beichelt and others (eds), *Civil Society and Democracy Promotion* (Palgrave Macmillan 2014) 86.
[301] Andriy Tyushka and Tobias Schumacher, 'Looking Backward: Deliverables and Drawbacks of the Eastern Partnership during 2009–2020' in Andriy Tyushka and Tobias Schumacher (eds), *The European Union and it's Eastern Neighbourhood: Whither 'Eastern Partnership'?* (Routledge 2022) 246.
[302] Hrant Kostanyan, 'The Civil Society Forum of the Eastern Partnership Four Years On: Progress, Challenges and Prospects' (CEPS Special Report, 2014) 1.
[303] Ibid ii.
[304] The EaP thematic groups: democracy, good governance and stability; economic integration and convergence with EU policies; energy security; contacts between people.
[305] Kostanyan, 'The Civil Society Forum' (n302) 5.

The EaP CSF is structured around the Steering Committee, the Secretariat, five Working Groups with the Sub-Groups, National Platforms, and the annual Forum. The highest decision-making body of the EaP CSF is the annual Forum, which consists of 17 members elected each year. The annual Forum approves the by-laws and any changes to the core governance documents. The EaP CSF is composed of five thematic Working Groups: democracy, human rights, good governance and stability; economic integration and convergence with EU policies; environment, climate change and energy security; contacts between people; social and labour policies and social dialogue. The Working Group on democracy, human rights, good governance and stability is composed of seven sub-groups. The Human Rights Sub-Group 'advocates for human rights issues to be on the agenda of intergovernmental meetings'.[306] It monitors the implementation of human rights obligations in the EaP countries as well.

The EaP CSF flagship initiative, the EaP Index, is arguably its most recognisable 'brand'. This initiative represents 'a monitoring tool dynamically charting the six states' approximation towards (and away from) EU norms and international best practice'.[307] The EaP Index collects the data from existing sources, as well as relies on the information gathered by local country experts[308] to assess the level of 'approximation' of the EaP countries with the EU acquis. The assessment framework extends beyond the analysis of a normative approach and also encompasses the analysis of the actual societal, economic, and political change.[309] Albeit not systematically, disability rights have been addressed in the annual EaP Index reports. In particular, the EaP Index reports highlighted the situation with the voting rights of persons with disabilities and legal capacity,[310] inaccessibility of infrastructure,[311] cases of hate speech against persons with disabilities,[312] social protection issues,[313] torture

[306] Kostanyan and Vandecasteele, 'The Socialization Potential' (n294) 100.
[307] 'Eastern Partnership Index 2023' (Eastern Partnership Civil Society Forum, 2023) 21.
[308] For more information on of the EaP Index methodology, see 'Eastern Partnership Index – Linkage 2018–2019' (EaP CSF, 2020) 40.
[309] Ibid.
[310] See 'European Integration Index 2014 for Eastern Partnership Countries' (EaP CSF, 2015) 74; 'Eastern Partnership Index 2015 – 2016' (EaP CSF, 2017) 95.
[311] 'Eastern Partnership Index 2020–2021' (EaP CSF, 2021) 33.
[312] Ibid 26.
[313] 'European Integration Index 2014' (n 310) 94.

and ill-treatment of political prisoners with disabilities,[314] institutionalisation and lack of community-based services for persons with psychological disabilities.[315]

The CSPs, established by the AA/DCFTA for Ukraine, Moldova, Georgia, and the CEPA for Armenia,[316] ensure the meaningful involvement of civil society in the implementation of the agreement. They consist of representatives of civil society from a partner country, on the one hand, and members of the European Economic and Social Committee (EESC) and European civil society networks, on the other.[317] The composition of each platform is to be determined locally. For example, Ukraine's CSP comprises six working groups. Organisations advocating for disability rights remain underrepresented, although some are members of working groups focused on human rights, economic partnerships, and employment.

In this way, both under the EaP multilateral track and under the AA/DCFTA, the EU developed an evolved institutional system for meaningful participation of civil society in European integration processes. Such an institutional setup increasingly enhances its role as an equal partner at the table with national governments and, by extension, as a socialisation tool supporting the rule-transfer.

9.3. Multilateral Cooperation and Human Rights under the Eastern Partnership

Often described as the 'most powerful advocate of multilateralism in the twenty-first century',[318] the EU effectively leverages multilateral cooperation to promote human rights in its external relations, particularly in neighbouring countries, thus making this form of engagement appealing for examining against its 'socialisation' potential in the EaP.

As outlined in Chapter I, the EU's commitment to multilateral cooperation is firmly embedded in its legal and policy framework. The Joint Communication on Strengthening the EU's Contribution to Rules-Based Multilateralism,[319] adopted in

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[314] 'Eastern Partnership Index 2023' (n307) 57.
[315] Ibid 160.
[316] Article 469 AA/DCFTA with Ukraine; Article 442 AA/DCFTA with Moldova; Article 412 AA/DCFTA with Georgia; Article 366 CEPA with Armenia.
[317] Article 469(2) AA/DCFTA with Ukraine; Article 442(2) AA/DCFTA with Moldova; Article 412(2) AA/DCFTA with Georgia.
[318] Elena Lazarou and others, 'The Evolving "Doctrine" of Multilateralism in the Twenty-First Century' in Caroline Bouchard, John Peterson and Nathalie Tocci (eds), *Multilateralism in the 21st Century: Europe's Quest for Effectiveness* (Routledge 2013) 44.
[319] Commission, 'Strengthening the EU's Contribution to Rules-Based Multilateralism' JOIN(2021) 3 final.

2021, identifies the advancement of human rights as one of the objectives to be achieved through multilateral engagement.[320]

When engaging with neighbouring countries, the EU's cooperation with multilateral organisations, such as the Organization for Security and Co-operation in Europe (OSCE) and the CoE, stands out as particularly significant, as both the CoE and the OSCE have played a crucial role in the socialisation of the Eastern Europe and the Caucasus.[321] Together with the EU, the OSCE and the CoE are referred to as the leading actors within the 'European human rights regime'.[322] The CoE presents itself as the guardian and a standard-setter of human rights in Europe, while the OSCE is 'proud of its conflict prevention approach'.[323] Over the years, the OSCE has also taken on a leading role in promoting electoral rights in the region. Although the EU is not a full member of either the CoE or the OSCE, it maintains a close strategic partnership with both. This cooperation is mutually reinforcing and reciprocal in the pursuit of common values in the region, which is one of the basic foundations of multilateralism.[324] Yet, power asymmetries between partners enable the EU to transfer its own acquis into the legal orders of the EaP countries through multilateral cooperation. In this connection, multilateral cooperation is considered, within this thesis, as a socialisation tool supporting the rule-transfer.

9.3.1. Reciprocity

Regarding reciprocity, the EU not only recognises and adheres to the human rights standards promoted by both the CoE and the OSCE when cooperating with its neighbours but also employs its own mechanisms and tools to transfer them into the national legal orders of the EaP partners. The AA/DCFTA and the CEPA include a human rights clause, stipulating that respect for the human rights enshrined in the European Convention on Human Rights (ECHR) and the Helsinki Final Act of 1975 of the Conference on Security and Co-operation in Europe (OSCE Helsinki Final Act),

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[320] Ibid 1.
[321] Michael Merlingen and Rasa Ostrauskaite, 'The International Socialization of Post-Socialist Countries: The Role of the OSCE and the Council of Europe' (2003 OSCE Yearbook, 2004) 365.
[322] Malte Brosig, 'Governance between International Institutions: Analysing Interaction Modes between the EU, the Council of Europe and the OSCE' in David J Galbreath and Carmen Gebhard (eds), *Cooperation or Conflict? Problematizing Organizational Overlap in Europe* (Routledge 2016) 31.
[323] Ibid 35.
[324] John Peterson and Caroline Bouchard 'Making Multilateralism Effective: Modernising Global Governance' in Caroline Bouchard, John Peterson and Nathalie Tocci (eds), *Multilateralism in the 21st Century: Europe's Quest for Effectiveness* (Routledge 2013) 16.

among other international instruments, constitute an essential element of the agreement. By ratifying the agreement, both the EU and a partner country reaffirm their respect for international obligations under the UN, CoE, and the OSCE. The advancement of human rights in partner countries in line with the ECHR and the OSCE Helsinki Act is further supported and reinforced by the EU through progress reports and a wide range of other EaP tools. For instance, under the VLAP, the EU required the adoption of the non-discrimination legislation, alongside a National Human Rights Strategy and Action Plan in partner countries, in accordance with the UN, OSCE, and CoE standards and taking into account the recommendations of their respective bodies.[325]

In turn, the CoE and the OSCE increasingly support the EU in implementing its priorities in the EaP countries. For instance, the CoE country action plans for Ukraine, Moldova, Georgia, and Armenia are aligned with the cooperation framework agreements between the EU and partner countries,[326] and their implementation is coordinated with the EU and EU delegations in the respective countries.

9.3.2. Power Asymmetries

Given that the EU is an entity with a multi-functional competence, its own resources, and a global reach,[327] multilateral cooperation is characterised by a power asymmetry vis-à-vis partner countries but also multilateral partners. The EU resources and the 'powerful weapon' of conditionalities attached to accession[328] grant it greater influence in prompting reforms in partner countries. Disparities in financial resources[329] also create power asymmetry in cooperation with the OSCE and the CoE.

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[325] See, for instance Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'First Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation' SEC(2011) 1076 final; Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'First Progress Report on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation' SEC(2011) 1075 final; Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'First Progress Report on the Implementation by Georgia of the Action Plan on Visa Liberalisation' SWD(2013) 417 final.

[326] Council of Europe, 'Action Plan "Resilience, Recovery and Reconstruction" for Ukraine 2023–2026' CM(2022)187; Council of Europe, 'Action Plan for the Republic of Moldova 2025–2028' CM(2024)172; Council of Europe, 'Action Plan for Georgia 2024–2027' CM(2023)168; Council of Europe, 'Action Plan for Armenia 2023–2026' CM(2022)160.

[327] Alyson J K Bailes, Jean-Yves Haine and Zdzisław Lachowski, 'Reflections on the OSCE-EU Relationship' (2007 OSCE Yearbook, 2008) 73.

[328] Ibid.

[329] David J Galbreath, Andreas Härtel and Stefan Wolff, 'Towards a More Strategic Partnership: Strengthening the OSCE through Enhanced EU–OSCE Cooperation' (2021) 3 OSCE Insights 39, 44.

The EU is the main source of extra-budgetary funding for the CoE,[330] and, together with its Member States, is the principal donor of extra-budgetary support to the OSCE field operations.[331] Additionally, the Member States provide two-thirds of the main budget of the OSCE.[332] As the EU is not a full member of either organisation, it does not contribute to their main budgets,[333] hence, its support targets specific fields of action and projects, rather than broad institutional support of these organisations. In turn, neither the CoE nor the OSCE steps up as a donor to the EU. To this end, viewing the CoE and the OSCE as 'important asset in pursuing its policies',[334] the EU in its capacity of a donor, capitalises on multilateral cooperation to facilitate, under the broad agenda of common priorities in each partner country, those objectives of particular relevance to the EU. This is evident in the cooperation between the EU and the CoE to align the national legislation of Ukraine with the EU acquis in the audiovisual media sector, as will be discussed in Chapter VI.

10. Concluding Remarks

This chapter has examined the core facets of the EaP within the broader ENP framework, with the aim of identifying the main mechanisms and tools that underpin it. As the analysis indicates, the EaP has at its disposal a plethora of tools designed to influence the legal orders of partner countries and facilitate the rule-transfer, such as cooperation framework agreements, financial tools, action plans, and technical assistance programmes, among others. Despite Ukraine, Moldova, and Georgia now holding candidate status, the EaP remains an important instrument of EU external relations in shaping the human rights landscape, particularly as the AA/DCFTA continues to serve as the main legal framework for cooperation.

This chapter has highlighted the legal aspects underpinning, albeit not explicitly, the rule-transfer within the EaP and introduced the main EU governance modes in the EaP, expressed through conditionality and socialisation. For the purpose of this thesis,

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[330] Council, 'Council Conclusions on EU Priorities for Cooperation with the Council of Europe in 2025–2026' (2024) 17028/24.
[331] 'European Union' (OSCE, 2025) <https:// www.osce.org/partnerships/european-union> accessed 10 September 2025.
[332] Ibid.
[333] Jörg Polakiewicz, 'A Council of Europe Perspective on the European Union: Crucial and Complex Cooperation' (2021) 5(1) Europe and the World: A law review 1, 5.
[334] Jakub Jaraczewski, Wladyslaw Jóźwicki and Zdzislaw Kędzia, 'The EU's Engagement with the Council of Europe and the OSCE on Human Rights' in Jan Wouters and others (eds), *The European Union and Human Rights: Law and Policy* (Oxford University Press 2020) 192.

and as indicated in the Introduction, they constitute a methodological lens through which the rule-transfer process is studied. In particular, this chapter provided a general analysis of these two mechanisms and the tools that support them, exploring the extent to which human rights are mainstreamed in them. In this way, they were assessed against their capacity to stimulate the rule-transfer to further support the analysis in Chapters V and VI.

The preliminary findings indicate that conditionality, embedded in the cooperation framework agreements, action plans, and financial tools, has thus far been the most impactful mechanism, producing 'tangible' results. Through various tools for socialisation, the EU is also capable of advancing human rights in the EaP. The SOCIEUX+ demonstrated examples of successful collaboration with the EaP countries, particularly on disability matters. However, since socialisation works on attaining results in a long-term perspective, assessing its direct impact and role in the rule-transfer remains challenging and requires further contextual analysis, as its effects tend to intertwine with broader legal and political processes.

In sum, this chapter contributes to answering the first research question by identifying and analysing the mechanisms and tools the EU employs to promote human rights under the EaP. It further lays the groundwork for the subsequent analysis in chapters V and VI, investigating what stimulates the transfer of EU disability norms in the EaP region.

Part Two
The EU and Disability Rights

Chapter III
EU Disability Law

1. Introduction

The global reach and effects of EU law is a complex phenomenon which rests upon the internal and external dimensions of EU law.[1] EU disability law exemplifies this dynamic, with the EU often acting as an active norm-taker following international developments. The EU's conclusion of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which itself stimulated the standardisation of disability rights globally, further blurred the lines between 'internal' and 'external' in EU disability law. Therefore, in order to understand the rule-transfer process of EU disability norms and address the third research question, an analysis of EU internal developments is necessary. Part Two of this PhD thesis foregrounds the study carried out in Part III by examining EU disability law as a field of EU law in this chapter and disability rights in EU external relations in Chapter IV. This chapter, together with Chapter IV, supports addressing the first and second research questions.

As discussed in the Introduction, EU disability norms encompass a broad array of principles, rules, and legal standards, including EU disability law. Therefore, this chapter supports the contextual analysis of EU disability norms by providing an overview of EU disability law and highlighting its external relevance to this thesis.

Chapter III is structured as follows. Section 2 traces the development of EU disability law from its origins to the present day, with particular attention to the process of adopting the CRPD. Over the past few decades, the promotion of disability rights within the EU has expanded significantly and undergone a profound transformation, embracing a rights-based approach that is primarily, but not exclusively, a merit of the CRPD.

Section 3 examines the CRPD as a standard-setter in EU law. First, it analyses theoretical models of disability underpinning the CRPD, which the EU has (at least to some degree) embraced. Following this, it examines the concept of accessibility under the CRPD, which informs EU disability law. Then, section 4 analyses the place of the CRPD in the EU legal order, which further supports the analysis of the competence

[1] Elaine Fahey, *Global Reach of EU Law* (Routledge 2017) 14.

division between the EU and Member States in the area covered by the CRPD. The final section 5 focuses on the study of disability rights in key EU legislative acts in the employment, audiovisual media, and transport sectors. These areas were selected as, first, they reflect the rights-based approach to disability underpinning this thesis, as discussed in the Introduction. Second, and most importantly for the purpose of this analysis, these legislative acts are required to be adopted under the Association Agreement with the Deep and Comprehensive Free Trade Area (AA/DCFTA) and the Comprehensive and Enhanced Partnership Agreement (CEPA). Section 5 further assesses the alignment of the norms with the CRPD to determine the extent to which EU disability norms adopted by the EaP countries align with the international standards upheld by both the EU and its partner countries. In doing so, it supports the analysis in Chapter VI, which aims to address the third research question. A final section provides concluding remarks.

2. The Evolution of EU Disability Law

As outlined in the Introduction to this PhD thesis, current EU disability law encompasses both 'traditional social policy' measures[2] and non-discrimination and equality measures[3] that advance human rights. It also includes an array of measures adopted within the scope of the internal market. This approach can be attributed to the EU's limited competence in the social policy field, with Member States being the primary legislators in this sphere,[4] which contrasts with the EU's more extensive competences in non-discrimination and large regulatory powers within the internal market. As a consequence, EU disability law constitutes a 'complex sub-system' of EU law.[5] This section, building on the consolidated literature, chronologically analyses the main milestones that advanced the rights-based approach to disability and the eventual emergence of EU disability law as a complex legal framework.

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[2] Anne Waldschmidt, 'Disability Policy of the European Union: The Supranational Level' (2009) 3(1) European Journal of Disability Research 8, 9.
[3] Anne Waldschmidt and Eva S Krolla, 'The Surge of EU Disability Policy: Historical Developments, Current Issues and the Role of Different Actors' in Delia Ferri and Eva S Krolla (eds), *Actors and Roles in EU Disability Law* (Hart 2025) 71.
[4] Gerard Quinn and Eilionóir Flynn, 'Transatlantic Borrowings: The Past and Future of EU Non-Discrimination Law and Policy on the Ground of Disability' (2012) 60(1) American Journal of Comparative Law 23, 34.
[5] Andrea Broderick and Delia Ferri, 'Conclusion to the Research Handbook on EU Disability Law' in Delia Ferri and Andrea Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020) 450.

The EU's intervention in the disability domain initially focused on areas such as rehabilitation, vocational education, and social integration.[6] The first significant shift towards a rights-based approach to disability occurred with the adoption of the New European Community Strategy[7] (Strategy) by the Commission in 1996. An 'old approach' aimed at 'accommodating people to their disability' was replaced with a new one focused 'on identifying and removing the various barriers to equal opportunities'.[8] This concept was 'borrowed' from the Standard Rules for the Equalization of Opportunities for Persons with Disabilities (Standard Rules),[9] adopted by the UN General Assembly in 1993. The intention of the EU was not to 'repeat *verbatim* the content'[10] of the Standard Rules, but rather to 'internalise' the approach to disability, along with the principles and values underpinning the Standard Rules, such as promoting equality of opportunity and eliminating discrimination based on disability.[11] Despite being a soft law instrument, it successfully integrated the 'new concept' of disability perception into the EU's policy framework. From that moment, the focus of EU disability policy shifted towards a more rights-based approach and, as noted by Waldschmidt and Krolla, 'equality of persons with disabilities became a key issue'.[12]

2.1. From the Treaty of Amsterdam to the Treaty of Lisbon

The first legislative breakthrough came with the Treaty of Amsterdam,[13] which entered into force in 1999 and introduced a new non-discrimination provision. According to Article 13 Treaty establishing the European Community (EC Treaty) (now Article 19 TFEU):

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[6] See Council Resolution of 27 June 1974 establishing the initial Community action programme for the vocational rehabilitation of handicapped persons [1974] OJ C80/30; Commission, 'The Social Integration of Disabled People – A Framework for the Development of Community Action' COM(81) 633 final; Council Recommendation of 24 July 1986 on the employment of disabled people in the Community [1986] OJ L 225/43; Council Decision 88/231/EEC of 18 April 1988 establishing a second Community action programme for disabled people (Helios) [1988] OJ L 104/38.
[7] Commission, 'A New European Community Disability Strategy' COM(96) 406 final.
[8] Ibid 3.
[9] UN General Assembly, 'Standard Rules on the Equalization of Opportunities for Persons with Disabilities' (1993) A/RES/48/96.
[10] Commission 'A New European Community Disability Strategy' (n7) 9.
[11] Ibid 3.
[12] Waldschmidt and Krolla, 'The Surge of European Union Disability Policy' (n3) 62.
[13] Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts [1997] OJ C340/1.

> ‘Without prejudice to the other provisions of this 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 based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation’.

This Article was innovative from several perspectives. Firstly, with this provision, the EU acquired, for the first time, the competence to take action, including adopting relevant legislation, to combat discrimination on the grounds of disability.[14] Secondly, disability was explicitly addressed and codified in the constitutional framework and, thus, ‘integrated into the EU polity’.[15] Thirdly, disability rights were introduced under the non-discrimination and equal rights policy.[16]

Article 13 EC Treaty, while ‘providing a clear legislative basis for action to combat discrimination’,[17] did not confer ‘effective rights’[18] to EU citizens. In 2000, on the basis of this provision, the Commission adopted two legally binding Directives and an Action Programme to Combat Discrimination 2000–2006,[19] known as the ‘Article 13 Package’.[20] This package further advanced the EU’s non-discrimination policy framework in general, and EU disability law, in particular. Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (Employment Equality Directive)[21] is one of two directives adopted by the EU to implement Article 13 EC Treaty. It is considered the ‘first legislative intervention’[22] aimed at addressing discrimination on the grounds of disability in the

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[14] Erica Howard, ‘The EU Race Directive: Time for Change?’ (2007) 8(4) International Journal of Discrimination and the Law 237, 237.
[15] Waldschmidt, ‘Disability Policy of the European Union' (n2) 20.
[16] Ibid 17.
[17] Richard Whittle, ‘Disability Rights after Amsterdam: The Way Forward’ (2000) 1 European Human Rights Law Review 33, 37.
[18] Ibid.
[19] Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJ L 180/22; Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation [2000] OJ L 303/16; Council Decision 2000/750/EC of 27 November establishing a Community action programme to combat discrimination (2001 to 2006) [2000] OJ L 303/23.
[20] Stephen Leibfried, ‘Social Policy: Left to the Judges and the Markets?’ in Helen Wallace, Mark A Pollack and Alasdair R Young (eds), *Policy-Making in the European Union* (6th edn, Oxford University Press 2010) 264.
[21] Council Directive 2000/78/EC (n19).
[22] Andrea Broderick and Delia Ferri, *International and European Disability Law and Policy: Text, Cases, and Materials* (Cambridge University Press 2019) 302.

EU, which further shifted the disability policy perspective from the 'traditional social policy' to a more rights-based approach.[23] This piece of legislation will be analysed thoroughly in section 5 of this chapter.

It is noteworthy that the adoption of Article 13 EC Treaty also impacted the EU's external action in disability area. The Action Programme to Combat Discrimination for 2000–2006[24] was open to participation by the candidate countries, enabling them to benefit from additional financial instruments in this regard. In turn, the Commission's involvement in drafting and adopting the CRPD was based on Article 13 EC Treaty, which will be further discussed in the relevant subsection.[25]

In 2000, disability rights were further advanced with the proclamation of the Charter of Fundamental Rights of the European Union (CFR).[26] The CFR 'codified and extended the set of rights elaborated by the case law of the [CJEU] since 1969'.[27] Disability rights are addressed in the CFR in Articles 21(1) and 26. Particularly, Article 21(1) CFR forbids discrimination on the open-ended list of grounds, including disability. Article 26 CFR is specifically focused on the disability rights and establishes that the EU 'recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.'[28] Article 26 CFR has been classified as a principle rather than a right, thus it is not directly enforceable.[29] In *Glatzel,* the Court of Justice of the European Union (CJEU) clarified that for this Article to be fully effective, it must be given more specific expression in EU or national law.[30] Even though Articles 21(1) and 26 CFR 'have undoubtedly

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[23] Waldschmidt, 'Disability Policy of the European Union' (n2) 9.
[24] Council Decision 2000/750/EC (n19).
[25] Recommendation from the Commission to the Council in order to authorise the Commission to participate in the negotiations of an international legally binding instrument to promote and protect the rights and dignity of persons with disabilities SEC (2003) 0116 final.
[26] Delia Ferri, 'The Unorthodox Relationship between the EU Charter of Fundamental Rights, the UN Convention on the Rights of Persons with Disabilities and Secondary Rights in the Court of Justice Case Law on Disability Discrimination' (2020) 16(2) European Constitutional Law Review 275, 275.
[27] Rosita Forastiero, 'The Charter of Fundamental Rights and the Protection of Vulnerable Groups: Children, Elderly People and Persons with Disabilities' in Giuseppe Palmisano (ed), *Making the Charter of Fundamental Rights a Living Instrument* (Brill Nijhoff 2014).165.
[28] Charlotte O'Brien, 'Article 26' in Steve Peers and others (eds), *The EU Charter of Fundamental Rights: A Commentary* (2nd edn, 2021) 743.
[29] Delia Ferri, 'Disability in the EU Charter of Fundamental Rights', in Delia Ferri and Andrea Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020) 36.
[30] Case C-356/12 *Wolfgang Glatzel v Freistaat Bayern* [2014] ECLI:EU:C:2014:350 [78].

contributed towards making the rights of people with disabilities more visible within EU constitutional law', their potential has yet to be realised.[31]

The CFR applies to all 'EU institutions and bodies, offices and agencies', when they act both internally and externally.[32] Since 2001, any proposal for legislation and any draft instrument to be developed by the Commission undergoes an impact assessment on the fundamental rights protected by the CFR. [33]

In 2009, with the entry into force of the Treaty of Lisbon, the CFR acquired the same legal status as the Treaties under Article 6(1) TEU. This entails that the EU is obliged to comply with it in all its activities, as are the Member States when they implement EU law as specified by Article 51(1) CFR. Regarding the external dimension, although the CFR is not applicable in candidate countries, aligning their national legislation with the CFR is necessary to advance accession negotiations and ultimately join the EU.[34] For partner countries under the EaP, the CFR represents a reference point for human rights standards when transferring the EU acquis, as will be further analysed in Chapter VI.

2.2. The Conclusion of the CRPD

The conclusion of the CRPD by the EU is considered a 'major milestone in the development of EU disability law'.[35] The Council signed the CRPD on behalf of the EU on 20 March 2007[36] and acceded to the CRPD in 2010 with Council Decision 2010/48/EC of 9 November 2009.[37] For the EU, the CRPD entered into force on 22

[31] Ferri, 'Disability in the EU Charter of Fundamental Rights' (n29) 51.
[32] Jan Wouters, 'The EU Charter of Fundamental Rights – Some Reflections on its External Dimension' 8(1) Maastricht Journal of European and Comparative Law 1, 4.
[33] Commission, 'Compliance with the Charter of Fundamental Rights in Commission Legislative Proposals – Methodology for systematic and Rigorous Monitoring' COM(2005) 172 final.
[34] Luisa Ficchi, 'Candidate Countries Facing a Binding Charter of Fundamental Rights: What's New?' in Giacomo Di Federico (ed), *The EU Charter of Fundamental Rights: From Declaration to Binding Instrument* (Springer 2011) 118.
[35] Broderick and Ferri, 'International and European Disability Law and Policy' (n22) 316.
[36] Council Decision 2007/252/EC of 20 March 2007 concerning the signing, on behalf of the European Community, of the United Nations Convention on the Rights of Persons with Disabilities [2007] OJ L 104/1.
[37] Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities [2010] OJ L 23/35.

January 2011. The CRPD is the first international human rights treaty in which the EU was involved in negotiating and signing alongside its Member States.[38]

On behalf of the EU, the Commission participated in the CRPD negotiation process. According to De Búrca, the EU 'put a great deal of energy into the promotion of the international identity of the EU'.[39] Particularly, through this process, the EU's identity as a 'global disability rights advocate' came to light. The Council supported the Commission's proposition to base its negotiation mandate on Article 13 EC Treaty,[40] which authorised the EU to 'take appropriate action to combat discrimination based on […] disability'. Thus, this Article allowed the EU to act externally on disability matters and to 'confirm at international level its overall strategy with regard to disability'.[41] Apart from this purely diplomatic intention, the Commission also aimed to 'ensure consistency between European internal and international action' in respect to disability rights.[42] To that end, it successfully advocated for the inclusion of the concept of reasonable accommodation in the CRPD.[43] As the concept of reasonable accommodation is contained in the Employment Equality Directive, it was essential for the Commission to ensure that the CRPD aligns with EU provisions.[44]

As the legal basis for the conclusion decision – Articles 19 TFEU and 114 (formerly Article 95 EC Treaty) TFEU[45] – signals, the EU recognised that its obligations to protect and promote disability rights under the CRPD stretch beyond the area of non-discrimination.[46] In fact, to give effect to the CRPD, the EU has effectively mainstreamed disability rights in various spheres of its action, as will be discussed in section 5.

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[38] Lisa Waddington, 'A New Era in Human Rights Protection in the European Community: The Implications the United Nations' Convention on the Rights of Persons with Disabilities for the European Community' (4 Maastricht Faculty of Law Working Paper, 2007) 2.
[39] Gráinne De Búrca, 'The EU in the Negotiation of the UN Disability Convention' (2010) 35(2) European Law Review 174, 195.
[40]Commission, 'Towards a United Nations Legally Binding Instrument to Promote and Protect the Rights and Dignity of Persons with Disabilities' COM (2003) 16 final 2.
[41] Ibid.
[42] Ibid 12.
[43] Article 2 CRPD.
[44] Waddington, 'A New Era in Human Rights Protection' (n 38) 7.
[45] In conjunction with the procedural provisions of Article 300(2) EC Treaty (now Article 218(1) TFEU) and Article 300(3) EC Treaty (now Article 218(2) TFEU).
[46] Waddington, 'A New Era in Human Rights Protection' (n38) 8.

3. The CRPD as a Compass for EU Disability Law

By becoming a Party to the CRPD, the EU assumed the obligation to implement a wide range of measures promoting disability rights across different areas of EU law. The CRPD is a particularly distinct human rights treaty,[47] as it not only sets out a catalogue of obligations to be implemented by its Parties but also prescribes 'concrete measures that states must take to ensure that persons with disabilities can exercise their rights',[48] thereby being an action-based treaty. In this way, the CRPD aims to demonstrate how 'to apply existing human rights to the particular circumstances of persons with disabilities'.[49] This section examines how disability, in general, and non-discrimination and accessibility, in particular, are conceptualised by the CRPD to support the analysis conducted in section 5.

3.1. Understanding Disability under the CRPD

With the adoption of the CRPD, disability rights gained not only more visibility in the 'international legal discourse'[50] but, as Hoefmans argues, acquired 'a global human rights status'.[51] This development reflects a pragmatic shift from perceiving disability as a problem of an individual, central to the medical model of disability, to the societal barriers being the main factor in disabling people.[52] In this way, the responsibility shifted to the state and society,[53] reflecting the social model of disability. Further, as Degener argues, the CRPD went beyond the social model and codified the human rights model of disability.[54] This subsection examines three theoretical models of disability. Nonetheless, the intention of this subsection is not to provide a critical

[47]Michael Ashley Stein and Janet E Lord, 'Convention of the Rights of Persons with Disabilities' (United National Audiovisual Library of International Law, 2023) 1.
[48] Mona Paré, 'The Convention on the Rights of Persons with Disabilities: Its Contribution to the Development of International Human Rights Law' (2019) 11 (17) Revista ESMAT 209, 222.
[49] Rosemary Kayess and Phillip French, 'Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities' (2008) 8(1) Human Rights Law Review 1, 20.
[50] Elif Celik, 'The Role of CRPD in Rethinking the Subject of Human Rights' (2017) 21(7) The International Journal of Human Rights 933, 934.
[51] Alexander Hoefmans, 'The EU Disability Framework under Construction: New Perspectives through Fundamental Rights Policy and EU Accession to the CRPD' (2012) 3 European Yearbook of Disability Law 35, 35.
[52] Broderick and Ferri, 'International and European Disability Law and Policy' (n22) 20.
[53] Ibid.
[54] Theresia Degener, 'A New Human Rights Model of Disability' in Rachele Cera, Valentina Della Fina and Giuseppe Palmisano (eds), *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary* (1st edn, Springer 2017) 42.

analysis of the models, which have already been presented thoroughly elsewhere,[55] but rather to examine how these models are exemplified in laws and policies. In this way, it helps trace historical developments and current dynamics in the disability policies of partner countries and gain a better understanding of the EU's role in these processes. The rights-based approach to disability, a conceptual framework of this thesis grounded in both human rights and the social model of disability, is considered a benchmark for assessing the EU's impact on the disability policy in Ukraine. Therefore, this subsection supports the analysis conducted in Chapters V and VI.

The medical model of disability, also referred to in academic literature as the charity or individual model,[56] perceives disability as a 'medical phenomenon that results in limited functioning that is seen as deficient'[57] and, hence, has to be treated and fixed. It situates the 'source of difficulties within the person',[58] not considering external factors impacting the person's ability to interact with the environment. From the perspective of state laws and policies, the medical model of disability is typically exemplified through programs that focus on rehabilitation, institutional care,[59] special education, and social welfare.[60] In this way, laws and policies focus on the needs rather than on the rights of persons with disabilities. The medical model connects disability to the enjoyment of legal capacity.[61] Disability assessment, a policy aimed 'to determine entitlement to publicly funded support, including disability benefits',[62] is also conducted through a medical prism and, therefore, leaves out 'social and relational dimension of disability'.[63]

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[55] On a critical account of the human rights model of disability see: Angharad E Beckett, 'Rethinking Disability Law: Theoretical Limitations and Transformative Possibilities' (2025) 17 Ars Vivendi Journal 2; Anna Lawson and Angharad E Beckett, 'The Social and Human Rights Models of Disability: Towards a Complementarity Thesis' (2021) 25(2) The International Journal of Human Rights 348. On a critical account of social model of disability see: Theresia Degener, 'A New Human Rights Model of Disability' (n54); Kayess and French, 'Out of Darkness into Light?' (n49).

[56] Broderick and Ferri, 'International and European Disability Law and Policy' (n22) 18.

[57] Justin Anthony Haegele and Samuel Hodge, 'Disability Discourse: Overview and Critiques of the Medical and Social Models' (2016) 68(2) Quest 193, 195.

[58] Thomas P Dirth and Nyla R Branscombe, 'Disability Models Affect Disability Policy Support through Awareness of Structural Discrimination' (2017) 73(2) Journal of Social Issues 413, 415.

[59] Haegele and Hodge, 'Disability Discourse' (n57) 195.

[60] Michael Palmer and David Harley, 'Models and Measurement in Disability: An International Review' (2012) 27(5) Health Policy and Planning 357, 358.

[61] Theresia Degener, 'Disability in a Human Rights Context' (2016) 5(3) Laws 35, 37.

[62] Mark Priestley, 'Disability Assessment, Mutual Recognition and the EU Disability Card' (Report, European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, 2022) 19.

[63] Lisa Waddington and Mark Priestley, 'A Human Rights Approach to Disability Assessment' (2021) 37(1) Journal of International and Comparative Social Policy 1, 6.

On the contrary, the social model of disability, which shaped the CRPD,[64] is associated with the rights-based approach to disability.[65] In line with the social model of disability, Article 1 CRPD defines persons with disabilities as those having 'long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others'.[66] It places the source of the problem within the environment and society, rather than in an individual.[67] Laws and policies preventing and prohibiting discrimination and hate speech against persons with disabilities, promoting equal access to services and products, would be the reflection of the social model of disability. Under the social model of disability, the disability is assessed through the International Classification of Functioning, Disability and Health (ICF),[68] a system adopted by the World Health Organization (WHO) and endorsed by 191 countries in 2001. Despite that some scholars and activists criticise it 'for placing too much emphasis on medical factors',[69] as of today, it is considered an internationally recognised standard for disability assessment. Therefore, the EU actively advocates for the adoption of the ICF externally and supports partner countries in this process, as the analysis in Chapter V demonstrates.

The human rights model of disability, introduced and promoted by Degener and Quinn,[70] while retaining the concept that disability is a problem of the environment, places more emphasis on persons' identity.[71] In this way, it 'offers room for minority and cultural identification'.[72] Further, in contrast to the social model, the human rights model of disability does not explain the cause of disability but 'sets out standards of behaviour expected of States and institutions'[73] to implement disability rights. For instance, a rights-based approach to disability assessment would include laws and policies that allow and encourage the involvement of organisations of persons with disabilities in the design of assessment mechanisms, ensure the accessibility of

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[64] Lawson and Beckett, 'The Social and Human Rights Models of Disability' (n55) 351.
[65] Degener, 'A New Human Rights Model of Disability' (n54) 44.
[66] Preamble to the CRPD.
[67] Dirth and Branscombe, 'Disability Models' (n58) 415.
[68] World Health Organisation, 'International Classification of Functioning, Disability and Health' (2001) WHA Res 54.21.
[69] Broderick and Ferri, 'International and European Disability Law and Policy' (n22) 49.
[70] See Degener, 'A New Human Rights Model of Disability' (n54).
[71] Waddington and Priestley, 'A Human Rights Approach to Disability Assessment' (n63) 3.
[72] Degener, 'A New Human Rights Model of Disability' (n54) 49.
[73] Lawson and Beckett, 'The Social and Human Rights Models of Disability' (n55) 368.

information about the assessment process, and eliminate multiple assessment methods.[74] Recognising sign language users as a minority group or sign language as an official language is also an expression of the human rights model of disability.[75]

Within this thesis, the social and human rights models are considered as complementary, in line with the reasoning of Lawson and Beckett.[76] Hence, the CRPD is viewed as a compass for standards when assessing laws and policies protecting disability rights in the EU and the EaP countries.

3.2. Non-Discrimination under the CRPD

As discussed in the Introduction to this thesis, the concept of non-discrimination is considered an overarching principle of the CRPD under Article 3, and a right under Article 5, being a 'cornerstone of all human rights'.[77] According to Conte, prohibition of discrimination is an important legal tool 'to achieve an effective and solid framework for the protection of persons with disabilities'.[78] Under the CRPD, discrimination on the grounds of disability encompasses all forms of discrimination, established in other international human rights treaties, including 'denial of reasonable accommodation' as a new form of discrimination.[79] Reasonable accommodation is understood as a 'necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment'.[80]

The CRPD not only *prohibits* discrimination in any form but also obliges the Parties to refrain from any discriminatory actions, including by modifying or abolishing existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities.[81] Aside from that, to fully enjoy the right to non-

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[74] UN CRPD Committee, 'Concluding observations on the initial report of Poland' (2018) CRPD/C/POL/CO/1 para 6(b); UN CRPD Committee, Concluding Observations on the initial report of Malta' (2018) CRPD/C/MLT/CO/1 para 6(b).
[75] See Delia Ferri, Iryna Tekuchova and Eva S Krolla, 'Between Disability and Culture: The Search for a Legal Taxonomy of Sign Languages in the European Union' (2024) 73(3) International and Comparative Law Quarterly 669.
[76] See Lawson and Beckett, 'The Social and Human Rights Models of Disability' (n55); Beckett, 'Rethinking Disability Law' (n55).
[77] UN CRPD Committee, 'General Comment No 6 (2018) on Equality and Non-Discrimination' (2018) CRPD/C/GC/6 2.
[78] Carmine Conte, *The UN Convention on the Rights of Persons with Disabilities and the European Union: The Impact on Law and Governance* (Hart 2022) 3.
[79] Article 2 CRPD.
[80] Article 2 CRPD.
[81] Conte, 'The UN Convention on the Rights of Persons with Disabilities' (n78) 3.

discrimination by persons with disabilities, the CRPD imposes an obligation for positive actions in this regard, such as raising awareness about the rights of persons with disabilities under the CRPD, collecting and analysing data and research 'to identify inequalities, discriminatory practices and patterns of disadvantage',[82] consult organisations of persons with disabilities, among others.

3.3. Accessibility under the CRPD

Aside from conceptualising disability and recognising 'denial of reasonable accommodation' as a form of discrimination, the CRPD provides greater clarity on the accessibility concept, a general principle of the CRPD under Article 4. It was the first binding human rights instrument to include the accessibility norm and mainstream it across various articles of the treaty.[83] The denial of access to physical environment, transportation, information and communication, as exemplified by the UN CRPD Committee, 'constitutes an act of disability-based discrimination' prohibited by Article 5 CRPD.[84] According to Ferri, the CRPD 'firmly anchors accessibility to the realisation of equality',[85] which informs the rights-based approach to disability.

In the area of accessibility, the EU has shared 'yet general and cross-cutting' competence under Article 114 TFEU.[86] The implementation of Article 9 on accessibility and Article 21 on freedom of expression and opinion, and access to information by the EU 'represents an opportunity to fulfill the mainstreaming duty' under Article 10 TFEU, which will be further examined in Chapter IV.[87]

Article 9(1) CRPD addresses accessibility 'in all its complexity, encompassing the physical environment, transportation, information and communication, and services',[88] and accordingly obliges the Parties to remove barriers in those areas. Article 9(2) CRPD outlines various measures that the Parties should take to ensure

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[82] UN CRPD Committee, 'General Comment No 6' (n77) 9.
[83] Andrea Broderick, 'Of Rights and Obligations: The Birth of Accessibility' (2020) 24(4) The International Journal of Human Rights 393, 399.
[84] UN CRPD Committee, 'General comment No 2 (2014) Article 9: Accessibility' (2014) CRPD/C/GC/2 para 34.
[85] Delia Ferri, 'The European Accessibility Act and the Shadow of the 'Social Market Economy' (2020) 45(5) European Law Review 660, 668.
[86] Delia Ferri, 'The Role of the European Union in Ensuring Accessibility of Cultural Goods and Services: All About That … Internal Market?' (2023) 48(3) European Law Review 257, 257.
[87] Delia Ferri and G Anthony Giannoumis, 'A Revaluation of the Cultural Dimension of Disability Policy in the European Union: The Impact of Digitization and Web Accessibility' (2014) 32(1) Behavioral Sciences and the Law 33, 41.
[88] UN CRPD Committee, 'General comment No 2' (n84) para 13.

accessibility, including developing monitoring mechanisms to track the implementation of accessibility standards, providing forms of live assistance, training stakeholders on accessibility, and ensuring that private entities follow accessibility standards. Additionally, it emphasises the importance of promoting 'design, development, production and distribution of accessible information and communications technologies and systems at an early stage' to reduce accessibility costs. Ensuring accessibility of new information and communication technologies, including the Internet, is also a part of the Parties' commitment under this Article. The UN CRPD Committee recognises that the implementation of Article 9 is subject to gradual realisation. Establishing monitoring and sanction mechanisms, a time frame and benchmarks to assess progress, allocating sufficient financial resources are among the measurable actions the Parties shall undertake for the gradual realisation of accessibility. In the meantime, 'reasonable accommodation may be used as a means to provide access to an individual'.[89] In doing so, it is evident that 'every form of accessibility barrier' cannot be qualified as an act of discrimination, as it would be inconsistent with the gradual realisation approach.[90] Nonetheless, there are instances in which a lack of accessibility constitutes discrimination, particularly when the service or facility was established after the Party introduced accessibility provisions and when access to the facility or service could have been granted through reasonable accommodation.[91]

Article 9 intersects with Article 21 CRPD on matters related to information and communication.[92] Article 21 CRPD recognises that the freedom to seek, receive, and impart information is a precondition for exercising the right to freedom of expression and opinion. In this regard, it obliges the Parties to ensure the accessibility of information and technologies to people with various disabilities in a timely manner and without additional cost, and to facilitate the use of sign languages, Braille, and other accessible means in official interactions. The Parties, in turn, should urge private entities providing services to the general public, including via the Internet and mass

[89] UN CRPD Committee, 'General Comment No 6' (n77) para 42.
[90] Anna Lawson, 'The UN Convention of the Rights of Persons with Disabilities and European Disability Law: A Catalyst for Cohesion?' in Oddný Mjöll Arnardóttir and G Quinn (eds), *The UN Convention on the Rights of Persons with Disabilities: European and Scandinavian Perspectives* (Martinus Nijhoff 2009) 270.
[91] UN CRPD Committee, 'General comment No 2' (n84) para 31.
[92] Ibid para 38.

media, to provide information in accessible formats and through accessible technologies. Whereas Article 21 CRPD does not include provisions on training stakeholders on disability or on facilitating participatory mechanisms for persons with disabilities in the relevant policy-making process, these measures are part of the general obligations under Article 4 CRPD and, thus, are applicable under Article 21 CRPD as well.

Therefore, as an 'action-based' treaty, the CRPD not only sets standards for accessibility but also provides guidance on how to understand, interpret, and implement it, which enables a more in-depth analysis of the alignment of EU acquis with the CRPD.

4. Competence Division between the EU and Member States under the CRPD

Before discussing the competence division between the EU and its Member States under the CRPD, it is essential to clarify the place of this international human rights instrument in the EU legal order.

4.1. The CRPD in the EU Legal Order

According to Broderick and Ferri, the Treaties do not expound upon the relationship between EU law and international law, aside from recognising the binding nature of international agreements[93] on EU institutions and Member States.[94] In *HK Danmark*,[95] the first case before the CJEU 'in which the CRPD featured',[96] the CJEU held that from the moment of its entry into force, the CRPD became an integral part of the EU legal order and the secondary legislation 'must be interpreted in a manner consistent with the CRPD as far as possible'.[97] Hence, the CRPD forms part of EU law and,

[93] Broderick and Ferri, 'International and European Disability Law and Policy' (n22) 319.
[94] Article 216(2) TFEU.
[95] Joined Cases C-335/11 and C-337/11 *HK Danmark*, acting on behalf of Jette Ring v *Dansk almennyttigt Boligselskab* and *HK Danmark*, acting on behalf of Lone Skouboe Werge v *Dansk Arbejdsgiverforening*, acting on behalf of Pro Display A/S [2013] EU:C:2013:222.
[96] Merijn Chamon, 'Negotiation, Ratification and Implementation of the CRPD and its Status in the EU Legal Order' in Delia Ferri and Andrea Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020) 66.
[97] Lisa Waddington and Andrea Broderick, 'Court Practices Regarding Disability Discrimination, Including Reasonable Accommodation, at EU and Member State Level, and in Light of the UN CRPD' (Report, Commission Directorate-General for Justice and Consumers, 2024) 29.

'within hierarchy of sources of law', is situated below the Treaties.[98] In this way, the CRPD enjoys primacy over EU secondary legislation.[99]

The CRPD creates legal obligations under international law and EU law,[100] and these obligations extend to the EU institutions and Member States, falling under the jurisdiction of the CJEU.[101] As was already discussed in Chapter I, the CRPD is a mixed agreement. This implies that the EU is only responsible for implementing provisions falling within its competences. As Chamon argues, provisions that fall outside the scope of EU competence do not form an integral part of EU law.[102] However, since the CRPD has been ratified by both the EU and all Member States as 'independent subjects of international law', Member States remain bound under international law to obligations that do not fall within the scope of EU law.[103] Therefore, it is now essential to determine the specific areas of the CRPD in which the EU exercises its competences.

4.2. Overview of the Declaration of Competence

As discussed in Chapter I, the EU acts within the limits of competences given by the Member States. Articles 2, 3(1) and (2) TFEU generally define the scope and spheres of the EU's exclusive competence, while Articles 4 and 2(2) TFEU focus on the EU's shared competence. Articles 4(3) and (4) TFEU delineate in what instances the EU has supporting competence in relation to the Member States. Disability rights 'are scattered amongst these different 'categories of competence'',[104] posing challenges to the creation of a coherent approach to disability rights protection within the EU.[105] Therefore, when adopting the CRPD, it was crucial for all involved parties – the UN, the EU, and the Member States – to understand how the treaty would be implemented as it was regarded as 'a catalyst for cohesion'.[106]

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[98] Broderick and Ferri, 'International and European Disability Law and Policy' (n22) 319.
[99] Vivian Kube, 'The European Union's External Human Rights Commitment: What is the Legal Value of Article 21 TEU?' (10 Working Papers, EUI, 2016) 19.
[100] Ibid.
[101] Chamon, 'Negotiation, Ratification and Implementation of the CRPD' (n96) 66.
[102] Ibid 62.
[103] Ibid.
[104] Hoefmans, 'The EU Disability Framework under Construction' (n51) 36.
[105] Ibid 36.
[106] Lawson, 'The UN Convention on the Rights of Persons with Disabilities' (n90).

The Declaration of Competence annexed to Council Decision 2010/48/EC of November 2009[107] sheds some light in this regard, as it includes an appendix listing legal acts which refer to matters governed by the CRPD. At that time, the EU defined the 'extent of its competence'[108] with regard to the CRPD and provided the list of 48 EU legal instruments referring to matters governed by the CRPD. However, Waddington noted that the list annexed to the Declaration of Competence was not exhaustive, as, when depositing the instrument of ratification, the EU legislation included an explicit reference to disability in more than 100 regulations, directives, and decisions.[109] This number doubled in less than ten years, and as of 2018, EU law encompassed more than 200 legal instruments related to disability.[110]

As EU competence division remains subject to ongoing development,[111] the Declaration of Competence can not provide for 'definite and dogmatic answers' to competence division under the CRPD.[112] Chamon also challenges its informative function. They claim that 'third countries cannot be said to be properly informed of the extent of EU competence as a result of the EU providing a list of legislation'.[113] While this account is valid, the Declaration of Competence remains nonetheless relevant in the context of the EU's external action, especially in relation to the EaP, if it is timely and periodically updated as recommended by the UN CRPD Committee.[114] As mentioned in Chapter II, the EU's cooperation with the EaP countries is founded on comprehensive 'integration-type' agreements that require a high degree of 'legislative approximation' with the EU acquis. These agreements encompass an extensive list of EU legislative acts that the EaP countries must align their legislation

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[107] Council Decision 2010/48/EC (n37).
[108] Annex II Declaration Concerning the Competence of the European Community with Regard to Matters Governed by the United Nations Convention on the Rights of Persons with Disabilities to Council Decision 2010/48/EC.
[109] Lisa Waddington, 'The European Union and the United Nations Convention on the Rights of Persons with Disabilities: A Story of Exclusive and Shared Competences' (2011) 18(4) Maastricht Journal of European and Comparative Law 431, 444.
[110] Janina Arsenjeva, 'Annotated Review of European Union Law and Policy with Reference to Disability' (2018) <www.disability-europe.net/theme/eu-law-and-policy> accessed 30 September 2025.
[111] Pekka Sakari Pohjankoski, 'UN Disability Convention through the Prism of EU Law: Boosting Human Rights but Blurring Responsibilities?' (2017) 2 Anti-Discrimination Law Review 28, 31.
[112] Javier Roldán Barbero, 'The Relationship of the Member States' International Agreements with the EU' in Piet Eeckhout and Manuel López-Escudero (eds), *European Union's External Action in Times of Crisis* (Hart 2019) 256.
[113] Chamon, 'Negotiation, Ratification and Implementation of the CRPD' (n96) 61.
[114] UN CRPD Committee, 'Concluding Observations on the Initial Report of the European Union' (2015) CRPD/C/EU/CO/1 para 1.

with, including key legal acts that mainstream disability rights. Thus, an updated list of the EU's legal acts which refer to matters governed by the CRPD would provide an insight into the degree of alignment with EU disability law and support a more coherent approach to promoting disability rights abroad through 'integration-type' agreements.

4.3. Division of Competence under the Declaration of Competence

According to the Declaration of Competence, the EU exerts exclusive competence over three specific areas on disability matters: the compatibility of state aid with the common market,[115] the common customs tariff,[116] and obligations with respect to the EU's own public administration,[117] including recruitment and conditions of service of staff.[118] Some of the CRPD provisions fall under the exclusive competence of Member States, such as Article 18 CRPD, which deals with nationality and registration of birth matters, Article 12 CRPD on legal capacity, and Article 23 CRPD, which affirms the right to marriage.[119] Even on matters within the exclusive competence of the Member States, the Member States are encouraged to elaborate coordinated positions with the Commission whenever they deem appropriate.[120] The lack of a coherent approach to disability rights promotion in external action between the EU and its Member States often results in the reinforcement of practices in partner countries that breach the CRPD. For instance, while the EU does not support the institutionalisation of persons with disabilities through EU funding instruments, both internally and in its external action,[121] Member States continue supporting the reconstruction and renovation of residential facilities in Ukraine.[122]

Matters falling under shared competence are subject to an undefined 'weighing system'[123] to determine which entity can be considered as the responsible authority.

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[115] Article 108 TFEU.
[116] Article 31 TFEU.
[117] Article 336 TFEU.
[118] Annex II to Council Decision 2010/48/EC (n108).
[119] Chamon, 'Negotiation, Ratification and Implementation of the CRPD' (n96) 55.
[120] Council, 'Code of Conduct between the Council, the Member States and the Commission on the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) by the European Union and the Member States' (2010) 16319/10.
[121] Commission, 'Guidance on Independent Living and Inclusion in the Community of Persons with Disabilities in the Context of EU Funding' COM(2024) 7897 final 2.
[122] UN Web TV, '743rd Meeting, 31 Session, Committee on the Rights of Persons with Disabilities', 5 September 2024, <https://webtv.un.org/en/asset/k1q/k1qe1ddf7l> accessed 13 September 2024.
[123] Hoefmans, 'The EU Disability Framework under Construction' (n51) 46.

The EU will report on those acts for which 'the preponderance of the matter lies within the competence of the EU'.[124] Areas of shared competence include the internal market, social policy 'albeit with regard to limited aspects connected to the exercise of free movement rights', combating discrimination on the ground of disability, free movement of goods, persons, services and capital, agriculture, transport by rail, road, sea and air transport, taxation, internal market, equal pay for male and female workers, trans-European network policy and statistics.[125]

Additionally, the EU and its Member States shall coordinate on employment matters. The EU also needs to contribute to the improvement of education quality and implement vocational training policies by supporting the actions of Member States. With regard to development cooperation, economic, financial, and technical cooperation with partner countries, both the EU and its Member States can act simultaneously.

While the Declaration of Competence with the appendix does not provide a clear-cut competence division, the CRPD, as a mixed agreement, is fortunately 'particularly malleable, incorporating various methods of dividing power'.[126] According to Reiss, 'mixity offers the space to experiment with creative modes of governance, especially when dealing with convoluted shared competencies',[127] both internally and externally.

5. Mainstreaming Disability Rights in EU Law

After analysing the competence division between the EU and its Member States regarding disability, this section examines the extent to which disability rights are mainstreamed across three areas of EU law – employment, the audiovisual sector, and transport – to support further analysis in Chapters V and VI.

5.1. Mainstreaming Disability Rights: Legal and Policy Perspective

EU disability law is a complex legal framework which encompasses both disability-specific legislation, designed to address disability rights exclusively, and disability-

[124] Ibid.
[125] Delia Ferri and Neža Šubic 'The European Union: Federal Trends in Disability Rights' in Delia Ferri, Francesco Palermo and Giuseppe Martinico (eds), *Federalism and the Rights of Persons with Disabilities: The Implementation of the CRPD in Federal Systems and its Implications* (Hart 2023) 29.
[126] Jennifer W Reiss, 'Innovative Governance in a Federal Europe: Implementing the Convention on the Rights of Persons with Disabilities: Innovative Governance in a Federal Europe' (2014) 20(1) European Law Journal 107, 116.
[127] Ibid.

related legislation, which mainstreams disability rights. Waddington defines disability rights mainstreaming as an approach involving 'incorporation of disability-related requirements into general policy and legislation',[128] which allows it to be described as disability-related. From the policy perspective, this approach also extends to screening and evaluation phases of all interventions for potential human rights implications, including disability rights implications.[129] Disability rights mainstreaming entails recognising persons with disabilities as equals under the law,[130] thereby reinforcing the inclusive equality discussed in the Introduction to this PhD thesis.

Disability-related legislation – a product of the mainstreaming approach – is an integral part of EU disability law. It spans across almost all areas of EU competence, including such areas as 'labour law, freedom of movement, transport, copyright law, accessibility of goods and services, standardisation, public procurement, public services, state aid, structural and investment funds, consumer law and asylum law'.[131]

The obligation to mainstream disability rights across all areas of EU competence stems from the Treaties, the CRPD obligations and is anchored in a wide range of policy documents. Article 10 TFEU includes a mainstreaming provision[132] obliging the EU to combat discrimination based on disability, among other grounds, when defining and implementing all its policies and activities. Article 114 TFEU, regulating the functioning of the internal market, is considered a 'gateway for accessibility legislation'.[133] The main legislative instruments ensuring accessibility for persons with disabilities of digital services and products – Council Directive (EU) 2016/2102 on the accessibility of the websites and mobile applications of public sector bodies (Web Accessibility Directive)[134] and Council Directive (EU) 2019/882 on the accessibility

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[128] Lisa Waddington, 'A Disabled Market: Free Movement of Goods and Services in the EU and Disability Accessibility' (2009) 15(5) European Law Journal 575, 578.
[129] Jan Wouters and Michal Ovádek, *The European Union and Human Rights: Analysis, Cases, and Materials* (Oxford University Press 2021) 690; See also Fabiane Baxewanos and Werner Raza, 'Human Rights Impact Assessments as a New Tool for Development Policy' (ÖFSE Working Paper, 2013) 37.
[130] UN CRPD Committee, 'General Comment No 6'(n77) para 15.
[131] Ferri and Šubic 'The European Union: Federal Trends in Disability Rights' (n125) 29.
[132] Waddington, 'The European Union and the United Nations Convention on the Rights of Persons with Disabilities' (n109) 433.
[133] Ferri and Šubic, 'The European Union: Federal Trends' (n125) 36.
[134] Council Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies [2016] OJ L 327/1.

requirement for products and services (European Accessibility Act)[135] – were adopted under Article 114 TFEU as a legal basis. The CRPD, via Article 4(1)(c), includes an obligation for the Parties to protect and promote disability rights across all their policies and programmes.

The 'Union for Equality: Strategy for the Rights of Persons with Disabilities 2021–2030' constitutes a principal policy instrument delineating actions for the EU and Member States across all areas covered by the CRPD.[136] Although it is itself a disability-specific instrument, it establishes broad commitments to mainstreaming disability rights. In relation to the responsibilities of the Commission, which acts as the coordinator of CRPD implementation at the EU level, mainstreaming efforts focus on areas such as public procurement, digital public services, and transport,[137] among others. Beyond that, disability rights have been mainstreamed by the Commission 'in interinstitutional documents and overarching policy frameworks' which facilitate integration of disability rights in EU action,[138] such as, for instance, the European Pillar of Social Rights,[139] the 'Europe 2020: A Strategy for Smart, Sustainable and Inclusive Growth',[140] and the 'European Platform against Poverty and Social Exclusion: A European Framework for Social and Territorial Cohesion'.[141] Therefore, disability rights mainstreaming is becoming increasingly integrated into the EU's legal and policy framework.

5.2. Disability Rights in Employment: Employment Equality Directive

Employment Equality Directive, adopted in 2000, lays down a comprehensive framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation in employment and occupation, and remains the most important disability-related legislative piece 'addressing disability-based

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[135] Council Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services [2019] OJ L 151/70.
[136] Commission, 'Union of Equality: Strategy for the Rights of Persons with Disabilities 2021–2030' COM (2021) 101 final 5.
[137] Ibid 8.
[138] Eva S Krolla, 'The Role of the Commission in Shaping EU Disability Law' in Delia Ferri and Eva S Krolla (eds), *Actors and Roles in EU Disability Law* (Hart 2025) 91.
[139] Commission Recommendation (EU) 2017/761 of 29 April 2017 on the European Pillar of Social Rights [2017] OJ L 113/57.
[140] Commission, 'Europe 2020: A Strategy for Smart, Sustainable and Inclusive Growth' COM(2010) 2020 final.
[141] Commission, 'The European Platform against Poverty and Social Exclusion: A European Framework for Social and Territorial Cohesion' COM (2010) 758 final.

discrimination'.[142] In fact, it is among the key non-discrimination directives[143] included in the list of EU acquis to be adopted under Chapter Employment, Social Policy, and Equal Opportunities under the cooperation framework agreements with Ukraine, Moldova, Georgia, and Armenia. In this way, the EU demonstrates the importance of human rights in its cooperation framework and the alignment of partner countries with the non-discrimination provisions that the EU has meticulously developed since acquiring competence in this area in 1999 under Article 19 TFEU.

When negotiating the CRPD, the EU, as one of the central actors in the process, ensured that CRPD provisions on discrimination in employment 'largely reflect those already established by EU Law'.[144] As mentioned earlier, it was crucial for the EU that the CRPD adopted the concept of reasonable accommodation, as it had already been integrated into the Employment Equality Directive.

The Employment Equality Directive is a framework legislative piece, meaning that it establishes minimum requirements for Member States and may not, in all provisions, provide detailed definitions and guidance,[145] leaving Member States, the CJEU,[146] and by extension partner countries, which took an obligation to transfer it into national legislation, to interpret them. It covers areas of employment, occupation, and vocational training,[147] and includes four articles specifically dedicated to disability

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[142] Andrea Broderick and Philipa Watson, 'Disability in EU Non-Discrimination Law' in Delia Ferri and Andrea Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020) 124.

[143] Aside from the Employment Equality Directive partner countries are obliged to transfer the following directives covering 'anti-discrimination and gender' issues: Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJ L 180/22; Council Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation [2006] OJ L 204/23; Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services [2004] OJ L 373/37; Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) [1992] OJ L 348/1; Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security [1979] OJ L 6/24.

[144] Anna Lawson, 'Disability and Employment in the Equality Act 2010: Opportunities Seized, Lost and Generated' (2011) 40(4) Industrial Law Journal 359, 360.

[145] Lisa Waddington, 'Saying All the Right Things and Still Getting it Wrong: The Court of Justice's Definition of Disability and Non-Discrimination Law' (2015) 22(4) Maastricht Journal of European and Comparative Law 576, 577.

[146] Broderick and Ferri, 'International and European Disability Law and Policy' (n22) 341.

[147] Lisa Waddington and Anna Lawson, 'Disability and Non-Discrimination Law in the European Union: An Analysis of Disability Discrimination Law Within and Beyond the Employment Field'

rights. Article 5 Employment Equality Directive introduces the concept of reasonable accommodation and imposes an obligation on employers to provide it. In particular, employers are required, in line with the principle of equal treatment, to take appropriate steps to enable persons with disabilities to access, participate in, or advance within employment and training opportunities, provided that these measures do not place an undue burden on the employer. If the burden is mitigated by existing disability policies within the Member States, it should not be deemed disproportionate. Nonetheless, the Employment Equality Directive 'gives little guidance' on what 'reasonable accommodation' may mean,[148] bar providing some guidance on 'appropriate measure' and 'disproportionate burden' in the Preamble.[149] As *HK Danmark*[150] demonstrates, the CRPD deepened understanding of the reasonable accommodation concept in EU law.[151]

Article 5 Employment Equality Directive is 'inherently connected'[152] to Article 2(2)(b)(ii) Employment Equality Directive, which prohibits indirect discrimination on the ground of disability,[153] though without explicitly recognising reasonable accommodation as a form of indirect discrimination. In *DW v Noberl Plastigques Ibérica SA*,[154] the CJEU shed more light in this regard, expounding that the dismissal of a worker with disability for 'objective reasons', such as low productivity, limited multi-skilling, or high absenteeism, amounts to indirect disability discrimination under the Employment Equality Directive, unless the employer has first provided reasonable accommodation as required by Article 5 Employment Equality Directive. Overall, the notion of discrimination under the Employment Equality Directive is narrower than that introduced in Article 2 CRPD,[155] which recognises denial of reasonable accommodation as a form of discrimination.

Article 7 Employment Equality Directive allows Member States to adopt specific measures 'to prevent or compensate for disadvantages linked to any of the grounds

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(Report, Commission Directorate-General for Employment, Social Affairs and Equal Opportunities, 2009) 40.

[148] Broderick and Watson, 'Disability in EU Non-Discrimination Law' (n142) 128.

[149] Broderick and Ferri, 'International and European Disability Law and Policy' (n22) 344.

[150] Joined Cases C-335/11 and C-337/11 (n95).

[151] Broderick and Watson, 'Disability in EU Non-Discrimination Law' (n142) 128.

[152] Ibid 125.

[153] Waddington and Lawson, 'Disability and Non-Discrimination Law' (n147) 50.

[154] Case C-397/18 *DW v Nobel Plastiques Ibérica SA* [2019] EU:C:2019:703.

[155] Broderick and Watson, 'Disability in EU Non-Discrimination Law' (n142) 126.

referred to in Article', including disability. Article 3(4) Employment Equality Directive, in turn, deals with exceptions, namely establishing that Member States 'may provide that this Directive, in so far as it relates to discrimination on the grounds of disability and age, shall not apply to the armed forces'. Nonetheless, as Broderick and Watson argue, it is to be 'interpreted in a restrictive manner'[156] as it flows from the case law in respect to this Article dealing with the grounds of gender[157] and religion.[158]

Therefore, as a 'principal piece of EU secondary law' that mainstreams disability rights,[159] the Employment Equality Directive represents a minimum standard that Member States have to apply. Although in some aspects related to disability rights, its scope is narrower, it nonetheless reflects the main principles and objectives of the CRPD and has the potential to advance the disability-related legal framework in the EaP countries, as will be investigated in Chapters V and VI.

5.3. Accessibility in Audiovisual Media Sector: The AVMSD 2018

Access to goods, services, information, and communication is paramount for ensuring equal participation of people with disabilities in the social, cultural, and political life of society. In particular, access to information, including the one transmitted through media, is a 'precondition for exercise of the right to freedom of expression and opinion'.[160] In this regard, the media, as a key provider and distributor of information, has a responsibility to ensure that its content is accessible to people with disabilities. The accessibility of audiovisual content in media is part of the internal market policy, thus it is a shared competence of the EU on the basis of Article 114 TFEU. It constitutes an essential requirement in the context of the commitments taken under the CRPD.

Over the last decade, several EU laws have been adopted in various areas to make the EU audiovisual services more accessible for persons with disabilities, such as the European Accessibility Act, the Web Accessibility Directive, Regulation (EU)

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[156] Ibid 125.
[157] Case C-285/98 *Tanja Kreil v Bundesrepublik Deutschland* [2000] EU:C:2000:2.
[158] Case C-414/16 *Vera Egenberger v Evangelisches Werk für Diakonie und Entwicklung eV* [2018] EU:C:2018:257.
[159] Broderick and Ferri, 'International and European Disability Law and Policy' (n22) 341.
[160] Eliza Varney, 'Article 21: Freedom of Expression and Opinion, and Access to Information' in Ilias Bantekas, Michael Ashley Stein and Dēmētrēs Anastasiou (eds), *The UN Convention on the Rights of Persons with Disabilities: A Commentary* (Oxford University Press 2018) 582.

2022/2065 on a Single Market For Digital Services (Digital Services Act),[161] Council Directive (EU) 2018/1808 amending Directive 2010/13/EU concerning the provision of audiovisual media services (Audiovisual Media Services Directive)[162] (AVMSD 2018), copyright legislation.[163] The accessibility standards 'have been put in place to support implementation in the built environment and ICT and for organisations to adopt a Design for All approach'.[164]

The AVMSD 2018 currently represents the main legislative piece setting minimum standards for accessibility in the audiovisual media sector. The adoption of the CRPD certainly drove the EU to extend the rules on accessibility of audiovisual media services, as it provides a comprehensive framework for information accessibility and how the Parties should implement it. Article 7(1) AVMSD 2018 obliges Member States to 'ensure, without undue delay, that services provided by media service providers under their jurisdiction are made continuously and progressively more accessible to persons with disabilities through proportionate measures'. This approach aligns with Article 9 CRPD, which envisions the gradual yet continuous removal of barriers.[165] The process of eliminating barriers could be secured through the adoption of a suitable legal framework, the promulgation and monitoring of accessibility standards, and the establishment of a sanction mechanism for noncompliance with accessibility standards.[166] Hence, the legal framework should include 'specific, enforceable, time-bound benchmarks for monitoring and assessing the gradual modification'.[167] The AVMSD 2018, in a consistent manner, integrates a monitoring mechanism by requiring Member States to ensure that media service providers regularly report to the designated national authorities on the implementation of accessibility measures.[168] In doing so, they shall also encourage media service

[161] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services (Digital Services Act) [2022] OJ L 277/1.
[162] Council Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities [2018] OJ L 303/69.
[163] Commission, 'Union of Equality'(n136) 6.
[164] Ibid.
[165] UN CRPD Committee, 'General comment No 2' (n84) para 27.
[166] Ibid para 28.
[167] Ibid para 30.
[168] Article 7(2) Council Directive (EU) 2018/1808 (n162).

providers to develop accessibility action plans in relation to the progressive improvement of the accessibility of the services they provide.

Article 9(c)(ii) AVMSD 2018 includes a non-discrimination provision that imposes an obligation on Member States to ensure that audiovisual commercial communications by media service providers do not include or promote discrimination based on disability. This provision aligns with the EU's commitments under Article 5 CRPD on equality and non-discrimination. As the denial of access to information and communication, as exemplified by the UN CRPD Committee, 'constitutes an act of disability-related discrimination' under Article 5 CRPD, Article 7 AVMSD 2018 similarly contributes to the implementation of this provision.

However, Article 7 does not include provisions on reasonable accommodation.[169] The participatory mechanism for persons with disabilities is not integrated within the audiovisual media sector. Regarding awareness raising, Article 8(2)(c) CRPD obliges Member States to encourage media service providers 'to portray persons with disabilities in a manner consistent with the purpose of the present Convention'. Misinterpretations of persons with disabilities in media through 'heroisation', 'victimisation' or even 'villainisation', reinforce stereotypes and prejudice towards persons with disabilities and are still commonplace.[170] This provision aims, through encouraging objective portrayals of persons with disabilities in the media, to prevent discrimination and exclusion from society.[171] A similar requirement is not included in the AVMSD 2018 framework.

Therefore, the AVMSD 2018, while aligning with the CRPD, in some instances adopts a narrower approach to disability rights promotion, overlooking certain provisions, such as those on reasonable accommodation, participatory mechanisms, or awareness raising. Nonetheless, as this legislative piece establishes minimum standards in the field, the Member States, as well as partner countries that are committed to aligning

[169] Vincenzo Tudisco, 'Accessibility of Audiovisual Media Services for Persons with Disabilities in the European Union: Lights and Shadows of the Audiovisual Media Services Directive' (6 STALS Research Paper, 2022) 14.
[170] Baranger Aurélie, 'Article 8 [Awareness-Raising]' in Valentina Della Fina, Rachele Cera and Giuseppe Palmisano (eds), *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary* (Springer 2017) 221.
[171] Ibid 222.

their national legislation with the AVMSD 2018, are encouraged to adopt higher standards.

5.4. Disability Rights in the EU's Transport Legislation: Regulations 1107/2006 and 2021/782

As the EU has established competences with regard to the internal market and transportation,[172] disability rights were relatively successfully mainstreamed[173] in EU transport legislation before the conclusion of the CRPD. Currently, rights of passengers with disabilities are regulated by four key legislative pieces: Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (Regulation 1107/2006);[174] Regulation (EU) 2021/782 on rail passengers' rights and obligations (Regulation 2021/782),[175] which addresses comprehensively accessibility in line with the CRPD unlike its predecessor, Regulation (EC) No 1371/2007 on rail passengers' rights and obligations (Regulation 1371/2007); [176] Regulation (EU) 181/2011 concerning the rights of passengers in bus and coach transport 181/2011 (Regulation 181/2011),[177] and Regulation (EU) 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway 1177/2010 (Regulation 1177/2010). [178] In 2023, to further reinforce passenger rights in the EU, the Commission introduced a series of proposals to revise these regulations.[179] If adopted, they should, among others, enhance the rights of passengers with disabilities in the context of multimodal journeys.

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[172] Lisa Waddington, 'Breaking New Ground: The Implications of Ratification of the UN Convention of the Rights of Persons with Disabilities for the European Community' in Oddný Mjöll Arnardóttir and Gerard Quinn (eds), *The UN Convention on the Rights of Persons with Disabilities: European and Scandinavian Perspectives* (Martinus Nijhoff 2009) 124.
[173] Ibid 125.
[174] Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air [2006] OJ L 204/1.
[175] Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations [2021] OJ L 172/1.
[176] Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations [2007] OJ L 315/14.
[177] Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 Text with EEA relevance [2011] OJ L 55/1.
[178] Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 Text with EEA relevance [2010] OJ L 334/1.
[179] 'Improved Rights and Better Information for Travellers' (Commission, 29 November 2023) <https://transport.ec.europa.eu/news-events/news/passenger-mobility-package-2023-11-29_en> accessed 24 September 2025.

Regulation 1107/2006, adopted in 2006, remains the only disability-specific legislative piece targeting the rights of passengers with disabilities in the transport sector to this day. Notably, it is also the only passenger rights regulation not revised following the EU's conclusion of the CRPD. This makes this regulation a particularly interesting case to examine, as it embeds pre-CRPD accessibility standards while being included in the list of EU acquis to be transferred by partner countries under the Common Aviation Area Agreement (CAAA), ratified by Moldova and Georgia. Another legislative instrument relevant to this PhD thesis is Regulation 2021/782. The obligation to transfer Regulation 1371/2007, repealed by Regulation 2021/782, is included in the list of acts for 'legal approximation' under Chapter Transport in the AA/DCFTA with Georgia, Moldova, and Ukraine.

Regarding Regulation 1107/2006, this instrument was developed with the primary aim of protecting persons with disabilities against discrimination by ensuring assistance when using air transport services. Although it was adopted before the CRPD conclusion by the EU, at that time it represented a notably progressive legislative piece and was regarded 'as a major step forward for access to air transport'.[180] Article 7 Regulation 1107/2006 frames the provision of assistance as a 'right to assistance', leaning towards a rights-based approach to service provision. As reflected in the Preamble, access to air transport services is linked to the right to free movement, free choice, and non-discrimination. Furthermore, the concept of reasonable accommodation was incorporated, albeit in a narrow sense, as the provision of assistance in airports and on board,[181] being formulated as undertaking 'reasonable efforts'. In addition, Regulation 1107/2006 included the provision of training for personnel related to 'disability-equality and disability-awareness'[182] and participatory mechanisms for inclusion of organisations representing persons with disabilities in the process of designation of points of arrival and departure and in setting quality standards for assistance,[183] which is another expression of the rights-based approach to disability. Nonetheless, despite its progressive nature, significant shortcomings

[180] David Rodríguez Guillén, Juan Antonio Clemente Soler and Juan Carlos Solano Lucas, 'Transport Accessibility for Disabled People in the European Union' (2024) 8(4) Journal of Infrastructure, Policy and Development 1, 6.
[181] Article 7(3) and Annex II Regulation 1107/2006.
[182] Article 11 Regulation 1107/2006.
[183] Articles 5 and 9 Regulation 1107/2006.

remain,[184] some of which are also in common with Regulation 2021/782 discussed below.

Regulation 2021/782 from 2021, repealing Regulation 1371/2007 and adopted after the conclusion of the CRPD, offers a more complex approach to addressing the accessibility of the rail system and advances the rights of passengers with disabilities compared to its predecessor. Indeed, as noted by Varney and Pearson, the adoption of the CRPD 'provided an opportunity to re-evaluate the importance of access to services such as public transport'.[185]

Regulation 2021/782 employs 'people first' language. The term 'disabled persons', which was used in Regulation 1371/2007, is replaced by 'people with disabilities' in line with the CRPD. Chapter V is specifically dedicated to persons with disabilities and reduced mobility, introducing novel provisions not included in Regulation 1371/2007. In particular, Article 21(1) requires railway undertakings to actively involve representative organisations, representatives of persons with disabilities, and persons with reduced mobility, when establishing 'non-discriminatory access rules for the transport of persons with disabilities'. Further, Article 26 requires the railway undertakings and station managers to provide training for stakeholders on accessibility issues. They must also ensure that all staff, whether working at the station or on-board trains and interacting directly with the travelling public, receive initial and regular refresher training to enhance their awareness of the needs of persons with disabilities and those with reduced mobility. Regulation 2021/782 also expands the requirements for reporting on the implementation of the minimum service quality standards. Now, railway undertakings must include in their reports information on assistance provided to persons with disabilities as well as 'dialogue on this assistance with representative organisations'.[186] While Regulation 2021/782 advances the rights of passengers with disabilities, there remains significant room for improvement. Although it regulates the accessibility of travel-related information, restrictions on the scope of content that must be provided in accessible formats remain in place. Another gap is the presence of the concept of 'pre-notification period'. Although the pre-notification time for

[184] Guillén, Soler and Lucas, 'Transport Accessibility' (n180) 6.
[185] Eliza Varney and Abigail Pearson, 'Disability in EU Transport Legislation' in Delia Ferri and Andrea Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020) 184.
[186] European Disability Forum, 'Analysis of the Revised Rail Passengers' Rights Regulation' (2021) 5.

requesting assistance when travelling by rail was reduced from 48 to 24 hours under Article 24, the concept of 'pre-notification period' itself, which is also included in Regulation 1107/2006, does not align with the key general principles of the CRPD, such as autonomy, dignity, and accessibility, anchored in Article 3 CRPD.[187] It may be considered a temporary measure under the concept of gradual realisation of accessibility discussed earlier, though neither regulation indicates gradual improvement of accessibility. In the same way, it cannot be considered as a 'reasonable accommodation' in the meaning of the CRPD, as it does not display a temporary character.

Therefore, Regulations 2021/782 and 1107/2006, while broadly aligning with the CRPD requirements, nonetheless fall short of fully embracing the CRPD principles.

6. Conclusion

This chapter has explored the emergence and development of EU disability law as a field of EU law, focusing on alignment with the CRPD in the key areas of employment, the audiovisual media sector, and transport. As highlighted in section 2, over the last decades, EU disability law has undergone significant evolution, transitioning from a 'sub-area of social policy'[188] to a complex field of EU law. The pivotal legislative milestone advancing the EU's disability framework was the EU's adoption of the CRPD. This development spurred the broad mainstreaming of disability provisions across various areas of EU law, with external effects. In this respect, the development of disability rights followed a dynamic that Balducci has already observed in relation to the protection of human rights broadly. He suggested that the development of the EU's internal human rights protection system derives both 'from international human rights regime' and from its internal developments.[189]

Analysis of the legislative instruments in employment, the audiovisual media sector, and transport demonstrates that the EU has largely incorporated international accessibility standards into its legal framework. However, there are some areas requiring further development to align with the CRPD fully. The Employment

[187] Ibid.
[188] Waldschmidt and Krolla, 'The Surge of European Union Disability Policy' (n3) 58.
[189] Giuseppe Balducci, 'The EU's Promotion of Human Rights' in Knud Erik Jørgensen and Katie Verlin Laatikainen (eds), *Routledge Handbook on the European Union and International Institutions: Performance, Policy, Power* (Routledge 2013) 187.

Equality Directive, the AVMSD 2018, and Regulations 1107/2006 and 2021/782 set minimum standards to be implemented at the national level by both Member States and partner countries that transposed the legislation. However, as all Member States and EaP partners are Parties to the CRPD, full alignment with its provisions is required. Whether the EU acquis, which does not fully embrace the CRPD, still advances the national legal framework protecting disability rights in Ukraine will be investigated in Chapter VI.

Chapter IV
Disability Rights in EU External Relations

1. Introduction

Building upon the analysis of the global actorness of the EU in Chapter I and the developments in EU disability law in Chapter III, this chapter examines the EU's legal and policy framework for promoting disability rights in its external relations, by exploring the nexus between disability and key EU external competences and polices. In doing so, it contributes to answering the first research question underpinning this PhD thesis. Little has been investigated by scholars in this field so far, therefore, this chapter also contributes to expanding the boundaries of EU external relations law and bringing a disability perspective into it.

This chapter is structured as follows. Section 2 examines the scope of the EU's obligations and commitments in promoting disability rights in its external action. In doing so, it first investigates the EU's legally binding obligation to promote disability rights externally through international cooperation under Article 32 United Nations Convention on the Rights of Persons with Disabilities (CRPD). Then it looks at the EU's commitments under the Resolution 'Transforming our World: the 2030 Agenda for Sustainable Development' (2030 Agenda for Sustainable Development). Section 3 further explores the EU's legal and policy framework that informs its external actions in the disability field. It first analyses the main legislative and policy developments that have shaped this framework. Then it explores the Treaties to identify the nexus between disability and external action objectives. Although the Treaties do not expressly identify the promotion of disability rights as a specific objective of EU external relations, disability rights are investigated within the broader ambit of human rights. After that, it explores the current strategic framework informing the EU's actions in the disability field externally.

Building on the analysis in section 3, section 4 then investigates the extent to which disability rights are mainstreamed in key EU external competences and policies: the EU's external human rights policy, the EU's development policy, the EU's trade policy, and the Common Foreign and Security Policy (CFSP). As established in Chapter II, the tools the EU employs to promote human rights in the EaP have been mainly developed within the framework of these policies. Therefore, this section also

investigates the extent to which these policies tend to support EU disability norms transfer.

Finally, section 5 explores the role of the EU's multilateral cooperation in facilitating the transfer of EU disability norms to the EaP countries. After broadly mapping the intersection between disability and multilateral cooperation within the EU's policy framework, the focus turns to cooperation between the EU and the Council of Europe (CoE), which has been an active promoter of disability rights in the EaP countries. In this way, this chapter will further support the analysis of the CoE as a tool facilitating EU disability norms transfer in Chapter VI. A final section provides concluding remarks.

2. The EU's International Obligations and Commitments to Promote Disability Rights Externally

The CRPD and the 2030 Agenda for Sustainable Development are widely recognised as 'the main international legal and policy drivers'[1] for promoting disability rights externally through international cooperation. These international instruments are mutually reinforcing and share a common objective of advancing disability rights globally, and are therefore analysed in this section.

2.1. The EU, Disability Rights Promotion, and Article 32 CRPD: International Cooperation Lens

As examined in Chapter I, the EU's external actions to promote human rights are primarily to be achieved by cooperating with other international partners. In fact, the CRPD imposes on its Parties an obligation to promote disability rights globally through international cooperation. The CRPD is currently the only legally binding, disability-specific international human rights instrument that envisages an obligation for the Parties to promote disability rights externally. This obligation is enshrined in Article 32 CRPD on international cooperation. However, before delving into the analysis of this provision, it is essential to highlight some international developments that preceded its development.

[1] Commission, 'Guidance Note: Leaving No One Behind – Disability Inclusion in EU External Action' (2023) 11.

Promoting disability rights externally through international cooperation, as a commitment to be fulfilled by UN Member States, emerged from the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (UN Standard Rules),[2] adopted by the General Assembly in 1994.[3] Albeit often labelled as a weak instrument with strong commitments[4] due to its non-binding character, the EU underscored a 'strong moral and political commitment' on the part of its Member States to implement the UN Standard Rules and committed itself to follow them in its work.[5] This document, which is groundbreaking in many aspects, introduced a commitment to cooperate internationally to improve 'the living conditions of persons with disabilities in developing countries'[6] and offered a catalogue of various tools, measures, and cooperation modalities to achieve this goal. Rule 21 UN Standard Rules specifically addressed the responsibility of states in the sphere of technical and economic cooperation and is regarded as a predecessor of Article 32(1) CRPD.[7]

Article 32 CRPD transformed this commitment into an obligation and established quite a distinctive mechanism for promoting disability rights globally via international cooperation. The distinctive character relates to the scope and spheres of such cooperation alongside modalities and actors involved. For instance, Article 32(1) CRPD defines that international cooperation is to be directed towards the 'realization of the purpose and objectives' of the CRPD. This approach goes beyond 'the traditional focus on economic, social and cultural rights' for cooperation under international instruments and also includes cooperation on civil and political rights.[8] Further, the same paragraph indicates a manifold of actors which can be involved in such a cooperation, encouraging cooperation between states, international and regional organisations, civil society, organisations of persons with disabilities,

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[2] Valentina Della Fina, 'Article 32 [International Cooperation]' in Valentina Della Fina, Rachele Cera and Giuseppe Palmisano (eds), *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary* (1st edn, Springer 2017) 573.
[3] UN General Assembly, 'Standard Rules on the Equalization of Opportunities for Persons with Disabilities' (1994) A/RES/48/96.
[4] Dimitris Michailakis, 'The Standard Rules: A Weak Instrument and a Strong Commitment' in Melinda Jones and Lee Ann Basser Marks (eds), *Disability, Divers-Ability and Legal Change* (Brill Nijhoff 1999) 117.
[5] Commission, 'A New European Community Disability Strategy' COM(96) 406 final 9.
[6] Rule 21 Standard Rules.
[7] Janet E Lord and others, 'Disability and International Cooperation and Development: A Review of Policies and Practices' (2010) 1003 SP Discussion Paper 4.
[8] UN General Assembly, 'Thematic Study by the Office of the United Nations High Commissioner for Human Rights on the Role of International Cooperation in Support of National Efforts for the Realization of the Rights of Persons with Disabilities' (2010) A/HRC/16/38 4.

alongside ‘between and among’ the Parties. In particular, the latter mode of cooperation expands the habitual framework between developing and developed states, which naturally broadens areas of cooperation. This ostensibly inspired the disability mainstreaming in trade relations among developed states. According to Bahri, as of 2022, the majority of the free trade agreements registered at the World Trade Organization (WTO), which included disability-related provisions, were between developed states.[9]

Further, as an action-based treaty, the CRPD outlines ‘concrete measures that states must take to ensure that persons with disabilities can exercise their rights’,[10] in the form of both an obligation to mainstream[11] and targeted actions, which is an unusual practice for human rights treaties.[12] In this way, the CRPD aims to demonstrate how ‘to apply existing human rights to the particular circumstances of persons with disabilities’.[13] Hence, the majority of the CRPD provisions include a non-exhaustive set of actions to be implemented to fulfil the disability rights. In the same way, Article 32(1) CRPD offers an open-ended list of measures for international cooperation to be implemented by the Parties for the realisation of the CRPD objectives, which ‘has a profoundly innovative value in international human rights law’.[14] Such measures include, but are not limited to: ensuring inclusive and accessible international cooperation, including development programmes; facilitating capacity-building through the exchange of information and best practices; facilitating research cooperation and access to technical knowledge; and providing technical and economic assistance. Such a broad range of measures can be implemented mainly through positive obligations.[15] This would require states to take ‘deliberate, concrete, and

[9] Amrita Bahri, ‘Trade Agreements and Disability Inclusion: Looking Beyond Labour and Gender Equality Provisions’ in Geraldo Vidigal and Kathleen Claussen (eds), *The Sustainability Revolution in International Trade Agreements* (Oxford University Press 2024) 114.
[10] Mona Paré, ‘The Convention on the Rights of Persons with Disabilities: Its Contribution to the Development of International Human Rights Law’ (2019) 11 (17) Revista ESMAT 209, 222.
[11] Kjersti Skarstad and Michael Ashley Stein, ‘Mainstreaming Disability in the United Nations Treaty Bodies’ (2018) 17(1) Journal of Human Rights 1, 5.
[12] UN General Assembly, ‘Thematic Study' (n8) 4.
[13] Rosemary Kayess and Phillip French, ‘Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities’ (2008) 8(1) Human Rights Law Review 1, 20.
[14] Andrea Broderick and Delia Ferri, *International and European Disability Law and Policy: Text, Cases, and Materials* (Cambridge University Press 2019) 77.
[15] More on positive obligations in the CRPD, see Andrea Broderick, ‘The United Nations Convention on the Rights of Persons with Disabilities and the European Convention on Human Rights: A Tale of Two Halves or a Potentially Unified Vision of Human Rights?’ (2018) 7(2) Cambridge International

targeted steps [...] to create an international enabling environment',[16] which supports the fulfilment of disability rights in all areas of cooperation.

Article 32(2) CRPD stipulates that the obligation to promote disability rights through international cooperation does not affect the Parties' own obligations to implement the treaty, thereby being complementary to national efforts to implement the CRPD.[17] This provision was included due to the concerns of some countries, including the EU, regarding legal and financial consequences related to Article 32(1) CRPD. In particular, there was some uncertainty whether Article 32 CRPD would imply 'a legal obligation for richer countries to provide assistance to poorer countries'[18] and if the latter one could 'defer implementation on the basis of resource constraints'.[19] To this end, Article 32(2) CRPD addressed these concerns by stipulating that international cooperation does not substitute national efforts to implement it.

Hence, Article 32 CRPD goes beyond merely imposing an obligation but also serves as a guiding framework for the EU on how to realise it, outlining modalities of cooperation and relevant actors, while keeping the areas of cooperation open.

2.2. The EU's International Commitments under the 2030 Agenda for Sustainable Development

The 2030 Agenda for Sustainable Development, adopted at the special United Nations Summit in 2015,[20] currently shapes global development policy and the actions[21] of all the UN Member States and other stakeholders, including the EU, which endorsed it. As an 'early champion of designing'[22] the 2030 Agenda for Sustainable Development,

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Law Journal 199; Danai Angeli, 'Positive Obligations in Human Rights Law: The Disabilities Paradigm Shift' (PhD Thesis, European University Institute 2015).

[16] ETO Consortium, 'Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights' (2011) 10.

[17] Broderick and Ferri, *International and European Disability Law and Policy* (n14) 77.

[18] Sigrun Skogly, 'Global Human Rights Obligations' in Gibney Mark and others (eds), *The Routledge Handbook on Extraterritorial Human Rights Obligations* (Routledge 2022) 30.

[19] Janet E Lord and Stein, 'Article 32 International Cooperation' in Ilias Bantekas, Michael Ashley Stein and Dimitris Anastasiou (eds), *The UN Convention on the Rights of Persons with Disabilities: A Commentary* (Oxford University Press 2018) 971.

[20] UN General Assembly, 'Transforming our World: The 2030 Agenda for Sustainable Development' (2015) A/RES/70/1.

[21] Bandy X Lee and others, 'Transforming Our World: Implementing the 2030 Agenda Through Sustainable Development Goal Indicators' (2016) 37(S1) Journal of Public Health Policy 13, 14.

[22] Adolf Kloke-Lesch, 'Why is the EU Failing to Champion the SDGs?' (2018) 12 Journal of International Relations and Sustainable Development 144, 144.

the EU adopted a comprehensive approach to its implementation by committing to advance its objectives both within the EU and through its external action.[23]

Referred to as 'an extraordinary achievement in time of global uncertainty and division',[24] this soft law instrument outlines the Sustainable Development Goals (SDGs) framework for the global community, composed of 17 Goals underpinned by 169 targets setting out a course for collective action to be met by 2030.

The 2030 Agenda for Sustainable Development is guided by the UN Charter, Universal Declaration of Human Rights (UDHR),[25] the CRPD, and other international instruments. Regarding the CRPD, its impact is clearly visible.[26] The 2030 Agenda for Sustainable Development places at its heart an overarching goal of 'leaving no one behind', with a strong emphasis on sustainable development while 'reinforcing the inclusive nature' of the SDGs.[27] In addition to recognising disability as a cross-cutting issue across all SDGs,[28] it mainstreams disability rights in five SDGs, such as Quality Education (SDG 4), Decent Work and Economic Growth (SDG 8), Reduced Inequalities (SDG 10), Inclusive, Safe, Resilient and Sustainable Cities and Human Settlements (SDG 11), Partnerships for the Goals (SDG 17).[29] In particular, the tasks explicitly addressing persons with disabilities include achieving full and productive employment, ensuring equal access to all levels of education and vocational training including through building and upgrading education facilities, empowering and promoting social, economic, and political inclusion, providing access to safe, affordable, accessible transport, and enhancing capacity, building support to developing countries, including by increasing the availability of high-quality, timely, reliable data disaggregated by disability.

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[23] Commission, 'Next Steps for a Sustainable European Future: European Action for Sustainability' COM(2016) 739 final.
[24] Kloke-Lesch, 'Why is the EU Failing' (n22) 146.
[25] Economic and Social Commission for Western Asia, 'International Human Rights and the 2030 Agenda for Sustainable Development' (2017) 6(3) Social Development Bulleting 1.
[26] UN Office of the High Commissioner for Human Rights, 'Policy Guidelines for Inclusive Sustainable Development Goals Foreword & Introduction' (United Nations, 2020) 5.
[27] Claire E Brolan, 'A Word of Caution: Human Rights, Disability, and Implementation of the Post-2015 Sustainable Development Goals' (2016) 5(2) Laws 1, 1.
[28] UN General Assembly, 'Situation of Women and Girls with Disabilities and the Status of the Convention on the Rights of Persons with Disabilities and the Optional Protocol Thereto' (2017) A/72/227 4.
[29] UN Department of Economic and Social Affairs, 'Disability and Development Report 2018: Realizing the Sustainable Development Goals by, for and with Persons with Disabilities' (UN, 2019) 28.

To meet all the SDGs for persons with disabilities, the Office of the United Nations High Commissioner for Human Rights (OHCHR) developed the SDG-CRPD Resource Package in 2020, comprising six documents.[30] Together, they create an action-based framework for the disability-inclusive implementation of the SDGs, linking the 2030 Agenda for Sustainable Development to the CRPD. As defined by the OHCHR, there are three goals critical for 'leaving no one behind',[31] in particular, Reduced Inequalities (SDG 10), Peace, Justice and Strong Institutions (SDG 16), and Partnerships for the Goals (SDG 17). These goals address the fundamental issues underpinning disability-inclusive development through 'governance, coordination, budget, data, legislation, policy, participation, accountability, capacity-building and international cooperation'.[32]

In 2017, to attain the SDGs objectives, the EU adopted the New European Consensus on Development: Our World, Our Dignity, Our Future (New Consensus on Development 2017).[33] It recognises the rights-based approach to development cooperation by promoting inclusion and participation, non-discrimination, equality and equity, transparency, and accountability. The SDGs' main principle – 'leaving no one behind'– is recognised as a cornerstone of the EU development policy.[34] Over the past decade, the SDG framework has been progressively mainstreamed across various EU policies, including the 'Union of Equality: Strategy for the Rights of Persons with

[30] UN Office of the High Commissioner for Human Rights, 'Policy Guidelines for Inclusive Sustainable Development Goals: Foundations' (United Nations, 2020); UN Office of the High Commissioner for Human Rights, 'Policy Guidelines for Inclusive Sustainable Development Goals: No Poverty' (United Nations, 2020); UN Office of the High Commissioner for Human Rights, 'Policy Guidelines for Inclusive Sustainable Development Goals: Good Health and Well-Being ' (United Nations, 2020); UN Office of the High Commissioner for Human Rights, 'Policy Guidelines for Inclusive Sustainable Development Goals: Quality Education' (United Nations, 2020); UN Office of the High Commissioner for Human Rights, 'Policy Guidelines for Inclusive Sustainable Development Goals: Gender Equality' (United Nations, 2020); UN Office of the High Commissioner for Human Rights, 'Policy Guidelines for Inclusive Sustainable Development Goals: Decent Work and Economic Growth' (United Nations, 2020).

[31] 'Policy Guidelines for Inclusive Sustainable Development Goals: Foundations' (n30) 21.

[32] Ibid.

[33] Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission, 'The New European Consensus on Development: Our World, Our Dignity, Our Future' [2017] OJ C 210/1.

[34] Ibid 9.

Disabilities 2021–2030 (Strategy for the Rights of Persons with Disabilities 2030)[35] and the EaP strategic framework,[36] as will be discussed in the following sections.

3. The EU's Legal and Policy Framework for the Disability Rights Promotion in EU External Relations

After analysing the EU's international obligations and commitments related to promoting disability rights globally, this section investigates the EU's legal and policy framework supporting this area of external action.

3.1. The Treaties and Disability Rights: Searching for Nexus

As discussed on several occasions throughout this PhD thesis, the promotion of human rights as an objective of EU external action is anchored in Articles 3(5) and 21 TEU. Although the TEU does not expressly identify the promotion of disability rights as a specific objective of EU external relations, disability rights fall within the broader ambit of human rights. Articles 3(5) and 21 TEU should be read further in conjunction with Article 10 TFEU, commonly referred to as the horizontal equality clause,[37] which has a general application. As briefly discussed in Chapter III, this provision provides that the EU 'shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation', when implementing its policies and activities, which implies that this obligation extends to external policies and activities as well. In doing so, it 'lays down transversal policy objectives and requirements' applicable to EU action as a whole.[38] While this provision does not create 'substantive legal obligations'[39] for the EU, it nevertheless 'widens EU action in pursuit of equality beyond the treaty articles that are specifically devised to attain such objectives'.[40] In this way, Article 10 TFEU can be seen as reinforcing disability rights mainstreaming across various internal and external policies of the EU. As Muir

[35] Commission, 'Union of Equality: Strategy for the Rights of Persons with Disabilities 2021–2030' COM (2021) 101 final.
[36] Commission and High Representative of the Union for Foreign Affairs and Security Policy, 'Eastern Partnership Policy Beyond 2020: Reinforcing Resilience – an Eastern Partnership that Delivers for All' JOIN(2020) 7 final 1.
[37] Elise Muir, Victor Davio and Lucia Van der Meulen, 'The Horizontal Equality Clauses (Arts 8 10 TFEU) and Their Contribution to the Course of EU Equality Law: Still an Empty Vessel?' 2022 7(3) European Papers – A Journal on Law and Integration 1381, 1384.
[38] Evangelia Psychogiopoulou, 'The Horizontal Clauses of Arts 8-13 TFEU through the Lens of the Court of Justice' (2023) 2022 7(3) European Papers 1357, 1358.
[39] Muir, Davio and Van der Meulen, 'The Horizontal Equality Clauses' (n37) 1391.
[40] Psychogiopoulou, 'The Horizontal Clauses' (n38) 1363.

has observed, the Commission has increasingly referred to the horizontal equality clauses in policy-making.[41] Indeed, the Strategy for the Rights of Persons with Disabilities 2030 relates to Article 10 TFEU in the context of effective policy-making. The Better Regulation Toolbox, a document developed by the Commission to design, deliver, and support the implementation of high-quality policies, refers to Article 10 TFEU in connection to the impact assessment on equality during policy design.[42] Nonetheless, explicit references to Article 10 TFEU in the EU's external policy documents are still emerging.

3.2. Emergence of Disability Rights in EU External Relations

The EU has a long-standing tradition of promoting and protecting disability rights within its territory, as discussed in Chapter III. However, the external dimension of disability rights promotion occurred relatively late.

In 2000, the Commission adopted the Communication 'Towards a Barrier Free Europe for People with Disabilities' (Communication) to advance the implementation of the UN Standard Rules. Although it was largely 'inward-looking', focusing on areas such as employment, education and vocational training, transport, the internal market, information, society, new technologies, and consumer policy,[43] it did include an external dimension. In particular, the Communication encouraged candidate countries to closely monitor developments of the European Community (EC) policy concerning persons with disabilities. This reference reflected the EU's growing recognition that candidate countries should align with the EU's emerging disability policies. In 2003, the EU adopted 'Equal Opportunities for People with Disabilities: A European Action Plan',[44] which introduced an external dimension to the promotion of disability rights. Specifically, the Commission encouraged the EC delegations in developing countries to make greater efforts to ensure that disability rights are mainstreamed within the framework of development cooperation. In 2004, this commitment was reinforced through the adoption of the Guidance Note on Disability and Development,[45] which included a set of concrete recommendations to the EC delegations and services on

[41] Muir, Davio and Van der Meulen, 'The Horizontal Equality Clauses' (n37) 1398.
[42] Commission, 'Better Regulation' Toolbox – July 2023 Edition' (2023) 246.
[43] Commission, 'Towards a Barrier Free Europe for People with Disabilities' COM(2000) 284 final.
[44] Commission, 'Equal Opportunities for People with Disabilities: A European Action Plan' COM(2003) 650 final.
[45] Commission, 'Guidance Note' (n1).

mainstreaming disability rights into the development cooperation. It also established requirements to improve the accessibility of delegations for persons with disabilities, including ensuring the physical accessibility of offices, producing information in various accessible formats, and undertaking disability equality training.[46]

Following the conclusion of the CRPD, the EU adopted the European Disability Strategy 2010–2020 (EDS 2020),[47] which established the EU's 'disability policy agenda' and outlined EU actions and measures to implement the treaty. Significantly, the EDS 2020 identified external relations as one of the EU's key areas of intervention in disability area. It extended the EU's disability-related commitments beyond development cooperation, mandating the EU and its Member States to promote disability rights within enlargement and neighbourhood policies. This commitment had to be pursued within a broader non-discrimination framework, highlighting 'disability as a human rights issue in the EU's external action'.[48] To achieve this objective, the EDS 2020 envisaged a range of measures, including raising awareness of the CRPD and the needs of persons with disabilities in emergency and humanitarian aid, increasing awareness of disability rights in EU delegations, ensuring that candidate and potential candidate countries make progress in promoting disability rights and ensuring that the financial instruments for pre-accession assistance are used to improve their situation.[49] The EDS 2020 is significant in that it contributed to mainstreaming disability rights across various areas of EU external relations.

In 2021, the Commission replaced the EDS 2020 with the Strategy for the Rights of Persons with Disabilities 2030,[50] which further strengthened and expanded the EU's external action in the area of disability, as will be discussed in the following subsection.

3.3. Strategic Framework for the Disability Rights Promotion in External Action: Yet to Come?

The Strategy for the Rights of Persons with Disabilities 2030, adopted by the EU in 2021 and replacing the EDS 2020, currently represents the principal policy instrument

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[46] Ibid 14.
[47] Commission, 'European Disability Strategy 2010–2020: A Renewed Commitment to a Barrier-Free Europe' COM(2010) 636 final.
[48] Ibid 9.
[49] Ibid.
[50] Commission, 'Union of Equality'(n35).

defining the EU's course of action in relation to disability rights. Designed to implement obligations under the CRPD and to help fulfil commitments under the 2030 Agenda for Sustainable Development, it aims to scale up EU actions in respect to disability rights both internally and externally. The Strategy for the Rights of Persons with Disabilities 2030 adopts a multi-directional approach to promoting disability rights in external relations, engaging a wide range of stakeholders, tools, and methods. It reaffirms the EU's commitment to mainstreaming disability rights, accessibility, and the provision of reasonable accommodation for persons with disabilities in all its policy fields. In doing so, the EU has to employ a range of bilateral and multilateral tools such as political, human rights, and trade dialogues, cooperation with partner countries in 'the EU's neighbourhood, enlargement and international partnership policies', as well as capitalise on cooperation with 'multinational organisations'.[51] Also, the Strategy for the Rights of Persons with Disabilities 2030 recognises the importance of the EU's technical assistance programmes, such as SOCIEUX+, the Technical Assistance and Information Exchange (TAIEX), and the Twinning, in promoting disability rights globally.[52] These socialisation tools, as discussed in Chapter II, constitute an important facet of the EU's cooperation with the EaP countries and their role in EU disability norms transfer will be further explored in Chapter VI.

In addition to mainstreaming disability rights, the EU envisions targeted actions on disability in external relations, aimed at combating discrimination at all levels of cooperation, particularly through unilateral, bilateral, and multilateral measures. This approach aligns with Article 32 CRPD, discussed earlier. Aside from that, the EU pledges to advance disability inclusion through unilateral actions, such as EU-funded humanitarian aid and the Generalised System of Preferences Plus (GSP+), analysed in Chapter I. The Strategy for the Rights of Persons with Disabilities 2030 also recognises the importance of knowledge sharing between the EU and its 'multilateral partners' as an important tool to 'stimulate transparent and ambitious implementation of the CRPD across the world'.[53] Overall, this policy instrument calls on the EU to utilise a full arsenal of its tools across various external competences and policies to

[51] Ibid 24.
[52] Ibid 28.
[53] Ibid 24.

promote the implementation of the CRPD globally, especially in the neighbourhood. As discussed in the Introduction, this represents one of the facets of the global reach of EU law.

Following the CRPD conclusion, the adoption of the EDS 2020, and later the Strategy for the Rights of Persons with Disabilities 2030, the EU has visibly enhanced its role externally as 'an advocate for the rights of persons with disabilities'.[54] To this end, the need to develop a stand-alone policy document on disability in external relations has become increasingly evident, as 'a systemic and institutionalised' approach to mainstreaming disability rights currently lacks.[55] The UN CRPD Committee has repeatedly recommended the EU to develop a comprehensive disability action plan in its external relations to overcome incoherence in external policies and programmes established with EU funds, as well as uneven implementation of existing external policies that mainstream disability rights. This call is echoed by civil society, which advocates for the adoption of an action plan to create a more disability-inclusive approach to external action activities across EU institutions, EU delegations, and Member States.[56]

In 2024, the European Parliament formally called on the Commission to draft an EU disability action plan for external action,[57] however, as of August 2025, the draft has not yet been developed. If adopted, this policy tool would not only strengthen the promotion of disability rights in external relations but also enhance coherence of external action regarding disability rights between the EU and its Member States.

4. Disability Rights in EU External Competences and Policies

After exploring the broad legal and policy framework supporting EU action externally to promote disability rights, this section provides an overview of key EU external competences and policies to assess the extent to which disability rights are mainstreamed in its framework.

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[54] Ibid.
[55] UN CRPD Committee, 'Concluding Observations on the Initial Report of the European Union' (2015) CRPD/C/EU/CO/1 9.
[56] European Disability Forum, 'EU in the World 2024: EDF's Contributions to the European Union's External Actions (EDF, 2025) 17.
[57] European Parliament, 'Draft Report on the EU Strategy for the Rights of Persons with Disabilities Post-2024' (2025) 2025/2057(INI).

4.1. Disability in the EU's External Human Rights Policy: Leading the Way

The EU's external human rights policy has historically evolved without initially recognising disability rights as a distinct area. Following the adoption of the Copenhagen criteria in 1993,[58] the EU has been increasingly integrating a human rights perspective into its relations with candidate and neighbouring countries. With the adoption of the European Union and the External Dimension of Human Rights Policy in 1995,[59] the EU opened up and formalised a new area of external relations, which over the years expanded into a coherent and multidimensional framework for advancing human rights globally. As already mentioned in Chapter I, human rights protection and promotion represent an essential facet of the EU's identity today,[60] as it has become a 'meaningful human rights actor'[61] in the global arena. However, until 2011, the EU's external human rights policy remained largely silent on disability rights.

Under the EU Strategic Framework and Action Plan on Human Rights and Democracy 2011–2014,[62] which sets a course for the EU's action on human rights both internally and externally, disability rights were, for the first time, integrated into the strategic framework. It assigned the promotion of disability rights, including in development programmes, as a task for both the Commission and the European External Action Service (EEAS). The following Action Plan on Human Rights and Democracy 2015–2019[63] developed a more structured approach to disability rights in external relations. It aimed to mainstream disability rights within human rights initiatives and to develop targeted actions for promoting disability rights in EU external relations. In pursuing these objectives, it had to rely on the CRPD and the EDS 2020. Key goals included ensuring equal access to human rights for persons with disabilities in external

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[58] European Council, 'European Council in Copenhagen 21–22 June 1993' (Conclusions) SN 180/1/93 REV 1.
[59] Commission, 'The European Union and the External Dimension of Human Rights Policy: From Rome to Maastricht and Beyond' (1995) COM(95) 567 final.
[60] Gráinne De Búrca, 'The EU in the Negotiation of the UN Disability Convention' (2010) 35(2) European Law Review 174, 196.
[61] Manfred Nowak and Karolina Podstawa, 'The EU's (Strategic) Use of Human Rights Tools and Instruments' in Jan Wouters and others (eds), *The European Union and Human Rights: Law and Policy* (Oxford University Press 2020) 555.
[62] Council, 'EU Strategic Framework and Action Plan on Human Rights and Democracy 2011–2014' (2012) 11855/12.
[63] Commission, 'Action Plan on Human Rights and Democracy (2015–2019) – "Keeping Human Rights at the Heart of the EU Agenda"' (2015) JOIN(2015) 16 final.

relations, promoting and overseeing the implementation of the CRPD, and supporting the establishment of relevant monitoring mechanisms in partner countries.

Currently, the EU's external human rights policy is governed by the EU Action Plan on Human Rights and Democracy 2020–2024, which was extended until 2027 (Action Plan 2020–2027).[64] Alongside reaffirming the EU's commitment to advocate for the ratification and implementation of the CRPD in partner countries, in line with Article 32 CRPD, this policy tool outlines a detailed series of actions and areas of intervention in external relations to promote disability rights. Specifically, these actions aim to eliminate attitudinal, institutional, and environmental barriers and ensure access to infrastructure, transport, information, and communication technologies.[65] The use of such broad language allows the EU to design and implement programmes and to cooperate on a wide range of initiatives, from conducting awareness-raising campaigns to advocating for legislative reforms. The key areas of focus in EU external relations include education, healthcare, justice, and employment. The Action Plan 2020–2027 is synchronised with the Multi-Annual Financial Framework[66] to align the EU's external action with its financial capacities.

As evidenced by the annual implementation reports of the Action Plan 2020–2027, the EU employs a wide array of tools to promote its initiatives, including bilateral engagements, political and policy dialogues,[67] support through EU delegations, work in multilateral fora, technical assistance, financial programmes, and socialisation instruments such as SOCIEUX+.[68] All these tools, as will be discussed in Chapters V and VI, are actively employed by the EU to promote disability rights in the EaP countries and to support the transfer of EU disability norms.

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[64] 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; Council, 'Council Conclusions on the alignment of the EU Action Plan on Human Rights and Democracy 2020–2024 with the Multiannual Financial Framework 2021–2027' (2024) 9508/24.
[65] Commission, 'EU Action Plan on Human Rights' (n64) 4.
[66] Council Regulation (EU, Euratom) 2020/2093 of the European Parliament and of the Council of 17 December 2020 on the Multiannual Financial Framework for the Years 2021to 2027 [2020] OJ LI 433/11.
[67] See High Representative of the Union for Foreign Affairs and Security Policy, '2023 Annual Report on Human Rights and Democracy in the World' (2024); High Representative of the Union for Foreign Affairs and Security Policy, '2022 Annual Report on Human Rights and Democracy in the World' (2023).
[68] High Representative of the Union for Foreign Affairs and Security Policy, '2021 Annual Report on Human Rights and Democracy in the World' (2022).

Disability rights are further mainstreamed in the EU Human Rights Guidelines on Non-Discrimination in External Action.[69] This document aims to enhance the EU's effectiveness in combating discrimination on any ground externally, and to increase 'the visibility and awareness of EU values and actions' in tackling discrimination. Persons with disabilities are recognised as a group at risk of discrimination and subject to multiple and intersecting forms of discrimination.[70]

Additionally, through the thematic action plans, the EU aims to reinforce the protection of specific human rights. Disability rights are mainstreamed across several action plans designed to promote youth participation,[71] children's rights,[72] gender equality,[73] and the fight against racism[74] in external relations.

4.2. Disability in the EU's Development Policy: On the Right Path

Alongside the EU's external human rights policy, the EU's development policy has an advanced framework for mainstreaming disability rights. It has been at the origins of the EU's cooperation with the EaP countries and remains a fundamental part of the cooperation framework, as the major assistance for advancing human rights and democracy in the EaP countries is channelled through the EU's development policy financial tools, as analysed in Chapter II.

The UN Standard Rules, analysed in the previous section, 'formed a basis for the rights-based approach to disability' in EU law[75] and laid down a foundation for the disability-related framework under the EU's development policy.[76]

The EU's development policy, despite being launched with the primary objective of eradicating poverty,[77] has over the years expanded its scope and principles,[78] permeating all of the EU's external areas of cooperation and increasingly incorporating disability rights. The CJEU has confirmed on several occasions that the

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[69] Council, 'EU Human Rights Guidelines on Non-discrimination in External Action' (2019) 6337/2019.
[70] Ibid 6.
[71] Commission, 'Youth Action Plan in EU External Action 2022–2027' JOIN(2022) 53 final.
[72] European External Action Service, 'Revision of the EU Guidelines for the Promotion and Protection of the Rights of the Child' (2017).
[73] Commission, 'EU Gender Action Plan (GAP III): An Ambitious Agenda for Gender Equality and Women's Empowerment in EU External Action' JOIN(2020) 17 final.
[74] Commission, 'A Union of Equality' (n35).
[75] Commission, 'Guidance Note' (n1) 10.
[76] Ibid.
[77] Article 208(1) TFEU.
[78] Bart Van Vooren and Ramses A Wessel, *EU External Relations Law: Text, Cases and Materials* (1st edn, Cambridge University Press 2014) 314.

objectives of this policy also touch on economic and social development matters, and that a broad range of measures across various areas can be utilised to pursue the policy goals.[79] This reflects a global trend in development cooperation, which has evolved and transformed to address challenges beyond poverty reduction, including interlinked problems such as climate change, migration, epidemics, and terrorism,[80] as evidenced by the 2030 Agenda for Sustainable Development.

The framework document defining the EU's development policy is the New Consensus on Development 2017.[81] First adopted in 2006,[82] it initially addressed disability only in the context of poverty eradication. After assuming commitments under the 2030 Agenda for Sustainable Development, the EU developed a more nuanced approach to disability mainstreaming in development cooperation. The New European Consensus on Development 2017,[83] recognises the rights-based approach to development cooperation by promoting inclusion and participation, non-discrimination, equality, equity, transparency, and accountability. The New Consensus on Development 2017 indicates that, in external relations, disability rights have to be pursued in line with the CRPD, with a specific focus on inclusion in society and equal participation in the labour market. To further support the realisation of the rights-based approach to development cooperation, in 2021, the Commission developed a Tool-Box 'A Rights-Based Approach, Encompassing All Human Rights for EU Development Cooperation'.[84] Updated in 2021, ia to address the commitments under the Strategy for the Rights of Persons with Disabilities 2030, it now calls for

[79] See Case C-268/94 *Portugal v Council* [1996] ECLI:EU:C:1996:461 [37-38]; Case C-91/05 *Commission v Council* [2008] ECLI:EU:C:2008:288 para [67]; Case C-377/12 *Commission v Council* [2014] ECLI:EU:C:2014:1903 [38].
[80] Peter Kragelund, 'International Cooperation for Development' in Henry Veltmeyer and Paul Bowles (eds), *The Essential Guide to Critical Development Studies* (2nd edn, Routledge 2022) 123.
[81] Tina Van den Sanden, 'Disability in EU Development Cooperation' in Delia Ferri and Andrea Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020) 383.
[82] Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy, 'The European Consensus' [2006] OJ C 46/01.
[83] Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission, 'The New European Consensus on Development: Our World, Our Dignity, Our Future' [2017] OJ C 210/1.
[84] Commission, 'Tool-Box: A Rights-Based Approach, Encompassing All Human Rights for EU Development Cooperation' SWD(2014) 152 final.

addressing discrimination against persons with disabilities under the principle 'non-discrimination and equality' in all 'development interventions'.[85]

From a programmatic perspective, a significant development in the EU's development policy was the Commission's adoption of the disability policy marker on inclusion and empowerment of persons with disabilities, developed by the Organisation for Economic Co-operation and Development (OECD) in 2018.[86] This statistical tool was established to track 'how disability is mainstreamed in development co-operation and emergency assistance'.[87] Since 2019, the Commission has integrated this tool into its work to evaluate the Official Development Assistance (ODA) allocations. While its primary function is to assess disability mainstreaming in aid, it also serves as an important tool to track trade and foreign direct investment (FDI).[88] The European Disability Forum (EDF) – the major European umbrella organisation representing persons with disabilities[89] – reported that as of 2021, only 26% of ODA allocations by the Commission were marked as disability-inclusive. The EDF's qualitative analysis suggests that the actual number may be even lower.[90] Though the ODA is currently the only one account of the development cooperation and is just one facet of the EU's multidirectional and cross-sectoral partnership with the EaP countries, which also encompasses economic cooperation, the security dimension, migration, alongside priority areas indicated in the action plans under the cooperation framework agreements.[91]

4.3. The EU's Trade Policy: The 'Grey Eminence' of Disability Rights

The EU conducts its trade relations with non-EU countries through its trade policy, which forms part of the CCP and constitutes a bedrock of the EU's cooperation with the EaP countries. The EU's trade policy is regarded as 'one of the tools through which

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[85] Commission, 'Applying the Human Rights Based Approach to International Partnerships: An Updated Toolbox for Placing Rights-holders at the Centre of EU's Neighbourhood, Development and International Cooperation' SWD(2021) 179 final 11.
[86] Organisation for Ecomonic Co-operation and Development, 'Handbook for the Marker for the Inclusion and Empowerment of Persons with Disabilities' (2020) DCD/DAC/STAT(2020)48.
[87] Ibid 10.
[88] Kragelund (n80) 121.
[89] Broderick and Ferri, *International and European Disability Law and Policy* (n14) 314.
[90] European Disability Forum, 'Steady Progress, Serious Shortfalls: Disability Inclusion in EC ODA Projects' (2025).
[91] Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe [2021] OJ L 209/1.

the EU can exercise its role as a strong global actor'[92] and exporter of norms.[93] With the entry into force of the Treaty of Lisbon, it was explicitly linked to the broader objectives of EU external relations[94] set out in Article 21 TEU. Aside from pursuing overarching external objectives, the EU's trade policy shall comply with Article 10 TFEU,[95] discussed in the previous section.

However, disability rights mainstreaming in the EU's trade policy framework is still in its early stages. The current EU's trade policy strategy, 'Trade Policy Review – An Open, Sustainable and Assertive Trade Policy', mainstreams human rights aspects, including gender equality,[96] though it overlooks disability. Regarding the gender dimension, the Commission is tasked with developing a better understanding of the gender equality implications across various aspects of the EU's trade policy and with improving gender awareness within this policy.[97] A comparable approach to disability inclusion remains absent at the EU level, despite the introduction of the disability policy marker and the growing demand for trade policies to be inclusive of persons with disabilities within the international community.[98]

The nexus between disability and the EU's trade policy is slightly more visible, though still scarce, in the Strategy for the Rights of Persons with Disabilities 2030. It indicates that external relations must uphold the CRPD principles and the 2030 Agenda for Sustainable Development, ensuring universal design and reasonable accommodation in all initiatives. This should be achieved through political, human rights, and *trade dialogues* (emphasis added), as well as cooperation with countries

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[92] Commission, '2022 Annual Report on the Implementation of the European Union's External Action Instruments in 2021' COM(2022) 578 final 3.
[93] Isabella Mancini, 'Fundamental Rights in the EU's External Trade Relations: From Promotion 'Through' Trade Agreements to Protection 'in' Trade Agreements' (1 CLEER Papers, 2020) 64.
[94] Sieglinde Gstöhl and Dominik Hanf, 'The EU's Post-Lisbon Free Trade Agreements: Commercial Interests in a Changing Constitutional Context' (2014) 20(6) European Law Journal 733, 747.
[95] Sondra Faccio, 'Disability in EU Trade and Investment Agreements' in Delia Ferri and Andrea Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020) 396.
[96] See Commission, 'Trade Policy Review – An Open, Sustainable and Assertive Trade Policy' COM(2021) 66 final; Commission, 'Trade for All: Towards a More Responsible Trade and Investment Policy' COM(2015) 497 final; Commission, 'Trade, Growth and World Affairs: Trade Policy as a Core Component of the EU's 2020 Strategy' COM(2010) 612 final.
[97] Commission, 'Trade Policy Review' (n96) 22.
[98] In 2024, an important shift on international level was introduced with launching the inter-organisational Technical Working Group on Trade and Disability Inclusion. It was established to support governments in integrating disability inclusion within trade and development agendas. This initiative involves key international actors, including the UN Trade and Development, the International Trade Centre (ITC), the International Labour Organization (ILO), and the World Trade Organization (WTO). The results of the work of this working group are yet to be seen.

under the ENP, the enlargement policy, and international partnership policies.[99] Also, the Strategy for the Rights of Persons with Disabilities 2030 embeds a commitment to adding the CRPD to the list of conventions to be implemented by partner countries benefiting from the GSP+. However, as of 2025, it is still at the Commission proposal stage.[100] If the list is amended, it would represent a significant step forward in integrating disability rights into the trade policy and, overall, in strengthening the EU's framework for promoting disability rights externally.

Several policy tools address disability in connection to trade, however, their impact seems to remain minimal so far. In 2022, the European Investment Bank (EIB) adopted the disability policy marker to track disability in its ODA allocations, but it has not yet reported a single project as disability-inclusive.[101] The human rights impact assessment of trade-related policy initiatives, a Commission policy tool under the Better Regulation Agenda,[102] recognises disability as a cross-cutting component in this process. This tool was developed following the ruling of the General Court in *Front Polisario v Council,* obliging the Council, before negotiating an agreement, to conduct an impact assessment to ensure such an agreement does not 'entail infringements of fundamental rights of the persons'[103] in a partner country. The impact assessment, conducted by the Commission, can be conducted before or after the conclusion of an agreement and targets both the EU and a partner countries.[104] Such an analysis should 'be based on the normative framework of human rights', such as UN human rights conventions, including the CRPD.[105] Nonetheless, there is limited evidence that such an assessment has been carried out in relation to any of the trade agreements under the EaP.[106]

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[99] Commission, 'Union of Equality'(n35) 24.
[100] Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 [2012] OJ L 303/1.
[101] European Disability Forum, 'Steady Progress, Serious Shortfalls: Disability Inclusion in EC ODA Projects' (EDF, 2025).
[102] Commission, 'Better Regulation for Better Results – An EU Agenda' COM(2015) 215 final.
[103] Case T-512/12 *Front Polisario v Council* ECLI:EU:T:2015:953 [47].
[104] Commission, 'Guidelines on the Analysis of Human Rights Impacts in Impact Assessments for Trade-Related Policy Initiatives' (2015).
[105] Ibid 2.
[106] The list of the ongoing and completed impact assessments could be found here: <https://policy.trade.ec.europa.eu/analysis-and-assessment/impact-assessments_en> accessed 30 September 2025.

Overall, the framework underpinning the EU's trade policy only marginally integrates disability rights. Nevertheless, a small but growing body of scholarship demonstrates the emergence of disability in trade agreements. In 2020, Faccio pioneered the research by exploring disability references in EU trade and investment agreements.[107] Bahri introduced a broader analysis of disability inclusion in all free trade agreements notified to the WTO.[108] Similarly, Ruiz and others explored disability references in the preferential trade agreements notified to the WTO.[109] Although these works remain primarily introductory, looking at one facet of this complex topic, particularly one on the explicit recognition of disability in trade agreements, they attest to the growing visibility of this issue within the trade policy context. This PhD thesis further shows that, out of five trade agreements concluded by the EU with the EaP countries, three include a disability-related provision, as will be further discussed in Chapters V and VI. This suggests that mainstreaming disability rights in trade agreements and, more broadly, in the framework supporting their implementation has been mainly driven by the EU's other external competences and policies, as trade is often linked to other external policy areas.[110] According to Kube, the EU 'has a long history of deploying a wide array of strategies and instruments cross-cutting different policy fields, of which trade and development nexus is a prime example'.[111] Indeed, in its report to the UN CRPD Committee on the implementation of the CRPD,[112] the EU outlined a list of policy instruments[113] supporting its efforts to implement the CRPD in external relations. This list consisted exclusively of policy instruments developed within the EU's external human rights and development policies.

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[107] See Faccio, 'Disability in EU Trade and Investment Agreements' (n96).
[108] See Bahri, 'Trade Agreements and Disability Inclusion' (n9).
[109] See Felipe Jaramillo Ruiz, Rebecca Nielsen and Rodrigo Fagundes Cezar, 'The Inclusion of Disability as a Non-Trade Issue in Preferential Trade Agreements' (2023) 23(1) Global Social Policy 148.
[110] Bart Van Vooren and Ramses A Wessel, *EU External Relations Law: Text, Cases and Materials* (1st edn, Cambridge University Press 2014) 309.
[111] Kube, 'The European Union's External Human Rights Commitment' (n99) 5.
[112] Commission, 'Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD) by the European Union' SWD(2023) 95 final.
[113] The list of policy instruments includes: the New European Consensus on Development 2017; the EU Action Plan on Human Rights and Democracy 2020–2027; the EU Human Rights Guidelines on Non-Discrimination in External Action, the EU Guidelines on EU Policy Towards Third Countries on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; Commission Staff Working Document 'Applying the HRBA to International Partnerships'.

4.4. Bridging The Common Foreign and Security Policy and Disability Rights

Security dimension of the EU's cooperation with the EaP countries is more relevant than ever and has arguably risen to the top of its cooperation priority areas in light of escalating threats around its border. The EU's growing field presence in partner countries through EU delegations and civilian missions makes this an attractive area for investigating the nexus between security and disability rights.

Human rights have long been an integral part of the CFSP agenda. In 2003, with the adoption of the first CFSP strategic document, the European Security Strategy,[114] the EU recognised human rights protection as an element supporting security. Since then, it has progressively advanced the mainstreaming of human rights within the CFSP. In 2016, the European Security Strategy was replaced with the Global Strategy for the European Union's Foreign and Security Policy (Global Strategy),[115] which further reinforced the human rights mainstreaming within the CFSP and recognised gender as a cross-cutting component across policy sectors and institutions. By contrast, the mainstreaming of disability rights in the CFSP is still emerging and has yet to be incorporated into the strategic framework.

While not being integrated into the strategic framework, disability rights, nonetheless, are mainstreamed in some policy tools underpinning the CFSP actions. This subsection examines the disability rights mainstreaming in two specific CFSP tools supporting the EaP partner countries on the ground: EU delegations, which are 'the front line and the face' of the EU,[116] and EU civilian missions, a security mechanism 'in the field'.

4.4.1. EU Delegations as Drivers of Disability Rights Promotion

Since 2011, the EEAS has been implementing the CFSP to promote peace, prosperity, and security in EU external relations.[117] It consists of the central administration – a

[114] Javier Solana, 'A Secure Europe in a Better World: European Security Strategy' (Council, 2003).
[115] European External Action Service, 'Shared Vision, Common Action: A Stronger Europe: A Global Strategy for the European Union's Foreign and Security Policy' (Publications Office of the European Union, 2016).
[116] Damien Helly and others, 'A Closer Look into EU's External Action Frontline: Framing the Challenges Ahead for EU Delegations' (European Centre for Development Policy Management, 2014) 10.
[117] European External Action Service, 'Diversity and Inclusion Agenda in the EEAS 2023–2025' (2023).

'Brussels-based' machinery[118] – and EU delegations. Although it has been observed that the EU delegations 'have not yet reached their full potential',[119] their role in advancing human rights, including disability rights, is becoming increasingly significant. Yet, in 2004, the Commission accorded EU delegations a leading role in raising awareness among governments of partner countries and local stakeholders of the need to include persons with disabilities in their programmes and to foster dialogue between them and organisations of persons with disabilities.[120]

The functioning of EU delegations is defined by the Council Decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service,[121] while the mainstreaming of disability rights in internal institutional practices is guided by the Diversity and Inclusion Agenda in the EEAS 2023–2025.[122]

Overall, EU delegations promote in partner countries the objectives outlined in Articles 3(5) and 21 TEU and are tasked with supporting and coordinating their activities with the delegations of the Member States operating in those countries under Article 35(3) TEU. In the absence of a dedicated strategy on disability in EU external relations, the framework supporting the mainstreaming of disability rights by EU delegations is generally guided by the Strategy for the Rights of Persons with Disabilities 2030, alongside policy instruments under the EU's external human rights policy,[123] discussed earlier.

In particular, under the Strategy for the Rights of Persons with Disabilities 2030, High Representative of the Union for Foreign Affairs and Security Policy and Vice President of the Commission (HR/VP) together the Commission is tasked with providing technical assistance to partner countries, fostering cooperation 'in the context of multilateral fora' with a focus on accessibility and employment, and

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[118] Jan Wouters and Sanderijn Duquet, 'The EU, EEAS and Union Delegations and International Diplomatic Law: New Horizons?' (62 Leuven Centre for Global Governance Studies Working Paper, 2011) 7.
[119] Hylke Dijkstra and Peter Van Elsuwege, 'Representing the EU in the Area of CFSP: Legal and Political Dynamics' in Steven Blockmans and Panos Koutrakos (eds), *Research Handbook on the EU's Common Foreign and Security Policy* (Edward Elgar 2018) 63.
[120] Commission, 'Guidance Note' (n1) 15.
[121] Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service [2010] OJ L 201/30.
[122] European External Action Service, 'Diversity and Inclusion Agenda' (n117).
[123] Commission, 'Guidance Note' (n1) 12.

enhancing the role of the EU delegations in supporting the implementation of the CRPD by partner countries.[124]

Regarding the latter task, in 2023, the EEAS adopted 'The Guidance Note Leaving No one Behind: Disability Inclusion in EU External Action' (Guidance Note),[125] a disability-specific policy document designed to promote disability rights in EU external relations through the work of EU delegations. It aims to assist EU delegation staff and partners in mainstreaming disability rights across their work, including in policy, programming and implementation of actions.[126] In particular, it provides guidance on how to apply key disability concepts and approaches within the human rights-based approach in external relations, including disability considerations at different stages in the intervention cycle, and how to ensure EU delegations are disability-inclusive. EU delegations in the EaP countries are encouraged to follow the recommendations in the Guidance Note and adopt a disability-inclusive approach to programming.

Often labelled as 'hybrid administrative constructs', EU delegations carry out not only 'traditional diplomatic functions'[127] but also implement EU policies such as the EU's development policy, trade, fisheries, health, and the common agricultural policy, among others.[128] With respect to the development policy, they are responsible for implementing all EU development actions.[129] In particular, they streamline 'the application process for funding schemes, reviewing draft proposals, identifying and selecting local projects and implementing aid programmes'.[130] In doing so, the EU delegations have to comply with the requirements regarding disability rights mainstreaming under the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI), a financial tool supporting the EaP countries, discussed earlier in Chapter II, and take into consideration recommendations under the Guidance Note.

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[124] Commission, 'Union of Equality'(n35) 25.
[125] Commission, 'Guidance Note' (n1) 12.
[126] Ibid 7.
[127] Sanderijn Duquet, 'Bound or Unbridled? A Legal Perspective on the Diplomatic Functions of European Union Delegations' (2018) 13 The Hague Journal of Diplomacy 21, 37.
[128] Helly and others, 'A Closer Look into EU's External Action Frontline (n116) 3.
[129] Ibid.
[130] Duquet, 'Bound or Unbridled?' (n127) 37.

Aside from implementing activities under the EU's development policy, some EU delegations host Human Rights Dialogues, a tool comprising bilateral annual dialogues between the EU and a partner country, as discussed in Chapter I. Human Rights Dialogues are significant as they allow to monitor human rights developments and foster constructive exchange between the parties in an enabling environment for a partner country, typically conducted as closed meetings. Disability rights appear to have increasingly emerged on the agenda of Human Rights Dialogues with the EaP countries.[131] While the efficiency and impact of this format of intergovernmental dialogue are difficult to assess,[132] and arguably impossible to measure in terms of its contribution to EU disability norms transfer, it, nonetheless, is an instrument of diplomatic influence allowing the EU 'to keep the channel of communication with regard to human rights open'.[133] For instance, the EU used the 14th Human Rights Dialogue as a platform to reiterate its call for Armenia to adopt an Equality Law,[134] intended to transfer provisions of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (Employment Equality Directive),[135] which mainstreams disability rights.

4.4.2. EU Civilian Missions: High Potential Limited Execution

The nexus between disability and EU civilian missions is, so far, an unexplored yet intriguing area of research. This thesis argues that EU civilian missions have a strong potential not only to promote disability rights in the EaP countries but also to support EU disability norms transfer, if disability rights are better mainstreamed in their work.

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[131] See 'Georgia: 13th Annual Human Rights Dialogue' (EEAS, 27 June 2023) <https://www.eeas.europa.eu/eeas/georgia-13th-annual-human-rights-dialogue_en> accessed 30 September 2025; 'Armenia: 13th Human Rights Dialogue held in Yerevan' (EEAS, 18 January 2024) <https://www.eeas.europa.eu/delegations/armenia/armenia-13th-human-rights-dialogue-held-yerevan_en > accessed 30 September 2025; 'Ukraine: 8th Human Rights Dialogue takes place in Kyiv' (EEAS, 26 April 2023) <https://www.eeas.europa.eu/eeas/ukraine-8th-human-rights-dialogue-takes-place-kyiv_en accessed> 30 September 2025;

[132] Areg Navasartian Havani, 'Carrots or Sticks? How the European Union Aims to Achieve Respect for Fundamental Rights Beyond Its Borders' (3 CLEER Papers, 2022) 81.

[133] Jan Wouters and others, 'EU Human Rights Dialogues: Current Situation, Outstanding Issues and Resources' (1 Policy Brief, Leuven Centre for Global Governance Studies, 2007) 2.

[134] 'Armenia: 14th Human Rights Dialogue held in Brussels' (EEAS, 19 February 2025) <https://www.eeas.europa.eu/eeas/armenia-14th-human-rights-dialogue-held-brussels_en> accessed 30 September 2025.

[135] Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation [2000] OJ L 303/16.

EU civilian missions form part of the EU's Common Security and Defence Policy (CSDP), which is an 'integral part' of the CFSP pursuant to Article 42(1) TEU. Each mission operates under a 'focused mandate, targeted to local needs, precise and achievable end states'.[136] Primarily deployed for peacekeeping, conflict prevention, and strengthening international security, they engage in a broad range of areas, directly or indirectly linked to these goals, such as assisting partner countries in reforming their criminal justice systems,[137] border management,[138] cybersecurity, and countering foreign information manipulation and interference.[139] While the scope and areas of intervention vary among countries, their roles remain primarily limited to advising and monitoring,[140] which, in some respects, resemble the architecture of the technical assistance programme Twinning, discussed in Chapter II. As of 2025, the following EU civilian missions are operational in the EaP countries: EU Advisory Mission for Civilian Security Sector Reform in Ukraine (EUAM),[141] EU Partnership Mission in Moldova (EUPM),[142] EU Border Assistance Mission to Moldova-Ukraine (EUBAM),[143] EU Monitoring Mission in Georgia (EUMM),[144] and EU Mission in Armenia (EUMA).[145]

Van Elsuwege and Burlyuk argue that the export of EU values is part of the CSDP, in general, and EU civilian missions in particular.[146] For EU civilian missions, it is an established practice to observe human rights and gender issues, and to consider the

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[136] Council, 'Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the establishment of a Civilian CSDP Compact' (2023) 9588/23.
[137] Council, 'Joint Action 2004/523/CFSP of 28 June 2004 on the European Union Rule of Law Mission in Georgia, EUJUST THEMIS' [2004] OJ L 228/21–24.
[138] 'Memorandum of Understanding between the European Commission, the Government of the Republic of Moldova and the Government of Ukraine of 7 October 2005 on the European Union Border Assistance Mission to the Republic of Moldova and to Ukraine' (2005) <https://eubam.org/wp-content/uploads/2015/11/memorandum_of_understanding_en.pdf> accessed 30 September 2025.
[139] Council Decision (CFSP) 2023/855 of 24 April 2023 on a European Union Partnership Mission in Moldova (EUPM Moldova) [2023] OJ L 110/98.
[140] Dimitris Bouris and Madalina Dobrescu, 'The EU and Civilian Missions in the Neighbourhood' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 267.
[141] Council Decision 2014/486/CFSP of 22 July 2014 on the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) [2014] OJ L 217/42.
[142] Council Decision (CFSP) 2023/855 (n139).
[143] 'Memorandum of Understanding' (n138).
[144] Council Decision 2010/452/CFSP of 12 August 2010 on the European Union Monitoring Mission in Georgia (EUMM Georgia) [2010] OJ L 213/51.
[145] Council Decision (CFSP) 2023/162 of 23 January 2023 on a European Union mission in Armenia (EUMA) [2023] OJ L 22.
[146] Peter Van Elsuwege and Olga Burlyuk, 'Exporting the Rule of Law to the EU's Eastern Neighbours' in Sara Poli (ed), *The European Neighbourhood Policy: Values and Principles* (Routledge 2018) 173.

effects of armed conflict on children when planning and conducting missions.[147] While disability rights do not appear to be mainstreamed in the policy framework regulating the work of EU civilian missions, they have already demonstrated potential to serve as a tool for promoting disability rights on the ground. This potential rests on several factors. First, an EU civilian mission is designed as a long-term deployment, usually lasting between one and three years, which enables more sustainable and meaningful engagement. Second, it is a request-driven initiative, which presupposes the presence of political will on the part of the partner country to cooperate and undertake reforms. Third, EU civilian missions are composed of highly skilled experts[148] in the area of intervention and can therefore address gaps in knowledge and expertise in a partner country.

As almost all areas of cooperation directly or indirectly impact disability rights, the spillover effects of the EU civilian missions' work can already be observed. For instance, the EUAM has been operational in Ukraine since 2014. For over ten years, it has worked on reforming the civilian security sector in Ukraine. As part of its broader activities, the EUAM helped Ukraine to improve the quality of driving tests and increase access to driving for persons with disabilities.[149] Also, it is currently supporting the Ukrainian government in implementing the Overarching Strategic Plan for the Reform of the Entire Law Enforcement Sector and its Action Plan,[150] which mainstreams disability rights. The EUMM in Georgia, operational since 2008, has engaged in monitoring the situation of persons with physical disabilities in camps for internally displaced people.[151] Deployed in 2023, the EUMA in Armenia has

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[147] European External Action Service, 'Human Rights and Democracy in the World: Annual Report 2009' (2009) <https://www.eeas.europa.eu/sites/default/files/documents/2009_human-rights-annual_report_en.pdf> accessed 30 July 2025.

[148] Giovanni Grevi, Damien Helly and Dan Keohane, 'European Security and Defence Policy: The First Ten Years (1999–2009)' (The European Union Institute for Security Studies, 2009) 70.

[149] 'Ukraine: EUAM Helps to Improve Quality of Driving Tests and Increase Access to Driving for People with Disabilities' (EU Neighbour East, 31 January 2024) <https://euneighbourseast.eu/news/latest-news/ukraine-euam-helps-to-improve-quality-of-driving-tests-and-increase-access-to-driving-for-people-with-disabilities/> accessed 30 September 2025.

[150] Cabinet of Ministers of Ukraine, Order (Rozporyadzhennia) 'On Approval of the Action Plan for the Implementation of the Comprehensive Strategic Plan for Reforming Law Enforcement Agencies as Part of the Security and Defense Sector of Ukraine for 2023–2027' (23 August 2024) No 792-p.

[151] 'EUMM monitors are Concentrating Efforts on More Vulnerable Population at the IDP Camps' (EUMM, 27 August 2009) <https://eumm.eu/en/press_and_public_information/features/1645/?print=yes > accessed 30 September 2025.

undertaken activities to establish dialogue with the organisations of persons with disabilities.[152]

Overall, as mentioned in Chapter II, the EU's shift towards securitisation envisages revising and enhancing the role of the CFSP, thereby enhancing its influence in the EaP. This presents an opportunity to advance disability rights mainstreaming within its activities and to capitalise on the resources and tools at its disposal.

5. Multilateral Cooperation as a Tool for Disability Rights Promotion under Eastern Partnership

After examining the extent to which disability rights are integrated into key EU external competences and policies, this section turns to an analysis of the disability dimension within the EU's cooperation with multilateral institutions, with a specific focus on the CoE, which arguably plays an important role in supporting EU disability norms transfer in the EaP countries.

5.1. General Overview

As outlined in Chapters I and II, the EU has been an active advocate for promoting human rights externally through multilateral cooperation. The nexus between disability rights and multilateral cooperation, albeit limited, can still be found in both the strategic framework document shaping EU disability policy and the EU's visionary document defining its objectives in multilateral cooperation. In particular, the Strategy for the Rights of Persons with Disabilities 2030 refers to multilateral cooperation, in the form of the global exchange of practices, to stimulate 'transparent and ambitious implementation' of the CRPD globally.[153] In its turn, the Joint Communication on Strengthening the EU's Contribution to Rules-Based Multilateralism'[154] sets out an action for the EU to enhance its visibility 'as the only Regional Organisation party' to the CRPD under the broader objective to strengthen partnership 'with the multilateral system'.[155] In doing so, it reaffirms its ambition to become 'a coherent and capable

[152] 'EUMA Hosts Civil Society Talks 'Inspire Inclusion' (EEAS, 18 March 2024) <https://www.eeas.europa.eu/euma/euma-hosts-civil-society-talks-"inspire-inclusion"_en?s=410283> accessed 30 September 2025.
[153] Commission, 'Union of Equality'(n35) 24.
[154] Commission, 'Strengthening the EU's Contribution to Rules-Based Multilateralism' JOIN(2021) 3 final.
[155] Ibid.

international actor'[156] in promoting disability rights, which was already articulated in the Strategy for the Rights of Persons with Disabilities 2030 and the EDS 2020.

In its engagement with neighbouring countries, the EU increasingly relies on multilateral cooperation, both within the EaP framework and through its enlargement policy. With respect to the latter, while accession negotiations between the EU and candidate countries are essentially bilateral, the EU has been increasingly using multilateral cooperation to facilitate the accession negotiations process as 'conditionalities imposed both bilaterally and in multilateral settings are […] more effective when accompanied by multilateral monitoring and review mechanisms, which create transparency and objectivity'.[157] For instance, following the accession of Bulgaria and Romania to the EU, the CoE continued, for a transitional period, to monitor their compliance with the EU's political accession conditions, including the protection of human and minority rights.[158] The EU has also 'borrowed tools and policy recommendations on minority rights' from the Organization for Security and Co-operation in Europe (OSCE) and the CoE and to formulate accession conditionalities for the Baltics, Romania, and Slovakia.[159] Overall, as the CoE and the OSCE, alongside other international organisations, played a role in 'preparing applicant states for the conditions of EU membership',[160] it can be anticipated that multilateral formats of engagement with Ukraine and Moldova under accession negotiations will only expand in the near future.

Within the EaP framework, the EU's commitment to multilateral cooperation with partner countries is firmly embedded in the Eastern Partnership Policy Beyond 2020.[161] As this PhD thesis indicates, this commitment manifests in two ways. On one

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[156] Edith Drieskens, 'Introduction: A Framework for Analysing Effective Multilateralism' in Edith Drieskens and Louise G Van Schaik (eds), *The EU and Effective Multilateralism: Internal and External Reform Practices* (Routledge 2014) 4.
[157] Ian Higham, 'Conditionalities in International Organization Accession Processes: Spreading Business and Human Rights Norms in Central and Eastern Europe?' (2024) 9(SI 1) Business and Human Rights Journal 54, 59.
[158] Geoffrey Pridham, 'Romania and EU Membership in Comparative Perspective: A Post-Accession Compliance Problem? – The Case of Political Conditionality' (2007) 8(2) Perspectives on European Politics and Society 168, 175.
[159] Higham, 'Conditionalities in International Organization Accession' (n157) 59.
[160] Thomas Diez, Ian Manners and Richard G Whitman, 'The Changing Nature of International Institutions in Europe: The Challenge of the European Union' (2011) 33(2) Journal of European Integration 117, 124.
[161] Commission and High Representative of the Union for Foreign Affairs and Security Policy, 'Eastern Partnership Policy Beyond 2020: Reinforcing Resilience – an Eastern Partnership that Delivers for All' JOIN(2020) 7 final.

side, the EU supports the promotion and adoption of the rules and standards developed by international organisations such as the CoE, OSCE, UN, and WTO in its cooperation with the EaP countries,[162] and, on the other side, it leverages these partnerships as tools to transfer its own acquis into the legal orders of the EaP countries. While the first account was addressed in Chapter II, the following subsection, together with Chapter VI, focuses particularly on exploring multilateral cooperation as a tool for transferring the EU acquis through an analysis of the cooperation framework with the CoE. Among the EU's two major multilateral partners in the region, the OSCE and CoE, the latter was selected for analysis due to the following considerations.

The cooperation between the EU and the OSCE in the EaP countries essentially revolves around improving parliamentary oversight functions, fostering political pluralism and addressing digital challenges to democratic processes.[163] While, overall, the OSCE indeed plays an increasingly important role in advancing disability rights in the EaP through supporting electoral participation of persons with disabilities, awareness raising, and providing legislative support to partner countries,[164] particularly the connection between the OSCE work and EU disability norms transfer is nonetheless challenging to trace due to the limited joint programmes in this area. The global reach of EU law today represents a pretty complex process, 'often involving a plethora of actors, agencies, entities and multilateralism'.[165] Therefore, the evident role of the CoE in supporting EU disability norms transfer, particularly in Ukraine, is rather a rare phenomenon. To this end, a complex analysis of this process will be conducted through a case study of Ukraine in Chapter VI, including an analysis of the cooperation framework between the EU and the CoE in the following subsection.

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[162] See, for instance, Commission, 'Fourth Report on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation' COM(2013) 459 final.
[163] Commission and High Representative of the Union for Foreign Affairs and Security Policy, 'Recovery, Resilience and Reform: Post 2020 Eastern Partnership Priorities' SWD(2021) 186 final 14.
[164] Council of Europe, 'Human Rights: A Reality for All – Council of Europe Disability Strategy 2017–2023 (2017) 32.
[165] Elaine Fahey, 'Introduction: On Framing Convergence of the EU with the Global Legal Order' in Elaine Fahey (ed), *Framing Convergence with the Global Legal Order: The EU and the World* (Hart 2020) 6.

5.2. Cooperation with the Council of Europe

The cooperation between the EU and the CoE on human rights promotion in the EaP is rooted in a long-standing tradition of collaboration dating back to the mid-80s.[166] This cooperation was further formalised in 2007, when the two partners signed a Memorandum of Understanding (MoU)[167] outlining key areas and engagement formats. The document reaffirmed the role of the CoE as 'the benchmark for human rights, the rule of law and democracy in Europe'.[168] At present, the partnership is structured around three modalities: political dialogue, cooperation projects, and legal cooperation.[169] Among these, joint cooperation projects are regarded as the 'major expressions' of the mutual commitment of both parties to fostering democracy, human rights, and the rule of law at the European level and beyond.[170] These initiatives constitute the most significant source of funding sustaining the CoE technical assistance and co-operation projects in support of democratic stability in the EU enlargement region, in the EaP countries, as well as the Southern Mediterranean.[171] All CoE activities, including joined initiatives were aligned with the CoE Disability Action Plan 2006–2015[172] and later the 'Strategy on the Rights of Persons with Disabilities 2017–2023 – Human Rights: A Reality for All'(CoE Disability Strategy 2017–2023),[173] which was eventually integrated into the range of the CoE internal policies and instructions underpinning its internal institutional practices and its external programmes.

With respect to the EaP region, in 2014, the EU and CoE launched a joint programme, the Partnership for Good Governance (PGG).[174] The programme focuses on supporting domestic reforms 'to strengthen justice, counter economic crime, promote equality and non-discrimination, advance women's access to justice'. Currently, the

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[166] Andrea Broderick and Delia Ferri, *International and European Disability Law and Policy: Text, Cases, and Materials* (Cambridge University Press 2019) 413.
[167] Council of Europe, 'Memorandum of Understanding between the Council of Europe and the European Union' (2007).
[168] Ibid para 10.
[169] Council of Europe, 'Co-operation between the Council of Europe and the European Union: Overview of Arrangements for Co-operation between the Council of Europe and the European Union' (2018) 4.
[170] Ibid 6.
[171] Ibid.
[172] Council of Europe, 'Disability Action Plan 2006–2015' (2006).
[173] Council of Europe, 'Strategy on the Rights of Persons with Disabilities 2017–2023 – Human Rights: A Reality for All' (2017).
[174] 'About the Partnership for Good Governance' (CoE) <https://pjp-eu.coe.int/en/web/partnership-governance/about-partnership-good-governance> accessed 30 September 2025.

programme is in its third phase, covering the period from 2023 until 2027. The PGG actions align with the CoE country-specific action plans and the trade agreements concluded between the EU and the EaP countries. All of these tools include both mainstreamed and targeted actions to promote disability rights. The current CoE Action Plans for Ukraine[175] and Moldova[176] aim, among other activities, to support reforms critical to advancing accession negotiations with the EU.

Another key CoE instrument supporting human rights and playing a role in the rule-transfer process is the Quick Response Mechanism (QRM), which provides legislative expertise and policy advice upon request from partner countries. This instrument is utilised by the Commission for Democracy through Law of the Council of Europe (Venice Commission) and other CoE bodies to provide ad hoc legal and policy advice to EaP countries in areas such as justice, equality and non-discrimination, among others.

The opinion of the CoE has been requested by Ukraine,[177] Moldova,[178] and Georgia[179] in the course of adopting and amending legislation in the audiovisual media sector in order to transfer Council Directive (EU) 2018/1808 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities (AVMSD 2018),[180] discussed in Chapter III. This demonstrates that the CoE has a role in the transfer of the EU acquis in EaP countries, and it will be explored further in connection to EU disability norms and in the context of Ukraine in Chapter VI.

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[175] Council of Europe, 'Action Plan for Ukraine "Resilience, Recovery and Reconstruction" 2023–2026' CM(2022)187.
[176] Council of Europe, 'Action Plan for Moldova 2021–2024' (2021).
[177] Council of Europe, 'Opinion of the Directorate General Human Rights and Rule of Law Information Society and Action against Crime Directorate Information Society Department: The Law "On Media" of Ukraine' (2023) DGI(2023)03.
[178] Venice Commission, 'Draft Law on Media: Draft Law Amending the Code Nr. CSMA174/2018 Audiovisual Media Services Code (Consolidated Version) and Draft Law Amending Law Nr. 62 on Advertisement (Consolidated Version)' (May 2025) CDL-REF(2025)024.
[179] Council of Europe, 'Opinion of the Directorate General Human Rights and Rule of Law Information Society and Action against Crime Directorate Information Society Department: The Law of Georgia on Broadcasting' (2023) DGI(2023)1.
[180] Council Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities OJ L 303/69.

6. Concluding Remarks

The EU's role as 'an advocate for the rights of persons with disabilities'[181] both globally and under the EaP is still evolving. Over the past fifteen years, the promotion of disability rights in EU external relations has been shaped by obligations under the CRPD, commitments arising from the 2030 Agenda for Sustainable Development, and constitutional obligations on human rights promotion in EU external relations, as discussed in sections 2 and 3.

Although these obligations and commitments have been increasingly integrated into the EU's policy framework, the absence of a dedicated policy for disability rights promotion in external relations, which would define actions, time frame, and allocated resources,[182] does not facilitate this process. As section 4 exemplifies, disability rights have been mainstreamed to varying degrees in the EU's external human rights policy, EU's development policy, trade policy, and the CFSP. Among these, the EU's external human rights policy appears to be the most advanced in mainstreaming disability rights. By contrast, the mainstreaming of disability rights within trade policy remains limited. However, it largely draws on the standards of the EU's development policy and the EU's external human rights policy. This close interconnection and mutual reinforcement enhance the EU's ability to promote disability rights externally through trade agreements, as indicated in section 4, though it has a limited impact on its strategic framework, which mainstreams disability rights to a limited extent. The mainstreaming of disability rights under the CFSP is still emerging. Nonetheless, under the EaP, this policy holds considerable potential and the necessary resources, through its in-country presence and the deployment of long-term EU civilian missions, to promote disability rights in partner countries, as well as to facilitate the transfer of EU disability norms.

The examination of multilateral cooperation in section 4 highlights its essential role in supporting EU disability norms transfer. Both constitutional provisions and policy framework underpin such cooperation and constitute an integral component of EU

[181] Commission, 'Union of Equality' (n35) 23.
[182] European Disability Forum, 'Alternative Report for the Second Review of the EU by the CRPD Committee' (EDF, 2022).

external relations in the human rights field. The partnership with the CoE exemplifies this dynamic.

This chapter has contributed to the broader inquiry into how the EU promotes disability rights in its external relations, thereby supporting the first research question. Furthermore, it laid the groundwork for investigating the EU's cooperation framework with EaP countries in Chapters V and VI.

Part Three
Transfer of EU Disability Norms in the Eastern Partnership Countries

Chapter V

Disability Rights in the Eastern Partnership: Country Overviews

1. Introduction

Part Three of this thesis investigates EU disability norms transfer in the Eastern Partnership (EaP) through a contextual analysis, considering the economic, political, and security situation of partner countries, as well as their varying levels of ambition towards the EU. To this end, Chapter V examines the cooperation framework between the EU and four EaP countries: the Republic of Moldova (Moldova), Georgia, the Republic of Armenia (Armenia), and the Republic of Azerbaijan (Azerbaijan). It assesses the extent to which disability rights are mainstreamed in the cooperation frameworks and identifies cases of EU disability norms transfer stimulated by the conditionality and socialisation mechanisms, thus, addressing the first and second research questions. For the purpose of this thesis, the conditionality mechanism is perceived as the EU's ability 'to attach specific demands to incentives',[1] while the socialisation mechanism aims to induce partner countries to adopt the EU norms[2] in a more non-coercive manner. Chapter VI, through the case study of Ukraine, zooms in to discuss in depth EU disability norms transfer, critically examining whether it advances the national legal framework promoting disability rights. In this way, this thesis opens up a new area of investigation, which has not yet been explored in the academic literature.

As discussed in Chapter II, all EaP countries operate in distinct geopolitical contexts and exhibit varying degrees of ambition in their engagement with the EU. Such a diverse portfolio of partners allows for a more comprehensive examination of the EU's cooperation framework with each country, including from the perspective of mainstreaming disability rights. By identifying and analysing selected cases of EU disability norms transfer in this chapter, the hypothesis of this thesis will be verified,

[1] Hrant Kostanyan (ed), 'Assessing European Neighbourhood Policy: Perspectives from the Literature' (CEPS, 2017) 8.

[2] Laure Declour and Eduard Soler i Lecha, 'European Neighbourhood Policy Mechanisms: Conditionality, Socialisation and Differentiation' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2020) 448.

and the roles of conditionality and socialisation mechanisms in EU disability norms transfer will be analysed.

The sequence of country overviews in sections 2, 3, and 4 follows a progression from the most advanced relations with the EU to the least advanced from a legal perspective. Through a structured approach, each section first investigates the main legislative milestones and political developments in the EU's cooperation with partner countries. It then traces the emergence and dynamics of the disability rights mainstreaming within the cooperation framework. Subsequently, each section identifies and investigates selected cases of EU disability norms transfer under both conditionality and socialisation mechanisms.

Given that the cooperation framework with Azerbaijan remains at an 'entry-level' stage, both legally and geopolitically, the rule-transfer has been minimal overall and largely absent in respect to disability rights. Hence, the country overview in section 5 provides a general analysis of the cooperation framework without investigating cases of EU disability norms transfer. A final section offers concluding remarks.

2. The Republic of Moldova: 'Best Student of the EaP Class'[3]

Alongside Ukraine, Moldova is widely regarded as a frontrunner in the European integration path.[4] Since gaining independence in 1991, the country has consistently pursued a course toward closer alignment with the EU.[5] Frequently labelled as 'key performer' in transferring the EU acquis, Moldova has sought to deepen political, security, economic, and cultural ties with the EU,[6] ultimately aiming for membership. To this end, this section examines the main developments in the EU's cooperation with Moldova, with a specific focus on disability rights, exemplifying cases of EU disability norms transfer.

[3] Cristina Morari, 'EU Role in the Republic of Moldova European Integration within Eastern Partnership' (2016) 8(3) CES Working Papers 410, 415.
[4] Ibid.
[5] Elena Korosteleva, 'Moldova's European Choice: "Between Two Stools"?' (2010) 62(8) Europe-Asia Studies 1267, 1268.
[6] Ryhor Nizhnikau, 'When Goliath Meets Goliath: How Russia and the EU Created a Vicious Circle of Instability in Moldova' in Andriy Tyushka and Tobias Schumacher (eds), *The European Union and it's Eastern Neighbourhood: Whither 'Eastern Partnership'?* (Routledge 2022) 149.

2.1. The Main Developments in the EU–Republic of Moldova Cooperation

Since the early 2000s, the EU's approach to Moldova has embedded an enhanced security focus, albeit with a relatively modest overall level of engagement.[7] Following the 'big bang' enlargement in 2004,[8] Moldova became a direct neighbour of the EU with the protracted territorial conflict in the Transnistria province.[9] Although the EU viewed Moldova as having 'little economic importance', it was nonetheless significant in terms of regional stability.[10] To this end, securing the EU's borders through the cooperation with this state became a strategic priority.

Even prior to joining the European Neighbourhood Policy (ENP) in 2004, Moldova became the only EaP country to join the Stability Pact for South Eastern Europe.[11] This multilateral initiative, which involved the EU, the Organization for Security and Co-operation in Europe (OSCE), the Council of Europe (CoE), the North Atlantic Treaty Organization (NATO), among other partners, aimed 'to foster peace, democracy, respect for human rights and economic prosperity in order to achieve stability' across the region.[12] In 2005, the EU deployed the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM), which remains operational as of 2025.

2.1.1. The Partnership and Cooperation Agreement and Sectoral Cooperation

From the legal standpoint, the contractual relationship between the EU and Moldova was formally established with the signing of the Partnership and Cooperation Agreement (PCA) in 1994,[13] which entered into force in 1998. Alongside the ENP Action Plan adopted in 2005, the PCA served as an instrument indirectly supporting

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[7] Giselle Bosse, 'The EU's Relations with Moldova: Governance, Partnership or Ignorance?' (2010) 62(8) Europe-Asia Studies 1291, 1296.
[8] Peter Van Elsuwege and Guillaume Van der Loo, 'Continuity and Change in the Legal Relations Between the EU and its Neighbours: A Result of Path Dependency and Spill-over Effects' in Dimitris Bouris and Tobias Schumacher (eds), *The Revised European Neighbourhood Policy: Continuity and Change in EU Foreign Policy* (Palgrave Macmillan 2017) 98.
[9] Nicu Popescu, 'The EU in Moldova – Settling Conflicts in the Neighbourhood' (The European Union Institute for Security Studies, 2005) 15.
[10] Kamil Całus and Marcin Kosienkowski, 'Relations Between Moldova and the European Union' in Paul Flenley and Michael Mannin (eds), *The European Union and its Eastern Neighbourhood: Europeanisation and its Twenty-first-century Contradictions* (Manchester University Press 2018) 101.
[11] Stability Pact for South Eastern Europe (1999) SN 18/4/99 REV 4.
[12] Ibid.
[13] Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part [1998] OJ L181/3

the conflict resolution process[14] through reforms and the advancement of human rights. It included a general 'best endeavour' clause, aspiring Moldova to make its legislation gradually 'compatible' with the EU acquis.[15] While the PCA implementation proved to be challenging overall, 'there were some clear accomplishments', in particular, in transferring the EU market-related acquis.[16]

However, as Khvorostiankina observed, Moldova's engagement in sectoral cooperation with the EU demonstrated more success in transferring the EU acquis than under the broader PCA framework.[17] Moldova ratified the Energy Community Treaty in 2009[18] and the Common Aviation Area Agreement (CAAA) in 2014.[19] These 'integration-type' agreements[20] oblige it to transfer a vast scope of the EU acquis related to the energy and aviation sectors. The CAAA also includes an obligation to transfer the EU acquis in areas such as the environment, consumer protection, competition, and social policy. Additionally, Moldova benefited from the EU's Generalised System of Preferences (GSP) since 1999, which was upgraded to the GSP+ in 2006, expanding the range of eligible products for tariff-free access.[21] In order to benefit from the GSP+ regime, it had to ratify and implement 27 conventions[22] on human and labour rights, environmental protection, and good governance. Further, in 2010, Moldova launched a dialogue on visa liberalisation under the Visa Liberalisation Action Plan (VLAP), which, upon completion in 2014, allowed Moldovan citizens to travel visa-free to the Schengen area.[23]

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[14] Nicu Popescu, 'The EU in Moldova' (n9) 29.
[15] Article 50(1) PCA with Moldova states that 'the Republic of Moldova shall endeavour to ensure that its legislation will be gradually made compatible with that of the Community'.
[16] Elena Korosteleva, 'Moldova's European Choice' (n5) 1272.
[17] Anna Khvorostiankina, 'Legislative Approximation and Application of EU Law in Moldova' in Peter van Elsuwege and Roman Petrov (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union: Towards a Common Regulatory Space?* (Routledge 2014) 163.
[18] Parliament of the Republic of Moldova, Law (Legea) 'On the Accession of the Republic of Moldova to the Treaty establishing the Energy Community' (23 December 2009) No 117-XIII.
[19] Parliament of the Republic of Moldova, Law (Legea) 'On the Accession of the Republic of Moldova to the Common Aviation Area Agreement] 02 July 2014 No 112.
[20] More on the 'integration-type' agreements see Chapter II.
[21] Mariâ Černobrovčuk, Joanna Konieczna and others, 'Prospects for EU – Moldova: Economic Relations' (Center for Social and Economic Research, 2006) 20.
[22] See the list of all conventions in Annex VIII to Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 [2012] OJ L 303/1.
[23] 'Commission Proposes Visa-free Regime to Moldova' (Commission Press Release, 27 November 2013).

By expanding the sectoral cooperation, Moldova demonstrated its consistent commitment to the European integration course. This is also evidenced through the national activity programme 'European Integration: Freedom, Democracy, Welfare'[24] for 2009–2013, which Moldova adopted to implement the PCA and the ENP Action Plan. This strategic document aimed to 'provide welfare in the Republic of Moldova, consolidate the state of law, and achieve European integration of the country'.[25] In addition to supporting various reform initiatives, it reaffirmed that EU integration is the fundamental priority in both domestic and foreign policies.

2.1.2. Current Developments

Moldova's membership aspirations, however, did not fully align with the EU's perception of the ENP, which it regarded as a 'substantial offer' for Moldova.[26] The membership incentive was not explicitly foreseen under the ENP or the EaP, or as Gstöhl argues, it was somewhat 'hidden'.[27] By acknowledging the 'European aspiration' of Moldova in the ENP Action Plan,[28] the EU left the door ajar, allowing it to hope for future membership.

Nonetheless, to better reflect Moldova's aspirations without introducing a formal membership perspective, the EU initiated negotiations for a deeper cooperation format in 2008.[29] These culminated in the signing of the Association Agreement with Deep and Comprehensive Free Trade Area (AA/DCFTA) in 2014.[30] On 1 July 2016, the AA/DCFTA entered into force. The ENP Action Plan was replaced by the Association

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<https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_13_1170/IP_13_1170_EN.pdf> accessed 28 September 2025.

[24] Ministry of Finance of Republic of Moldova, 'Activity Programme of the Government of the Republic of Moldova 'European Integration: Freedom, Democracy, Prosperity 2009–2013' (2009) <https://old.mf.gov.md/en/node/7581> accessed 26 September 2025.

[25] Ibid 2.

[26] Bosse, 'The EU's Relations with Moldova'(n7) 1299.

[27] Sieglinde Gstöhl, 'The Social Dimension of EU Neighbourhood Policies' in Jan Orbie and Sieglinde Gstöhl (eds), *The European Union and the Social Dimension of Globalization: How the EU Influences the World* (Routledge 2009) 68.

[28] Ibid 69.

[29] 'Implementation of the Association Agreement' (MFA Moldova) <https://mfa.gov.md/en/content/implementation-association-agreement> accessed 28 September 2025.

[30] Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, Official Journal of the European Union [2014] OJ L 260/4.

Agenda 2017–2019[31] and later by the Association Agenda 2021–2027,[32] reinforcing reforms in Moldova and contributing to the advancement of human rights.

On 3 March 2022, following Russia's war of aggression against Ukraine, Moldova submitted its application for membership in the EU, alongside Ukraine. Shortly after, on 23 June 2022, the European Council made a historic decision[33] for both countries, granting them candidate status. This expedited decision was not only an expression of solidarity and support to Moldova, as it experienced increasing spillover effects of the war in Ukraine, but also a result of the EU's reassessment of the security dimension under the EaP, as discussed in Chapter II. In December 2023, the European Council decided to open accession negotiations with Moldova, which formally commenced in June 2024[34] during the Intergovernmental Conference. Ahead of the conference, the EU presented the Negotiation Framework[35] for Moldova, thereby opening a new chapter in its cooperation with Moldova.

2.2. Disability Rights in the EU–Republic of Moldova Cooperation Framework

The EaP Index, a monitoring tool of the EaP Civil Society Forum (EaP CSF) that charts the level of approximation of EaP countries with EU norms,[36] ranked Moldova as having the highest approximation score among all EaP countries in 2025.[37] Moldova is actively pursuing reforms in the area of social policy, with a particular focus on strengthening the legal framework for the protection of disability rights during the accession negotiations.[38] However, disability had already begun to gain visibility within the EU–Moldova cooperation before the country's formal recognition

[31] Recommendation No 1/2017 of the EU–Republic of Moldova Association Council of 4 August 2017 on the EU–Republic of Moldova Association Agenda [2017] OJ L 215/13.
[32] Recommendation No 1/2022 of the EU–Republic of Moldova Association Council of 22 August 2022 on the EU–Republic of Moldova Association Agenda [2022] OJ L 273/103.
[33] European Council, 'European Council meeting (23 and 24 June 2022) – Conclusions' (2022) EUCO 24/22.
[34] Council, 'General EU Position: Ministerial Meeting Opening the Intergovernmental Conference on the Accession of the Republic of Moldova to the European Union' (2024) AD 11/24 CONF-MD 2.
[35] Ibid 8-30.
[36] More on the EaP Index, see Chapter II.
[37] Eastern Partnership Civil Society Forum, 'Eastern Partnership Index 2025: Charting Performance in the Eastern Partnership: Democracy and Good Governance, Policy Convergence and Sustainable Development' (2025) 31.
[38] See 'National Programme for the Accession of the Republic of Moldova to the European Union for 2025–2029 Cluster 1: Fundamental Values' (2025) <https://old.gov.md/sites/default/files/cluster_1_partea_narativa_din_28.05.2025.pdf> accessed 27 July 2025 (in Moldovan).

as an EU candidate. This section provides an overview of the gradual emergence of disability rights in the broader EU–Moldova cooperation agenda under the EaP.

2.2.1. Disability Rights in the Partnership and Cooperation Agreement

Human rights were not initially considered as an essential area for 'legal approximation' under the PCA.[39] Through the standard human rights clause,[40] both parties committed to upholding broadly human rights in their internal and external policies across all areas of cooperation. In doing so, the EU appears to have sought to integrate human rights principles and values into the cooperation framework. The ENP Action Plan did not identify disability rights as a specific area of cooperation, limiting itself to the general commitments to advance human rights and social policy reforms within the cooperation framework.

Despite this, the national activity programme 'European Integration: Freedom, Democracy, Welfare' for 2009–2013, developed to support implementation of the PCA and the ENP Action Plan, included a set of objectives and tasks aimed at advancing disability rights. These objectives included promoting inclusive education, developing a network of individualised home care services, and reforming the disability assessment system, among others.[41]

Albeit not systematically, the EU referenced disability in the ENP progress reports under the broader category of 'human rights and fundamental freedoms'. The lack of Moldova's ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol[42] was initially a primary concern for the EU, as the joint commitment to implement the treaty would acknowledge adherence

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[39] Article 50(3) PCA with Moldova included an exhaustive list of areas the approximation of laws shall extend to, in particular: customs law, company law, banking law, company accounts and taxes, intellectual property, protection of workers at the workplace, financial services, rules on competition, public procurement, protection of health and life of humans, animals and plants, the environment, consumer protection, indirect taxation, technical rules and standards, nuclear laws and regulations, transport.

[40] Article 2 PCA with Moldova states that 'respect for democracy, principles of international law, and human rights as defined in particular in the Helsinki Final Act and the Charter of Paris for a new Europe, as well as the principles of market economy, including those enunciated in the documents of the CSCE Bonn Conference, underpin the internal and external policies of the Parties and constitute an essential element of partnership and of this Agreement'.

[41] Ministry of Finance of Republic of Moldova, 'Activity Programme of the Government of the Republic of Moldova 'European Integration: Freedom, Democracy, Prosperity 2009–2013' (2009) <https://old.mf.gov.md/en/node/7581> accessed 26 September 2025.

[42] Commission, 'Implementation of the European Neighbourhood Policy in 2009: Progress Report of Moldova' SEC(2010) 523 final 5.

to shared values and standards. Additionally, the ENP progress reports expressed concern over continuing discriminatory practices and the social stigmatisation of persons with disabilities,[43] continued pressure towards institutionalisation,[44] and the lack of financial resources to implement the programme of the rehabilitation and social integration of persons with disabilities.[45] Another fundamental discrepancy between the EU's and Moldova's approaches to disability (as in other EaP countries) was the regulatory system for disability assessment. Through its progress reports, the Commission monitored and endorsed Moldova's efforts to introduce and implement the World Health Organization (WHO) International Classification of Functioning, Disability and Health (ICF).[46] Although there is limited evidence of EU disability norms transfer under the PCA framework, the EU marked some instances of convergence 'towards EU standards in the area of employment and social policy'.[47]

2.2.2. Disability Rights in the AA/DCFTA

With the conclusion of the AA/DCFTA in 2014, disability rights gained new momentum in the EU–Moldova cooperation. Firstly, disability as an area for cooperation was explicitly integrated in the AA/DCFTA by virtue of Article 32(d):

> 'Cooperation, based on exchange of information and best practices, may cover a selected number of issues to be identified among the following areas:
>
> […]
>
> d) fostering more inclusive labour markets and social safety systems that integrate disadvantaged people, including people with disabilities and people from minority groups
>
> […]'.

In this way, the parties committed to advancing cooperation on disability in the area of employment and social protection. Such cooperation is typically expressed, but not

[43] Ibid 6.
[44] Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Implementation of the European Neighbourhood Policy in 2010 Country Report: Republic of Moldova' SEC(2011) 643 final 7.
[45] Commission, 'Implementation of the European Neighbourhood Policy in 2007: Progress Report Moldova 2007' SEC(2008) 399 final.
[46] Ibid.
[47] '2010 Country Report: Republic of Moldova' (n44).

limited to, technical assistance programs that support the exchange of information and best practices.

Secondly, Moldova undertook the obligation to transfer a wide range of the EU acquis, which also mainstreams disability rights, into national legislation. The disability-related EU acquis under the AA/DCFTA spans various areas, including employment,[48] transport,[49] public procurement,[50] audiovisual media services,[51] and others.

Thirdly, the Association Agenda 2017–2019,[52] adopted to implement the AA/DCFTA, integrated disability as a medium-term priority under the umbrella priority 'Ensuring respect for human rights and fundamental freedoms'. In particular, it set the following priorities: enhancing the implementation of the legislation on accessibility of public buildings, transport, and information for persons with disabilities; ensuring the effective implementation of the CRPD ratified by Moldova in 2010, including Articles 12 on equal recognition before the law and Article 14 on liberty and security of person; signing the Optional Protocol to the CRPD; continuing the deinstitutionalisation of children. In a similar vein, the new Association Agenda for 2021–2027[53] uses a rights-based approach to disability when defining the targets to be implemented. Under the 'Human rights and fundamental freedoms' and 'Rights of the child' priorities, it tasks Moldova with enhancing legislation on accessibility, ratifying the Optional Protocol to the CRPD, conducting the deinstitutionalisation of children, and advancing inclusive education.

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[48] Obligation to transfer the Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation contains in Annex II to Chapter 4 Employment, Social policy and Equal opportunities Title IV Anti-discrimination and gender equality to the AA/DCFTA with Moldova.

[49] Obligation to transfer Regulation (EC) No 1371/2007 of 23 October 2007 on rail passengers' rights and obligations contains in Annex IX to Chapter 15 Transport Title IV to the AA/DCFTA with Moldova.

[50] Obligations to transfer Council Directive 2004/18/EC of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts and Council Directive 2004/17/EC of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors contain in Articles 268 and 273 AA/DCFTA with Moldova.

[51] Obligation to transfer Council Directive 2007/65/EC of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities contains in Annex XIV to Chapter 25 Cooperation on Culture, Audiovisual Policy and Media of Title IV to the AA/DCFTA with Moldova.

[52] Recommendation No 1/2017 of the EU–Republic of Moldova Association Council of 4 August 2017 on the EU–Republic of Moldova Association Agenda [2017] OJ L 215/13.

[53] Recommendation No 1/2022 (n32).

To implement the AA/DCFTA, disability rights were mainstreamed in the National Action Plan for the Implementation of the RM–EU Association Agreement for 2014–2016[54] and later in the National Action Plan for the Implementation of the RM–EU Association Agreement for 2017–2019.[55] Moldova aimed to recognise the legal capacity of persons with disabilities and develop supported decision-making in line with Article 12 CRPD, conduct deinstitutionalisation,[56] promote an inclusive labour market,[57] and improve social services for professional parental assistance in case of disability of a child.[58]

In this connection, disability has appeared in the Commission's progress reports more systematically, highlighting concerns regarding the institutionalisation of persons with intellectual disabilities,[59] the need to finalise the deinstitutionalisation of children[60] and promote inclusive education.[61] Also, it acknowledged the progress made by Moldova in adopting legislation recognising the legal capacity of persons with disabilities, and, thereby, bringing the national legislation in line with the CRPD.[62]

On its side, Moldova included disability matters in its annual reports on the AA/DCFTA implementation, highlighting the progress made in regulating the legal capacity of persons with disabilities in line with Article 12 CRPD, setting indicators for monitoring the implementation of the CRPD,[63] achievements in adoption and implementation of the National Programme for Social Inclusion of Persons with

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[54] 'National Action Plan for the Implementation of the RM–EU Association Agreement 2014–2016' (2014) <https://dcfta.md/uploads/0/images/large/title-vi-financial-assistance.pdf> accessed 28 September 2025.
[55] 'National Action Plan for the Implementation of the Association Agreement between the Republic of Moldova and the European Union for the Period 2017–2019' (2016) 32 <https://mf.gov.md/sites/default/files/documente%20relevante/pnaaa_2017-2019.pdf> accessed 28 September 2025 (in Moldovan).
[56] 'National Action Plan 2014–2016' (n54).
[57] 'National Action Plan 2017–2019' (n55) 32.
[58] Ibid 138.
[59] Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Implementation of the European Neighbourhood Policy in the Republic of Moldova Progress in 2014 and Recommendations for Actions' SWD2015/69 final 8.
[60] Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Association Implementation Report on Moldova' SWD(2018) 94 final; Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Association Implementation Report on Moldova' SWD(2019) 325 final.
[61] 'Association Implementation Report on Moldova 2019' (n60).
[62] 'Association Implementation Report on Moldova 2018' (n60).
[63] 'Annex: Level of Implementation of Actions Provided in the National Action Plan of the Association Agreement' for a period 2014–2016' <https://mfa.gov.md/sites/default/files/anexe-impact-raport-implementare-aa-2014-2016.pdf > accessed 28 September 2025 (in Moldovan).

Disabilities for 2017–2022 and the National Programme for Deinstitutionalisation of Persons with Intellectual and Psychosocial Disabilities in Residential institutions 2018–2026 (National Programme on Deinstitutionalisation).[64]

Therefore, the AA/DCFTA, with its complex character and far-reaching objectives, assigned a more prominent role to disability rights in the EU–Moldova cooperation framework, which, in turn, spurred various reforms in the area and eventually facilitated the transfer of EU disability norms, as will be discussed in subsection 2.3.

2.2.3. Disability Rights and Accession Negotiations

On 23 June 2022, the European Council recognised Moldova's European perspective and granted a candidate status, contingent upon the implementation of nine recommendations provided in the Opinion on the Republic of Moldova's application for membership of the European Union (the Opinion)[65] being taken. The Commission's analytical report[66] and the Opinion provided a comprehensive assessment of Moldova's preparedness for integration into the EU. In evaluating Moldova's alignment with the EU acquis, the Commission also raised concerns regarding disability rights. Notably, Moldova was found to be at an *early stage of preparation* in the field of social policy and employment, and to have achieved *some level of preparation* in the area of education and culture.[67] Within the education sector, the accessibility and inclusiveness of education have been marked as a concern in the country. The Commission also highlighted that 'the number of babies and children in the institutional care facilities is a concern' for the EU and pointed out that Moldova has yet to ratify the Optional Protocol to the CRPD.

In November 2023, the Commission published a report[68] assessing Moldova's progress in implementing the nine steps identified in the Opinion. Although it characterised overall progress on disability rights as *limited*, the EU acknowledged

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[64] 'Report on the Implementation of the National Action Plan for the implementation of the Association Agreement RM – EU in 2017–2019' (2020) <https://mfa.gov.md/sites/default/files/raport_pna_aa_2017-2019_final_pentru_publicare_website.pdf accessed> 28 September 2025 (in Moldovan).
[65] Commission, 'Opinion on the Republic of Moldova's application for membership of the European Union' COM(2022) 406 final.
[66] Commission, 'Analytical Report following the Commission Opinion on the Republic of Moldova's Application for Membership of the European Union' SWD(2023) 32 final.
[67] Commission uses the following assessment scales to describe the present state of affairs: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced.
[68] Commission, 'Republic of Moldova 2023 Report' SWD(2023) 698 final.

several positive developments. In particular, the Law on Social Inclusion of Persons with Disabilities, adopted in 2012, was recognised as aligning with the CRPD. Further, 'significant progress' has been achieved in advancing inclusive education, as evidenced by the increased integration of students with 'special educational needs and disabilities' into general mainstream education institutions. Nonetheless, 'children with more complex needs', eg children with intellectual disabilities, remain segregated. The progress in the deinstitutionalisation of children has also been noted. Also, the Commission endorsed Moldova's adoption of the National Programme on Deinstitutionalisation,[69] aiming to deinstitutionalise 50% of persons with intellectual and psychosocial disabilities by 2026.

The European Council's decision in December 2023 to open accession negotiations with Moldova was certainly not driven by considerations of the state's protection of disability rights. Nonetheless, the visibility of disability rights in the cooperation framework reflects their increasing significance for both parties. Over the past three decades of the cooperation with the EU, Moldova has demonstrated slow but steady progress in the disability area and a willingness to deepen this cooperation. This commitment is already reflected in the National Action Plan for the Accession of the Republic of Moldova to the European Union 2024–2027,[70] which includes objectives such as improving accessibility of the facilities under the judicial system,[71] improving the infrastructure for asylum seekers with disabilities,[72] adopting the National Programme for the Social Inclusion of Persons with Disabilities 2024–2028,[73] advancing deinsitutionalisation and developing 'alternative family-type care' social services,[74] among other tasks.

[69] Government of the Republic of Moldova, Decree (Hotărârea) 'On the approval of the National Programme for the Deinstitutionalization of People with Intellectual and Psychosocial Disabilities from Residential Institutions Managed by the National Social Assistance Agency for the Years 2018–2026 and the Action Plan for its Implementation' (12 September 2018) No 893.
[70] Government of the Republic of Moldova, Decree (Hotărârea) 'On the Approval of the National Action Plan for the Accession of the Republic of Moldova to the European Union for 2024–2027' (27 October 2023) No 829.
[71] Ibid 50.
[72] Ibid 48.
[73] Ibid 32.
[74] Ibid 32.

2.3. Cases of EU Disability Norms Transfer

As discussed in Chapter II, the conditionality mechanism is the main EU mode of governance in the EaP, which, as research in other fields has shown,[75] often stimulates the reach of EU law in the legal orders of partner countries, with socialisation mechanisms usually supporting this process. These two mechanisms represent the main drivers of reforms in partner countries. To this end, this section aims to identify cases of the EU's disability norms transfer channelled through conditionality and socialisation.

2.3.1. Conditionality Mechanisms

According to Groza, the visa-free travel regime, following the VLAP implementation, is the EaP outcome 'that worked best for Moldova'.[76] Additionally, the extensive budget support, offered as an incentive for the successful implementation of the VLAP, bolstered the launch of reforms in the country. In this way, the conditionality mechanism under the VLAP, with appealing incentives attached, was able to stimulate the transfer of the EU acquis, including the disability-related acquis. More than 40 laws have been adopted across various areas to advance VLAP benchmarks.[77] In the human rights area, Moldova had to adopt a comprehensive non-discrimination legislation under the VLAP Block 4: External Relations and Fundamental Rights.[78] To this end, a 'package of legislative acts'[79] had been adopted to meet the EU's requirements, making Moldova the first EaP country to adopt a comprehensive non-discrimination law.[80] Among the laws adopted were those essential to disability rights, such as the Law on Ensuring Equality from 2012[81] and the Law on Social Inclusion of

[75] See Oana Mocanu, 'Brief Overview on the Conditionality in the European Neighbourhood Policy' (2010) 10(4) Romanian Journal of European Affairs 42; Kataryna Wolczuk, 'Implementation without Coordination: The Impact of EU Conditionality on Ukraine under the European Neighbourhood Policy' (2009) 61(2) Europe-Asia Studies 187.
[76] Iulian Groza, 'Moldova: Renewed Hope after a String of Setbacks' (153 EUISS Chaillot Paper, 2019) 42.
[77] Khvorostiankina, 'Legislative Approximation'(n17) 170.
[78] Commission, 'Fifth Report on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation' COM(2013) 807 final.
[79] Commission, 'Fourth Report on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation' COM(2013) 459 final.
[80] Esther Ademmer and Laure Delcour, 'With a Little Help from Russia? The European Union and Visa Liberalization with Post-Soviet States' (2016) 57(1) Eurasian Geography and Economics 89, 105.
[81] Parliament of the Republic of Moldova, Law (Lege) 'On Ensuring Equality' (25 May 2012) No 121.

People with Disabilities from 2012,[82] as well as amendments to the Criminal Code of Moldova. As described by the Commission, these legal acts constitute 'the cornerstone of the anti-discrimination framework in the Republic of Moldova'.[83] The Law on Social Inclusion of People with Disabilities, in particular, introduced into Moldovan legislation new concepts such as 'reasonable accommodation', 'universal design', and 'accessibility', which align with the CRPD.[84] In a similar vein, the Law on Ensuring Equality introduced provisions protecting disability rights. Article 1 Law on Ensuring Equality prohibits discrimination based on disability, among other grounds. On the recommendation of the Commission,[85] the law also included the concept of reasonable accommodation in Article 2, though only by providing its definition. The Preamble to the Law on Ensuring Equality ambitiously indicates that this legislative act was adopted to create the necessary framework for the application of Council Directive 2000/43/EC implementing the principle of equal treatment between persons, regardless of race or ethnic origin[86] and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (Employment Equality Directive).[87] Even though Moldova did introduce new provisions protecting disability rights into national legislation, there is still a long way to go to fully align them with the Employment Equality Directive, as not all provisions on disability rights were transposed.

Another distinctive case of EU disability norms transfer is the adoption of the Code On Audiovisual Media Services[88] (Code), which in line with the obligation under the AA/DCFTA,[89] transposed Council Directive 2010/13/EU concerning the provision of audiovisual media services (AVMSD 2010), as amended by Council Directive (EU)

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[82] Parliament of the Republic of Moldova, Law (Lege) 'On Social Inclusion of People with Disabilities' (30 March 2012) No 60.
[83] Commission, 'Fourth Report'(n79).
[84] UN CRPD Committee, 'Combined Second and Third Periodic Reports Submitted by the Republic of Moldova under article 35 of the Convention Pursuant to the Optional Reporting Procedure, due in 2020' (2023) CRPD/C/MDA/2-3 5.
[85] Commission, 'Second Progress Report on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation' SWD(2012) 12 final.
[86] Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJ L 180/22
[87] Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation [2000] OJ L 303/16.
[88] Parliament of the Republic of Moldova, Code (Cod) 'Code on Audiovisual Media Services' (08 November 2018) No 174.
[89] Annex XIV to Chapter 25 Cooperation on Culture, Audiovisual Policy and Media, Title IV to the AA/DCFTA with Moldova.

2018/1808 concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities (AVMSD 2018). Disability rights were addressed in Article 16 Code, recognising the right to access audiovisual content and establishing certain accessibility requirements for providers of television services regarding sign language. An obligation to make emergency information accessible through sign language or by 'synchronous titration' is anchored in Article 22(3).[90] Article 11(2)(a) Code prohibits programmes that are 'likely to propagate, incite, promote or justify' hatred based on disability, among other categories. However, the Code does not establish an obligation to ensure 'without undue delay' that audiovisual media services are made 'continuously and progressively more accessible', nor does it envisage an establishment of an online point of contact for providing information or receiving complaints on accessibility alongside an obligation to develop accessibility action plans and a reporting procedure to the National Regulatory Council Authority. Hence, only certain EU disability norms of the AVMSD 2018 were transferred into the Moldovan legislation.

The transfer of EU disability norms through a sectoral agreement, the CAAA, stands out as an interesting case, as it does not embed a conditionality mechanism, ie appealing incentives. By ratifying the CAAA in 2012,[91] Moldova assumed an obligation 'to apply' Articles 1 to 17 and Annexes I and II to Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (Regulation 1107/2006).[92] Notably, although this agreement uses the term 'apply', it does not envisage the direct application of the EU acquis in Moldova. As expounded in Opinion 1/00, a partner country is obliged to adopt the rules 'identical in substance to EU law',[93] which implies transferring EU acquis into the national legal order by means of adopting its own legislation.

[90] Deirdre Kevin, 'Legal Analysis: Assessment of Moldovan Audiovisual Legislation in Relation to the Audiovisual Media Services Directive, European Media Freedom Act, Digital Services Act, and Other Relevant International Standards' (Freedom House, 2024) 11.
[91] Common Aviation Area Agreement between the European Union and its Member States and the Republic of Moldova [2012] L 292/1.
[92] Annex III to the CAAA with Moldova.
[93] Cécile Rapoport, 'Autonomy of the EU Legal Order and International Agreements Extending the Acquis: Opinion 1/00 (European Common Aviation Area)' in Graham Butler and Ramses A Wessel (eds), *EU External Relations Law: The Cases in Context* (Hart 2022) 429.

In 2022, Moldova transposed Regulation 1107/2006 through a soft law instrument, the National Air Transport Facilitation Program.[94] As this achievement was indicated in Moldova's response to the questionnaire prepared for the Commission[95] to evaluate the membership application, it is assumed that, particularly, the membership perspective stimulated the norm transfer.

With respect to the alignment of the National Air Transport Facilitation Programme with Regulation 1107/2006, section 7 is devoted specifically to facilitating transportation for persons with disabilities and largely aligns with the regulation. Unusually for a soft law instrument, Article 430 of Section 7 incorporates a clause on liability for violations of the provisions in Section 7. In particular, it provides that violations that do not constitute a criminal offence shall be sanctioned by the Civil Aeronautical Authority or the Council for the Prevention and Elimination of Discrimination and Ensuring Equality. Therefore, although it was adopted through a soft law instrument, it still envisages some enforcement mechanisms.

This subsection demonstrates that conditionality mechanisms underpinned by appealing incentives – whether market access, sectoral cooperation, or membership – did stimulate the transfer of EU disability norms mainstreamed in the EU disability-related acquis into Moldovan national legislation.

2.3.2. Socialisation Mechanisms

The screening of socialisation mechanisms offered to Moldova, such as technical assistance programmes, the EU's support of civil society, and multilateral cooperation, indicates that support of civil society features as the most instrumental socialisation tool in supporting disability rights in Moldova. The EU remains one of the largest providers of financial and technical assistance to Moldova.[96] Also, with respect to disability rights, it appears to be the largest donor supporting 'innovative approaches

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[94] Government of the Republic of Moldova, Decree (Hotărâre) 'On the Approval of the National Air Transport Facilitation Programme' (09 March 2022) No 147.

[95] 'Questionnaire: Information requested by the European Commission to the Government of the Republic of Moldova for the preparation of the Opinion on the application of the Republic of Moldova for membership of the European Union Part I' (2022) <https://gov.md/sites/default/files/media/documents/2025-03/chestionar_p.1-final-ue.pd> accessed 28 September 2025.

[96] Diana Nicoleta Petruț, 'Moldova's Accession to the European Union: Opportunities and Challenges' in Valentin Naumescu, Raluca Moldovan and Anamaria Florina Caloianu (eds), *Perspectives of the EU's Eastern Neighbourhood* (Presa Universitară Clujeană 2023) 308.

for social inclusion of persons with disabilities in Moldova'.[97] This support is channelled either directly to the public authorities or to civil society organisations. The civil society can be described as quite vibrant and actively involved in influencing government decisions and new laws 'in line with the EU directives'.[98] The Moldovan government itself views the value of civil society organisations in supporting European integration by monitoring the implementation of the AA/DCFTA.[99]

With respect to disability, civil society in Moldova tends to engage in areas less addressed by the government. To this end, it aims to collaborate with local authorities in areas of local development, women, and social services,[100] which are often overlooked by the state. For instance, to advance deinstitutionalisation, a network of civil society organisations established a partnership with the public authorities to support the implementation of the National Programme on Deinstitutionalisation.[101] These projects were financed by the EU alongside Soros Foundation Moldova, the WHO, and other donors. Similarly, public authorities benefited indirectly from the EU's support through EU-funded projects implemented by Keystone Moldova,[102] an organisation that advances the rights of persons with disabilities. Keystone Moldova has piloted inclusive education in 22 schools and 15 kindergartens in 15 districts.[103] Further, this organisation, with the EU's support, helped develop the social protection system on both banks of the Nistru River and in the Autonomous Territorial Unit (ATU) Gagauzia between 2016 and 2019.[104] In addition to providing social support services, civil society organisations, with the EU's support in 2018–2022, contributed to fair and inclusive elections in Moldova, including advocating for amendments to

[97] Rapoport, 'Autonomy of the EU Legal Order' (n93) 429.
[98] Zoltan Zakota and Ioana Albu, 'The Evolution of Civil Society in the Post-Communist Republic of Moldova' (2025) 22(1) Civil Szemle 5, 18.
[99]Government of Republic of Moldova, Decree (Hotărâre) 'On the Approval of the Civil Society Organisations Development Programme for a Period 2024–2027' (01 November 2023) No 845.
[100] Luminița Șoproni and Laurențiu Petrila, 'Contributions of Civil Society in the Process of Socio-Economic Inclusion in the Republic of Moldova' (2025) 22(1) Civil Szemle 195, 206.
[101] UN CRPD Committee, 'Combined Second and Third Periodic Reports Submitted by the Republic of Moldova under article 35 of the Convention Pursuant to the Optional Reporting Procedure, due in 2020' (2023) CRPD/C/MDA/2-3 24.
[102] More on the work of the Keystone Moldova, see its website <https://www.keystonemoldova.md/en/> accessed 28 September 2025.
[103] UN CRPD Committee, 'Combined Second and Third Periodic Reports' (n101) 11.
[104] Project 'Social Services for Persons with Disabilities to Increase the Confidence between the both Banks of the Nistru River' (2018–2020) <https://eu4moldova.eu/en/projects/eu-project-page/?id=632> accessed 30 September 2025.

the electoral law in line with the recommendations of the EU and the OSCE.[105] Civil society organisations also worked on capacity building of the civil society organisations to monitor the CRPD implementation in the psychiatric residential institutions and combat discrimination in these facilities.[106] As indicated in Chapter IV, facilitating the implementation of the CRPD in partner countries by the EU, which itself adheres to it, is a facet of the global reach of EU law.

Regarding multilateral cooperation, the CoE assisted Moldova in drafting and adopting[107] the Code[108] under the EU–CoE Joint Programme 'Promoting Media Freedom and Pluralism in the Republic of Moldova' 2016–2019.[109] This initiative is built upon the achievements of the completed Joint Programmes EU–CoE 'Democracy Support Project' and the Regional EU–CoE Joint Programme 'Promoting Freedom, Professionalism and Pluralism of Media in the South Caucasus and Moldova',[110] which evidences a sustainable, long-term engagement of the CoE in the area of freedom of media in Moldova. The role of the CoE in transferring EU disability norms during the drafting of the Code in 2018 is challenging to establish due to limited open data availability. However, the most recent Opinion of the Commission for Democracy through Law of the Council of Europe (Venice Commission) on the Draft Law on Media[111] issued in May 2025 addresses disability matters in their complexity. In particular, the Venice Commission recommended to amend Article 16 Code by including the obligation for media service providers 'to meet accessibility requirements through a progressive and continuous process', and the obligation for the

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[105] Project 'Civil Society Advocacy for Inclusive and Fair Elections in Moldova compliant with EU and OSCE/ODIHR recommendations and Human Rights Commitments (2018–2020)' < https://eu4moldova.eu/en/projects/eu-project-page/?id=632> accessed 30 September 2025.

[106] Project 'Advancing and Monitoring the Rights of People with Mental Disabilities in Neuro-Psychiatric Residential Institutions (2016–2019) <https://eu4moldova.eu/en/projects/eu-project-page/?id=548> accessed 30 September 2025.

[107] Project 'New Audiovisual Legislation Elaborated with Support of the Council of Europe, Adopted by Moldovan Parliament' (CoE, 18 October 2018) <https://www.coe.int/en/web/freedom-expression/-/new-audiovisual-legislation-elaborated-with-support-of-the-council-of-europe-adopted-by-moldovan-parliament> accessed 28 September 2025.

[108] Parliament of the Republic of Moldova, Code (Cod) 'Code on Audiovisual Media Services' (8 November 2018) No 174.

[109] 'Promoting Media Freedom and Pluralism in the Republic of Moldova' (CoE) <https://www.coe.int/en/web/freedom-expression/promoting-media-freedom-and-pluralism-in-the-republic-of-moldova> accessed 30 September 2025.

[110] Ibid.

[111] Venice Commission, 'Opinion on the Draft Law on Media: Draft Law Amending the Code Nr. CSMA174/2018 Audiovisual Media Services Code (Consolidated Version) Draft Law Amending Law Nr. 62 on Advertisement (Consolidated Version)' (May 2025) CDL-REF(2025)024.

Audiovisual Council to 'set up a contact point for the provision of information and the reception of complaints regarding the accessibility of audiovisual media services'.[112] This demonstrates that disability matters are on the CoE agenda when assisting the EU in transferring the EU acquis.

With respect to technical assistance programmes, the analysis demonstrates that, before the opening of accession negotiations, the Moldovan government had been using this socialisation tool to a limited extent in disability domain. In 2015, under the SOCIEUX+ programme, the Ministry of Labour, Social Protection, and Family of Moldova requested the EU's support to build capacity for vocational rehabilitation of persons with disabilities.[113]

In sum, the EU's civil society support in Moldova features prominently in the EU–Moldova cooperation framework. Civil society organisations actively engage in the areas indicated in the AA/DCFTA and the Association Agendas, such as deinstitutionalisation, inclusive education, and the advancement of social services. While there is limited evidence that the socialisation mechanisms discussed in this subsection stimulated the transfer of EU disability norms, they did play an important supportive role in this process.

3. Georgia: A Receding Partner

Since gaining independence in 1991 and until recently, Georgia had consistently pursued a path of deepening its cooperation with the EU, ultimately making European integration the primary foreign policy objective of the country.[114] This section analyses the dynamics of the EU's relations with Georgia and how disability is integrated into their cooperation framework, which, in turn, supports the investigation of cases of EU disability norms transfer.

3.1. The Main Developments in the EU–Georgia Cooperation Framework

Despite being invited to join the ENP as part of the South Caucasus regional group, along with Armenia and Azerbaijan in 2004, Georgia's clear membership aspirations

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[112] Ibid 32.
[113] See SOCIEUX+ actions in Moldova here: <https://socieux.eu/countries/?idCat=41> accessed 28 September 2025.
[114] Gaga Gabrichidze, 'Legislative Approximation and Application of EU Law in Georgia' in Peter Van Elsuwege and Roman Petrov (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union: Towards a Common Regulatory Space?* (Routledge 2014) 183.

and ‘pro-European’ orientation enabled it to keep pace with Ukraine and Moldova in their ambitions to join the EU. Eventually, it culminated in the formation of the trilateral cooperation between the countries titled the ‘Association Trio’.[115]

Like in Moldova, Georgia’s territorial integrity has been challenged by the conflicts in South Ossetia in 1991–1992 and Abkhazia in 1992–1993. However, in Georgia’s case, the EU initially adopted a more restrained security position than in Moldova and did not contribute to its political solution.[116] The EU does not have territorial continuity with Georgia. Moreover, Georgia’s lack of an ‘interdependent energy policy and security levers, the productivity’ and weak competitiveness of its market[117] has tempered the EU’s ambitions towards Georgia.

In 2004, the EU deployed the EU civilian mission titled ‘The Rule of Law Mission EUJUST Themis’ following the ‘Rose Revolution’ in 2003,[118] a non-violent protest movement over falsified parliamentary elections. Nonetheless, due to the limited recognition of the mission on Georgia’s side and the lack of domestic consensus on how to design and implement the criminal justice reform,[119] its mandate was terminated in 2005.[120]

The legal cooperation framework, as for all EaP countries, was initially established through the PCA, signed by Georgia in 1996 and which entered into force in 1999.[121] The PCA established cooperation in areas such as political dialogue, investment, trade, economic, legislative, and cultural cooperation. To fulfil the ‘best endeavour’ clause, Georgia initiated the approximation process of national legislation with the EU acquis, supported by the Resolution ‘On the Harmonization of Georgian Legislation with that

[115] Memorandum of Understanding between the Ministries of Foreign Affairs of Georgia, the Republic of Moldova and Ukraine ‘On Establishing Enhanced Cooperation on European Integration – the “Association Trio” (2021).
[116] Nino Kereselidze, ‘The Engagement Policies of the European Union, Georgia and Russia Towards Abkhazia’ (2015) 3(3) Caucasus Survey 309, 309.
[117] Ekaterine Kardava and Guranda Chelidze, ‘Features of EU Enlargement Policy: A Vision from Georgia’ (2024) 14(1) TalTech Journal of European Studies 141, 148.
[118] See Alexander Khodunov, ‘The Rose Revolution in Georgia’ in Jack A Goldstone, Leonid Grinin and Andrey Korotayev (eds), *Handbook of Revolutions in the 21st Century* (Springer 2022).
[119] Damien Helly, ‘EUJUST Themis in Georgia: An Ambitious Bet on Rule of Law’ (European Union Institute for Security Studies, 2006) 97.
[120] Kereselidze, ‘The Engagement Policies of the European Union’ (116) 312.
[121] Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia, of the other part [1999] OJ L 205/3.

of the EU',[122] adopted in 1997. Particularly, the document ambitiously stated that 'all the laws and other normative acts adopted by the Parliament of Georgia starting from 1 September 1998, should be compatible with the standards and norms of the EU'. Another legislative attempt to facilitate the approximation of Georgian legislation was undertaken in 2001, with the approval of the Strategy of Harmonization of Georgian Legislation with that of the European Union.[123] The document set legislative approximation priorities and established the Commission for Georgia's integration into the EU, which, in turn, developed the National Programme of Harmonization of Georgian Legislation with that of the European Union.[124] Unfortunately, all these legislative efforts had a limited practical impact, apart from demonstrating Georgia's commitment and preparedness to engage in the legal approximation process with the EU acquis.

Russia's invasion of Georgia in 2008 was a 'turning point' in the country's relations with the EU.[125] In this conflict, the EU acted as a mediator.[126] Shortly after the conflict's outbreak, the EU deployed the EU Monitoring Mission to Georgia (EUMM). The EUMM played a pivotal role in stabilising the situation through its monitoring and reporting activities.[127] In the aftermath, democratisation and Euro-Atlantic integration became central priorities for Georgia,[128] which aligned with the EU's strategic vision for cooperation.

Building on this momentum, the EU significantly deepened its cooperation with Georgia. In 2012, it launched a VLAP dialogue, which culminated in the introduction of a visa-free travel regime for Georgian citizens starting from 2017. The same year,

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[122] Parliament of Georgia, Resolution 'On the Harmonisation of Georgian Legislation with that of the EU' (2 September 1997) No 828-Is.
[123] Decree of the President of Georgia, 'Strategy of Harmonization of Georgian Legislation with that of European Union' (14 June 2001) No 613.
[124] Government of Georgia, 'National Programme of Harmonization of Georgian Legislation with that of the European Union' (08 May 2004) No 22.
[125] Licínia Simão, 'The European Neighbourhood Policy and the South Caucasus' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 316.
[126] Kereselidze, 'The Engagement Policies of the European Union' (n116) 310.
[127] Dimitris Bouris and Madalina Dobrescu, 'The EU and Civilian Missions in the Neighbourhood' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 266.
[128] Thijs Rommens, 'The Eastern Partnership: Civil Society in between the European and Domestic Level: The Case of Georgia' (2014) 30(1) East European Politics 54, 55.

Georgia signed the CAAA,[129] which entered into force in 2020. In 2014, a historic AA/DCFTA[130] was signed by the partners, which entered into force in 2016. The DCFTA granted Georgia preferential access to the EU market, rendering the country ineligible for the GSP+ from 2017. Georgia had previously benefited from the GSP from 1995 until 2014, after which it transitioned to the GSP+.

In early 2022, Georgia, alongside Moldova and Ukraine, submitted its application for membership in the EU. While Moldova and Ukraine were granted candidate status in June 2022, Georgia was designated only as a potential candidate. It still had to address the twelve priorities specified in the Commission's Opinion[131] to become a candidate. In this way, the 'Association Trio' was separated, which caused, in the opinion of Karvada and Chelidze, a 'non-uniform assessments in Georgia'.[132] The conditions Georgia had to fulfil to advance with the status of candidate were qualitatively different from those Ukraine and Moldova received and somewhat vague, which stimulated the 'radicalization of the internal political positions'.[133] In December 2023, Georgia was finally granted candidate status, however, over the course of 2024, the country's geopolitical trajectory shifted dramatically, impeding further progress towards the opening of accession negotiations.

In 2024, the European Council[134] suspended Georgia's accession process in response to the adoption of legislation that undermined the rule of law and fundamental rights,[135] as well as allegations of electoral fraud following the parliamentary elections.[136] Between December 2024 and January 2025, the EU and other international partners imposed targeted sanctions 'on Georgian officials and

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[129] Common Aviation Area Agreement between the European Union and its Member States, of the one part, and Georgia, of the other part [2012] OJ L 321/3.
[130] Council Decision 2014/494/EU of 16 June 2014 on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part [2014] OJ L 261/1.
[131] Commission, 'Commission Opinion on Georgia's application for membership of the European Union' COM(2022) 405 final 3.
[132] Kardava and Chelidze, 'Features of EU Enlargement Policy' (n117) 141.
[133] Gvantsa Davitashvili, 'The "New Wave" of Eastern Enlargement: How Does the EU Conditionality Work for Georgia?' (61 Policy Memo, GIP, 2022) 6.
[134] European Council, 'European Council meeting (23 and 24 June 2022) – Conclusions' (2022) EUCO 24/22.
[135] 'Georgia accession process de facto halted as EU calls on government to change course' (EU Neighbours East, 30 October 2024) <https://euneighbourseast.eu/news/latest-news/georgia-accession-process-de-facto-halted-as-eu-calls-on-government-to-change-course/> accessed 24 September 2025.
[136] European Parliament, 'Joint Motion for a Resolution on Georgia's worsening democratic crisis following the recent parliamentary elections and alleged electoral fraud' (2024) 2024/2933(RSP).

influential figures in response to escalating human rights violations'.[137] The EU froze 30 million EUR allocated to Georgia's defence sector and suspended 121 million EUR in bilateral support.[138] In response, the Georgian government rejected the EU grant budget support and suspended the accession talks until 2028.[139] As of August 2025, relations between Georgia and the EU remain tense and uncertain.

3.2. Disability Rights in the EU–Georgia Cooperation Framework

As in Moldova, disability rights gradually gained visibility in the EU–Georgia cooperation. This section provides an analysis of the main legislative developments in EU–Georgia cooperation that have bolstered disability mainstreaming.

3.2.1. Disability Rights in the Partnership and Cooperation Agreement

Following the collapse of the Soviet Union, Georgia faced substantial challenges in implementing social reforms and promoting human rights. Territorial conflicts compounded these challenges,[140] therefore, the government prioritised conflict resolution and stabilisation efforts.

Neither the PCA nor the ENP Action Plan,[141] adopted in 2006 to implement the PCA, included disability rights as a distinct area of reform or cooperation. The PCA embedded only broad provisions on cooperation in matters relating to democracy and human rights.[142] During the first decade of the EU–Georgia cooperation, social reforms were incorporated into the framework but remained limited in scope, focusing primarily on poverty reduction. In particular, the ENP Action Plan set out social reform objectives that aimed at reducing poverty by decreasing in the number of persons with income below the poverty line, improving social cohesion, establishing sustainable systems for education, health and other social services with access for all,

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[137] Ioseb Edisherashvili, Teona Turashvili and Nina Phichkhaia, 'CSO Meter 2024: Georgia Country Report' (Civil Society Institute, 2025) 10.
[138] Tinatin Akhvlediani, 'The Fight for Georgia is Still a Fight for Europe' (Blog, CEPS, 11 March 2025) <https://www.ceps.eu/the-fight-for-georgia-is-still-a-fight-for-europe/> accessed 24 July 2025.
[139] 'Statement by the High Representative/Vice-President of the Commission Kaja Kallas and Commissioner for Enlargement Marta Kos on Georgia' (Directorate-General for Neighbourhood and Enlargement Negotiations, 01 December 2024) <https://enlargement.ec.europa.eu/news/statement-high-representative-vice-president-commission-kaja-kallas-and-commissioner-enlargement-2024-12-01_en> accessed 30 September 2025.
[140] Eveline Baumann, 'Post-Soviet Georgia: It's a Long, Long Way to "Modern" Social Protection…' (2012) 46(2) Économies et Sociétés 259, 262.
[141] 'EU/Georgia Action Plan' (2016) <https://www.eeas.europa.eu/sites/default/files/georgia_enp_ap_final_en.pdf> accessed 1 July 2025.
[142] Rommens, 'The Eastern Partnership' (n128) 56.

improving the monitoring of service delivery, and advancing reform of the social security system.

Nonetheless, the Commission monitored developments in disability rights in Georgia through the ENP progress reports. The EU acknowledged several initiatives undertaken by Georgia to advance disability rights between 2005 and 2014. In particular, it endorsed Georgia's ratification of the CRPD in 2014,[143] implementation of the Social Rehabilitation State Programme of Disabled, Elderly and Homeless Children, which foresees several kinds of social services, including rehabilitation of children with disabilities,[144] and the strengthened mechanism of preventive measures and an early intervention system for children with disabilities. [145]

3.2.2. Disability Rights and the AA/DCFTA

The main breakthrough in the area of protection of disability rights occurred in 2014, when Georgia ratified the CRPD and signed the AA/DCFTA (fully entered into force in July 2016).[146] Disability matters were explicitly included in the agreement under Article 349(d) and (e) AA/DCFTA. In particular, this provision defines the scope of cooperation between the parties in various areas, including:

> 'd) fostering more inclusive labour markets and social safety systems that integrate disadvantaged people, including people with disabilities and people from minority groups;
>
> e) equal opportunities and anti-discrimination, aiming at enhancing gender equality and ensuring equal opportunities between men and women, as well as combating discrimination based on […] disability, […]'.

In line with Article 349 AA/DCFTA, such cooperation is based on the exchange of information and best practices. However, Georgia adopted a more proactive approach to implementing this provision, interpreting it as a commitment to advance the

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[143] Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Implementation of the European Neighbourhood Policy in Georgia Progress in 2013 and Recommendations for Action' SWD/2014/072 final 9.
[144] Commission, 'Implementation of the European Neighbourhood Policy in 2008 Progress Report Georgia' SEC(2009) 513 10.
[145] Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Implementation of the European Neighbourhood Policy in Georgia Progress in 2013 and Recommendations for Action' SWD/2014/072 final 9.
[146] Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part [2014] OJ L 261/4.

protection of disability rights at the national level. Activities outlined in the National Action Plan for the Implementation of the Association Agreement (National Action Plan), adopted annually since 2014, have expanded beyond the format of mere cooperation. With respect to Article 349, the National Action Plan included such tasks as the development of the Government Action Plan for Ensuring Equal Opportunities for Persons with Disabilities 2014–2016[147] and its implementation, ensuring access to vocational education and promoting employment for persons with disabilities, development and piloting of a social model for the disability assessment,[148] drafting of a new law on the rights of persons with disabilities,[149] amending the Law on Education to align it with the CRPD,[150] among others.

The EU–Georgia Association Agenda 2014–2016,[151] which replaced the ENP Action Plan, explicitly identified the effective implementation of the CRPD as one of the priorities under the AA/DCFTA. In this way, the EU not only fulfils its obligations under Article 32 CRPD, discussed in Chapter IV, but also supports greater alignment of Georgia's legal order with the EU acquis in the disability area. The subsequent Association Agenda 2017–2020[152] expanded the tasks to be implemented by Georgia

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[147] Government of Georgia, Decree '2014 National Action Plan for the Implementation of the Association Agreement between, on the one hand, the European Union and the European Atomic Energy Community and their Member States, and on the other hand, Georgia, and of the Association Agenda between Georgia and the European Union' (03 September 2014) No 1516.

[148] 'The 2018 National Action Plan for the Implementation of the Association Agreement between, on the one hand, Georgia, and on the other hand, the European Union, the European Atomic Energy Community and their Member States, as well as the Association Agenda between Georgia and the European Union' (2018) <https://mfa.gov.ge/ka/european-union/879251-asotsirebis-shetankhmebisa-da-dghis-tsesrigis-gankhortsielebis-erovnuli-samoqmedo-gegmebi> accessed 10 September 2025 (in Georgian); 'The 2015 National Action Plan for the Implementation of the Association Agreement between, on the one hand, Georgia, and on the other hand, the European Union, the European Atomic Energy Community and their Member States, as well as the Association Agenda between Georgia and the European Union' (2015) <https://mfa.gov.ge/ka/european-union/879251-asotsirebis-shetankhmebisa-da-dghis-tsesrigis-gankhortsielebis-erovnuli-samoqmedo-gegmebi > accessed 10 September 2025 (in Georgian).

[149] 'The 2015 National Action Plan' (n148).

[150] 'The 2016 National Action Plan for the Implementation of the Association Agreement between, on the one hand, Georgia, and on the other hand, the European Union, the European Atomic Energy Community and their Member States, as well as the Association Agenda between Georgia and the European Union' <https://mfa.gov.ge/ka/european-union/879251-asotsirebis-shetankhmebisa-da-dghis-tsesrigis-gankhortsielebis-erovnuli-samoqmedo-gegmebi > accessed 10 July 2025 (in Georgian).

[151] Proposal for a Council Decision on the Union position with the Cooperation Council established by the European Union –Georgia Partnership and Cooperation Agreement between the European Community and its Member States, of the one part, and Georgia, of the other part with regard to the adoption of a Recommendation on the implementation of the EU–Georgia Association Agenda COM/2014/0360 final.

[152] Recommendation No 1/2017 of the EU–Georgia Association Council of 20 November 2017 on the EU–Georgia Association Agenda [2017] OJ L 344/65.

with respect to disability rights. In addition to advancing the implementation of the CRPD, it defined the improvement of social protection mechanisms, support of habilitation and rehabilitation programmes for children with disabilities, and the advancement of the deinstitutionalisation of children as medium-term priorities.[153] The EU–Georgia Association Agenda 2021–2027[154] adopted an even more comprehensive stance on disability matters, enumerating specific actions to be undertaken by Georgia in the short- and medium-term. These actions include improving conditions for persons with 'mental health issues', ensuring better access to public spaces, finalising the deinstitutionalisation of childcare, establishing a coordinating body for disability rights issues, improving and expanding social protection mechanisms to address the needs of children with disabilities, among others.

As indicated above, Georgia benefited from GSP+ from 2014 to 2017. Even though the CRPD is not included among the 27 conventions that Georgia was required to ratify, implement, and uphold to maintain the GSP+ status, the Commission nevertheless addressed disability in its assessment reports, conducted every two years.[155] As part of the assessment of the implementation of the International Covenant on Civil and Political Rights (ICCPR),[156] the EU endorsed the advancement of the legal framework ensuring legal capacity for persons with psychological disabilities in line with the CRPD.[157] Further disability rights were addressed under the International Covenant on Economic, Social and Cultural Rights (ICESCR).[158] Interestingly, when assessing progress under the ICESCR, the Commission noted progress in implementing the CRPD, endorsed the increased level of awareness among the population regarding disability rights, and recognised the active work of the National Council on Disabilities.[159] At the same time, the Commission highlighted challenges

[153] Ibid.
[154] Recommendation No 1/2022 of the EU–Georgia Association Council of 16 August 2022 on the EU–Georgia Association Agenda 2021–2027 [2022] OJ L 2018/40.
[155] Commission, 'The EU Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+) covering the period 2014–2015' SWD(2016) 8 final; Commission, 'The EU Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+) assessment of Georgia covering the period 2016–2017' SWD(2018) 26 final.
[156] International Covenant on Civil and Political Rights, Resolution adopted by the General Assembly on 16 December 1966, entered into force 23 March 1976, A/RES/2200A (XXI).
[157] Commission, '(GSP+) covering the period 2014–2015' (n146) 131.
[158] International Covenant on Economic, Social and Cultural Rights, Resolution adopted by the General Assembly on 16 December 1966, entered into force 3 January 1976, A/RES/2200A (XXI).
[159] Commission, '(GSP+) covering the period 2014–2015' (n146) 132.

such as 'unsatisfactory situation of persons with mental illness', as well as a weak legal framework protecting children with disabilities from discrimination.[160] In this way, the EU utilised the GSP+ as an additional lever to prompt Georgia to launch and advance reforms in disability area. At the same time, this analysis demonstrates the need to include the CRPD in the list of conventions to be implemented by partner countries under the GSP+ as disability rights are increasingly in focus of the Commission. While it endeavours to embed them into the assessment of other human rights conventions, it nonetheless does not allow for a comprehensive analysis of the situation regarding disability rights under CRPD implementation in a partner country.

3.2.3. Disability Rights and Accession Negotiations

In early 2022, following Georgia's application for membership in the EU, the Commission issued an Opinion[161] outlining twelve priorities Georgia needed to address to obtain EU candidate status. While acknowledging that Georgia had 'successfully approximated its legislation with the EU acquis in many areas',[162] further reforms still needed to be advanced. In highlighting key fundamental rights issues, the Commission noted some progress on disability matters, such as the adoption of the Law on the Rights of Persons with Disabilities in 2020 and the ratification of the Optional Protocol to the CRPD in 2021. Nonetheless, persons with disabilities remained 'one of the most marginalized groups'[163] in the country, according to the Commission.

In February 2023, the Commission issued an analytical report complementing the Opinion.[164] The document assessed the alignment of Georgia's legislation with the 33 EU chapters of the EU acquis, excluding areas already addressed in the Opinion. Disability was additionally addressed under Chapter 28 Consumer and Health Protection within the 'Public health' section. As the AA/DCFTA obliges to align the health protection legislation with the EU acquis, the Commission noted Georgia's adoption of the National Mental Health Strategy 2022–2030, which seeks to support

[160] Ibid 131.
[161] Commission, 'Commission Opinion' (n131).
[162] Ibid 3.
[163] Ibid 11.
[164] Commission, 'Analytical Report following the Communication from the Commission to the European Parliament, the European Council and the Council Commission Opinion on Georgia's application for membership of the European Union' SWD(2023) 31 final.

the deinstitutionalisation of mental health services and strengthen community-based care for persons with 'mental health conditions'.[165]

In late 2023, the Commission issued its first report on Georgia's progress under the enlargement policy,[166] which preceded the decision to grant Georgia candidate status.[167] With respect to disability rights, there has been noted a limited progress. However, one of the achievements endorsed in the report was the adoption of the Strategy on Deinstitutionalisation and Independent Living for Persons with Disabilities alongside the 2023–2030 Action Plan. Additionally, it endorsed the adoption of the Action Plan, which introduces the biopsychosocial model of disability assessment in line with the priorities of the EU–Georgia Association Agenda 2021–2027.

As in the case of Moldova, the state of disability rights in Georgia was not a decisive factor in the decision to grant it candidate status. Nevertheless, the explicit inclusion of disability rights in the Opinion signals that this area will be subject to the EU's scrutiny during the accession negotiations. Even so, regardless of whether or when the EU opens accession negotiations, Georgia is already integrated into the enlargement policy framework, therefore, a consistent approach to reforms advancing disability rights will be increasingly important under the EU–Georgia cooperation framework.

3.3. Cases of EU Disability Norms Transfer

After analysing the extent to which disability is integrated into the cooperation framework between the EU and Georgia, this subsection focuses on the conditionality and socialisation mechanisms to identify cases of EU disability norms transfer.

3.3.1. Conditionality Mechanisms

Conditionality under the AA/DCFTA, supported by economic and trade incentives,[168] has played a significant role in transferring the EU acquis across a wide range of

[165] Ibid 25.
[166] Commission, 'Georgia 2023 Report' SWD(2023) 697 final.
[167] European Council, 'European Council Meeting (14 and 15 December 2023) – Conclusions)' (2023) EUCO 20/23.
[168] Ana Chitaladze and Tatevik Grigoryan, 'Understanding Europeanization in Georgia and Armenia: Discourses, Perceptions and the Impact on Bilateral Relations' (2015) 8 Analytical Bulletin of Armenian and Regional Studies 29, 49.

areas,[169] albeit primarily those that do not 'challenge the powerbase of the ruling party'.[170] Bolkvadze defines this phenomenon as 'selective rule transfer' in Georgia.[171] The rule-transfer has been most effective in sectors such as trade, market liberalisation, border management, public service, social policy, and less effective in politically sensitive domains, such as electoral reform or media freedom.[172]

With respect to media reform, although the legislative process has been complex due to the political sensitivity of the area, EU disability norms transfer did occur. In line with Annex XXXIII to the AA/DCFTA, Georgia undertook the obligation to transfer the AVMSD 2010, repealed by the AVMSD 2018, into its national legislation. Unlike Moldova, Georgia did not enact a standalone legislative act but amended the existing Law of Georgia 'On Broadcasting' (Law on Broadcasting)[173] in 2022 and 2023. Article 55(2) Law on Broadcasting explicitly prohibits hate speech based on various characteristics, including disability. This provision largely mirrors the wording of Article 6(1) AVMSD and lists the protected characteristic indicated in Article 21 Charter of Fundamental Rights of the European Union (CFR).[174] Regarding the transfer of provisions on accessibility under Article 7 AVMSD 2018, both the European Audiovisual Observatory and the Directorate General Human Rights and Rule of Law of the CoE[175] have observed that Georgia's legislation is largely aligned with the AVMSD 2018 in respect to the accessibility of audiovisual media services. To this end, the transfer of EU disability norms helped to strengthen the obligations of media service providers concerning accessibility at the national level.[176]

Another conditionality mechanism that proved effective in the Georgian context was the VLAP. In the human rights area, Georgia's adoption of comprehensive non-discrimination legislation is regarded as a 'success story', with partial success in the

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[169] Anastasia Mgaloblishvili, 'Democracy in Peril: Rethinking EU Conditionality for Georgia's Path to EU Candidacy' (70 GIP Policy Memo, 2023) 4.
[170] Ibid 7.
[171] Ketevan Bolkvadze, 'Cherry Picking EU Conditionality: Selective Compliance in Georgia's Hybrid Regime' (2016) 68(3) Europe-Asia Studies 409, 411.
[172] Ibid 410.
[173] Parliament of Georgia, Law of Georgia 'On Broadcasting' (23 December 2004) No 780.
[174]Council of Europe, 'Opinion of the Directorate General Human Rights and Rule of Law Information Society and Action against Crime Directorate Information Society Department: The Law of Georgia on Broadcasting' (2023) DGI(2023)1 26.
[175] European Audiovisual Observatory, 'The Application of the AVMS Directive in Selected Non-EU Countries' (Council of Europe 2023) 165; Council of Europe, 'Opinion of the Directorate General Human Rights' (n174) 9.
[176] European Audiovisual Observatory, 'The Application of the AVMS Directive'(n175) 164.

disability area. In particular, under the VLAP, Georgia adopted the Law on the Elimination of All Forms of Discrimination (Non-Discrimination Law).[177] Article 1 Non-Discrimination Law prohibits discrimination on the grounds of disability, among others. It defines direct and indirect discrimination, covers discrimination by association, and addresses multiple discrimination.[178] However, the concept of reasonable accommodation has not been transferred into the national legislation via the Non-Discrimination Law. Based on the VLAP progress reports, the EU did not insist on this matter to the same extent as it did in the case of Moldova and Ukraine, as will be discussed in Chapter VI. Partly, this might be attributed to the Georgian government's stronger resistance to media reform. The concept of reasonable accommodation was recognised in the national legislation later, nonetheless, with the adoption of the Law on the Rights of People with Disabilities in 2020.[179]

Therefore, while EU disability norms transfer was rather selective and not comprehensive, it did move forward the legislative framework protecting persons with disabilities in Georgia.

3.3.2. Socialisation Mechanisms

The screening of three socialisation tools under scrutiny in this thesis – technical assistance, support of civil society, and multilateral cooperation – evidences a more prominent role of civil society and multilateral cooperation in supporting disability rights in Georgia.

Since the launch of the EaP in 2009, the EU has increasingly engaged with civil society in the South Caucasus, considering it as an important partner in 'advancing human rights, democracy, and the rule of law.'[180] In Georgia, this tendency is particularly pronounced following the 'Rose Revolution' in 2003, after which the EU progressively sought to strengthen its ties with Georgia through cooperation with civil society.[181]

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[177] Parliament of Georgia, Law of Georgia 'On the Elimination of All Forms of Discrimination' (02 May 2014) No 2391-Ib.
[178] Commission, 'Second Progress Report on the Implementation by Georgia of the Action Plan on Visa Liberalisation' COM(2014) 681 final.
[179] Parliament of Georgia, Law of Georgia 'On the Rights of Persons with Disabilities' (14 July 2020) No 7214-Ib.
[180] Laura Luciani, 'The EU's Hegemonic Interventions in the South Caucasus: Constructing "Civil" Society, Depoliticising Human Rights?' (2021) 56(1) Cooperation and Conflict 101, 101.
[181] Rommens, 'The Eastern Partnership' (n128) 56.

Civil society in Georgia is characterised as 'still weak',[182] as it often lacks influence and capacity to impact decision-making or drive systemic change.[183] Nonetheless, it plays an important role in supporting the implementation of government strategies and policies. Programmes funded by the EU have been essential in developing healthcare, education, and social inclusion in Georgia.[184] In the disability area, the EU has actively engaged with civil society organisations to promote disability rights, both through capacity development programmes and direct support of the activities. The EU supported programmes aimed at advancing the implementation of the legal capacity reform and capacity building of civil society organisation working on disability matters,[185] promoting rights-based social services for persons with disabilities and elderly,[186] strengthening the involvement of the civil society organisations and persons with disabilities in government decision-making processes,[187] supporting social service providers in rural Georgia,[188] promoting the rights of persons with intellectual and psychosocial disabilities,[189] among others.

However, since 2024, the legal and political environment for civil society and media in Georgia has significantly deteriorated. The adopted Law 'On Transparency of Foreign Influence' in May 2024[190] and Law 'On Foreign Agents Registration Act' in April 2025[191] restricted the work of civil society organisations and their role in decision-making. These developments sparked mass protests across the country.

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[182] Nino Pokleba, 'Civil Society in Georgia: Expectations Versus Reality' (2016) 16(2) Southeast European and Black Sea Studies 235, 246.
[183] Ibid.
[184] Giorgi Iakobishvili, 'EU–Georgia Relations and Democratization: An Analysis of Reforms and Challenges' (2024) 12(13) Georgian Journal for European Studies 135.
[185] Project 'Civil Society's Coordinated Advocacy for Implementing Disability Rights Commitments in Georgia' (2022–2025) <https://eu4georgia.eu/en/projects/eu-project-page/?id=1838 accessed> 06 September 2025.
[186] Project 'Promotion of Rights-Based Social Services for People with Disabilities and the Elderly' (2019–2022) <https://eu4georgia.eu/en/projects/eu-project-page/?id=757 > accessed 06 September 2025.
[187] Project 'Civil Society Action for Promoting Human Rights of Persons with Disabilities in Georgia' (2021–2023) <https://eu4georgia.eu/en/projects/eu-project-page/?id=1496> accessed 06 August 2025.
[188] Project 'Equal Opportunities for Persons with Disabilities: Supporting Social Service Providers in Rural Georgia' (2018–2021) <https://eu4georgia.eu/en/projects/eu-project-page/?id=181> accessed 06 September 2025.
[189] Project 'Mental Health and Human Rights: Promoting Rights of People with Mental Disorders and Psychosocial Disabilities (PwMD) in Georgia' (2018–2020) <https://eu4georgia.eu/en/projects/eu-project-page/?id=165> accessed 06 September 2025.
[190] Parliament of Georgia, Law of Georgia 'On Transparency of Foreign Influence' (14 May 2024) No 10223.
[191] Parliament of Georgia, Law of Georgia 'On Foreign Agents Registration Act' (02 April 2025) No 10534.

With respect to multilateral cooperation, the CoE has actively supported Georgia in adopting and amending the Law on Broadcasting in line with the AVMSD 2018. In 2023, during the second amendment cycle, the majority of recommendations from the CoE on improving the law were considered by the Parliament of Georgia,[192] which also included provisions on disability rights. Georgia has also cooperated with the United Nations Development Programme (UNDP) regarding the (potential) adoption of EU disability norms. At the request of the Parliament of Georgia, the UNDP developed in 2021 a Guideline on aligning the national legal and regulatory framework with Council Directive (EU) 2016/2102 on the accessibility of the websites and mobile applications of public sector bodies.[193] Although legislative progress in this area remains limited as of 2025, this initiative reflected the government's growing recognition of the need to advance national accessibility standards in line with the EU acquis.

With regard to the technical assistance programmes, Georgia has not yet requested support under SOCIEUX+ in relation to disability rights. Although the review of Twinning programmes shows limited evidence of disability-specific initiatives, many programmes operate across broad sectors that can have an indirect impact on disability rights. For example, the EU Twinning project 'Strengthening the Capacity of the Georgian Statistical System' 2019–2021,[194] implemented within the framework of the AA/DCFTA, aimed to advance reforms of the national statistical system. Among its achievements was the strengthening of social statistics, which is highly relevant to the monitoring and promotion of disability rights.

As this subsection demonstrates, the EU's support of civil society and multilateral cooperation plays an important role in assisting the Georgian government in advancing disability rights. However, given that civil society currently operates under challenging legal and geopolitical conditions, a more comprehensive approach from the EU is needed to strengthen its capacity. This would enable civil society

[192] Council of Europe, 'Council of Europe Action Plan for Georgia 2020–2023 – Final Report (1 January to 31 December 2023) CM(2024)141.
[193] Council Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies [2016] OJ L 327/1.
[194] Project 'Strengthening the Capacity of the Georgian Statistical System' (2019–2021) <https://eu4georgia.eu/projects/eu-project-page/?id=346> accessed 30 September 2025.

organisations working on disability rights to act as meaningful stakeholders in policy-making processes.

4. The Republic of Armenia: A Partner with New Ambitions

Until recently, Armenia's foreign policy has been characterised by a balancing act between deepening cooperation with the EU and maintaining 'its openness' towards Russia.[195] To this end, the cooperation between the EU and Armenia is characterised by its dynamism and continuous adaptivity to various geopolitical shifts.

4.1. Evolution of the EU–Republic of Armenia Cooperation Framework

The EU and Armenia established a contractual relationship in 1996 through the PCA, which entered into force in 1999.[196] The PCA with Armenia did not envisage an incentive such as the prospect of establishing a free trade area, but only closer economic cooperation.[197] The lack of political will, limited and vague incentive package, combined with the lack of individual approach in addressing challenges of the country in the PCA 'was central in the failure to achieve the aims of the Agreement'.[198] The standard for the PCA a 'best endeavor' clause was not sufficient, in and of itself, to trigger legal reforms and initiate the 'legal approximation' process envisaged in the agreement.

However, after joining the ENP in 2004 and adopting the ENP Action Plan in 2006,[199] which offered Armenia a 'stake in the EU's Internal Market' upon successful fulfilment of cooperation objectives, Armenia became more actively engaged in fulfilling economic commitments under the PCA and the ENP Action Plan. The interest of the EU in deepening the cooperation framework primarily laid in ensuring

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[195] Mircea Brie and Victoria Goreainov, 'The Evolution of Armenia and Azerbaijan's Cooperation with the EU in the Framework of the Eastern Partnership' (2021) 66(2) Studia Universitatis Babeș-Bolyai Studia Europaea 249, 249.

[196] Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Armenia, of the other part [1999] OJ L 239.

[197] Nariné Ghazaryan and Anna Hakobyan, 'Legislative Approximation and Application of EU Law in Armenia' in Peter Van Elsuwege and Roman Petrov (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union: Towards a Common Regulatory Space?* (Routledge 2014) 191.

[198] Nariné Ghazaryan, 'The ENP and the Southern Caucasus: Meeting the Expectations?' in Richard G Whitman and Stefan Wolff (eds), *The European Neighbourhood Policy in Perspective: Context, Implementation and Impact* (Palgrave Macmillan 2010) 226.

[199] 'EU/Armenia Action Plan' (2006) <https://www.eeas.europa.eu/sites/default/files/armenia_enp_ap_final_en.pdf> accessed 26 September 2025.

the stability and development of the South Caucasus, including Armenia, which shares borders with important international actors, such as Iran and Turkey, NATO member and EU candidate.[200]

The period between 2010 and 2013 is characterised by a notable acceleration of economic reforms in Armenia, driven by the AA/DCFTA negotiations,[201] demonstrating the receptiveness to 'the EU's conditionality policy'.[202] Nonetheless, Armenia ultimately chose to abandon the AA/DCFTA negotiation endeavour, opting instead to join the Russia-led Eurasian Economic Union (EEU) in 2015. In 2017, as an alternative framework to the AA/DCFTA, Armenia concluded a Comprehensive and Enhanced Partnership Agreement (CEPA) with the EU,[203] tailored to Armenia's political and economic context. Following a period of provisional application of its substantial parts, the CEPA entered fully into force on 1 March 2021. It aims to support democracy, the rule of law, human rights, and good governance, as well as to promote a functioning market economy with a favourable business environment and investment climate.[204] Often referred to as a 'light version' of the AA/DCFTA,[205] the CEPA includes all provisions of the negotiated Association Agreement (AA), except those articles that conflict with Armenia's obligations under the EEU.[206] To facilitate the implementation of the CEPA, the parties adopted the EU–Armenia Partnership Priorities in 2018.[207] However, unsurprisingly, Armenia's geopolitical shift in 2015

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[200] Nelli Babayan, '"Fear or Love Thy Neighbour"? The EU Framework for Promoting Regional Cooperation in the South Caucasus' (2012) 8(1) Journal of Contemporary European Research 40, 49.
[201] See Narine Ghazaryan and Laure Declour, 'From European Integration Process to the Eurasian Economic Union. The Case of Armenia' in Roman Petrov and Peter Van Elsuwege (eds), *Post-Soviet Constitutions and Challenges of Regional Integration: Adapting to European and Eurasian Integration Projects* (Routledge 2017).
[202] Ghazaryan and Hakobyan, 'Legislative Approximation' (n197) 197.
[203] Comprehensive and enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part [2018] OJ L 23/4.
[204] Commission, 'Neighbourhood, Development and International Cooperation Instrument – Multi-Annual Indicative Programme (2021–2027) for Armenia' <https://enlargement.ec.europa.eu/commission-implementing-decision-c20225549-final-28072022-annual-action-programme-favour-armenia_en> accessed 25 September 2025.
[205] Karina Shyrokykh and Kateryna Busol, 'Three Decades of EU's Human Rights Promotion in Post–Soviet Countries: Success Story or Wasted Effort?' in Lucia Leontiev and Punsara Amarasinghe (eds), *State-Building, Rule of Law, Good Governance and Human Rights in Post-Soviet Space: Thirty Years Looking Back* (Routledge 2022) 166.
[206] Mikayel Hovhannisyan and others, 'Adopting Experience of Bilateral EU–Moldova and EU–Georgia Civil Society Platforms to Armenia' (Eurasia Partnership Foundation, Foundation Liberal Academy and Promo-LEX Association, 2018) 42.
[207] Recommendation No 1/2017 of the EU–Armenia Cooperation Council of 20 November 2017 on the EU–Armenia Partnership Priorities [2018] OJ L 60/51.

complicated the rule-transfer process of the EU acquis[208] and moderated pace of the cooperation.

The conflict over the disputed territory of Nagorno-Karabakh between Armenia and Azerbaijan in 2023 gave new impetus to the EU–Armenia cooperation. After Azerbaijan gained full control over this territory and Russia failed to deliver the support Armenia had anticipated,[209] the country's geopolitical position shifted towards the EU, viewing it as an alternative security partner. At Armenia's request, the EU promptly deployed a first-ever EU civilian mission (EUMA) in the border regions of Armenia and provided non-lethal security assistance under the European Peace Facility (EPF).[210] In March 2025, Armenia adopted a bill seeking membership in the EU, a move described as a 'new European Chapter in Armenia's history'.[211] As of August 2025, the EU and Armenia continue dialogue on the new Partnership Agenda, underpinned by a 270 million EUR Resilience and Growth Plan 2024–2027.

4.2. Disability Rights in the EU–Republic of Armenia Cooperation Framework

Disability, as a distinct area of cooperation has emerged gradually in the EU–Armenia cooperation, however, it has yet to feature prominently in the cooperation framework. The analysis evidences that, despite the limited mainstreaming of disability rights in the cooperation framework, EU disability norms transfer nonetheless occurred in Armenia.

4.2.1. Disability Rights in the Partnership and Cooperation Agreement

The cooperation framework under the PCA and the ENP Action Plan,[212] adopted in 2006 for five years to support the implementation of the agreement, did not explicitly include disability rights. The human rights portfolio typical for the PCA, which prioritised the protection of women, rights of the child, and minorities, largely

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[208] Alena Vieira and Syuzanna Vasilyan, 'Armenia and Belarus: Caught Between the EU's and Russia's Conditionalities?' in Andriy Tyushka and Tobias Schumacher (eds), *The European Union and it's Eastern Neighbourhood: Whither 'Eastern Partnership'?* (Routledge 2022) 188.
[209] See Sossi Tatikyan, 'The Impact of Russia's War in Ukraine on the Nagorno-Karabakh Conflict and Armenia' (Center for Baltic and East European Studies, 2024) 75.
[210] Ibid 81.
[211] 'Joint Statement by the EaP CSF and the Armenian National Platform, Eastern Partnership Civil Society Forum, 'Towards a New, European Chapter in Armenia's History' (Eastern Partnership Civil Society Forum, 28 March 2025) <https://eap-csf.eu/articles/towards-a-new-european-chapter-in-armenias-history/> accessed 30 September 2025.
[212] EU/Armenia Action Plan <https://www.eeas.europa.eu/sites/default/files/armenia_enp_ap_final_en.pdf > accessed 30 September 2025.

overlooked disability rights. The social policy objectives under the ENP Action Plan were addressed through the poverty reduction lens and included such actions as improving social protection and social security, strengthening social service agencies, and improving the welfare of 'most vulnerable groups' without explicitly mentioning persons with disabilities. The National Indicative Programme of Armenia for 2007–2010, a document specifying allocation priorities under the European Neighbourhood and Partnership Instrument (ENPI), envisaged such targets as the implementation of legal and policy reforms in the employment and social area to approximate with EU standards and practices, and better legal and administrative protection for human rights.[213] Overall, during the period preceding the launch of the AA/DCFTA dialogue, Armenian authorities tended to consider adopting the EU requirements related to human rights unattractive due to their high political cost.[214]

The ENP progress reports on Armenia[215] paid minimal attention to disability rights, apart from a single reference in the ENP progress report 2010 noting the low level of employment rate among persons with disabilities.[216] Nonetheless, as the EU sought to advance the broader human rights agenda in Armenia, gradual spillover effects began to influence the disability area. To realise the Programme on the Implementation of the EU–Armenia ENP Action Plan 2009–2011, Armenia adopted the National Strategy on Human Rights Protection in 2012 (Human Rights Strategy)[217] and the Plan of Actions for the National Strategy on Human Rights Protection in 2014 (Plan of

[213] 'European Neighbourhood and Partnership Instrument: National Indicative Programme 2007–2010 Armenia' <https://edrc.am/old/images/Partnership_Strategies/EU/armenia_enpi_national_indicative_programme_2007-2010.pdf?utm_source=chatgpt.com> accessed 30 September 2025.

[214] Laure Delcour and Kataryna Wolczuk, 'The EU's Unexpected 'Ideal Neighbour'? The Perplexing Case of Armenia's Europeanisation' (2015) 37(4) Journal of European Integration 491, 494.

[215] Commission, 'Implementation of the European Neighbourhood Policy in 2006 Country Report Armenia' SEC(2007) 520; Commission, 'Implementation of the European Neighbourhood Policy in 2007 Progress Report Armenia' SEC(2008) 393; Commission, 'Implementation of the European Neighbourhood Policy in 2008 Progress Report Armenia' SEC(2009) 511; Commission, 'Implementation of the European Neighbourhood Policy in 2009 Progress Report Armenia' SEC(2010) 516; Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Implementation of the European Neighbourhood Policy in 2010 Country Report: Armenia' SEC(2011) 639.

[216] Commission, 'Implementation of the European Neighbourhood Policy in 2010: Country Report Armenia' SEC (2011) 639 final.

[217] President of the Republic of Armenia Edict 'On Approval of the National Strategy on Human Rights Protection' (29 October 2012) No NK-159-N.

Actions).[218] The Plan of Actions contained a dedicated section on persons with disabilities, outlining measures such as improving access to schools, pre-school institutions, and higher education facilities; creating a safe urban environment; establishing mechanisms for providing services in communities; and aligning Armenian legislation with the CRPD, ratified in 2010.

On the EU's side, between 2010 and 2013, it began to address disability rights more thoroughly, including in the ENP progress reports recommendations on reducing institutionalisation of children with disabilities, introducing the ICF, expressing concerns regarding the lack of legislation protecting persons with disabilities from discrimination in employment,[219] and limited access to services for children with disabilities.[220]

It appears that Armenia's accession to the EEU and its decision to abandon the conclusions of the AA/DCFTA had repercussions on the disability area under the EU–Armenia cooperation. The ENP progress report 2014 indicates that from concrete subject-specific concerns and recommendations on disability addressed between 2010 and 2013, the EU's discourse reverted to broad, rhetorical observations like 'widespread discrimination against persons with disabilities with regard to their economic, social and cultural rights' or social segregation of persons with disabilities 'in all areas'.[221]

4.2.2. Disability Rights in the CEPA

The CEPA, concluded in 2017, incorporates a specific provision on disability cooperation under Article 85 (d) and (e), mirroring the corresponding provision in the AA/DCFTA with Georgia, discussed earlier. In particular, this article encourages cooperation between the parties through the exchange of information and best practices in the following areas:

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[218] 'Plan of Actions for the National Strategy on Human Rights Protection' <https://www.coe.int/t/commissioner/source/NAP/Armenia-National-Action-Plan-on-Human-Rights.pdf > accessed 30 September 2025.
[219] Commission, 'Implementation of the European Neighbourhood Policy in Armenia: Progress in 2013 and Recommendations for Action' SWD(2014) 69 final.
[220] Commission, 'Implementation of the European Neighbourhood Policy in Armenia: Progress in 2012 and Recommendations for Action' SWD (2013) 79 final.
[221] Commission, 'Implementation of the European Neighbourhood Policy in Armenia: Progress in 2014 and Recommendations for Action' SWD(2015) 63 final.

‘d) fostering more inclusive labour markets and social safety systems that integrate disadvantaged people, including people with disabilities and people from minority groups;

e) equal opportunities and anti-discrimination, aiming at enhancing gender equality and ensuring equal opportunities between men and women, as well as combating discrimination based on […] disability, […];’.

Similar to the AA/DCFTA concluded with Ukraine, Moldova, and Georgia, the CEPA includes an obligation to transfer a set of EU acquis promoting ‘employment, social policy and equal opportunities’ in Annex VII to Chapter 15 Title V Other Cooperation Policies. The Employment Equality Directive is among the EU acquis on non-discrimination and equality, which Armenia has yet to adopt to advance with the implementation of the agreement.

Unlike Moldova and Georgia, the EU–Armenia Partnership Priorities, a document developed to facilitate CEPA implementation, did not include disability among its priorities. The reason for this might be Armenia's moderate ambition regarding the EU during that period, which kept the EU’s approach to human rights promotion relatively modest. This omission was partially redressed by the Commission’s progress reports and Multiannual Indicative Programme (MIP) for 2021–2027.[222] In particular, the EU continued, albeit not systematically, to include concerns and recommendations in the disability area in its progress reports, such as discrimination against persons with disabilities,[223] inaccessibility of facilities hampering the right to vote, as well as limited access to employment and education.[224] In turn, the MIP for 2021–2027,[225] a key instrument guiding the EU’s financial assistance under the Neighbourhood, Development and International Cooperation Instrument (NDICI), discussed in Chapter II, addresses disability in the context of employment, participation in the development and leadership of local communities, non-discrimination, and inclusion.

[222] Commission, ‘ANNEX – Neighbourhood, Development and International Cooperation Instrument (Global Europe): Multiannual Indicative Programme for the Eastern Neighbourhood (2021–2027) for Armenia’ <https://enlargement.ec.europa.eu/document/download/151aae61-d6b4-45cb-992b-38edce55b33f_en > accessed 10 July 2025.
[223] Commission, ‘Partnership Implementation Report on Armenia’ SWD(2024) 41 final.
[224] Commission, ‘Partnership Implementation Report on Armenia’ SWD (2019) 191 final.
[225] Commission, ‘Multiannual Indicative Programme’ (n222).

Further, the EU was involved in the development of the National Strategy for the Protection of Human Rights 2020–2022,[226] which addresses disability rights in the context of education, social security, legal capacity, and independent living. In line with this strategy, the corresponding Action Plan 2020–2022[227] included a set of measures on disability rights, including the adoption of the Law on Persons with Disabilities of the Republic of Armenia. Disability rights are also included in the renewed Action Plan 2023–2025.[228] Therefore, albeit slow progress, disability has been increasingly gaining visibility in the cooperation framework between the EU and Armenia. This subsection also evidences that disability rights mainstreaming is connected to the depth of cooperation between parties.

4.3. Cases of EU Disability Norms Transfer

After providing an overview of the main dynamics related to integrating disability rights into the cooperation framework between the EU and Armenia, this subsection examines the conditionality and socialisation mechanisms to identify cases of EU disability norms transfer.

4.3.1. Conditionality Mechanisms

Whereas in Moldova and Georgia, the DCFTA, the VLAP dialogue, and the membership perspective in the EU as incentives played a major role in advancing non-discrimination legislation, Armenia was not interested in these cooperation opportunities until recently. The VLAP dialogue with Armenia was launched only at the beginning of 2024[229], and Armenia's membership ambition crystallised in early 2025. The Visa Facilitation Agreement[230] and the Readmission Agreement[231] concluded between the EU and Armenia in 2013, which intended to serve as a stepping

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[226] Anahit Babayan, 'Challenges of European Integration: The Cases of Armenia and Georgia' in Gvanca Daviťašvili, Thomas M Krüßmann and Ivanna Machitidze (eds), *The 'New' Geopolitics in the Caucasus: What Role for the EU?* (Ibidem Verlag 2024) 106.

[227] '2020–2022 Action Plan for the National Strategy for Human Rights Protection' (2019) <https://www.moj.am/storage/uploads/02Appendix_2.pdf> accessed 30 September 2025.

[228] Government of the Republic of Armenia, Decision 'On Amendments and Additions to the Government Decision No 1978-L of the Republic of Armenia dated December 26, 2019' (28 September 2023) No 1674-L.

[229] Commission, 'Commission Launches Visa Liberalisation Dialogue with Armenia' (Press Release, 22 July 2024) <https://enlargement.ec.europa.eu/news/commission-launches-dialogue-visa-liberalisation-armenia-2024-07-23_en> accessed 30 September 2025.

[230] Agreement between the European Union and the Republic of Armenia on the facilitation of the issuance of visas [2013] OJ L 289/2.

[231] Agreement between the European Union and the Republic of Armenia on the readmission of persons residing without authorisation [2013] OJ L 289/13.

stone for opening dialogue under the VLAP, advanced legislation relating to document security, readmission, and migration management.[232] However, these agreements did not advance non-discrimination legislation. Instead, budget support and incentives provided through sectoral cooperation appear to be the main drivers for promoting human rights and strengthening non-discrimination legislation through conditionality in Armenia.[233]

As observed by Roberts and Ziemer, 'much of the new legislation adopted by Armenia' was conditioned upon the EU's financial support.[234] In the area of disability, cooperation in the audiovisual media sector proved to be one of the most visible areas of EU disability norms transfer.

To participate in the MEDIA strand and Cross-sectoral strand of the Creative Europe Programme 2021–2027, Armenia has launched a set of reforms to align its audiovisual media legislation with the AMSD 2018, which is a requirement for the ENP countries.[235] In this context, Armenia adopted the Law 'On Audiovisual Media' (Audiovisual Media Law) in 2020,[236] replacing the outdated Law on Radio and Television from 2000.[237] The adopted law did not include norm on accessible content initially, which was critisised by the international community.[238] Subsequent amendments partially addressed this concern. In 2022, the law was amended to introduce, via Article 22(4) Audiovisual Media Law, an obligation to provide subtitles or sign language translation for special issues broadcast during a state of emergency and martial law. Further, in 2023, Article 9(7) was amended to expand the list of protected categories by explicitly including disability, thereby prohibiting audiovisual programmes from containing or promoting content that discriminates on this ground.

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[232] Esther Ademmer and Laure Delcour, 'With a Little Help from Russia? The European Union and Visa Liberalization with Post-Soviet States' (2016) 57(1) Eurasian Geography and Economics 89, 97.
[233] Laure Delcour, 'The Road to Equality? EU Diffusion of Anti-Discrimination Norms in Armenia' (2022) 29(3) Democratization 469, 474.
[234] Sean Roberts and Ulrike Ziemer, 'Explaining the Pattern of Russian Authoritarian Diffusion in Armenia' (2018) 34(2) East European Politics 152, 164.
[235] Regulation (EU) 2021/818 of the European Parliament and of the Council of 20 May 2021 establishing the Creative Europe Programme (2021 to 2027) and repealing Regulation (EU) No 1295/2013 [2021] OJ L 189/34, Article 6.
[236] Parliament of the Republic of Armenia, Law of the Republic of Armenia 'On Audiovisual Media' (16 July 2020) No ZR-395.
[237] Parliament of the Republic of Armenia, Law of the Republic of Armenia 'On Radio and Television' (09 October 2000) No HO-97.
[238] European Audiovisual Observatory, 'The Application of the AVMS Directive' (n175) 89.

However, overall, as noted by the European Audiovisual Observatory, the obligations on accessibility for persons with disabilities remain limited.[239] The law does not include provisions on establishing an online point of contact for providing information and receiving accessibility-related complaints, a reporting procedure for complaints to the National Regulatory Authorities, or a requirement to develop an accessibility action plan, among other AVMSD 2018 provisions discussed in Chapter III.[240]

Until 2021, Armenia benefited from participation in the GSP+. As in Georgia, the Commission included disability concerns in its GSP+ progress reports in the broader assessments of Armenia's compliance with other international human rights treaties, including the ICESCR. It expressed concern about the lack of comprehensive non-discrimination legislation,[241] inaccessibility of polling stations, education, employment, discrimination against persons with disabilities, and slow deinstitutionalisation.[242] Since 2014, Armenia has been engaging in drafting a comprehensive equality and non-discrimination law, a legislative advancement that the EU has repeatedly recommended under the GSP+, reiterated in the progress reports,[243] and during the EU–Armenia annual Human Rights Dialogues.[244] Eventually, the Draft Law 'On Ensuring Equality before the Law and Protection from Discrimination' from 2024 was registered but not yet adopted by the Armenian Parliament as of 2025. If adopted, the law will introduce a non-discrimination provision on the grounds of disability and define reasonable accommodation as a form of discrimination.[245] However, this example evidences that the lack of appealing

[239] Ibid 90.
[240] Ibid 108.
[241] Commission, 'The EU Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+) Covering the Period 2014–2015' SWD(2016) 8 final; Commission, 'The EU Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+) Assessment of Armenia Covering the Period 2016–2017' SWD(2018) 23 final.
[242] Commission, 'The EU Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+) Assessment of Armenia Covering the Period 2018–2019' SWD(2020) 17 final.
[243] Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Partnership Implementation Report on Armenia SWD(2022) 154 final.
[244] 'Armenia held the 13th Human Rights Dialogues in Yerevan' (EEAS, 19 January 2024) <https://www.eeas.europa.eu/delegations/armenia/armenia-13th-human-rights-dialogue-held-yerevan_en accessed> accessed 30 September 2025; 'Armenia: 14th Human Rights Dialogue held in Brussels' (EEAS, 19 February 2025) <https://www.eeas.europa.eu/eeas/armenia-14th-human-rights-dialogue-held-brussels_en> accessed 30 September 2025.
[245] 'Armenia: New draft law on antidiscrimination is now open to public discussion' (CSO Meter, 31 July 2025) <https://csometer.info/updates/armenia-new-draft-law-antidiscrimination-now-open-public-discussion> accessed 30 September 2025.

incentives attached to conditionality mechanisms prevents the advancement of legislation supporting human rights, including disability rights.

Overall, Armenia's policy of maintaining a balance between the EU and Russia, and therefore avoiding deep European integration, limited the EU's ability to promote human rights within the cooperation framework actively.

4.3.2. Socialisation Mechanisms

The screening of socialisation tools in Armenia evidences that support of civil society and technical assistance programmes feature more prominently in the cooperation framework between the EU and Armenia.

Even though civil society 'is becoming more important' in Armenia,[246] establishing and operating civil society organisations remains challenging due to the complex bureaucratic registration process, the lack of tax exemptions for their activities, and the low level of public trust.[247] In addition, the state maintains a degree of control over civil society organisations.[248]

Nonetheless, the EU has consistently supported civil society throughout the entire cooperation history with Armenia,[249] including during the period following Armenia's decision not to sign the AA/DCFTA.[250] The EU's financial support to various civil society organisations demonstrated a positive impact on their engagement in key processes unfolding in the country,[251] including disability rights. For instance, through the EU-funded three-year programme 'Towards Inclusive Armenia' 2021–2023, [252] 30 legislative proposals were developed with the aim of strengthening legal protection for persons with disabilities. This programme also launched a Coalition for Inclusive Legal Reforms to 'advocate for inclusive legislation, monitor law enforcement

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[246] Roberts and Ziemer, 'Explaining the Pattern' (n234) 166.
[247] Muharrem Doğan and Gökhan Sırmalı, 'The Politics of Building Civil Society in the South Caucasus: A Histroical Overview of Georgia and Armenia' (2024) 25(2) Anadolu Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi 158, 169.
[248] Ibid 172.
[249] From the outset the EU supported Armenia through a variety of financial instruments: Technical Assistance to the Commonwealth of Independent States (TACIS); European Agricultural Guidance and Guarantee Fund (EAGGF), Macro-Financial Assistance, the Nuclear Safety Programme, the Food Security Programme, and others.
[250] Roberts and Ziemer, 'Explaining the Pattern' (n234) 164.
[251] European External Action Service, 'EU Road Map for Engagement with Civil Society in Armenia 2021–2027' (2021).
[252] Project 'Towards Inclusive Armenia' (2020–2023) <https://euneighbourseast.eu/projects/eu-project-page/?id=1243> accessed 30 September 2025.

effectiveness and use of international human rights mechanisms such as CRPD to push government to fulfil its obligations'.[253] With the EU's support, the Law 'On Public Organizations' was amended, allowing civil society organisations to represent the legal interests of their beneficiaries in court cases to protect the rights of persons with disabilities.[254] During the National Assembly elections in 2021, with the EU's financial support, civil society organisations were able to provide accessible information to voters with disabilities.[255] In 2024, the EU supported a long-term programme aimed at supporting the implementation of a new model of disability assessment in Armenia, enhancing access to 'needs-based services' for persons with disabilities, and strengthening the capacities of organisations of persons with disabilities.[256]

Regarding multilateral cooperation, the role of the OSCE appears to be more prominent than that of the CoE in supporting Armenia's reforms,[257] particularly in the fields of audiovisual media and non-discrimination.[258] However, there is little evidence that either of them facilitated EU disability norms transfer. In 2019, the OSCE issued an Opinion on the Draft Law of the Republic of Armenia 'On Ensuring Equality Before the Law',[259] which provided recommendations on strengthening disability rights. The Opinion further recommended that Armenia consult the relevant EU acquis as 'useful guidance', in particular the CFR, the Employment Equality Directive, and Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.[260] Yet, as this

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[253] 'Supporting inclusivity in Armenia: EU-funded project looks back on its achievements'(Press Release, the Armenia Daily, 29 August 2023).
[254] Project 'Towards Inclusive Armenia' (n252).
[255] Babayan, 'Challenges of European Integration' (n226) 101.
[256] Project 'Leading Equality and Access for Disabilities' (2024–2027) <https://euneighbourseast.eu/news/latest-news/new-eu-funded-project-to-support-disability-rights-and-reforms-in-armenia/> accessed 30 August 2025.
[257] This finding is rather unsurprising, given the historical geopolitical orientation of the country discussed earlier in this chapter. See more on the OSCE's role in Armenia: Hylke Dijkstra and others, 'The EU's Partners in Crisis Response and Peacebuilding: Complementarities and Synergies with the UN and OSCE' (2018) 4(2-3) Global Affairs 185.
[258] See Organization of Security and Co-operation of Europe, 'Legal Analysis of the Law of the Republic of Armenia "On Audiovisual Media" (Adopted on 16 July 2020)' (2021); Venice Commission and Directorate General of Democracy and Human Dignity, 'Joint Opinion on the Draft Laws on Amending and Supplementing the "Law on Mass Media" and the Civil Code' (2024) CDL-AD(2024)030.
[259] Organization of Security and Co-operation of Europe, 'Final Opinion on the Draft Law of the Republic of Armenia on Ensuring Equality Before the Law' (2021).
[260] Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJ L 180/22.

legislation has not been adopted, it is challenging to assess the OSCE's role and impact in this process.

In terms of benefiting from the technical assistance programmes, Armenia has been notably active under the SOCIEUX+ programme. Since 2018, five SOCIEUX+ initiatives have been implemented to support the Ministry of Labour and Social Protection of Armenia in reforming the disability assessment system and introducing the ICF.[261] The new system has been functioning in Armenia since 2023, marking a significant advancement in disability rights. While this achievement reflects the combined efforts of multiple international actors, the EU's input has been particularly visible and substantive.

Overall, the overview of these socialisation mechanisms indicates that technical assistance programmes demonstrated evident results in EU disability norms transfer, as presumably they are underpinned by political will to undertake reforms in a given area. The EU has been consistently supporting civil society in Armenia, which is active despite the legal and political constraints. Nonetheless, civil society has yet to demonstrate its full potential in EU disability norms transfer.

5. The Republic of Azerbaijan: Yet an Acquaintance

Azerbaijan stands out among the EaP countries as a frontrunner in resisting the EU's agenda'.[262] A quite distinct cooperation framework that Azerbaijan has established with the EU is partially attributable to the country's geopolitical and economic value, particularly in the export of hydrocarbons and petroleum products.[263] Being an attractive regional actor both for the EU and Russia, Azerbaijan aims to keep a 'status quo' in its external relations, symmetrically developing ties with both powers, and at the same time not engaging in any regional integration project. As a result, in 2013, Azerbaijan decided not to continue negotiations on the AA/DCFTA with the EU and

[261] See SOCIEUX+ projects implemented in Armenia here <https://socieux.eu/countries/?idCat=832> accessed 30 September 2025.
[262] Eske Van Gils, 'The Inevitable Non-performance of the Eastern Partnership in Azerbaijan: How Regime Type Matters' (2024) 61 International Politics 1131, 1132.
[263] Nariné Ghazaryan, 'Legislative Approximation and Application of EU Law in Azerbaijan' in Peter Van Elsuwege and Roman Petrov (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union: Towards a Common Regulatory Space?* (Routledge 2014) 215.

declined an offer to join the EEU. Certainly, such a restrained position impacted the rule-transfer of the EU acquis under the cooperation framework.

Contractual relations between the EU and Azerbaijan remain grounded in the PCA,[264] which was signed in 1996 and entered into force in 1999. The ENP Action Plan for Azerbaijan, adopted in 2006[265] to implement the PCA, is of particular interest from disability rights perspective. It was the only ENP Action Plan among the EaP countries to explicitly include persons with disabilities and children in institutions as a category to be prioritised in the reform of the social protection system. This specific step was outlined under the objective aimed at reducing 'levels of poverty'. Including disability matters in the cooperation framework from the outset could have been an impetus for advancing disability rights further. However, the EU refrained from leveraging all conditionality mechanisms in its relations with Azerbaijan. Against this backdrop, it was strongly criticised for 'remaining silent' about human rights violations and 'democratic deficit',[266] considering its active trade relations in the energy sector.

Despite disability was mainstreamed in the ENP Action Plan, the Commission accorded limited attention to this matter in the progress reports. References to disability rights were sporadic, occasionally acknowledging certain developments, such as the ratification of the CRPD and its Optional Protocol in 2008,[267] or the adoption of a decree to strengthen social security by issuing allowances to children with disabilities.[268] Presumably, the 'poor record' of Azerbaijan in implementing international human rights and democratic commitments has restrained the EU from pursuing a more robust engagement on disability within the cooperation framework.

In 2018, the ENP Action Plan was replaced by the EU–Azerbaijan Partnership Priorities (PP),[269] which referred only to human rights broadly. Despite the absence of

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[264] Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part, Official Journal [1999] OJ L 246/3.

[265] 'EU/Azerbaijan Action Plan' (2006) <https://eeas.europa.eu/archives/docs/enp/pdf/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf> accessed 28 September 2025.

[266] Sabina Strimbovschi, 'The Influence of Energy Resources in Developing "Pragmatic" Relations Between Azerbaijan and the West' (2016) 8(3) CES Working Papers 505, 511.

[267] Commission, 'Progress report Azerbaijan 2009' SEC(2010) 519 final.

[268] Commission, 'Implementation of the European Neighbourhood Policy in 2010 Country Report: Azerbaijan' SEC(2011) 640 final.

[269] Council Decision (EU) 2018/1552 of 28 September 2018 on the position to be taken, on behalf of the European Union, within the Cooperation Council established by the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the

direct mention of disability in the PP, it was mainstreamed in the Single Support Framework for Azerbaijan for 2018–2020 (Single Support Framework),[270] a European Neighbourhood Instrument (ENI) of financial assistance, that supported the implementation of the PP. The Single Support Framework included persons with disabilities in specific priorities related to the modernisation of the education system and the promotion of a social protection system in line with EU standards. Also, under the ENI, the EU accompanied Azerbaijan's reform in modernising the rehabilitation system for persons with disabilities by shifting from the medical to the social model of rehabilitation.[271] The current Multi-Annual Indicative Programme (MIP) for Azerbaijan 2021–2027 includes a set of measures to support disability rights through the advancement of a comprehensive social protection system, alongside a task to align the national legislation with the CRPD.[272]

With respect to socialisation mechanisms and the EU's engagement with civil society organisations, Azerbaijani civil society is currently not involved in any EU-related structured mechanism, except for the EaP CSF.[273] Nonetheless, the EU has sought to consistently support civil society in Azerbaijan, which operates in a highly restrictive legal environment.[274] The government tends to view it as a 'sick patient' rather than as an agent of change capable of supporting Azerbaijan in implementing the ENP objectives.[275] This approach constrains the ability of the civil society organisations to engage meaningfully in advocacy and reform processes.

The EU has supported a range of civil society initiatives aimed at enhancing the capacities of the sector in advocating for disability rights,[276] promoting inclusive

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Republic of Azerbaijan, of the other part, with regard to the adoption of the EU–Azerbaijan Partnership Priorities [2018] OJ L 260/20.

[270] European Commission, 'Programming of the European Neighbourhood Instrument (ENI) – 2018–2020 Single Support Framework for EU support to Azerbaijan' (2018).

[271] Annex 'Multi-annual indicative programme for Azerbaijan (2021–2027)' to Council Regulation (EU) 2021/947 of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe [2021] OJ L 209/1.

[272] Ibid.

[273] Luciani, 'The EU's Hegemonic Interventions in the South Caucasus' (n180) 108.

[274] Antoine Buyse, 'Squeezing Civic Space: Restrictions on Civil Society Organizations and the Linkages with Human Rights' (2018) 22(8) The International Journal of Human Rights 966, 978.

[275] Katrin Böttger and Mareike Falkenhain, 'The EU's Policy Towards Azerbaijan: What Role for Civil Society? (Policy Paper, SPES, 2011) 17.

[276] Project 'Civil Society as an Advocate for the Rights of Persons with Disabilities in Government Decision-making' (2012–2016) <https://eu4azerbaijan.eu/projects/eu-project-page/?id=290> accessed 30 September 2025.

education,[277] and strengthening the child protection and social protection systems.[278] The EU appears to place more emphasis on supporting social protection reforms, which are perceived as less politically sensitive, rather than advancing human rights. The EU's engagement with Azerbaijan on the rule of law and human rights remains difficult, being a 'sensitive issue' for the latter.[279]

6. Concluding Remarks

This chapter has contributed to addressing the first and second research questions by examining different tools promoting disability rights within the EU's cooperation framework with four EaP countries – Moldova, Georgia, Armenia, and Azerbaijan – and by investigating the transfer of EU disability norms through conditionality and socialisation mechanisms. In this way, it verified and confirmed the hypothesis of this thesis, arguing that EU disability norms reach the legal orders of the EaP partners.

An examination of the EU's cooperation framework with Moldova, Georgia, Armenia, and Azerbaijan reveals that over time, the EU has increasingly integrated disability rights in its bilateral relations. This tendency reflects both internal developments within the EU, as examined in Chapters III and IV, and external dynamics shaped by the partner countries' geopolitical orientations, as discussed in the present chapter. In this context, this chapter reveals that EU disability norms transfer in four partner countries is mainly associated with the presence of conditionality mechanisms and the level of 'attractiveness' of the incentives attached to them. This demonstrates that disability mainstreaming in the cooperation framework, in and of itself, does not stimulate EU disability norms transfer but rather supports this process.

Disability rights feature more prominently in the cooperation framework with Moldova and Georgia, both of which have upgraded their contractual relations from the PCA to the 'integration-type' agreement, the AA/DCFTA, accompanied by the Association Agenda. The conditionality mechanisms coupled with the economic incentives under the AA/DCFTA have proved particularly effective in stimulating EU disability norms transfer in both countries. Disability rights are less mainstreamed in

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[277] Project 'Expanding inclusive quality education for children with disabilities in Azerbaijan' (2018–2020) <https://eu4azerbaijan.eu/projects/eu-project-page/?id=834> accessed 30 September 2025.
[278] Project 'Strengthening the Child Protection and Social Protection Systems in Azerbaijan' (2023–2025) <https://eu4azerbaijan.eu/?country=6&eud_pdf_project=1924&lang=eng> accessed 30 September 2025.
[279] 'Multi-annual Indicative Programme for Azerbaijan' (n271) 4.

the EU's cooperation framework with Armenia, which moved from the PCA to the CEPA, a 'light version' of the AA/DCFTA with less appealing incentives.

The screening of socialisation tools, such as technical assistance programmes, support of civil society, and multilateral cooperation, indicates that they all have played a role in promoting disability rights in four countries and, in some instances, supported EU disability norms transfer. In Moldova and Georgia, the CoE played an important role in transferring the AVMSD 2018 into the national legislation. Armenia's participation in SOCIEUX+ programmes was pivotal in reforming its disability assessment system. In Moldova, the EU's support of civil society has been crucial in advancing deinstitutionalisation, inclusive education, and the development of social services, priority areas identified under the AA/DCFTA. The analysis demonstrates that overall socialisation and conditionality mechanisms are mutually complementary and reinforce EU disability norms transfer.

The EU's engagement with Azerbaijan on disability rights remains limited. At present, Azerbaijan does not aspire to enhanced cooperation with the EU and shows little interest in advancing human rights under the current cooperation framework. Even though EU disability norms transfer is not evident, the EU's engagement with civil society in Azerbaijan impacts disability rights in the country.

Chapter VI

Tracing the Transfer of EU Disability Norms into Ukraine's Legal Order: A Case Study

1. Introduction

After analysing the extent to which disability rights are integrated in the cooperation framework between the EU and four Eastern Partnership (EaP) countries: Republic of Moldova (Moldova), Georgia, the Republic of Armenia (Armenia), and the Republic of Azerbaijan (Azerbaijan), and identifying cases of EU disability norms transfer, this chapter moves to tracing EU disability norms transfer into the Ukraine's legal order. In doing so, it endeavours to assess whether this process contributes to advancing the legal framework protecting disability rights in Ukraine, thereby addressing the third research question underpinning this PhD thesis. It allows for further testing and deepening the findings in Chapter V by zooming in and tracing EU disability norms transfer path through conditionality and socialisation mechanisms. To this end, it adopts a 'bottom-up' perspective, ie analyses this process from the standpoint of Ukraine, to better understand how the Ukrainian legal and political landscape (which precedes and accompanies EU disability norms transfer) impacts the rule-transfer.

This chapter is structured as follows. Sections 2 and 3 outline the evolution of the EU–Ukraine cooperation framework and traces the gradual integration of disability rights within it, providing a framework for discussion in sections 6 and 7. Section 4 and 5 then analyses Ukraine's disability policy, understood in this chapter as encompassing both laws and policy instruments, identifying its main developments and current challenges. In doing so, it aims to chart the political and legal developments that shaped Ukraine's disability policy, thereby facilitating a more nuanced understanding of the national processes underpinning the rule-transfer. Section 6 proceeds to analyse the selected cases of EU disability norms transfer under the conditionality mechanisms. In particular, it focuses on the adoption of the Law of Ukraine 'On the Principles of Prevention and Counteracting Discrimination in Ukraine' (Non-Discrimination Law)[1] from 2012 facilitated by the Visa Liberalisation Action Plan (VLAP) and the Law of Ukraine 'On Media' (Media Law)[2] from 2022 facilitated by

[1] Parliament of Ukraine, Law (Zakon) of Ukraine 'On the Principles of Prevention and Counteracting Discrimination in Ukraine' (06 September 2012) No 5207-VI.
[2] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Media' (13 December 2022) No 2849-IX.

the Association Agreement and Deep and Comprehensive Free Trade Area (AA/DCFTA) and the enlargement process. Sections 7 and 8 turn to the role of socialisation mechanisms and the extent to which they stimulate or support the transfer of EU disability norms. In particular, sections 7 discussed the disability-focused technical cooperation and support of civil society, while section 8 analyses the multilateral cooperation with the Council of Europe (CoE) in the Ukrainian context. Section 6 provides some concluding remarks.

2. The Main Developments in the EU–Ukraine Cooperation Framework

Since the early 1990s, Ukraine has demonstrated a consistent commitment to European integration, accompanied by a similarly consistent dissatisfaction with the cooperation frameworks proposed by the EU.[3] Such persistent discontent on Ukraine's part has, in turn, prompted the EU to periodically revise and upgrade its relations with Ukraine, in an effort to meet Ukraine's expectations.

2.1. From the Partnership and Cooperation Agreement to the AA/DCFTA

Like other EaP countries, discussed in Chapter V, Ukraine formalised its relations with the EU through the ratification of the Partnership and Cooperation Agreement (PCA) in 1994,[4] which entered into force in 1998. Even prior to the completion of the ratification process, the EU adopted an Action Plan for Ukraine in 1996,[5] an unprecedented move at that time. This document was adopted in response to Ukraine's request for the EU's support and potential membership in the EU. Although the EU was not prepared to welcome Ukraine as a member, it needed to address the dilemma of what kind of relationship it could offer Ukraine. Consequently, the EU limited its relations with 'a country that is near to the EU'[6] to a trade and security-focused cooperation. Nonetheless, Ukraine received a clear political signal that the EU wished to develop a closer cooperation. As a result, many aspects of Ukraine's economic,

[3] Kataryna Wolczuk, 'Implementation without Coordination: The Impact of EU Conditionality on Ukraine under the European Neighbourhood Policy' (2009) 61(2) Europe-Asia Studies 187.
[4] Partnership and Cooperation Agreement between the European Communities and their Member States, and Ukraine [1998] OJ L 49/3.
[5] Council, 'Action Plan for Ukraine' COM(96) 593 final.
[6] Ibid.

political, and energy sectors, as well as the protection of human rights, came under the EU's scrutiny.[7]

The PCA with Ukraine was more advanced than those concluded by other post-Soviet states, as it included a set of tailored provisions related to the prospect of a free-trade area with the EU.[8] Nonetheless, the relations remained somewhat limited, which was not to the satisfaction of Ukraine. The PCA did not meet Ukraine's expectations for the depth of cooperation it sought. Its limitations, such as restricted access to the EU's internal market and the lack of a 'clear-cut road map for closer cooperation',[9] prompted Ukraine to seek a more enhanced and substantive cooperation framework. As the 'membership perspective has been a pinnacle of Ukraine's strategy *vis-a-vis* the EU',[10] the PCA alongside the ENP format was perceived by Ukraine as a 'transitional framework on the way to membership'.[11]

Negotiations over a new agreement, which would include closer economic cooperation, began in 2008.[12] In 2012, the Association Agreement with Deep and Comprehensive Free Trade Area (AA/DCFTA) was first proposed. However, its signing process was 'highly dramatic'.[13] On 21 November 2013, under the presidency of a pro-Russian leader Viktor Yanukovych, the Cabinet of Ministers of Ukraine suspended preparations for signing the agreement. This decision triggered mass protests, widely known as the 'Euromaidan',[14] which unfolded between November 2013 and February 2014. These events resulted in nearly a hundred deaths, the ousting of the President, the annexation of the Autonomous Republic of Crimea, Ukraine's region with a special status, and the Russian invasion of Eastern Ukraine. In the

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[7] European Council, 'Common Strategy of the European Council of 11 December 1999 on Ukraine' [1999] OJ L 331/1.
[8] Rilka Dragneva and Kataryna Wolczuk, 'The EU–Ukraine Association Agreement and the Challenges of Inter-Regionalism' (2014) 39 Review of Central and East European Law 213, 215.
[9] Ibid 216.
[10] Julia Langbein and Kataryna Wolczuk, 'Convergence without Membership? The Impact of the European Union in the Neighbourhood: Evidence from Ukraine' (2012) 19(6) Journal of European Public Policy 863, 868.
[11] Ibid 869.
[12] Association Council, 'Joint Proposal for a Council Decision on the Union position within the Association Council established by the Association Agreement between the European Union, the European Atomic Energy Community and its Member States, of the one part and Ukraine, of the other part with regard to the adoption of a Recommendation on the implementation of the EU–Ukraine Association Agenda' JOIN(2015) 0004 final, Annex 2.
[13] Roman Petrov, 'The Impact of the EU–Ukraine Association Agreement on Constitutional Reform and Judicial Activism in Ukraine' (2018) 43(2) Review of Central and East European Law 99, 100.
[14] See Dmitry Shevsky, 'Euromaidan Revolution in Ukraine' in Jack A Goldstone, Leonid Grinin and Andrey Korotayev (eds), *Handbook of Revolutions in the 21st Century* (Springer 2022).

aftermath, the interim government signed the political part of the AA/DCFTA[15] in March 2014 and the economic part in June 2014. On 16 September 2014, the AA/DCFTA was ratified by the Parliament of Ukraine, enabling the provisional application of specific provisions from 1 November 2014, with a full application from 1 January 2016. The AA/DCFTA marked a significant milestone in the EU–Ukraine cooperation, catalysing wide-ranging political and economic reforms in areas such as public service, health, education, pensions, energy, decentralisation, value-added tax (VAT) reform, [16] and thereby driving intensified 'approximation' of Ukraine's legal and regulatory frameworks with the EU acquis. The leverage of various tools by the EU, from political dialogue and support of civil society to conditionality mechanisms attached to the AA/DCFTA, supported this process.[17]

2.2. On the Way to Membership in the EU

Following the 'Euromaidan', Ukraine began working on anchoring its European integration trajectory through constitutional amendments. Eventually, in 2019, the course of Ukraine towards full membership in the EU was formally enshrined in the Constitution of Ukraine (Constitution).[18] The Preamble to the Constitution now 'confirm[s] the European identity of the Ukrainian persons and the irreversibility of the European and Euro-Atlantic course of Ukraine'. This commitment has been further institutionalised through assignment of responsibilities to the core state apparatus: the Parliament of Ukraine, via Article 85(5) Constitution, and the Cabinet of Ministers of Ukraine, via Article 116(1)(1) Constitution, are mandated to implement 'the strategic course of the State to acquire full membership of Ukraine in the European Union and in the North Atlantic Treaty Organisation'. Article 102 Constitution entrusts the President of Ukraine with the role of 'guarantor of the implementation of the strategic course of the state for gaining full-fledged membership of Ukraine in the European Union'. Through this reform, Ukraine sought to maintain a 'consistent and stable

[15] Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part [2014] OJ L 161/3.
[16] Katarína Mathernová, 'Ukraine and the European Union' in Ivan Mikloš and Pavlo Kukhta (eds), *Reforms in Ukraine after Revolution of Dignity: What Was Done, Why not More and What to do Next* (Strategic Advisory Group for Support of Ukrainian Reforms, 2019) 144, 150.
[17] Ibid.
[18] Constitution of Ukraine adopted 28 June 1996 (amended by Law No 2680-VIII of 07 February 2019).

path'[19] towards EU membership and prevent any future ambiguities in its geopolitical orientation.

On 24 February 2022, Russia launched a full-scale invasion of Ukraine. In the immediate aftermath of the invasion, Ukraine submitted its formal application for membership in the EU, viewing accession as a strategic imperative to bolster its national security and defence. To assess Ukraine's preparedness for membership, the Commission sent a questionnaire on the political and economic criteria to Ukraine. On 17 June 2022, after assessing the answers provided in the questionnaire, the Commission issued its Opinion,[20] recommending that Ukraine be granted candidate status. On 23 June 2022, the European Council endorsed the Commission's recommendation and granted Ukraine candidate status.[21] Accession talks were subsequently opened on 15 December 2023,[22] with formal negotiations commencing on 25 June 2024, during the first Intergovernmental Conference.[23] Ahead of the event, the Negotiating Framework for Ukraine was formally presented,[24] marking the beginning of a structured dialogue on Ukraine's accession to the EU.

As of August 2025, Ukraine is undergoing a comprehensive screening process that allows the EU to assess Ukraine's legal framework and its preparedness to join the EU.

3. Disability Rights in the EU–Ukraine Cooperation Framework

As the EU–Ukraine cooperation framework evolved, the visibility of disability rights within it gradually increased. This tendency is also observed in other EaP countries discussed in Chapter V. This section examines the development of the EU–Ukraine cooperation from a disability perspective, laying the groundwork for the subsequent analysis of the EU's impact on Ukraine's disability policy in the following sections.

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[19] Sarah D Phillips, '"There Are No Invalids in the USSR!" A Missing Soviet Chapter in the New Disability History' (2009) 29 Disability Studies Quarterly.
[20] Commission, 'Commission Opinion on Ukraine's application for membership of the European Union' COM(2022) 407 final.
[21] European Council, 'European Council Conclusions, 23–24 June 2022' (2022) EUCO 24/22.
[22] European Council, 'European Council Meeting (14 and 15 December 2023) – Conclusions)' (2023) EUCO 20/23.
[23] Council, 'General EU Position: Ministerial Meeting Opening the Intergovernmental Conference on the Accession of Ukraine to the European Union' (2024) CONF-UA 2 AD 9/24.
[24] Ibid.

3.1. Disability Rights in the Partnership and Cooperation Agreement

As observed in other EaP countries earlier, initially neither the PCA nor the ensuing ENP Action Plan[25] – adopted in 2005 to implement the PCA – explicitly mentioned disability rights in the EU–Ukraine cooperation framework. Nonetheless, Ukraine incorporated them into the Programme of Ukraine's Integration with the European Union[26] from 2000, developed at the national level to support PCA implementation. In particular, disability was addressed under the sections 'Social Approximation' and 'Education, Training and Youth', which focused on social benefits and advancing education and vocational training opportunities, respectively. Under the implementation of Article 59 PCA 'Education and Training', Ukraine committed to realising the Comprehensive Programme to Resolve Disability Issues,[27] adopted in 1992, and endeavouring to move towards inclusive education. In this way, disability rights gained some visibility within the EU–Ukraine cooperation framework at the national level. Still, there is limited evidence that the Programme of Ukraine's Integration with the EU 'stimulated the development of new legislation in respect to the rights of persons with disabilities'.[28] From a disability perspective, the period preceding the adoption of the AA/DCFTA did not catalyse significant reforms underpinned by EU disability norms transfer.

Following the adoption of the ENP Action Plan[29] in 2005, disability was gradually, albeit minimally, integrated into the ENP progress reports on Ukraine. Initially, persons with disabilities appeared only within the context of social protection,[30] though progressively it was recognised as a group requiring protection, alongside women, children, and minority groups. Over time, the EU began to pay closer attention

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[25] 'EU/Ukraine Action Plan' (2005) <https://europavarietas.org/csdp/files/paueukraine.pdf> accessed 29 September 2025.
[26] Edict (Ukaz) of the President of Ukraine 'On the Programme of Ukraine's Integration into the European Union' (14 September 2000) No 1072/2000.
[27] Cabinet of Ministers of Ukraine, Decree (Postanova) 'On the Comprehensive Programme to Resolve Disability Issues' (27 January 1992) No 32.
[28] Viktor Kostiuk, 'Problemy harmonizatsii zakonodavstva Ukrainy shchodo prav osib z invalidnistiu z vidpovidnymy standartamy Yevropeiskoho Soiuzu' [Problems of Harmonizing Ukrainian Legislation on the Rights of Persons with Disabilities with the Relevant Standards of the European Union] (2018) 8 Pravo Ukrainy 47, 48 (in Ukrainian).
[29] 'EU/Ukraine Action Plan'(n25).
[30] The ENP progress report for 2006 mentioned persons with disabilities in the context of the social outlook analysis, highlighting Ukrainian progress in adjusting minimum social pension for persons with disabilities and children with disabilities in line with the living wage. See: Commission, 'ENP Progress Report – Ukraine' SEC(2006) 1505 final.

to legislation on equal employment opportunities for persons with disabilities, non-discrimination, and barrier-free access. Additionally, it began monitoring Ukraine's efforts to align its national legislation with the CRPD and the Optional Protocol.[31] Such an increased attention to disability rights may be attributed to the CRPD, concluded by Ukraine in 2009 and by the EU in 2010.

3.2. Disability Rights in the AA/DCFTA

This deeper and more far-reaching cooperation framework with the EU reinforced Ukraine's commitment to human rights,[32] including disability rights. It is true that, unlike the AA/DCFTA concluded with Moldova and Georgia, the AA/DCFTA with Ukraine does not contain provisions that explicitly mandate cooperation on disability rights. Instead, disability rights, albeit not explicitly, are integrated into the AA/DCFTA through the general human rights provisions discussed earlier in this thesis in Chapter II and (as is often the case) the social protection provisions (particularly Articles 418 and 420 AA/DCFTA).

Disability-specific commitments are also included in the EU–Ukraine Association Agenda, adopted in 2015, to implement the AA/DCFTA.[33] It identifies disability as one of the priorities to be implemented in a short-term perspective, through promoting non-discrimination and ensuring equal opportunities in the employment context.[34] Hence, the focus on disability rights under the EU–Ukraine Association Agenda is guided more by a rights-based approach.

Furthermore, similar to the annexes of the AA/DCFTA with Georgia and Moldova, discussed in Chapter V, annexes to various chapters under Title V Economic and Sector Cooperation of the AA/DCFTA with Ukraine contain a list of disability-related directives and regulations to be transferred into Ukraine's legislation. All these directives embed a solid rights-based approach to disability. They span areas such as

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[31] See Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Implementation of the European Neighbourhood Policy in 2009: Progress Report Ukraine' SEC(2010) 524 final 6; Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Implementation of the European Neighbourhood Policy in 2010: Country Report Ukraine SEC(2011) 646 final 6,10.

[32] European Parliament Directorate General for External Policies of the Union, 'Human Rights in Ukraine and the EU Response, Including Relevant Activities of the European Parliament' (Publications Office of the European Union, 2018) 33.

[33] EU–Ukraine Association Council, EU–Ukraine Association Agenda (2015) <https://eeas.europa.eu/archives/docs/ukraine/docs/st06978_15_en.pdf > accessed 29 September 2025.

[34] Ibid target 7.17.

the audiovisual media sector, non-discrimination, equality, employment, and transport. [35] In addition, under Title IV Trade, Ukraine is required to transfer norms of the Council Directive 2014/24/EU on public procurement (Council Directive 2014/24/EU)[36] and Council Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors (Council Directive 2014/25EU)[37] regulating public procurement, both of which mainstream disability rights. While the transfer of EU disability norms under these directives is not compulsory for Ukraine, the AA/DCFTA still encourages their adoption.[38] As indicated in the Preamble to the AA/DCFTA, the political association and economic integration into the EU depend on Ukraine's progress in implementing the agreement overall, including demonstrating a 'track record in ensuring respect for common values', to which disability rights, as part of human rights, belong.

To fulfil the obligations under the AA/DCFTA, Ukraine adopted an Action Plan for the Implementation of the Association Agreement (Action Plan) in 2017.[39] The absence of an explicit provision mandating cooperation on disability within the AA/DCFTA does not appear to hinder de facto EU–Ukraine engagement in this area. Ukraine linked several disability-related and disability-specific tasks in the Action Plan to a wide range of provisions in the AA/DCFTA. In particular, activities concerning the monitoring of the CRPD implementation, including awareness-raising activities for public authorities on the CRPD, were allocated under Article 14 AA/DCFTA on the rule of law and respect for human rights and fundamental

[35] Annex XXXVII to Chapter Audiovisual Policy contains obligation to adopt Council Directive 2010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services; Annex XXXII to Chapter Transportation contains obligation to adopt Regulation (EC) No 1371/2007 of the European Parliament and of the Council on rail passengers' rights and obligations; Annex XL to Chapter 21 Cooperation on Employment, Social Policy and Equal Opportunities contains obligation to adopt the Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

[36] Council Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC [2014] OJ L 94/65.

[37] Council Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors [2014] OJ L 94/243.

[38] See Annexes XXI-F, Annexes XXI-G, XXI-H to Chapter 8 Public Procurement AA/DCFTA.

[39] Cabinet of Ministers of Ukraine, Decree (Postanova) 'On the Approval of the Action Plan for the Implementation of the Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community, and its Member States, of the other part' (25 October 2017) No 1106.

freedoms.[40] Advancing employment opportunities for persons with disabilities was linked to Article 424 AA/DCFTA, which governs the gradual 'approximation' to 'EU law, standards, and practices in the area of employment and social policy'.[41] Unsurprisingly, the reform of Ukraine's social protection system was a task under Article 420 AA/DCFTA, which aims at enhancing 'the level of social protection and modernize social protection systems, in terms of quality, accessibility, and financial sustainability', reducing poverty and improving social cohesion, among others. Enhancing the quality of railway services, including accessibility for persons with disabilities, was linked to Article 368 AA/DCFTA and Annex XXXII, which require Ukraine to align its legislation with Regulation (EC) No 1371/2007 on rail passengers' rights and obligations (Regulation 1371/2007)[42] repealed by Regulation (EU) 2021/782 on rail passengers' rights and obligations (Regulation 2021/782).[43] Advancing public procurement legislation to support the employment of persons with disabilities was identified as a target under Article 153 AA/DCFTA and Annexes XXI-F, XXI-G, and XXI-H, requiring alignment of Ukraine's legislation with Council Directives 2014/24/EU and 2014/25/EU.[44]

3.3. Disability Rights in Accession Negotiations

As discussed earlier, after Ukraine submitted its formal application for membership in the EU, the Commission sent a questionnaire on the political and economic criteria to assess Ukraine's preparedness. On that occasion, the state of disability rights was comprehensively addressed by the EU. Specifically, it sought information about the institutional and legal framework for inclusion of persons with disabilities in the labour market, equality in the transport sector, inclusive education, accessibility of goods and services, deinstitutionalisation, and community-based services, among others.[45] While Ukraine has undertaken efforts in all of these areas, first under the PCA and later under the AA/DCFTA, the national standards were (and remain) far

[40] Task 18 Action Plan.
[41] Task 1344 Action Plan.
[42] Task 1880 Action Plan.
[43] Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations [2021] OJ L 172/1.
[44] Cabinet of Ministers, 'Action Plan' (n39) Task 648.
[45] 'EU Questionnaire and Responses to the Questionnaire on information requested by the Commission to the Government of Ukraine for the preparation of the Opinion on the application of Ukraine for membership of the European Union' <https://eu-ua.kmu.gov.ua/en/news/opytuvalnyk-yes-ta-vidpovidi-na-nogo-dlya-nabuttya-ukrayinoyu-statusu-kandydata-v-yes/> accessed 29 September 2025.

from those of the EU. In its Opinion, the Commission indicated that support for persons with disabilities remains under-resourced and a comprehensive deinstitutionalisation process was necessary to enable a transition to community-based care of persons with disabilities.

Disability rights were further integrated in the 2023 Report on Ukraine[46] and in the subsequent 2024 Report on Ukraine[47] under the Enlargement Package. As of 2025, the EU's primary areas of focus include deinstitutionalisation, inclusive education and electoral processes, inclusive rebuilding, enhanced employment opportunities, and reform of the disability assessment system and legal capacity. These areas will likely remain prioritised in the accession negotiations in the coming years, as they are key to ensuring alignment with the disability-related EU acquis, and reforms in these areas require a long-term commitment.

4. Protection of Disability Rights in Ukraine: Assessing Local Context in which EU Disability Norms Transfer Occurs

Having analysed the core developments of the EU–Ukraine cooperation framework and the extent to which disability is integrated within it, this section focuses on the national context by examining the evolution of Ukraine's disability policy. This analysis further helps to frame the discussion in sections 6, 7, and 8, which discuss the transfer of EU disability norms through conditionality and socialisation mechanisms.

4.1. Ukraine's Legal Order: Place of the CRPD and the AA/DCFTA

Before examining Ukraine's disability policy and its development over time, it is essential to provide an overview of Ukraine's legal order, with a particular focus on the hierarchy and effects of different sources of law, including the status of the CRPD and the AA/DCFTA within this framework.

4.1.1. Status of International Treaties in Ukraine's Legal Order

Ukraine's legal order comprises the Constitution as the supreme law, secondary law, which also includes codified legislative acts, subordinate regulatory acts, and soft law

[46] Commission, 'Ukraine 2023 Report' SWD(2023) 699 final.
[47] Commission, 'Ukraine 2024 Report' SWD(2024) 699 final.

instruments.[48] The status of international treaties within this order continues to bear traces of the Soviet legacy,[49] a period during which the primacy of international law over national law was not recognised and the application of international treaties by Soviet courts was scarce.[50] After gaining independence, the Declaration of State Sovereignty of Ukraine from 1991[51] recognised the primacy of human rights over 'class values' and supremacy of international law over national law. This approach was subsequently formalised in the Constitution. Pursuant to Article 9 Constitution, international treaties duly ratified by the Parliament of Ukraine form an integral part of Ukraine's legal order. In this way, Article 9 Constitution establishes the legal basis for the application of international treaty norms in the Ukraine's national legal order, however, it does not formally establish a hierarchy of international treaties in relation to secondary law.[52] The primacy of international treaties over secondary law was instead confirmed by the Law of Ukraine 'On International Agreements of Ukraine'.[53] However, there is still no established judicial practice regarding the application of international treaties, nor is there formal recognition of their direct effect within Ukraine's legal order. With respect to civil and criminal proceedings, the Plenum of the High Specialised Court of Ukraine for Civil and Criminal Cases provided guidance[54] on the application of norms contained in 'international agreements' by national courts, with two points of particular relevance to the present discussion. First, national courts may apply the norms of 'international agreements' as part of national legislation, provided that such norms are formulated as norms of direct effect. The assessment of whether a legal provision constitutes a norm of direct effect falls within

[48] Anatolii Melnyk, 'Osnovni ta dopovniuiuchi dzherela ukrainskoho prava' (2013) Aktualni problemy derzhavy i prava'[Primary and Supplementary Sources of Ukrainian Law] UDK 340.130.5 67, 69 (in Ukrainian).
[49] Roman Petrov, 'Legislative Approximation and Application of EU Law in Ukraine' in Peter Van Elsuwege and Roman Petrov (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union: Towards a Common Regulatory Space?* (Routledge 2014) 138.
[50] Ibid 139.
[51] Parliament of Ukraine, 'Declaration of State Sovereignty of Ukraine' (16 July 1990) No 55-XII.
[52] Victor Muraviov, 'Principles and Values of the European Union and Ukraine: Legal Mechanisms for Implementation' (2019) 138 Actual Problems of International Relations 97, 138.
[53]Parliament of Ukraine, Law (Zakon) of Ukraine 'On International Treaties of Ukraine' (29 June 2004) No 1906-IV, Article 19(2).
[54]Plenum of the High Specialised Court of Ukraine for Civil and Criminal Cases, Decree (Postanova) 'On the Application by Courts of International Treaties of Ukraine in the Administration of Justice' (19 December 2014) No 13.

the adjudicative discretion of the courts and is not formalised.[55] Second, only provisions of 'international agreements' that enshrine human rights and fundamental freedoms are subject to application by national courts as norms of direct effect. In this respect, further clarification is needed to understand the status and effect of the CRPD and the AA/DCFTA in Ukraine's legal order.

4.1.2. Status and Effect of the CRPD and the AA/DCFTA

Both the CRPD and the AA/DCFTA are regarded as 'international agreements' within the meaning of the Law of Ukraine 'On International Agreements of Ukraine',[56] and have a binding effect within Ukraine's legal order pursuant to Article 9 Constitution.[57] They occupy the level below the Constitution but above the secondary law.[58] The CRPD – as all other international human rights treaties – has a direct effect in Ukraine's legal order.[59] However, while its application by national courts is increasing, it remains limited.[60] The development of case law related to the CRPD is primarily driven by strategic litigation,[61] a litigation that seeks legal and social change.[62]

When it comes to the AA/DCFTA, the situation is less clear. The Plenum of the Higher Specialised Court of Ukraine for Civil and Criminal Cases expounded on the direct effect only of provisions of 'international agreements' that enshrine human rights and fundamental freedoms. In fact, the direct effect of the AA/DCFTA as a whole has not been formally recognised within Ukraine's legal order.[63] This is largely due to the comprehensive nature of the agreement, spanning a wide range of policy areas.

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[55] Valentyna Chaikovska, 'Pro pryamu diyu Uhody pro asotsiatsiyu mizh Ukrayinoyu ta Yevropeys′kym Soyuzom u pravoviy systemi Ukrayiny' [On the Direct Effect of the Association Agreement Between Ukraine and the European Union in the Legal System of Ukraine] (2015) Natsional′nyy yurydychnyy zhurnal: teoriya i praktyka UDK 341.10/8:341.171 109, 112 (in Ukrainian).
[56] Parliament of Ukraine, Law (Zakon) of Ukraine 'On International Treaties of Ukraine' (29 June 2004) No 1906-IV, Article 2.
[57] Petrov, 'Legislative Approximation'(n49) 140.
[58] Roman Petrov, 'The Impact of the EU–Ukraine Association Agreement on Constitutional Reform and Judicial Activism in Ukraine' (2018) 43(2) Review of Central and East European Law 99, 101.
[59] Plenum of the High Specialised Court of Ukraine for Civil and Criminal Cases, Decree (Postanova) 'On the Application by Courts of International Treaties of Ukraine in the Administration of Justice' (19 December 2014) No 13.
[60] Based on the overview of national courts' decision for a period 2024–2025.
[61] See, for instance, Case No 201/13021/16-ц *Zharyi v AXA Group* [2017].
[62] Catherine Corey Barber, 'Tackling the Evaluation Challenge in Human Rights: Assessing the Impact of Strategic Litigation Organisations' (2012) 16(3) The International Journal of Human Rights 411, 412.
[63] Chaikovska, 'Pro pryamu diyu Uhody pro asotsiatsiyu' (n55) 109.

However, national courts are gradually developing case law regarding selected provisions of the AA/DCFTA. For instance, in *Zhantiva*,[64] the Ukrainian Commercial Cassation Court held that Article 198 AA/DCFTA on grounds for revocation has direct effect in Ukraine's legal order. This conclusion was also confirmed in *Kanzhut.*[65] The cooperation provisions under the AA/DCFTA, relevant to this PhD thesis, do not appear to have been contested in national courts yet, although scholars argue that they lack direct effect,[66] as they do not impose clear and precise obligations. In the same vein, provisions that require the adoption of subsequent measures, for instance, the obligation to align with certain EU acquis, would not be considered as norms of direct effect. This line of reasoning is consistent with CJEU case law. In *Pabst & Richarz KG v Hauptzollamt Oldenburg*, the Court of First Chamber expounded that Article 53(1) Agreement establishing an Association between the European Economic Community and Greece has a direct effect as it 'contain[s] a clear and precise obligation which is not subject, in its implementation or effects, to the adoption of any subsequent measure'.[67]

Overall, as Petrov argues, national courts are gradually (albeit reluctantly) developing case law regarding selected areas of the AA/DCFTA, but uncertainty remains on the effects of this agreement overall.[68]

4.2. Ukraine's Disability Policy Before the CRPD Ratification

Ukraine was part of the Union of Soviet Socialist Republics (USSR) from 1922 until 1991. For nearly seventy years, state socialism permeated all aspects of state functioning, including Ukraine's disability policy. Although Ukraine was formally recognised as a sovereign republic within the USSR,[69] de facto, its sovereign

[64] Case No 910/14972/17 Commercial Cassation Court *Zentiva v Ministry of Development, Economy and Trade* [2018].
[65] Case No 910/4947/18 Commercial Cassation Court *Kanzhut LLC v TVI.UA and Ministry of Development, Economy and Trade* [2019].
[66] Chaikovska, 'Pro pryamu diyu Uhody pro asotsiatsiyu' (n55) 110.
[67] Case 17/81 *Pabst & Richarz KG v Hauptzollamt Oldenburg* [1982] ECLI:EU:C:1982:142 [27].
[68] Roman Petrov, 'The Impact of the Court of Justice of the European Union on the Legal System of Ukraine' in Arie Reich and Hans-W Micklitz (eds), *The Impact of the European Court of Justice on Neighbouring Countries* (Oxford University Press 2020) 180.
[69] The Constitution of the Ukrainian Soviet Socialist Republic, Article 13.

functions, as in other Soviet republics,[70] were delegated to the central authorities of the USSR. As a result, disability policy in Ukraine was primarily shaped by the USSR.

The policy framework governing disability in the USSR is perhaps best described by the infamous phrase: 'There are no invalids in the USSR!'.[71] This statement was made by a Soviet official in 1980 in response to a question about the USSR's participation in the first Paralympic Games. In effect, the USSR disability policy aimed at exclusion, social distancing, and the denial of the existence of persons with disabilities, in general.[72] As social policy more broadly was regarded as an 'instrument for mobilization of population for the purpose of production',[73] the USSR's approach to disability was underpinned by the productivist ideology.[74] Within this approach, an individual's social value was defined by their capacity to contribute to the workforce.[75] Consequently, disability was assessed primarily in terms of a person's 'usefulness for society'.[76] Those who were considered incapable of working were relegated to a 'residual category',[77] marginalised, and invalidated.[78] This approach, referred to by Mladenov also as a medical-productivist understanding of disability,[79] was expressed through provisions facilitating segregated services, a medical approach to disability assessment, suppression of civil society development,[80] widespread institutionalisation,[81] among others.

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[70] Kamal Makili-Aliyev, 'Soviet Union's Legacy in Laws, Institutions and Practice of Human Rights in the Republic of Azerbaijan' in Lucia Leontiev and Punsara Amarasinghe (eds), *State-Building, Rule of Law, Good Governance and Human Rights in Post-Soviet Space: Thirty Years Looking Back* (Routledge 2022) 109.
[71] See D Phillips, ''There Are No Invalids in the USSR!'' (n19).
[72] Ibid.
[73] Teodor Mladenov, 'From State Socialist to Neoliberal Productivism: Disability Policy and Invalidation of Disabled Persons in the Postsocialist Region' (2017) 43(7-8) Critical Sociology 1109, 1113.
[74] Radu Harald Dinu, 'Recent Historiographical Trends in Scholarship on Disability and Socialism in Eastern Europe' (2022) 24 Scandinavian Journal of Disability Research 42, 49.
[75] Mladenov, 'From State Socialist to Neoliberal Productivism'(n73) 1110.
[76] D Phillips, ''There Are No Invalids in the USSR!'' (n19).13/01/2026 01:52:00
[77] Dinu, 'Recent Historiographical Trends'(n74) 45.
[78] Agnieszka Woynarowska, 'Disability and Work. Discursive Constructions of Exclusion and Dissensus' (2023) 20 Ars Educandi 69, 78.
[79] Mladenov, 'From State Socialist to Neoliberal Productivism' (n73) 1120.
[80] Monika Baar, Teodor Mladenov and Mike Titterton, 'Rethinking "Transition" in Central and Eastern Europe and the Former Soviet Union Through the Lens of Disability' (2024) 72(3) Problems of Post-Communism 1, 2.
[81] In 1979, there were 1,500 institutions for the elderly persons and persons with disabilities stretched across the vast territory of the USSR. For more, see D Phillips, ''There Are No Invalids in the USSR!'' (n19).

Following the collapse of the USSR and the declaration of independence in 1991,[82] Ukraine faced the challenge of reforming its government, institutions, and legal system.[83] Primarily, it had to replace or amend Soviet laws and regulations 'to form a legal system of a newly independent state'.[84] The recognition of Ukraine as a democratic, legal, and social state[85] necessitated the adoption of new approaches to promote human rights.[86] However, as noted by Dinu, rather than replacing the existing system, 'communist legacies were recombined with liberal policies, resulting in both continuity and abrupt changes'.[87] Ukraine's disability policy reflects this dynamic. It retained the former USSR approach to disability, while adopting emerging democratic approaches. For instance, in parallel with ratifying international and regional human rights treaties,[88] it also ratified, in 1996, the Commonwealth of Independent States'[89] Agreement on the Mutual Recognition of Benefits and Guarantees for Veterans and Disabled of the Great Patriotic War.[90] This instrument does not advance disability rights, as its scope is confined to the provision of social benefits. Overall, Ukraine's legal and institutional system has proven 'remarkably resistant to change',[91] with reforms progressing at a notable slow pace.

In 1991, Ukraine introduced a framework Law of Ukraine 'On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine' (Social Protection Law),[92] which intended to mark the beginning of a new era in Ukraine's disability policy, underpinned by a rights-based approach to disability. While it did introduce novel

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[82] Parliament of the Ukrainian Soviet Socialist Republic, 'Act on Independence of Ukraine' (1991) No 38.
[83] Christopher Lehmann, 'Bail Reform in Ukraine: Transplanting Western Legal Concepts to Post-Soviet Legal Systems' (2000) 13 Harvard Human Rights Journal 191, 191.
[84] Paul T Babie, 'Ukraine's Transition from Soviet to Post-Soviet Law: Property as a Lesson in Failed Regulation' (2 Adelaine Law School Law Research Paper, 2016) 9.
[85] The Constitution of Ukraine, Article 1.
[86] Andrii Voitsikhovskyi and others, 'The Role of International Organizations in the Protection of Human Right in Ukraine' (2022) 16(2) Novum Jus 305, 313.
[87] Dinu, 'Recent Historiographical Trends'(n74) 45.
[88] Ukraine ratified the UN Convention on the Rights of the Child in 1991, the European Convention on Human Rights in 1997, Framework Convention for the Protection of National Minorities in 1998.
[89] Commonwealth of Independent States is an organisation established by Russia in 1991 as an alternative to the USSR. See more Janko Šćepanović, 'Commonwealth of Independent States at 30: Why Does Russia Still Support This Organization?' (2022) 22(2) Southeast European and Black Sea Studies 187.
[90] Agreement on the Mutual Recognition of Benefits and Guarantees for Veterans and Persons with Disabilities of the Great Patriotic War, Participants in Combat Operations in Other Countries, and Families of Deceased Servicemen ratified by the Law No 144/96-BP on 26 April 1996.
[91] Lehmann, 'Bail Reform in Ukraine' (n83) 191.
[92] Parliament of Ukrainian Soviet Socialist Republic, Law 'On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine' (21 March 1991) No 21.

provisions on non-discrimination,[93] accessibility of 'social infrastructure',[94] guarantees related to education and employment,[95] and the status of organisations of persons with disabilities,[96] its commitment remained largely formal. It lacked concrete mechanisms for promoting economic independence, political, cultural participation, and employment opportunities. The Social Protection Law remained focused on social benefits, medical services, and a purely medical approach to disability assessment.[97]

Similarly, the Comprehensive Programme to Resolve Disability Issues,[98] adopted in 1992 to implement the Social Protection Law, was framed around the idea of '*resolving* disability issues' – as the title suggests – by creating segregated environments for living, working, and education.

In 1996, the right to social protection of persons with disabilities was constitutionalised via Article 46 Constitution. This Article affirms that persons with disabilities, among other groups, 'have the right to social protection including the right to financial security'. Notably, the original Ukrainian version of the Constitution employs the term that translates as 'incapacity to work', whereas the official English translation uses the term 'disability'. Hence, the Constitution of Ukraine continues to conceptually link disability to the 'capacity to work' to this day.

The Constitution and the Social Protection Law, together with a package of laws introduced in the early 2000s on rehabilitation services, disability pension, and social services,[99] constituted Ukraine's disability policy before the ratification of the CRPD. Although provisions on disability were also mainstreamed across various sectoral

[93] Articles 1(3), 17(2) Social Protection Law.
[94] Articles 26-28 Social Protection Law.
[95] Articles 17-25 Social Protection Law.
[96] Articles 12-16 Social Protection Law.
[97] Articles 3-5 Social Protection Law.
[98] Cabinet of Ministers of Ukraine, Decree (Postanova) 'On the Comprehensive Programme to Resolve Disability Issues' (27 January 1992) No 32.
[99] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Rehabilitation of Persons with Disabilities in Ukraine' (06 October 2005) No 2961-IV; Parliament of Ukraine, Law (Zakon) of Ukraine 'On Compulsory State Pension Insurance' (09 July 2003) No 1058-IV; Parliament of Ukraine, Law (Zakon) of Ukraine 'On State Social Assistance to Persons with Disabilities Since Childhood and Children with Disabilities' (16 November 2000) No 2109-III; Parliament of Ukraine, Law (Zakon) of Ukraine 'On State Social Assistance to Persons who do not Have the Right to a Pension, and Persons with Disabilities' (18 May 2004) No 1727-IV.

laws[100] and codified legislative acts,[101] they similarly focused predominantly on benefits.

4.3. Ukraine's Disability Policy After the Ratification of the CRPD: 'Old Wine in New Bottles'?

Ukraine signed the CRPD and its Optional Protocol in 2008 and ratified both instruments in late 2009.[102] They entered into force in March 2010. By ratifying the CRPD, Ukraine formally affirmed its commitment to advancing a rights-based approach to disability.[103] However, at that time, Ukraine remained in the transitional period characterised by dysfunctional political systems, a weak legal system, failed modernisation,[104] and a high level of inequality. Despite the political momentum generated by the protests against mass falsification in the 2004 presidential elections, known as the 'Orange Revolution',[105] rapid changes did not occur.[106] The persistent capture of political processes by powerful business interests[107] was not conducive to advancing a human rights agenda in Ukraine. This broader context affected disability policy, where comprehensive reforms were not prioritised.

In 2012, Ukraine adopted the National Action Plan 2020[108] to implement the CRPD. It outlined a number of ambitious targets, including the promotion of access to cultural life, political participation, independent living, and access to information in line with the CRPD. However, the specific activities proposed to realise these targets reflect a

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[100] See Parliament of Ukraine, Law (Zakon) of Ukraine 'On Vacations' (15 November 1996) No 504/96-VR; Parliament of Ukraine, Law (Zakon) of Ukraine 'On the Status of War Veterans, Guarantees of Their Social Protection' (22 October 1993) No 3551-XII.

[101] See: Parliament of Ukraine, Law (Zakon) of Ukraine 'Family Code of Ukraine' (10 January 2002) No 2947-III; Parliament of Ukrainian Soviet Socialist Republic, Law 'Housing Code of the Ukraine' (30 June 1983) No 5464-X; Parliament of Ukraine, Law (Zakon) of Ukraine 'Land Code of Ukraine' (25 October 2001) No 2768-III.

[102] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Ratification of the Convention on the Rights of Persons with Disabilities' (16 December 2009) No 1767-VI.

[103] Elif Celik, 'The Role of CRPD in Rethinking the Subject of Human Rights' (2017) 21(7) The International Journal of Human Rights 933, 935.

[104] Pál Dunay and others, 'The Role of Human Rights in the EU's External Action in the Eastern Partnership, the Southern Neighbourhood and in Sub-Saharan Africa' (Eötvös Loránd University, 2016) 32.

[105] See Oleksandr Reznik, 'From the Orange Revolution to the Revolution of Dignity: Dynamics of the Protest Actions in Ukraine' (2016) 30(4) East European Politics and Societies and Cultures 750.

[106] Ivan Katchanovski, 'The Orange Evolution? The "Orange Revolution" and Political Changes in Ukraine' (2008) 24(4) Post-Soviet Affairs 351, 353.

[107] Langbein and Wolczuk, 'Convergence without Membership?' (n10) 865.

[108] Cabinet of Ministers of Ukraine, Order (Pozporiadzhenia) 'On Approval of the State Programme 'National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities' for the period up to 2020' (01 August 2012) No 706.

limited understanding of the normative content of the CRPD and the measures necessary for its effective implementation. For instance, the target 'improvement of the legislation to ensure participation of persons with disabilities in cultural life' envisages measures such as discounted access to cultural facilities and the organisation of an annual cultural festival for persons with disabilities, which do not advance the cultural rights of people with disabilities. This disconnection between targets and measures is evident across multiple areas of the National Action Plan 2020.[109] Crucially, necessary reforms of the legal capacity, disability assessment, deinstitutionalisation, and development of community-based services had not been addressed. Moreover, the National Action Plan 2020 was underfunded, rendering even its limited targets largely unachievable.

Despite that, the CRPD stimulated some important reforms and long-awaited processes. Although progress has been uneven across various areas, some notable achievements have occurred in non-discrimination, inclusive education, political rights, and the gradual adoption of terminology in line with the CRPD understanding.[110] As will be discussed in the next section, these achievements have been driven mainly by international partners, including the EU.

Among the domestic drivers stimulating the implementation of the CRPD, one notable development was the adoption, in 2020, of the National Strategy for Creating a Barrier-Free Environment in Ukraine by 2030 (Barrier-Free Strategy 2030).[111] This initiative was launched by the First Lady of Ukraine, Olena Zelenska, wife of the President of Ukraine, Volodymyr Zelensky, who identified promoting disability rights as one of her priorities for engagement in her capacity as First Lady. The Barrier-Free Strategy 2030 serves as a complementary policy instrument supporting the implementation of the CRPD as well as the National Action Plan 2020, which was updated in 2021 for a period until 2025.[112] The Barrier-Free Strategy 2030 focuses on

[109] See, for instance, targets related to the implementation of Articles 19, 23, 24 CRPD in the National Action Plan 2020.
[110] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Amendments to Certain Legislative Acts of Ukraine Regarding the Use of the Term "Person with Disabilities" and Derivatives Thereof' (02 October 2018) No 2581-VIII.
[111] Cabinet of Ministers of Ukraine, Order (Rozporyadzhennia) 'On Approval of the National Strategy for Creating a Barrier-Free Environment in Ukraine by 2030' (14 April 2021) No 366-p.
[112] Cabinet of Ministers of Ukraine, Order (Pozporiadzhenia) 'On Approval of the National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities for the Period until 2025' (17 April 2021) No 285-p.

six key areas of accessibility: physical, social, economic, educational, digital, and informational. Both its objectives and implementation measures were co-developed in partnership with representatives of the disability community. For the first time in Ukraine, persons with disabilities were not merely consulted under official public consultation mechanisms but were granted a meaningful role in co-authoring a strategic document that defines the state's approach to disability. This represented a notable shift towards participatory policy-making, which underpins the CRPD.

5. Ukraine's Current Disability Policy: Navigating Between War and EU Accession

Ukraine's current disability policy is undergoing a significant transformation due to the ongoing war, and the process of EU disability norms transfer that is occurring under accession negotiations. In fact, accession negotiations facilitated a large-scale overhaul of the existing framework to construct a new system grounded in the rights-based approach to disability, but posed considerable challenges in a country such as Ukraine, with a 'relatively immature legal system'.[113]

5.1. Ukraine's Disability Policy in Times of War

Launched on 24 February 2022, the war has had a devastating effect on persons with disabilities. The lack of accessible emergency response mechanisms,[114] coupled with inaccessible information and living environment, disproportionately exposes persons with disabilities to increased risks of violence, injury, and death.[115] At the same time, with the activation of the legal regime of martial law,[116] Ukraine's priorities, including budget allocations, shifted to ensuring national defence and security, resulting in reductions in social protection expenditures.[117] Therefore, the emergency response mechanism for persons with disabilities, ie matters related to the provision of

[113] Roman Petrov, 'Constitutional Challenges for the Implementation of Association Agreements between the EU and Ukraine, Moldova and Georgia' (2015) 21(2) European Public Law 241, 247.
[114] Jonas Ruškus, 'Disastrous Exposure of Persons with Disabilities to Russian Aggression Against Ukraine' (2022) 2(2) The International Journal of Disability and Social Justice 14.
[115] See Iryna Tekuchova and Delia Ferri, 'Promoting the Rights of Persons with Disabilities and Laying the Foundation for Rebuilding an Inclusive Ukraine' in Martin Kahanec, Felix Butzlaff and others (eds) *Healing Ukraine: Post-conflict Management, Reconciliation, and Human Rights* (Edward Elgar) upcoming; Ruškus, 'Disastrous Exposure (n114).
[116] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Approval of the Decree of the President of Ukraine 'On Imposition of Martial Law in Ukraine' (24 February 2022) No 2102-IX
[117] Nataliia Sokrovolska and others, 'The Functioning of Ukraine's Budgetary System in Wartime Conditions' (2025) 15(2) International Journal of Economics and Financial Issues 268, 272.

accessible evacuation, accommodation, emergency information, and other assistance to persons with disabilities during wartime, went under the responsibility of local authorities and, accordingly, local budgets.[118] However, the local budget expenditures were similarly redistributed to prioritise wartime exigencies. Consequently, services related to persons with disabilities fell in the category 'secondary expenditures', whereas 'primary expenditures' focused on the implementation of martial law measures.**[119]** Faced with limited funds and the need to prioritise activities during wartime, local authorities focused on challenges related to accommodating internally displaced persons, providing medical treatment for soldiers, or ensuring security of the rear,[120] rather than ensuring accessibility of the emergency response mechanism for persons with disabilities or internally displaced persons with disabilities.

In this context, Ukraine's civil society and international organisations stepped up and took eventually a leading role 'in organising and implementing the evacuation of persons with disabilities'[121] as well as providing other assistance during wartime. Such a conflict-oriented society mobilisation[122] is not unusual for Ukraine's civil society, as similarly during the invasion of Russia in 2014, it took a leading role in assisting persons with evacuation and integration in the new communities.[123] However, as noted by Shapovalova and Burlyuk, this practice tends to weaken the state 'by relieving the pressure to reform'.[124]

Indeed, this reorganisation of roles has had an impact on Ukraine's overall disability policy. Apart from a few legislative amendments aimed at improving accessibility in

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[118] On the reorganisation of local budget during the war see Veronika Vakulenko, Massimo Sargiacomo and Veronika Klymenko, 'Addressing Complexity and Planning for the Uncertain: Local Finances in Wartime Ukraine' (2025) 45(3) Public Money & Management 206.
[119] Veronika Vakulenko, Massimo Sargiacomo and Veronika Klymenko, 'Addressing Complexity and Planning for the Uncertain: Local Finances in Wartime Ukraine' (2025) 45(3) Public Money & Management 206, 211.
[120] Kateryna Odarchenko, 'Kyiv's Controversial Demands on Local Budgets during the War Are Increasing Center-Periphery Tensions' (Blog, Wilson Center, 28 November 2023) < https://www.wilsoncenter.org/blog-post/kyivs-controversial-demands-local-budgets-during-war-are-increasing-center-periphery> accessed 29 September 2025.
[121] UNDP Ukraine, 'Study Report: Rapid Assessment of the Experience of Evacuating People with Disabilities in Ukraine Due to the War in 2022' (UNDP, 2022).
[122] Natalia Shapovalova and Olga Burlyuk, 'Civil Society and Change in Ukraine Post-Euromaidan: An Introduction' in Natalia Shapovalova and Olga Burlyuk (eds), *Civil Society in Post-Euromaidan Ukraine: From Revolution to Consolidation* (Ibidem Press 2018) 22.
[123] See Kateryna Zarembo, 'Doing the State's Job: The Impact of Volunteers on Ukraine's Defense Capacity after Euromaidan' in Natalia Shapovalova and Olga Burlyuk (eds), *Civil Society in Post-Euromaidan Ukraine: From Revolution to Consolidation* (Ibidem Press 2018).
[124] Shapovalova and Burlyuk, 'Civil Society and Change in Ukraine Post-Euromaidan' (n122) 16.

emergency contexts, the practical situation to date remains essentially unchanged. Neither the central government nor the local authorities have developed active and functional emergency response mechanisms that are accessible to persons with disabilities.[125]

However, it would be inaccurate to characterise the state as wholly inactive in regard to disability rights during wartime. As the recovery process of Ukraine commenced immediately following the launch of the war in 2022,[126] the state directed its efforts towards advancing and enhancing the legal framework to support inclusive reconstruction. In 2023, the Cabinet of Ministers of Ukraine adopted Resolution No 152,[127] which obliges urban planning entities to comply with accessibility requirements during the design, construction, and restoration of damaged facilities. In addition, all goods (including public transport) procured with public funds or funds from international financial organisations must meet accessibility requirements for persons with disabilities. Furthermore, the new State Building Code V.2.2-5:2023 'Protective Structures for Civil Defence' mandates the consideration of accessibility standards during the design and construction of all new protective structures of civil defence.[128] Since 2023, the construction of protective structures of civil defence in new buildings has become mandatory. Although a gap persists between the legislative framework and real implementation,[129] there is a growing consensus within the central government and among local authorities regarding the need to transform Ukraine into a barrier-free environment, particularly in light of the steadily rising number of persons with disabilities.[130]

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[125] UN CRPD Committee, 'Concluding Observations on the Combined Second and Third Periodic Reports of Ukraine' (2024) CRPD/C/UKR/CO/2-3 paras 22-23.
[126] See Joanna Modrzyńska, Agnieszka Szpak and Rafał Willa, 'The Concept of 'Building Back Better' and the Reconstruction of Ukraine and its Cities' (2024) 33(1) European Planning Studies 1.
[127] Cabinet of Ministers of Ukraine, Decree (Postanova) 'On Certain Issues of Ensuring Conditions of Accessibility, Energy Efficiency and Civil Protection Requirements' (14 February 2023) No 152.
[128] Ministry for Communities, Territories, and Infrastructure Development of Ukraine, 'State Building Code of Ukraine DBN V.2.2-5:2023 "Protective Structures for Civil Defence"' (2023) <https://dreamdim.ua/wp-content/uploads/2023/08/DBN_V_2_2_5-2023.pdf> accessed 28 September 2025.
[129] For the critical account of Ukraine's inclusive reconstruction process, see: UN CRPD Committee, 'Concluding Observations on the Combined Second and Third Periodic Reports of Ukraine (2024) CRPD/C/UKR/CO/2-3; The Agency for Legislative Initiatives and others, 'Shadow Report: Chapter 23 – EU–Ukraine' (2024) <https://zmina.ua/wp-content/uploads/sites/2/2024/09/shadow-report-chapter-23-eu-ukraine.pdf> accessed 14 September 2025.
[130] The World Bank, 'Ukraine Human Development Update: In Focus: Disability and Inclusion' (2024) <https://documents1.worldbank.org/curated/en/099032824073057091/pdf/P1812361d6feb006c1a506192390987152a.pdf> accessed 28 September 2025.

5.2. The Influence of Accession Negotiations on Ukraine's Disability Policy

With the opening of accession negotiations in 2024, Ukraine's disability policy came under increased scrutiny, and, in this way, the membership perspective, which was already more tangible, became the primary incentive for advancing the reforms and transferring EU disability norms. Therefore, the EU requirements with respect to disability prompted transformative changes at the national level. In 2024, the EU adopted a comprehensive financial assistance programme, the Ukraine Facility.[131] This 'exceptional medium-term single instrument'[132] is underpinned by a plan for the reconstruction of Ukraine, called the Ukraine Plan,[133] and a set of conditionalities aligned with recommendations under the Enlargement Package.[134] As the EU's assistance to Ukraine is mainly channelled through this programme, the Ukraine Plan, aside from including a distinct set of objectives related to reconstruction, is also aligned with commitments under the AA/DCFTA. In this way, the EaP and enlargement policy are de facto merged into one framework supporting Ukraine's accession path.

Some of the reforms in relation to disability rights, indicated in the Ukraine Plan, have already been launched, in particular, under the Barrier-Free Strategy 2030 and the National Action Plan 2025, such as social security,[135] rehabilitation services,[136] vocational education,[137] accessibility of competitive procedure for employment of civil service positions,[138] inclusive reconstruction,[139] among others. However, to progress with the implementation of the Ukraine Plan and, accordingly, accession negotiations, Ukraine is also obliged to launch 'painful' reforms, which it had been reluctant to implement for the past 35 years. These reforms include legal capacity, deinstitutionalisation, a comprehensive overhaul of the disability assessment system,[140] as well as the establishment of community-based services.[141]

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[131] Regulation (EU) 2024/792 of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility [2024] OJ L.
[132] Ibid Preamble (11).
[133] Ministry of Economy of Ukraine, 'Ukraine Facility Plan' (2024).
[134] Ibid 13.
[135] Ibid 130.
[136] Ibid 123.
[137] Ibid 122.
[138] Ibid 46.
[139] Ibid 120.
[140] Commission, 'Ukraine 2023 Report' (n46); 'Ukraine Facility Plan' (n133) 125.
[141] Commission, 'Ukraine 2024 Report' (n47); 'Ukraine Facility Plan' (n133) 126.

At the time of writing, Ukraine has taken preliminary steps[142] to advance these reforms, but political resistance remains strong. The most politically sensitive reform of legal capacity, indicated in the Ukraine Report 2023, has not yet been addressed. In this context, socialisation mechanisms such as support of civil society, multilateral cooperation, and the EU's technical assistance programmes are of crucial importance, as Ukraine requires knowledge and expertise in areas that are not 'native' to its legal order.

6. EU Disability Norms Transfer Through Conditionality: Selected Cases

This section examines the transfer path of EU disability norms into Ukraine's legal order through the adoption of two key legislative acts: the Law of Ukraine 'On the Principles of Prevention and Counteracting Discrimination in Ukraine' (Non-Discrimination Law)[143] from 2012 and the Law of Ukraine 'On Media' (Media Law)[144] from 2022. The Non-Discrimination Law was adopted as a requirement under the VLAP and marked a significant step in enhancing legal protection against discrimination for persons with disabilities. The adoption of the Media Law presents a compelling case, as its draft was developed within the AA/DCFTA framework, improved with the support of the CoE through a socialisation mechanism, and ultimately adopted as a condition for opening EU accession negotiations. These two legal acts were selected as a case study as they were adopted to fulfil certain conditions set by the EU and facilitated the advancement of the legal framework protecting disability rights in Ukraine.

6.1. Advancing Non-Discrimination Legislation

Advancement of non-discrimination legislation in Ukraine constituted one of the benchmarks under the VLAP, adopted for Ukraine in 2010. Even though non-discrimination provisions were formally recognised in Ukraine's legal order, the overall legal framework remained largely ineffective in practice. This section, first,

[142] For instance, in 2024, Ukraine adopted the 'Strategy for Reforming Psychoneurological Care Homes, Other Care Facilities, and Deinstitutionalisation of Care for Persons with Disabilities and the Elderly' and replaced the Medical and Social Expert Commissions with the Expert Teams for Functionality Assessment to align with the ICF standards.
[143] Parliament of Ukraine, Law 'On Principles of Prevention' (n1).
[144] Parliament of Ukraine, Law 'On Media' (n2).

analyses the context which preceded the adoption of EU disability norms and then focuses on its added value for Ukraine's legal order.

6.1.1. Contextual Assessment

Article 24 Constitution, which has not been amended since its adoption in 1996, guarantees equal constitutional rights and freedoms for all citizens and prohibits privileges and restrictions based on a number of grounds. However, the enumerated grounds do not include age, disability, sexual orientation, or gender identity as protected grounds. Furthermore, the scope of the provision is limited to citizens of Ukraine, which is not in line with international and European standards.[145]

As of 2010, several sectoral laws addressed non-discrimination provisions, including the Law of Ukraine 'On National Minorities' from 1992,[146] 'On Equal Treatment of Women and Men' from 2005,[147] and the Social Protection Law, discussed earlier. Non-discrimination provisions were also mainstreamed in various codified legislative acts, such as the Criminal Code,[148] the Civil Code,[149] and the Labour Code of Ukraine.[150] However, all these instruments lacked effective mechanisms of enforcement and redress.[151] The legal framework did not define discrimination and its forms.

Hence, the VLAP included a specific task to adopt a 'comprehensive anti-discrimination legislation, as recommended by the UN and Council of Europe monitoring bodies'.[152]To fulfil this task, Ukraine initially intended to adopt a Strategy

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[145] Stanislav Pohrebniak, 'Zakreplennia osnovopolozhnykh pryntsypiv prava v Konstytutsii Ukrainy' [Consolidation of Fundamental Principles of Law in the Constitution of Ukraine] 59(4) Visnyk Akademii pravovykh nauk Ukrainy 34 (in Ukrainian).
[146] Parliament of Ukraine, Law (Zakon) of Ukraine 'On National Minorities in Ukraine' (25 June 1992) No 2494-XII.
[147] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Ensuring Equal Rights and Opportunities for Women and Men' (1 September 2005) No 2866-IV.
[148] Parliament of Ukraine, Law (Zakon) of Ukraine 'Criminal Code of Ukraine' (05 April 2001) No 2341-III.
[149] Parliament of Ukraine, Law (Zakon) of Ukraine 'Civil Code of Ukraine' (16 January 2003) No 435-IV.
[150] Parliament of the Ukrainian Soviet Socialist Republic, Law (Zakon) 'Code of Labour Laws of the Ukrainian Soviet Socialist Republic' (29 December 1971) No 3229-X.
[151] European Commission against Racism and Intolerance, 'ECRI Report on Ukraine (Fourth Monitoring Cycle)' CRI(2012)6 8.
[152] Commission, 'Second Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation' SWD(2012) 10 final.

to Combat Discrimination in Ukraine,[153] a non-binding soft law instrument. Several factors may explain the preference for a soft law instrument over a legal act. As a general tendency of that period, Ukraine practiced an 'imitative conduction of reforms',[154] especially in politically and socially sensitive areas, to which the advancement of the non-discrimination legislation belonged. In fact, it intended to adopt the Strategy to Combat Discrimination in Ukraine through a Presidential Decree, which would not require further amendments to the legislation. In the hierarchy of law, Presidential Decrees are below the secondary law as per Article 106(2) Constitution. Religious organisations' opposition to the adoption of new non-discrimination legislation also reinforced the government's resistance. Another factor justifying this choice might be a financial consideration.[155] The explanatory note to the draft Strategy to Combat Discrimination in Ukraine indicated that the provision of this document did not have a direct effect, hence it did not require financial costs. It was considered more as a roadmap for the government when adopting laws and soft law instruments.[156]

Unsurprisingly, this initial approach proved unsatisfactory for the EU. Under the VLAP, the implementation and closure of the benchmark required the adoption of a legal act combating discrimination in Ukraine.[157] As briefly discussed in Chapter II, the benefit of a visa-free travel regime was attractive enough for Ukraine to overcome internal resistance and proceed with the development of the required legal act. Drawing primarily on EU Directives prohibiting discrimination,[158] it eventually adopted the Non-Discrimination Law in 2012.[159] This legislative piece introduced the definition of discrimination, included a provision on reasonable accommodation, and established an equality institution. However, not all 'European and international

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[153] Edict (Ukaz) of the President of Ukraine 'On Approval of the National Plan for the Implementation of the Action Plan on Visa Liberalization with the European Union for Ukraine' (19 May 2011) No 494/2011

[154] Iryna Sushko, 'Reforms in Exchange for Visa-free Regime: How Ukraine Implements the Visa Liberalisation Action Plan?' (The Institute for Economic Research and Policy Consulting, 2014) 6.

[155] Europe Without Borders, 'How is Ukraine Implementing the Visa Liberalisation Action Plan? Independent Civil Society Monitoring' (2012).

[156] Ibid.

[157] Roman Mandel, 'Zakriplennia pryntsypu nedyskryminatsii v ukrainskomu zakonodavstvi' [Consolidation of the Principle of Non-Discrimination in Ukrainian Legislation] (2018) 33(2) Visnyk Odes′koho natsional′noho universytetu imeni I I Mechnikova. Pravoznavstvo 6, 8 (in Ukrainian).

[158] Iryna Fedorovych, 'Anti-Discrimination Legislation in Ukraine – Box Ticking for the EU or Real Reforms to Ensure Equality for Ukraine's Citizens?' (Reanimation Package of Reforms, 2016) 3.

[159]Parliament of Ukraine, Law 'On Principles of Prevention' (n1).

requirements' were met, hence the benchmark under the VLAP remained outstanding.[160] The EU's main criticism related to the lack of 'legal certainty',[161] specifically the absence of protection against discrimination on the grounds of sexual orientation, and the lack of provisions on the reversal of the burden of proof.[162] Certain forms of discrimination were not legally defined, and the provisions on reasonable accommodation for persons with disabilities were not clarified.[163] In response to this critique, Ukraine amended the Non-Discrimination Law, addressing most of the EU's recommendations. The amended law was ultimately deemed sufficient to 'tick the box' and proceed with the VLAP dialogue. Upon successful implementation of the VLAP, the dialogue was closed in 2015,[164] and a visa-free travel regime was launched in 2016. Among the recommendations that Ukraine did not address in the amended law was the lack of clarification of the provision on reasonable accommodation for persons with disabilities, which was somewhat vaguely formulated. Nonetheless, this provision did catalyse further legislative changes that facilitated the advancement of disability rights.

6.1.2. EU Disability Norms in the Non-Discrimination Law

The Non-Discrimination Law was undoubtedly groundbreaking for persons with disabilities in Ukraine in two key aspects. First, it recognised disability as a ground for discrimination under Article 1 Non-Discrimination Law. Second, it introduced a new for Ukraine's legal order concept of reasonable accommodation through Article 4(1) Non-Discrimination Law. Over time, both provisions took root in the legal order, albeit through a slow and incremental process.

With regard to Article 1 Non-Discrimination Law, it is essential to note that, although discrimination against persons with disabilities was formally prohibited under Article 1 Social Protection Law, that provision was largely declaratory, as the concept of discrimination was not defined or regulated in Ukraine's legislation. After the

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[160] Commission, 'Third Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation' COM(2013) 809 final.
[161] Ibid.
[162] Commission, 'Fourth Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation' COM (2014) 336 final
[163] Commission, 'Third Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation' COM(2013) 809 final.
[164] Commission, 'Commission Progress Report: Ukraine meets criteria for visa liberalisation' (Press Release, 18 December 2015) <https://ec.europa.eu/commission/presscorner/detail/en/IP_15_6397> accessed 28 September 2025.

adoption of the Non-Discrimination Law, amendments were introduced to the Criminal Code and Labour Code of Ukraine. In particular, Article 161 Criminal Code of Ukraine and Article 3(1) Labour Code of Ukraine[165] were revised to include disability as a prohibited ground of discrimination. A further positive development was the designation of the Ukrainian Parliament Commissioner for Human Rights as the national equality body, entrusted with responsibilities for overseeing the implementation of non-discrimination legislation. According to the Progress Report on Ukraine's Implementation of the VLAP, between 1 January and 8 September 2015, the institution considered 314 complaints on discrimination on the basis of different grounds, including ethnic origin, religion, disability, and sexual orientation.[166]

Article 4 Non-Discrimination Law stipulates that the law shall apply to 'labour relations, including the application of the principle of reasonable accommodation by an employer'. However, it does not define the concept of reasonable accommodation, nor does it specify its scope or procedural aspects of its implementation. Moreover, reasonable accommodation is not recognised as a form of discrimination as required by the CRPD or established under Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (Employment Equality Directive).[167] Responsibility for the denial of reasonable accommodation is not foreseen either. As a result, the implementation of this provision has proven to be challenging. In the initial period, following the adoption of the Non-Discrimination Law, the application of the 'principle of reasonable accommodation' remained 'extremely rare', as acknowledged by Ukraine itself.[168]

Nonetheless, several regulatory acts have been introduced to advance the implementation of reasonable accommodations in employment. In particular, reasonable accommodation was incorporated into the procedures for civil service recruitment, allowing persons with disabilities to request reasonable accommodation

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[165] Iurii Barabash, Oleksandr Serdiuk and Volodymyr Steshenko, 'Ukraine in European Human Rights Regime: Breaking Path Dependence from Russia' in David Ramiro Troitiño and others (eds), *The EU in the 21st Century: Challenges and Opportunities for the European Integration Process* (Springer 2020) 250.

[166] Commission, 'Sixth Progress Report on Ukraine's Implementation of the Action Plan on Visa Liberalisation' COM(2015) 905 final.

[167] Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation [2000] OJ L 303/16.

[168] Ukraine's answers to questions related to the Human Rights Council Resolution 'The Rights of Persons with Disabilities in Situations of Risk and Humanitarian Emergencies' (2016) A/HRC/RES/31/6.

when participating in open competitions.[169] Additionally, Ukraine established a compensation mechanism for arranging workspace, including by means of reasonable accommodation, for self-employed persons with disabilities.[170]

Aside from that, reasonable accommodation has been gradually introduced in other spheres, thereby extending beyond employment, an area covered by the Employment Equality Directive. The Law of Ukraine 'On Education',[171] adopted in 2017, provides a formal definition of reasonable accommodation within the context of education and some procedural aspects of its implementation. In the area of elections, the concept of reasonable accommodation was advanced following the landmark case of *Moisa v TsVK*,[172] a strategic litigation initiated by a voter with visual impairment against the Central Election Commission of Ukraine in 2020 following the 2019 presidential elections. The Supreme Court of Ukraine ruled that the failure to provide a reasonable accommodation for a voter with visual impairment constituted a violation of national legislation. Consequently, it obliged the Central Election Commission of Ukraine to develop a procedure for adapting polling stations for voters with visual impairments. In compliance with the ruling, the Central Election Commission has developed a procedure for providing reasonable accommodation for voters with disabilities, elderly people, and people with health impairment, therefore offering reasonable accommodation to the broad groups of people. At the same time, reasonable accommodation was limited only to provision of assistive devices.[173]

The concept of reasonable accommodation was further advanced in 2025 with the adoption of the Law of Ukraine 'On Employment of Persons with Disabilities',[174] which further transposed EU disability norms from the Employment Equality Directive. Importantly, the law introduced both the definition of the concept and a

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[169] National Agency of Ukraine for Civil Service, Order (Nakaz) 'On Approval of the Methodology for Providing Persons with Disabilities, Who Wish to Participate in a Competition for Civil Service Positions, with Reasonable Accommodation' (2021) No 157-21.
[170] Cabinet of Ministers of Ukraine, Decree (Postanova) 'Certain Issues of Compensation for Actual Expenses for the Arrangement of Workplaces/Places of Business Activity/Independent Professional Activity for Persons with Disabilities' (22 August 2023) No 893.
[171] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Education' (5 September 2017) No 2145-VIII.
[172] Case No 640/11812/21 Cassation Administrative Court *Moisa v TsVK* [2021].
[173] Central Election Commission, Resolution (Postanova) 'On the Procedure for Ensuring Reasonable Accommodations (Assistive Devices) for Voters with Health Impairments (Due to Disability, Temporary Health Condition, Age) in Voting Premises' (24 April 2025) No 16.
[174] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Amendments to Certain Legislative Acts of Ukraine to Ensure the Right to Work of Persons with Disabilities' (15 January 2025) No 4219-IX.

procedural framework for the realisation of reasonable accommodation in employment. Although alignment with the Employment Equality Directive was part of Ukraine's obligations under the AA/DCFTA framework, the transfer of norms occurred only after the opening of accession negotiations, as the incentives offered by the EU under the AA/DCFTA presumably were not sufficiently appealing to advance the reform in this complex area.

6.2. Advancing Audiovisual Media Legislation

After tracing EU disability norms transfer into Ukraine's legal order in the non-discrimination area, this subsection looks at this process in the audiovisual media sector.

6.2.1. Contextual Assessment

Ukraine's media legislation was first adopted in the early 1990s. The Law of Ukraine 'On Print Media'[175] and 'On Information'[176] were adopted in 1992. The following year, the Law of Ukraine 'On Television and Radio Broadcasting'[177] was introduced. These legal acts, together with the Law of Ukraine 'On State Support for Mass Media and Social Protection of Journalists'[178] from 1997 and 'On the Protection of Public Morality' from 2004,[179] formed a core legal framework regulating the media sector. This framework, heavily influenced by the Soviet legacy,[180] continued to support 'outdated, dysfunctional and conflicting remits of the institutions operating in the media sphere'[181] up until 2022.

The alignment of Ukraine's legislation with the EU acquis in the audiovisual media sector, in particular, the then Council Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media

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[175] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Print Media' (6 March 1992) No 2782-XII.
[176] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Information' (2 October 1992) No 2657-XII.
[177] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Television and Radio Broadcasting' (25 February 1993) No 3759-XII.
[178] Parliament of Ukraine, Law (Zakon) of Ukraine 'On State Support for Mass Media and Social Protection of Journalists' (17 July 1997) No 536/97-BP.
[179] Parliament of Ukraine, Law (Zakon) of Ukraine 'On the Protection of Public Morality' (26 March 2004) No 1416-IV.
[180] Diana Dutsyk and Marta Dyczok, 'Ukraine's Media: A Field Where Power is Contested' in Mykhailo Minakov, Georgiy Kasianov and Matthew Rojansky (eds), *From 'the Ukraine' to Ukraine: A Contemporary History, 1991 – 2021* (Ibidem Press 2021) 180.
[181] Council of Europe Action Plan for Ukraine 2015–2017 GR-DEM(2017)24 16.

Services Directive) (AVMSD 2010),[182] subsequently recast by Council Directive (EU) 2018/1808 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities (AVMSD 2018),[183] was a requirement under Annex XXXVII to Chapter 15 Audiovisual Policy Title V Economic and Sectoral Cooperation under the AA/DCFTA. In accordance with the AA/DCFTA, Ukraine was expected to transpose the then AVMSD 2010 into its national legislation within two years of the AA/DCFTA's entry into force, in particular by 2019. The transfer of norms was intended not only to support trade relations under the DCFTA but also to facilitate Ukraine's full participation in the Creative Europe Program, in particular in the Media and Cross-Sectoral Cooperation subprograms.[184] Nonetheless, the legislative process was highly contentious. As Dutsyk and Dyczok note, the media sector in Ukraine has long served as a battleground for competing political and economic interests,[185] complicating the reform process.

The first Draft Law No 5189 was introduced in 2014[186] as a set of amendments to the framework Law of Ukraine 'On Television and Radio Broadcasting', though it was withdrawn that same year. Since then, over the course of almost ten years, several legislative attempts have been made to introduce a law that would align Ukraine's legislation with the EU acquis in the audiovisual media sector. The obligation to ensure the accessibility of audiovisual content for persons with visual or hearing impairments was initially imposed on all providers within the linear media sector and

[182] Council Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (Codified version) [2010] OJ L 95/1.
[183] Council Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities [2018] OJ L 303/69.
[184] Cabinet of Ministers of Ukraine, 'Report on Implementation of the Association Agreement between Ukraine and the European Union for 2023' (2024) 106.
[185] Dutsyk and Dyczok, 'Ukraine's Media' (n180) 198.
[186]Draft Law of Ukraine No 5189 'On Amendments to the Law of Ukraine "On Television and Radio Broadcasting"' (29 October 2014).

introduced in Draft Laws No 5189[187] from 2014 and No 7394 from 2017,[188] but the Draft Law No 2693-д from 2020,[189] that was eventually adopted, narrowed down the scope of this obligation, limiting it to public service broadcasters only. These changes were introduced without any strong opposition from civil society, as the public discourse was dominated mainly by highly sensitive political aspects of the draft law related to the regulation of content in the Russian language, the role of the media regulator, the governance of online media, and perceived expansion of state control over the media sector.[190]

This protracted legislative process culminated in late 2022 with the adoption of the Draft Law No 2693-д.[191] It was passed as part of a broader package of urgent legislative changes introduced to fulfil the requirements for opening accession negotiations.[192] Particularly, one of the seven conditions set out by the Commission for opening accession negotiations required Ukraine to address 'the influence of vested interests by adopting a media law that aligns Ukraine's legislation with the [AVMSD 2018] and empowers the independent media regulator'.[193] The Media Law came into force on 31 March 2023 and, thus, replaced an outdated Law of Ukraine 'On Television and Broadcasting'.

6.2.2. EU Disability norms in the Media Law

Prior to the adoption of the Media Law in 2022, the accessibility of audiovisual media services was regulated primarily through the Law of Ukraine 'On Public Media of Ukraine'. Article 18 obliges the National Public Broadcasting Company of Ukraine (NPBCU) to take appropriate measures to make its programmes accessible to persons with visual or hearing impairments. This encompasses measures such as the provision of audio description, subtitling, or sign language interpretation. The National

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[187] Ibid Article 32(1)(2).
[188] Draft Law of Ukraine No 7397 'On Amendments to the Law of Ukraine "On Television and Radio Broadcasting"' (14 December 2017), Article 38(1)(3).
[189] Draft Law of Ukraine No 2693-д 'On Media' (2 June 2020).
[190] National Union of Journalists of Ukraine, 'The Draft Law "On Media" United Journalists Against t, and Every Advocate of it Will Bear the Mark "Enemy of the Press"' (NSJU, 13 May 2021) <https://nsju.org/novini/zakonoproyekt-pro-media-obyednav-proty-sebe-zhurnalistiv-a-kozhen-jogo-advokat-nosytyme-tavro-vorog-presy-nszhu/> accessed 28 September 2025 (in Ukrainian).
[191] Parliament of Ukraine, Law 'On Media' (n2).
[192] Léa Urzel Francil and Yulia Sachuk, 'A Study on the Accessibility of Audiovisual Media Services in Ukraine: Compliance of the Law on Media with the EU Directive 2018/1808' (Fight For Right, 2025) 33.
[193] Commission, 'Ukraine 2023 Report' SWD(2023) 699 final.

Television and Radio Broadcasting Council of Ukraine (National Council) is responsible for overseeing compliance with accessibility obligations, imposing sanctions for violations of these obligations, and approving accessibility standards.[194] The law further mandates that at least 5 percent of the daily broadcasting volume of public media providers must consist of accessible programmes. This quantitative requirement is generally not aligned with the CRPD. As discussed in Chapter III, ensuring accessibility is a continuous process requiring progressive implementation, therefore, static quotas cannot be regarded as a measure to ensure the accessibility of information.

Additionally, the Social Protection Law contains a general provision on information accessibility, although it lacks a direct effect. In particular, Article 23 requires all media providers to include sign language and subtitling in official announcements, films, videos, and programmes, under conditions to be determined by the Cabinet of Ministers of Ukraine. However, the regulatory activity of the Cabinet of Ministers of Ukraine has been quite limited in this area.

With respect to accessibility, the Law of Ukraine ‘On Television and Radio Broadcasting’, which was replaced by the Media Law, only included a requirement for the creation and dissemination of information on various groups, including persons with disabilities, as a means of raising awareness. Therefore, the Media Law introduced a set of novel provisions advancing disability rights, thereby complementing the existing framework under the Law of Ukraine 'On Public Media of Ukraine'. The incitement to discrimination and prejudice on the grounds of disability in the media is now prohibited by virtue of Article 36(1)(3) Media Law. Following the amendments of the law in 2023, Article 36(1)(2) Media Law broadened the grounds for protection from hate speech to disability.

In accordance with Article 45(4) Media Law, media providers are obliged to ensure the accessibility of official announcements, including emergency information, through sign language, subtitling, or audio description. Articles 90 and 92 assign the National Council the responsibility for setting up an effective mechanism for receiving complaints, including developing and approving an action plan to ensure the accessibility of services for persons with disabilities. Furthermore, under Article 49(2)

[194] Parliament of Ukraine, Law 'On Media' (n2), Article 40.

Media Law, audiovisual media providers (except for audio media providers) are required to submit a report to the National Council every three years on the accessibility of their services for persons with disabilities.

The European Audiovisual Observatory positively assessed the 'application of the accessibility provisions' of the AVMSD 2018 in Ukraine.[195] However, there is certainly room for improvement. For instance, the concept of continuous and progressive realisation of accessibility under Article 7(1) AVMSD 2018, discussed previously in Chapter III, was not transferred into the Media Law. It also limited the range of accessibility means to subtitling, audio description, sign language interpretation, leaving out spoken subtitles, simple language, or an easy-to-read format.[196]

Although only three years have passed since the adoption of the Media Law, some results are already evident. In 2024, the Ministry of Culture and Information Policy of Ukraine developed Guidelines on Ensuring Accessibility in the Media Sector.[197] These guidelines were adopted to support the implementation of tasks related to information accessibility under the Barrier-Free Strategy and Action Plan,[198] as well as the Media Law. The Media Law further stimulated amendments to the Code of Civil Protection of Ukraine, by including a provision in Article 18(20[1]). The new provision assigns responsibility to ensure the population is notified about threats and the occurrence of emergencies, including in a format accessible to persons with visual and hearing impairments, to the central authorities in the sphere of civil protection.[199] Previously, this obligation rested with local authorities. As of 2025, five co-regulatory bodies for audiovisual media, audio media, online media, printed media, and on-demand platforms started functioning.

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[195] European Audiovisual Observatory, 'The Application of the AVMS Directive in Selected Non-EU Countries' (Council of Europe, 2024) 426-427.
[196] Urzel Francil and Sachuk, 'A Study on the Accessibility' (n192) 47.
[197] Ministry of Culture and Information Policy of Ukraine, Order (Nakaz) 'On Approval of Methodological Guidelines on Ensuring Accessibility in the Media Sector' (25 June 2024) No 446.
[198] Cabinet of Ministers of Ukraine, Order (Rozporyadzhennia) 'On Approval of the Action Plan for 2023–2024 for the Implementation of the National Strategy for Creating a Barrier-Free Environment in Ukraine until 2030' (25 April 2023) No 372-p, task 42.
[199] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Amendments to Certain Legislative Acts of Ukraine on Clarifying the Powers of Civil Protection Actors, Improving Legislation on the Protection of the Population and Territories from the Consequences of Emergencies, Organising and Conducting the Evacuation of the Population, and Ensuring the Protection of Citizens' Life and Health' (13 July 2023) No 3277-IX.

To further support Ukraine in the implementation of the Media Law, the EU launched in 2025 a Twinning project 'Reforming the Audiovisual Media Regulatory System in Ukraine in line with EU Standards and International Best Practices'.[200] In this way, the EU aims to enhance the National Council's capacity to effectively implement the provisions of the Media Law. This demonstrates the complementarity of both conditionality and socialisation mechanisms. In the case of the Media Law implementation, which experienced political resistance for a long period of time, conditionality and socialisation are mutually dependent mechanisms, as only a combination of the two supports the implementation of this legislative piece.

7. Role of Socialisation Tools in EU Disability Norms Transfer

After tracing EU disability norms transfer in the area of non-discrimination and in the audiovisual media sector stimulated by conditionality mechanisms, this section investigates the role of socialisation tools such as technical assistance, support of civil society and multilateral cooperation in this process.

7.1. Technical Assistance

Technical assistance constitutes a vital component of the EU's support to Ukraine. Prior to the adoption of the AA/DCFTA, technical assistance, along with the budgetary support, were the main forms of the EU's assistance to Ukraine.[201] Since 2005, the TAIEX and Twinning programmes, institution-building instruments that aim to enhance 'sector-specific conditionality',[202] have been operative in Ukraine. Following the adoption of the AA/DCFTA, the EU broadened its approach to technical cooperation through several innovations tailored to the Ukrainian context. In 2014, the EU established the Support Group for Ukraine (SGUA), an initiative that had not been deployed before in a non-EU country.[203] Rather than focusing on projects, the SGUA adopted a sectoral approach to reforms, targeting core state-building priorities,[204] including judicial reform, law enforcement, and building financial management. [205]

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[200] 'Official start of Twinning project: reforming Ukraine's media sector according to EU standards' (NADS, 11 January 2025) < https://nads.gov.ua/en/news/official-start-of-twinning-project-reforming-ukraines-media-sector-according-to-eu-standards > accessed 28 September 2025.
[201] Kataryna Wolczuk and Darius Žeruolis, 'Rebuilding Ukraine: An Assessment of EU Assistance' (Royal Institute of International Affairs, 2019) 10.
[202] Langbein and Wolczuk, 'Convergence without Membership?' (n10) 872.
[203] Lucian Dumitrescu, 'Change and Continuity in the EU's "State Building-Security Nexus" in Ukraine. A Historical Institutional Perspective' (11 EURINT, 2024) 252.
[204] Wolczuk and Žeruolis, 'Rebuilding Ukraine' (n201) 11.
[205] Dumitrescu, 'Change and Continuity' (n203) 252.

The SGUA was composed of officials from the Commission and EU Member States, who brought specific sectoral experience drawn from their own backgrounds.[206] At the same time, the SGUA developed a deep understanding of the reform processes in Ukraine, which 'the EU previously lacked'.[207] Also, in 2014, the EU launched the European Union Advisory Mission (EUAM) in Ukraine, a civilian mission under the CSDP with a mandate to support the reform of the civilian security sector, discussed earlier in Chapter IV. While the EU's engagement in security sector reform in partner countries is a well-established practice, Ukraine is a unique case, as the EUAM was deployed during the ongoing war with Russia, rather than in a post-conflict period.[208] Being tasked with advising and mentoring the civilian security services in Ukraine[209] 'to strengthen respect for the rule of law, increase efficiency and quality of service delivery and build up the trust of citizens in the police and judiciary',[210] it conducts all its activities in accordance with the principles of good governance, anti-corruption, human rights, and gender equality as cross-cutting components.

While all these technical cooperation modalities somewhat indirectly contributed to the advancement of disability rights through reforms of the judiciary and the public sector, this subsection focuses particularly on Twinning projects that have demonstrated tangible results relevant to this thesis.

Twinning projects are long-term, request-based initiatives that may extend up to three years. This allows for a deeper and more comprehensive engagement with public authorities, thereby making it more conducive to effecting lasting change in the targeted sector.[211] Twinning projects in Ukraine are aligned with the strategic objectives outlined in the AA/DCFTA, the EU–Ukraine Association Agenda,[212] and, more recently, with the accession negotiations framework. Therefore, priorities of

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[206] Wolczuk and Žeruolis, 'Rebuilding Ukraine' (n201) 11.
[207] Mathernová, 'Ukraine and the European Union' (n16)152.
[208] Wolczuk and Žeruolis, 'Rebuilding Ukraine' (n201) 17.
[209] Niklas I M Nováky, 'Why so Soft? The European Union in Ukraine' (2015) 36(2) Contemporary Security Policy 244, 244.
[210] European Union External Action Service, 'Country Updates on Human Rights and Democracy 2017' <https://www.eeas.europa.eu/sites/default/files/documents/compiled_country_updates_annual_report_on_human_rights_and_democracy_2017_clean_0.pdf> accessed 28 September 2025.
[211] Dmytro Panchuk, 'Effectiveness of EU Transgovernmental Cooperation in the Neighbourhood: Qualitative Comparative Analysis of Twinning Projects in Ukraine' (2019) 71(3) Europe-Asia Studies 480, 486.
[212] Dmytro Panchuk and Fabienne Bossuyt, 'EU Twinning Instrument in Ukraine: Strengths, Weaknesses, Opportunities and Threats' (2 Policy Brief, CEPS, 2018) 3.

Twinning projects are often attached to conditionality mechanisms and incentives in substantial tools.[213] The majority of Twinning projects take place in policy sectors such as finance, justice and home affairs, trade, environment, social policy, and energy.[214] Over the past two decades, 76 projects have been deployed in Ukraine, with four projects still ongoing as of 2025.[215]

Under the Twinning, various initiatives[216] have been implemented in Ukraine to support disability rights. While these projects primarily aimed to facilitate knowledge exchange and share best practices, several contributed to the transfer of EU disability norms. By facilitating mutual learning, these projects paved the way for the adoption of legislation that advances the legal framework protecting disability rights. A notable example is the Twinning project 'Support for the Development of the Social Services System in Ukraine' implemented by France between 2012 and 2014. This initiative was launched at the request of Ukraine, following the adoption of the Strategy for Reforming the Social Services System in August 2012.[217] Upon the project's completion, the new Draft Law 'On Social Services' was developed, drawing on best practices of France and the United Kingdom,[218] and registered in the Parliament of Ukraine in 2016. After numerous revisions, it was adopted in 2019,[219] marking a long-anticipated reform of social services in Ukraine.

Another compelling example of EU disability norms transfer is the Twinning project 'Support for the Ukrainian Authorities in Elaborating a Legal and Administrative Framework to Introduce a System of Early Intervention and Rehabilitation for

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[213] Dmytro Panchuk, 'Effectiveness of EU Transgovernmental Cooperation' (n211) 499.
[214] Ibid 478.
[215] Maciej Smętkowski and others, 'Cooperation Between EU Cities and Regions with their Ukrainian Partners' (European Parliament REGI Committee, 2023) 43.
[216] See, for instance, the EU technical assistance project 'Support to the development of a mid-term strategy for improving the system of social benefits' (2008–2010); The EU Twinning light project ''Approximation of Ukrainian legislation to the EU norms and standards in the sphere of vocational rehabilitation and employment of persons with disabilities' (February – November 2014). Source: Twinning project fiche 'Support to Ukrainian administration in developing a legal and administrative set up to introduce a system of early intervention and rehabilitation for children with disability or having a risk of disability' (2016) UA 13 ENPI SO 01 16 (UA/55) < https://www.bundeswirtschaftsministerium.de/Redaktion/DE/Downloads/Twinning/Ausschreibungen-Archiv/20160802-ukraine-support-to-ukrainian-administration.pdf?__blob=publicationFile&v=3> accessed 28 September 2025.
[217] Cabinet of Ministers of Ukraine, Order (Rozporyadzhennia) 'On Approval of the Strategy for Reforming the Social Services System' (8 August 2012) No 556-p.
[218] Explanatory Note to the Draft Law of Ukraine 'On Social Services' (18 September 2015) No 3143.
[219] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Social Services' (17 January 2019) No 2671-VIII.

Children with Disability or Children at Risk of Disability',[220] implemented between 2017 and 2019.[221] This project contributed to advancing the concept of 'early intervention' and supported the Ministry of Social Policy of Ukraine in developing a legal framework to facilitate the implementation of early intervention services.[222] The 'early intervention' system was introduced in 2017, initially through a Memorandum of Understanding (MoU) between the government, national and international partners.[223] This collaborative effort ultimately culminated in the government's adoption of an action plan for implementing a system of early intervention services in selected pilot regions, as well as the advancement of the legal framework supporting the system in subsequent years.

In addition, some Twinning projects[224] mainstreamed disability within broader sectoral reforms. For instance, the project 'Support to the Ministry of Infrastructure in Implementing the Conditions for the Application of the European Model of the Railway Services Market in Ukraine', implemented between 2016 and 2019, included disability as one of its components. The project engaged with improving the accessibility of railway transport for persons with disabilities.[225] To this end, an accessibility audit was conducted, and comprehensive recommendations were prepared within this component. Also, international experts delivered a series of workshops on accessibility of rail transport for passengers with disabilities[226] in accordance with Regulation (EC) 1371/2007 on rail passengers' rights and

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[220] UN CRPD Committee, 'Combined Second and Third Periodic Reports Submitted by Ukraine under Article 35 of the Convention, due in 2020' (2024) CRPD/C/UKR/2-3 12.
[221] Twinning project fiche 'Support to Ukrainian administration in developing a legal and administrative set up to introduce a system of early intervention and rehabilitation for children with disability or having a risk of disability' (2016) UA 13 ENPI SO 01 16 (UA/55) <https://www.bundeswirtschaftsministerium.de/Redaktion/DE/Downloads/Twinning/Ausschreibungen-Archiv/20160802-ukraine-support-to-ukrainian-administration.pdf?__blob=publicationFile&v=3> accessed 28 September 2025.
[222] Stefanija Alisauskiene and Marianna Onufryk, 'Service Provision for At-Risk Children under Inclusive Education Reform in Ukraine: Situation Analysis of Services Provision for At-Risk Children and Children with Special Educational Needs under Inclusive Education Reform' (Open Society Foundation, 2019) 70.
[223] Ibid 67.
[224] See the EU–UK Twinning grant scheme 'Inclusive business-models for improving social and economical support and reducing social vulnerability' (2023) <https://op.edu.ua/international/projects/uk-ukraine-twinning-initiative-26> accessed 08 June 2025.
[225] Ministry for Communities and Territories Development of Ukraine, 'EU Technical Assistance in the Transport Sector' (MinDev, 14 January 2025) <https://mindev.gov.ua/diialnist/yevrointehratsiia/mizhnarodna-tekhnichna-dopomoha-ies-u-sferi-transportu> accessed 8 June 2025 (in Ukrainian).
[226] UN CRPD Committee, 'Combined second and third periodic reports submitted by Ukraine under article 35 of the Convention, due in 2020' (2020) CRPD/C/UKR/2-3 15.

obligations[227] repealed by Regulation (EU) 2021/782 on rail passengers' rights and obligations,[228] as part of awareness raising activities about the reform of railway for railway workers and local authorities.

Although the Twinning projects targeting disability rights remain relatively limited in number compared to the number of Twinning initiatives in other areas in Ukraine, they have nonetheless proven to be quite an efficient tool for supporting Ukraine in initiating important reforms in the area of disability and on social issues at large.

7.2. Support of Civil Society

For the EU, engagement with Ukraine's civil society as a vehicle for the transfer of EU disability norms is a 'long-term strategy'. Its support, alongside that of various other donors, has contributed to shaping political processes and influencing certain disability-related strategic trajectories in Ukraine. The EU's ability to promptly and timely respond to the evolving local context needs and dynamic developments of Ukraine's civils society, makes it a valuable partner for local actors.

Over the past decade, Ukraine's civil society has undergone significant transformations. The unprecedented mobilisation of civil society during and after the Euromaidan in 2013–2014, the enhanced cooperation framework with the EU following the signing of the AA/DCFTA in 2014, along with renewed ambitions towards the Euro-Atlantic integration, have 'profoundly changed' the sector.[229] Some scholars argue that this period even catalysed the 'emergence of a new, value-based civil society in its own rights'.[230] It succeeded in developing 'a highly assertive way of articulating demands',[231] built and expanded 'trust networks' to an extent previously unseen,[232] and has generally begun to enjoy a greater public recognition.[233]

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[227] Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations [2007] OJ L 315/14.
[228] Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations (recast) [2021] OJ L 172/1.
[229] Julia Soldatiuk-Westerveld, Bob Deen and Ate Lucien Van Steenbergen, 'Work in Progress: Ukraine's State-Civil Partnership to Reform the Security Sector' (Report, Clingendael Institute, 2023) 11.
[230] Olga Burlyuk, Natalia Shapovalova and Kateryna Zarembo, 'Introduction to the Special Issue. Civil Society in Ukraine: Building on Euromaidan Legacy' (2017) 3 Kyiv-Mohyla Law and Politics Journal 1, 12.
[231] Soldatiuk-Westerveld, Deen and Van Steenbergen, 'Work in Progress' (n229) 12.
[232] Susann Worschech, 'New Civic Activism in Ukraine: Building Society from Scratch?' (2017) 3 Kyiv-Mohyla Law and Politics Journal 23, 42.
[233] Ibid 29.

In this context, the cooperation framework established by the AA/DCFTA was positively received by civil society,[234] which was able to capitalise on the support it provided. New cooperation formats, in particular under the Eastern Partnership Civil Society Forum (EaP CSF),[235] have had 'a consolidating impact and strengthened capacity of the civil society'.[236] In accordance with the EU Country Roadmap for Engagement with Civil Society in Ukraine 2014–2017,[237] the EU identified eight priorities for civil society support, among which was the promotion of human rights in Ukraine through greater involvement of civil society.

Regarding disability, the disability rights movement in Ukraine before the 'Euromaidan' had been considered 'one of the most dynamic' post-Soviet social movements.[238] Civil society organisations working on the protection of rights and social rehabilitation of discriminated groups constituted a significant portion of Ukraine's civil society.[239] Nevertheless, they lacked the capacity, influence, and expertise necessary to catalyse sustainable change and effectively advocate for reforms. Many of them continued to operate within the framework of the medical model of disability. Additionally, they were exposed to significant state influence, as before 2020,[240] many had received annual state funding for decades without needing to participate in open competitive processes.[241] The Russian invasion of Ukraine in 2014, following the 'Euromaidan', exposed the state's persistent shortcomings in fulfilling its obligations to protect disability rights. Since then, the number of civil society organisations supporting the rights of persons with disabilities, including

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[234] Iana Sabatovych and others, 'The Narratives behind the EU's External Perceptions: How Civil Society and Elites in Ukraine, Israel and Palestine "Learn" EU Norms' (2019) 28(3) European Security 284, 291.
[235] See more on the EaP CSF, section 9.2 Chapter II.
[236] European External Action Service, 'EU Roadmap for Engagement with Civil Society in Ukraine' <https://www.eeas.europa.eu/sites/default/files/roadmap_for_cs.pdf accessed> accessed 28 September 2025.
[237] European External Action Service, 'Ukraine EU Country Roadmap for Engagement with Civil Society 2014–2017' (2014) <https://www.eeas.europa.eu/sites/default/files/ukraine_civil_society_roadmap_2014.pdf> accessed 28 September 2025.
[238] Sarah D Phillips, 'Civil Society and Disability Rights in Post-Soviet Ukraine: NGOs and Prospects for Change' (2009) 16(1) Indiana Journal of Global Legal Studies 275, 277.
[239]Svitlana Kuts and Lyuba Palyvoda, 'Civil Society in Ukraine: "Driving Engine or Spare Wheel for Change?"' (CIVICUS, 2006) 75.
[240] Cabinet of Ministers of Ukraine, Decree (Postanova) 'Some Issues Concerning the Provision of Financial Support to Public Associations of Persons with Disabilities' (3 March 2020) No 166.
[241] This practice changed after the large-scale advocacy campaign led by civil society organisations demanding the introduction of open competition in allocation of state funding to organisations of persons with disabilities.

veterans with disabilities, has significantly increased.[242] This growth has contributed to the greater diversification of a previously stagnant disability-focused civil society. As a result, the demand for external support to civil society organisations also grew considerably, which was addressed by the EU alongside other donors.

Before the adoption of the AA/DCFTA, the EU provided somewhat fragmented support to civil society organisations engaged in protecting disability rights.[243] One of the most notable EU-funded initiatives during that period was the four-year regional project 'Civil society as an advocate for the rights of persons with disabilities in government decision-making', implemented in Ukraine, Armenia, Azerbaijan, and Georgia from 2012 to 2016. This project aimed to strengthen the role and capacity of civil society organisations focusing on disability rights to work with local authorities, as well as to monitor the promotion of the rights in policy design at the local level.

A more sophisticated approach could be observed following the adoption of the AA/DCFTA, when disability was integrated into the EU–Ukraine Association Agenda. Through its support of civil society organisations, the EU supported projects on deinstitutionalisation and social inclusion of persons with intellectual and psychosocial disabilities,[244] employment of persons with disabilities,[245] and on strengthening disability defenders' advocacy networks.[246] The support to civil society organisations was essential to effect change, as well as to create a fertile terrain for legislative reforms, and contributed to alignment with EU disability norms.

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[242] See Olena Makarenko, 'Grassroot Efforts Attempts to Budge Ukraine's Soviet Attitude to Disability?' (Euromaidan Press, 4 December 2015) <https://euromaidanpress.com/2015/12/04/will-returning-war-veterans-budge-ukraines-soviet-attitude-to-disability/> accessed 31 May 2025.

[243] Based on the analysis of the EU-funded projects in Ukraine. The list of projects is available here: https://eu4ukraine.eu/en/projects-en.

[244] Project 'Ukrainian CSOs for Change: Promoting Human Rights, Deinstitutionalization and Social Inclusion of People, who have Intellectual and/or Psychosocial Disabilities' (2018–2022) <https://euneighbourseast.eu/projects/eu-project-page/?id=430> accessed 28 September 2025.

[245] Project 'EU4Youth Phase III – Strengthening sustainability and social inclusion of young people' <https://euneighbourseast.eu/projects/eu-project-page/?id=2283> accessed 30 September 2025; Sub-granted project 'Beaureuo of Accessibility' by Dostupno.UA within the initiative 'EU4Civil Society Sustainability in Ukraine' implemented by ISAR Iednannia <https://ednannia.ua/en/164-vidbirkova-komisiia/12225-rezultaty-vidboru-za-konkursom-shvydka-ta-neobkhidna-pidtrymka-za-kviten-2021> accessed 28 September 2025.

[246] Sub-grated project 'Advancing Disability Rights Defenders Network', implemented by Fight For Right within the initiative EU4Civil Society Sustainability in Ukraine' operated by ISAR Iednannia <https://ednannia.ua/164-vidbirkova-komisiia/12274-peremozhtsi-konkursu-grantiv-zagalna-pidtrimka-organizatsij-gromadyanskogo-suspilstva-2> accessed 28 September 2025.

By the time of the full-scale Russian invasion in 2022, around 200 EU-funded projects managed by civil society organisations were active in Ukraine across various sectors,[247] with an overall budget of 20 million EUR. Similar to the technical assistance projects discussed before, the number of disability-specific projects funded directly by the EU remains somewhat limited compared to the supported civil society initiatives in other areas. This discrepancy may be attributed to various factors, including complex application procedures and a competitive funding environment that exceeds the capacities of smaller organisations,[248] which usually engage with disability rights. As a result, larger and more sustainable organisations are typically the direct recipients of EU funding, which they redistribute through sub-granting schemes to support vibrant, albeit still developing, civil society organisations that support disability rights.

Aside from disability-specific projects, disability was mainstreamed within broader EU-funded initiatives supporting employment, women, or health.[249] Thus, even before the opening of accession negotiations, Ukraine's civil society supporting disability rights was able to capitalise on the EU's support mechanisms. In turn, the EU was able to promote some disability-related objectives under the EU–Ukraine Association Agenda through its collaboration with civil society.

8. Multilateral Cooperation: Role of the Council of Europe in EU Disability Norms Transfer

The promotion of effective multilateralism is a central component of the EU–Ukraine partnership.[250] This section investigates the role of multilateral cooperation as a socialisation tool in EU disability norms transfer.

[247] 'EU Projects Reacting to Help Ukraine in the Face of Russian Aggression' (EU Neighbours East, 2022) <https://euneighbourseast.eu/standwithukraine/euprojects/ > accessed 31 May 2025.
[248] Sabatovych and others, 'The Narratives Behind the EU's External Perceptions' (n234) 292.
[249] See Project 'EU4USociety: Civil Society Partnership Project' (2020–2023); Project 'EU4Civil Society Sustainability in Ukraine' (2020–2023); Project 'Project EU4Youth Phase III – Strengthening Sustainability and Social Inclusion of Young Persons' (2024–2025); Project 'EU4Skills: Modernisation of Vocational Education and Training Infrastructure in Ukraine' (2019–2025); Project 'Increasing the Capacity of CSOs of Social Sphere of Ukraine' (2020–2023). Projects are available here: https://eu4ukraine.eu/en/projects-en.
[250] Article 2 AA/DCFTA with Ukraine.

8.1. General Overview

Since the early 2000s, the EU has attached 'particular importance' to its cooperation with Ukraine within the frameworks of the CoE, the Organization for Security and Co-operation in Europe (OSCE),[251] the UN, and other international and regional organisations. Among these, the EU's cooperation with the CoE stands out as particularly significant in promoting disability rights in Ukraine. On the one hand, this area-specific partnership has been reinforced by the comprehensive, long-standing cooperation framework developed between the two partners over the past decades, as discussed earlier in Chapter IV. On the other hand, the CoE's long-standing commitment to advancing disability rights, dating back to the early 1990s,[252] facilitated the development of a sophisticated and coherent disability policy. This policy has shaped both the CoE's internal institutional practices and its external programmes in CoE Member States.

Ukraine joined the CoE in 1995, ratified the European Convention on Human Rights (ECHR) in 1997,[253] and the European Social Charter (ESC)[254] in 2006. From the outset, the CoE has been focusing on 'assisting Ukraine's integration in a common European legal space'.[255] The CoE office in Ukraine, established in 2006, has played a pivotal role in advancing this objective by supporting Ukraine in aligning 'its legislation, institutions and practices with European standards in the field of human rights, rule of law, and democracy'.[256]

The CoE-Ukraine disability-related cooperation is underpinned by such international human rights instruments as the ECHR and the ESC. Their implementation is primarily informed by the CoE Action Plans for Ukraine, which are updated periodically.[257]

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[251] European Council, 'Common Strategy of 11 December 1999 on Ukraine' [1999] OJ L 331/1 4-5.
[252] Andrea Broderick and Delia Ferri, *International and European Disability Law and Policy: Text, Cases, and Materials* (Cambridge University Press 2019) 415.
[253] Parliament of Ukraine, Law (Zakon) of Ukraine 'On the Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms 1950, the First Protocol, and Protocols Nos 2, 4, 7 and 11 to the Convention' (17 July 1997) No 475/97-VR.
[254] European Social Charter, Turin, 18 October 1961, ETS 35.
[255] Council of Europe, 'Council of Europe Action Plan for Ukraine 2018–2021' GR-DEM(2017)18.
[256] Voitsikhovskyi and others, 'The Role of International Organizations' (n86) 322.
[257] See Council of Europe, 'Council of Europe Action Plan for Ukraine 2008–2011' (2008) DSP(2008)15; Council of Europe, 'Council of Europe Action Plan for Ukraine 2011–2014' (2011); Council of Europe, 'Council of Europe Action Plan for Ukraine 2015–2017' (2015) GR-DEM(2017)24; Council of Europe, 'Council of Europe Action Plan for Ukraine 2018–2021' (2018) GR-DEM(2017)18.

The transfer of EU disability norms into Ukraine's legal order through the CoE framework appears to have been reinforced specifically by the ESC. As Kostiuk has observed, the ESC 'somewhat strengthened the mechanism for aligning Ukrainian legislation with the EU acquis concerning the rights of persons with disabilities'.[258] This scholarly account is supported by CoE officials, who argue that by implementing the ESC, CoE Member States are, in effect, implementing the EU standards.[259] Indeed, in respect to disability, Article 26 CFR[260] on the rights of persons with disabilities was drawn on Article 15 ESC,[261] as discussed in Chapter III.

The implementation of the ESC has been one of the key priorities under the CoE-Ukraine Action Plans for Ukraine,[262] as well as the CoE Disability Rights Strategy 2017–2023. Projects implemented under the CoE Action Plans for Ukraine are often coordinated with the EU[263] and financially supported by it.[264] The EU remains the main partner of the CoE 'in political, legal, and financial terms'.[265] In its turn, the CoE is an important partner for the EU in facilitating the transfer of the EU acquis, including EU disability norms, into Ukraine's legal order.

8.2. Council of Europe and EU Disability Norms Transfer

In order to examine the transfer of EU disability norms facilitated by the CoE, this subsection focuses on the process of the Media Law adoption, discussed previously in section 4.

Since 2014, the CoE has provided sustained support to Ukraine in reforming its outdated legal and institutional framework governing the media sector,[266] which did

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[258] Kostiuk, 'Problemy harmonizatsii zakonodavstva Ukrainy' (n28) 48.
[259] Key-note speech 'How and Why the Implementation of the European Social Charter is in Line with EU Pillar on Social Rights and May Facilitate a Smooth Accession to EU' of Giuseppe Palmisano, President of the European Committee of Social Rights, at the event 'Protecting social rights in times of war in Ukraine' in Vilnius 03 July 2024.
[260] Charter of Fundamental Rights of the European Union [2012] OJ C326/391.
[261] Charlotte O'Brien, 'Article 26' in Steve Peers and others (eds), *The EU Charter of Fundamental Rights: A Commentary* (2nd edn, Hart 2021)743.
[262] See 'Action Plan for Ukraine 2008–2011' (n257); 'Action Plan for Ukraine 2011–2014' (n257); 'Council of Europe Action Plan for Ukraine' 2015–2017 (n257); 'Council of Europe Action Plan for Ukraine 2018–2021' (n257); Council of Europe; Council of Europe, 'Council of Europe Action Plan for Ukraine "Resilience, Recovery and Reconstruction" 2023–2026' (2023) CM(2022)187.
[263] 'Action Plan for Ukraine 2015–2017' (n257).
[264] Council, 'EU Annual Report on Human Rights and Democracy in the World in 2015 – Country and Regional Issues' (2016) 12299/16.
[265] 'The Council of Europe's Relations with the European Union' (CoE) <https://www.coe.int/en/web/der/european-union/> accessed 28 September 2025.
[266] Adoption of the Media Law in line with the European Standards was a task under the 'Action Plan for Ukraine 2018–2021' (n257) and 'Action Plan for Ukraine 2023–2027' (n262).

not comply with both CoE standards and the EU acquis. With the support of CoE experts,[267] the Draft Law No 7397[268] was developed in 2016 and subsequently registered in the Parliament of Ukraine in 2017. However, despite high expectations on the part of the CoE, the draft law was eventually withdrawn in 2019 following a series of revisions**.**

After that, the CoE was not involved in the co-development but actively supported the improvement of the Draft Law No 2693-д from 2020,[269] which was ultimately adopted in 2022. To reinforce this phase of the legislative process, the CoE, jointly with the EU, launched the initiative 'European Union and Council of Europe working together to strengthen human rights in Ukraine'[270] implemented from 2019 to 2022. One of the core components of this programme focused on promoting media freedom, including aligning Ukraine's media legislation with the AVMSD 2018.[271]

Whereas the CoE's support and expertise in the development of the Draft Law No 2693-д from 2020 did not specifically extend to the provisions concerning disability rights, it nonetheless contributed to the advancement of disability in the context of non-discrimination.

The original version of the Draft Law No 2693-д, introduced in 2020, did not include any provisions on disability rights. Article 36(1)(3) Draft Law No 2693-д prohibited incitement to discrimination or harassment on the various grounds, including 'physical impairment', a term not formally recognised under Ukraine's legislation. In addition, Article 36(1)(2) Draft Law No 2693-д prohibited content that incites hatred, hostility, or cruelty towards individuals or groups of individuals, but did not list disability among the protected grounds. Similarly, there was a lack of procedural mechanisms

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[267] 'Freedom of Media', (CoE) <https://www.coe.int/en/web/kyiv/freedom-of-media-in-ukraine> accessed 28 September 2025.
[268] Draft Law of Ukraine No 7397 (n188).
[269] Draft Law of Ukraine No 2693-д 'On Media' (n189).
[270] 'European Union and Council of Europe Working Together to Strengthening the Protection of Human Rights in Ukraine' (EU Neighbours East, 2022) <https://euneighbourseast.eu/projects/eu-project-page/?id=690 > accessed 28 September 2025.
[271] 'EU–Council of Europe Joint Project to Strengthening Human Rights in Ukraine Extended for 9 Months' (CoE, 30 July 2021) < https://www.coe.int/en/web/kyiv/eu-and-council-of-europe-working-together-to-support-freedom-of-media-in-ukraine/-/asset_publisher/Ge5GjycF9bop/content/eu-council-of-europe-joint-project-to-strengthening-human-rights-in-ukraine-extended-for-9-months> accessed 30 September 2025.

enabling persons with disabilities to appeal concerning the accessibility of services provided by media providers.

Therefore, in September 2022, the CoE provided an assessment of the draft law through the 'Technical Paper: Expert Opinion on Ukraine of the Council of Europe Experts'.[272] As the adoption of the Draft Law No 2693-д was expedited to meet the criteria for opening EU accession negotiations, only partial progress was achieved in the adopted version from 2022. Previously used term 'physical impairments' in Article 36(1)(3) Draft Law No 2693-д was substituted with the term 'disability'. However, Article 36(1)(2) Media Law continued to exclude disability from the list of grounds protected from statements inciting hatred, hostility, or cruelty.

In February 2023, the CoE submitted to the Parliament of Ukraine, on its request, another Legal Opinion.[273] It indicated that the Media Law did not comply with AVMSD 2018 regarding hate speech. Its critique referred to the non-alignment of Article 36 (1)(2) and (3) Media Law with the AVMSD 2018 and the CFR in relation to the list of protected grounds from discrimination. In particular, Article 21 CFR and Article 9(1)(c)(iii) AVMSD 2018 prohibit discrimination on the grounds of 'sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation'. Therefore, the CoE recommended that the Media Law be revised to include all grounds listed in the AVMSD 2018 and the CFR.[274]

Subsequently, an amended version of the Medial Law, adopted in June 2023,[275] considered the recommendation of the CoE and aligned the list of protected grounds in Article 36(1)(2) Medial Law with the AVMSD 2018 and the CFR.

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[272] The document is not open to publicly available. Reference to the Technical Paper is included in the 'Opinion of the Directorate General Human Rights and Rule of Law Information Society and Action against Crime Directorate Information Society Department on the Law "On Media" of Ukraine' (2023) DGI(2023)03.

[273] Council of Europe, 'Opinion of the Directorate General Human Rights and Rule of Law Information Society and Action against Crime Directorate Information Society Department on the Law "On Media" of Ukraine' (2023) DGI(2023)03.

[274] Ibid 5.

[275] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Amendments to the Law of Ukraine "On Advertising" and Other Laws of Ukraine on the Implementation of European Legislation Standards into the National Legislation of Ukraine through the Implementation of Certain Provisions of the European Union Legislation in the Field of Audiovisual Advertising (European Convention on Transfrontier Television, Directive 2010/13/EU of the European Parliament and of the Council on Audiovisual Media Services of 10 March 2010 as amended by Directive (EU) 2018/1808 of 14 November 2018)' (30 June 2023) No 268-IX.

Between 2022 and 2025, the Media Law was amended five times, and the process of its improvement remains ongoing. The CoE continues to provide legal expertise upon request from the state and actively monitors developments in Ukraine's media sector more broadly. For instance, in 2024, it carried out an expert review of the Draft Law No 12111 'On Amendments to Certain Laws on Media Activity' to assess its compliance with the AVMSD 2018.[276] This activity aligns with its objectives under the current CoE Action Plan for Ukraine 'Resilience, Recovery and Reconstruction' for 2023–2026.[277] Therefore, the CoE has been and continues to be an instrumental partner for the EU in enhancing the human rights framework in Ukraine and supporting disability rights.

Overall, within the process of adopting and amending the Media Law, the EU's multilateral cooperation with the CoE has played an instrumental role. The CoE consistently supported Ukraine in this long process, lasting almost a decade, ensuring that the Media Law aligns with the AVMSD 2018 and the CFR, including the non-discrimination provisions protecting persons with disabilities.

9. Concluding Remarks

This chapter argues that in Ukraine, EU disability norms transfer occurred largely through the conditionality mechanisms that were actively supported by the socialisation tools. In this regard, the analysis identifies four principal findings relevant to this PhD thesis.

First, despite the absence of disability-specific provisions in the AA/DCFTA and disability-specific laws to be transferred under the DCFTA, the mainstream character of EU disability law extending across nearly all areas of EU law has nonetheless stimulated EU disability norms transfer. The integration of disability rights into the EU–Ukraine Association Agenda reinforced this process.

Second, Ukraine's disability policy continues to reflect the enduring Soviet legacy, with reforms proceeding slowly and being further impeded by the ongoing war. In this context, conditionality mechanisms have proven effective when linked to compelling incentives, such as the visa-free travel regime or membership perspective. Such

[276] Council of Europe, 'Legal Opinion on the Draft Law of Ukraine 'On Amendments to Certain Laws on Media Activity' (2025) LEX_2025_1.
[277] 'Action Plan for Ukraine 2023–2026' (n262).

benefits can outweigh internal resistance to politically sensitive reforms or political ignorance for reforms perceived as low-priority.

Third, socialisation tools such as technical cooperation, support of civil society, and multilateral cooperation have played an important role in facilitating EU disability norms transfer, although they seldom stimulated it solely. These tools are underpinned by the objectives of the AA/DCFTA and, more recently, the enlargement framework, and are thereby intertwined with the conditionality mechanisms. Among these tools, support of civil society appears to be the least robust in EU disability norms transfer, as it is largely accessible only to well-established and sustainable organisations.

Fourth, the transfer of EU disability norms rarely occurs as the direct norm download, as sections 4 and 5 reveal. These norms undergo a complex, often protracted legislative process of adapting them to the national context before and after being integrated into legislation. This process is not always prompted by legal or institutional considerations but also by financial constraints, as well as resistance rooted in limited knowledge and understanding of how to implement norms, 'not native' to Ukraine's legal order. In this respect, a more systematic application of socialisation tools could be beneficial for more effective results.

Fifth, the analysis of cases of EU disability norms transfer in this chapter indicates that it did advance the legal framework promoting disability rights in Ukraine. Although EU disability law does not fully embrace all principles and concepts of the CRPD, it is nonetheless more aligned with the CRPD than Ukraine's legislation. Therefore, various disability-related provisions transferred into Ukraine's legal order were novel and helped to align Ukraine's legislation more closely with the CRPD.

Overall, this case study, by addressing the second and third research questions, offered a more nuanced analysis of EU disability norms transfer process, by analysing the national context preceding and accompanying this process, as well as qualitatively assessing transferred EU disability norms and their added value to the existing legal and policy framework.

Conclusion

1. Core Tenets of the Thesis

This PhD thesis is part of the large-scale project 'Protecting the Right to Culture of Persons with Disabilities and Enhancing Cultural Diversity in European Union Law: Exploring New Paths' (DANCING), which inter alia aims to advance EU law scholarship by exploring the extent to which disability rights are promoted within EU external relations. As part of the DANCING project, this thesis aimed to investigate the previously underexplored nexus between EU disability law and EU external relations, with a focus on the European Neighbourhood Policy (ENP) and its Eastern dimension, the Eastern Partnership (EaP). In doing so, it employed the concept of 'global reach and effects of EU law' as a theoretical lens to examine the transfer of EU disability norms into legal orders of the following partner countries within the EaP: Ukraine, the Republic of Moldova (Moldova), Georgia, the Republic of Armenia (Armenia), and the Republic of Azerbaijan (Azerbaijan). Based on the well-established scholarship on the global reach and effects of EU law in other areas, this thesis posited that EU disability norms reach legal orders of the EaP partners as the initial hypothesis to be investigated, evidenced, and critically discussed. To this end, it aimed to answer the following research questions:

1. How does the EU promote disability rights in the EaP countries?
2. What mechanisms and tools stimulate the transfer of EU disability norms into the legal orders of the EaP countries?
3. How does the transfer of EU disability norms impact the legal orders of the EaP countries?

The latter question is answered through a specific case study. The thesis, in particular, has examined Ukraine to understand whether the transfer of EU disability norms advances the legal framework protecting disability rights in Ukraine.

To address these research questions, this thesis employed doctrinal analysis in conjunction with the contextual analysis grounded in the country overviews of Moldova, Georgia, Armenia, and Azerbaijan, as well as a comprehensive analysis of Ukraine as a case study. Contextual analysis aimed to answer the second and third research questions and verify the hypothesis. Both the doctrinal research and the

contextual analysis illuminated the following research findings, which open new avenues for research across various areas.

2. The Main Findings

Having recalled the core tenets of this thesis, this section presents the main findings, grounded in the research questions posed.

2.1. How Does the EU Promote Disability Rights in the EaP Countries?

The EU promotes disability rights in its external action by engaging all its external competences, albeit to varying degrees. As the ENP is not a standalone external competence of the EU, but rather a policy that assimilates a wide range of tools rooted in other EU competences and policies, a broader analysis of EU external relations was undertaken. The analysis conducted in Chapters I, II, and IV revealed that the EU's development and external human rights policies are the most advanced in mainstreaming and promoting disability rights externally. In contrast, disability rights mainstreaming in the EU's trade policy and the CFSP is still in its early stages.

When it comes to the EaP, the obligations and commitments related to disability promotion are operationalised primarily through the bilateral cooperation framework established between the EU and an EaP country, which utilises tools from all the EU's key external competencies and policies mentioned above. The analysis in Chapters V and VI evidenced that a broad set of tools, engaged in the cooperation framework, integrate disability rights, such as cooperation framework agreements and their action plans, sectoral agreements, and financial tools, among others. As the cooperation framework agreements concluded with all EaP countries are the primary tools defining the depth and scope of the entire cooperation framework, they also remain key in promoting disability rights, both through mainstreaming and targeted actions. The contextual analysis revealed that disability rights are mainstreamed to a greater extent in the cooperation frameworks with Ukraine, Moldova, and Georgia, all of which have concluded a comprehensive 'integration-type' agreement – the Association Agreement with a Deep and Comprehensive Free Trade Area (AA/DCFTA). In turn, disability mainstreaming in EU–Azerbaijan cooperation is limited as their relations revolve around the entry-level agreement, the Partnership and Cooperation Agreement (PCA), concluded back in 1996.

2.2. What Mechanisms and Tools Stimulate the Transfer of EU Disability Norms into the Legal Orders of the EaP Countries?

Relying on the initial hypothesis that EU disability norms reach legal orders of the EaP countries, this PhD thesis aimed to test it and investigate what stimulates this process. In doing so, it identified two mechanisms underpinning the ENP that could trigger and support EU disability norms transfer: conditionality and socialisation.

2.2.1. Role of Conditionality and Socialisation Mechanisms in EU Disability Norms Transfer

Conditionality mechanisms, understood in this thesis as the EU's ability to attach specific demands to the incentives it offers to neighbours, were revealed to be the primary trigger of EU disability norms transfer in the legal order of the EaP countries. This thesis demonstrates that although conditionality mechanisms do not explicitly require the adoption of disability-specific EU acquis, they, de facto, trigger the transfer of EU disability norms. This is so because disability norms are part of the EU acquis that EaP countries are required to adopt under the cooperation framework agreements. As mentioned in Chapter III, the EU's extensive competence in non-discrimination and its large regulatory powers in the EU internal market allowed it to mainstream disability rights across a broad range of areas beyond the traditional remit of social policy, which remains essentially the competence of the Member States. Chapters V and VI indicated that EU disability norms transfer in Ukraine, Moldova, Georgia, and Armenia is primarily associated with the presence of conditionality mechanisms and the level of 'attractiveness' of the incentives attached to them. Deeper access to the EU internal market, visa liberalisation, budget support, and sectoral benefits, like access to specific EU programmes, did stimulate the transfer of the disability-related EU acquis. The membership perspective, albeit often seen as a 'chasing a bunny' race, served as an additional stimulus to pursue reforms in Ukraine, Moldova, and Georgia, which were interested in this incentive.

The socialisation mechanisms, which in this thesis have been defined as 'a process for inducing actors into the norms and rules',[1] play an essential role in supporting EU

[1] Laure Declour and Eduard Soler i Lecha, 'European Neighbourhood Policy Mechanisms: Conditionality, Socialisation and Differentiation' in Tobias Schumacher, Andreas Marchetti and Thomas Demmelhuber (eds), *The Routledge Handbook on the European Neighbourhood Policy* (Routledge 2018) 448.

disability norms transfer. They guide a partner country on how to adopt and implement the EU acquis, looking at this process more from a 'bottom-up' perspective and therefore supporting this process internally by offering expertise, knowledge, and advice, directly carrying out some tasks like implementing programmes and projects for the EU acquis implementation or developing draft laws on a 'turnkey' basis. It often requires a long-term engagement, hence, a sustainable commitment from both the EU and a partner country is necessary to achieve tangible results, especially in partner countries with a certain level of resistance to reforms and/or conditionality mechanisms. With this in mind, this thesis analysed technical assistance, support of civil society, and multilateral cooperation as tools that support long-term engagement and socialisation. The contextual analysis revealed that there is no one formula applicable to all EaP countries and reform areas. The success of a socialisation tool is highly context-dependent.

Conditionality and socialisation mechanisms are channelled through the EU's cooperation framework with the EaP partners via a broad range of tools that span various external competences and policies. This thesis has categorised them into substantial and complementary tools, drawing on the Nowak and Podstawa methodology.[2] As discussed in Chapter I, substantial tools include strategic, legal, and enforcement tools, while complementary tools encompass diplomatic, reflexive, outreach, information, monitoring and evaluation tools. All these tools were analysed in this thesis at various junctures to better understand EU disability norms transfer. This thesis demonstrates that conditionality mechanisms are predominantly channelled through substantial tools in the EaP countries, ie those that work toward the attainment of linear objectives, such as trade agreements, sectoral agreements, and the Generalised System of Preferences Plus (GSP+), among others. Conditionality is often attached to tools with defined objectives, so the legal nature of the tool plays a relatively auxiliary role in the rule-transfer process. As this thesis demonstrates, usually, it is not the legally binding character of the obligations that drives the transfer of the disability-related EU acquis, but rather appealing incentives attached to clear and concrete objectives. This was evidenced by the analysis of the Visa Liberalisation

[2]Manfred Nowak and Karolina Podstawa, 'The EU's (Strategic) Use of Human Rights Tools and Instruments' in Jan Wouters and others (eds), *The European Union and Human Rights: Law and Policy* (Oxford University Press 2020)

Action Plan (VLAP), the AA/DCFTA, and the Comprehensive and Enhanced Partnership Agreement (CEPA). In particular, Ukraine, Moldova, and Georgia successfully adopted non-discrimination legislation to implement the VLAP, a soft-law tool, despite political resistance in all countries. The attractiveness of the visa-free regime and a clear roadmap for actions to be implemented by a partner country to get this 'carrot' helped overcome internal resistance. In this way, Ukraine, Moldova, and Georgia introduced provisions prohibiting discrimination and hate speech on the grounds of disability in line with Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation[3] (Employment Equality Directive) and the Charter of Fundamental Rights of the European Union (CFR). By contrast, although the CEPA, concluded between the EU and Armenia, is legally binding, Armenia has not transferred the Employment Equality Directive into its national legal order as required by Annex VII to Chapter 15 CEPA, despite numerous recommendations from the EU.

Socialisation mechanisms, in turn, often utilise complementary tools, such as action plans and reports, as well as Human Rights Dialogues, to induce reforms in a non-coercive manner and support the attainment of objectives set by substantial tools. Analysis of technical assistance, support of civil society, and multilateral cooperation revealed that they play an essential role in promoting disability rights and supporting the transfer of EU disability norms, although they rarely serve as the primary trigger of EU disability norms transfer. Whereas Armenia has more actively utilised such technical assistance programme, as SOCIEUX+ EU Expertise on Social Protection, Labour and Employment (SOCIEUX+), to facilitate the reform of the disability assessment system, in Ukraine, the EU's multilateral cooperation with the Council of Europe (CoE) features more prominently in the transfer of EU disability norms. The EU's support of civil society in Moldova has been instrumental in facilitating the implementation of reforms related to deinstitutionalisation and disability assessment system. Civil society in Georgia, Armenia and Azerbaijan, while struggling to operate in unfavourable legal and political conditions, demonstrated nonetheless active engagement in advancing disability rights. This thesis hence has evidenced that the

[3] Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation [2000] OJ L 303/16.

effectiveness of a certain socialisation tool in EU disability norms transfer depends on the local context and the area of intervention.

2.2.2. The Role of the Cooperation Framework Agreements in Stimulating EU Disability Norms Transfer

The 'integration-type' agreements appear to be the primary tools for EU disability norms transfer. The AA/DCFTA concluded with Ukraine, Moldova, and Georgia, and the CEPA concluded with Armenia, revealed three primary channels through which the EU promotes disability rights in partner countries, which together stimulate the transfer. These include: the incorporation of provisions on disability-related cooperation in the agreements, the inclusion of disability-related EU acquis among the legal acts to be adopted by a partner country, and the integration of disability rights in the Association Agendas (Partnership Agenda in the case of the CEPA), designed to monitor and steer the implementation of the AA/DCFTA.

Out of the four 'integration-type' agreements concluded with the EaP countries, three include an explicit reference to disability: the AA/DCFTA with Moldova,[4] the AA/DCFTA with Georgia,[5] and the CEPA with Armenia.[6] All provisions are situated within the chapter on employment, social policy, and equal opportunities. The AA/DCFTA with Georgia and the CEPA with Armenia additionally include disability as a category of cooperation on equal opportunities and non-discrimination.[7] Notably, the AA/DCFTA with Ukraine is the only EaP agreement that does not include a reference to disability. By contrast, this thesis demonstrated that EU disability norms transfer occurred nonetheless. This suggests that although integrating disability rights into the cooperation framework is essential to promote them further, the framework itself does not trigger EU disability norms transfer.

Furthermore, disability rights have been mainstreamed through a set of EU acquis in the areas of transport, audiovisual media, employment, and public procurement, listed in the annexes to the agreements for 'legal approximation', as discussed in Chapters II, V, and VI.

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[4] Article 32 (d) AA/DCFTA with Moldova.
[5] Article 349 (d) and (e) AA/DCFTA with Georgia.
[6] Article 85 (d) and (e) CEPA with Armenia.
[7] Article 349 (e) AA/DCFTA with Georgia; Article 85 (3) CEPA with Armenia.

Association Agenda to AA/DCFTA and, to a lesser extent, the Partnership Agenda to the CEPA, mainstream disability rights by outlining objectives such as improving accessibility to public buildings, transport, and information for persons with disabilities, enhancing conditions for persons with mental health issues, and promoting deinstitutionalisation, among other priorities.

Altogether, these channels create an enabling environment that stimulates the transfer of the EU disability norm. The inclusion of disability-related provisions in the cooperation framework agreements allows for enhanced cooperation in this area through technical assistance programmes. In turn, action plans, in the form of an Association Agenda or a Partnership Agenda, extend the areas of priorities under the cooperation framework agreements and, at the same time, narrow down an extremely broad 'disability-related cooperation' to concrete actions and reforms to be undertaken. Therefore, they set tangible targets for a partner country to achieve. However, again, it does not necessarily trigger the rule-transfer alone. The adoption of the disability-related EU acquis does not directly lead to additional market access, though it is essential overall for establishing the DCFTA.[8] Therefore, while these channels may not, separately, provide sufficient stimulus for the transfer of the disability-related EU acquis, together they did trigger the transfer of EU disability norms, as the analysis in Chapters V and VI demonstrated.

2.3. How does the Transfer of EU Disability Norms Impact the Legal Orders of the EaP Countries?

This thesis presented a case study of Ukraine to answer this research question. As indicated in the Introduction to this thesis, Ukraine was selected as it has the most elaborate relationship with the EU, grounded in the AA/DCFTA with the most far-reaching integration framework into the EU internal market.

The analysis of Ukraine as a case study in Chapter VI demonstrates that EU disability norms transfer *does* advance the legal framework on disability rights in Ukraine. Even if EU disability norms, as discussed in Chapter III, do not fully embrace all the concepts and principles of the CRPD, they nonetheless assisted Ukraine in strengthening and advancing disability rights in line with the CRPD standards.

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[8] Guillaume Van der Loo, *The EU–Ukraine Association Agreement and Deep and Comprehensive Free Trade Area: A New Legal Instrument for EU Integration Without Membership* (Brill Nijhoff 2016) 290.

The transfer of EU disability norms into Ukraine's legal order was analysed through examination of the process of adoption of two legislative pieces: the Law of Ukraine 'On the Principles of Prevention and Counteracting Discrimination in Ukraine' (Non-Discrimination Law) [9] from 2012 and the Law of Ukraine 'On Media' (Media Law)[10] from 2022.

The Ukrainian Non-Discrimination Law was adopted as a requirement under the VLAP. It marked a significant step in enhancing legal protection against discrimination for persons with disabilities. Drawn largely on EU Directives prohibiting discrimination,[11] including the Employment Equality Directive, the Non-Discrimination Law introduced the definition of discrimination, included a provision on reasonable accommodation, and designated the Ukrainian Parliament Commissioner for Human Rights as the national equality body responsible for the monitoring and implementation of the legislative piece. It was groundbreaking for persons with disabilities in Ukraine in two respects. First, it recognised disability as a ground for discrimination, and second, it introduced the concept of reasonable accommodation, which had not been regulated in Ukraine's legal order before.

The adoption of the Media Law to align national legislation with Council Directive (EU) 2018/1808 concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities (AVMSD 2018)[12] was a requirement under Annex XXXVII Chapter 15 Audiovisual Policy Title V Economic and Sectoral Cooperation of the AA/DCFTA, and later became a requirement for opening accession negotiations. By transferring the AVMSD 2018 into the Media Law, Ukraine also adopted provisions advancing accessibility of audiovisual services for persons with disabilities and protecting persons with disabilities from hate speech. While there was already some level of protection of disability rights in the audiovisual media sector, the new Media Law advanced it further. It introduced new provisions

[9] Parliament of Ukraine, Law (Zakon) of Ukraine 'On the Principles of Prevention and Counteracting Discrimination in Ukraine' (06 September 2012) No 5207-VI.
[10] Parliament of Ukraine, Law (Zakon) of Ukraine 'On Media' (13 December 2022) No 2849-IX.
[11] Iryna Fedorovych, Policy Report 'Anti-Discrimination Legislation in Ukraine – Box Ticking for the EU or Real Reforms to Ensure Equality for Ukraine's Citizens?' (International Renaissance Foundation, 2016).
[12] Council Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities [2018] OJ L 303/69.

protecting persons with disabilities from discrimination and prejudice in the media, as well as hate speech, enhanced standards for accessibility of official announcements, including emergency information, and assigned an authority responsible for setting up an effective mechanism for receiving complaints, including developing and approving an action plan to ensure the accessibility of audiovisual services for persons with disabilities. Additionally, it established various co-regulatory bodies that regulate online and printed media, video-sharing platforms, and audiovisual media, and engage with accessibility matters.

Therefore, the transfer of EU disability norms was essential to foster the protection and promotion of disability rights. In both cases, the adoption process was accompanied by the institutionalisation to enhance its implementation.

3. Revealed Patterns

In answering the research questions, this thesis has revealed overarching trends and patterns in the reach of EU disability norms in partner countries. In unveiling these trends, this thesis points to new, intriguing avenues for future research.

First, the *impact of the EU's external action on disability rights in partner countries often exceeds the scope of formal commitments envisaged by the legal and policy framework.* Disability rights as part of human rights have been progressively, albeit unevenly, incorporated into the legal and policy frameworks of key external competences and policies governing the EU's external action. The contextual analysis reveals that, although the EU's trade policy does not explicitly integrate disability into its policy framework, it has demonstrated a tangible impact on disability rights in partner countries. Advancement of disability rights through the AA/DCFTA is a compelling example. Coupled with the ENP and its governance mechanisms, such as conditionality and socialisation, the EU's trade policy has demonstrated itself to be a leading player (though not the sole one) in the transfer of EU disability norms to partner countries. Also, while the GSP+ does not include the CRPD in the list of 27 conventions to be implemented by partner countries, the Commission nonetheless included broad monitoring of the CRPD implementation in the EaP countries during the period they benefited from it. Thereby, the Commission used the GSP+ de facto as a leverage to advance some disability-related reforms in the EaP countries, when disability was not mainstreamed through this instrument. Similarly, the CFSP,

equipped with such tools as EU delegations and EU civilian missions, has already demonstrated 'on-the-ground interaction' with disability rights and achieved some tangible results in this area in partner countries, despite lacking an advanced policy framework that mainstreams disability rights. This means that a purely doctrinal analysis of the legal and policy frameworks of various EU external competences and policies, while being an important exercise to foreground further research, does not necessarily reflect the real dynamics of promotion of disability rights promotion in EU external action, which is largely context dependent.

Second, *internal developments of EU disability law play an important role in EU disability norms transfer to EaP partners.* The promotion of disability rights through EU external relations in the EaP countries is driven not only by EU external actions but also by its own internal developments. Chapter III reveals that, over the years, EU disability law has evolved into a complex subsystem of EU law, spanning almost all areas of EU competences. Disability-related provisions are integrated into various areas, including copyright law, public procurement, transport, state aid, consumer law, and the audiovisual media sector, among others. As a result, the primary market-oriented EU acquis in areas such as transport, audiovisual media, and public procurement, which Ukraine, Moldova, Georgia, and Armenia must adopt under their cooperation framework agreements, also includes EU disability norms. This reflects the 'fluidity' between 'internal' and 'external' in EU law, which was already established by various scholars[13] and confirms this tendency in respect to EU disability law.

4. Future Avenue for Research: Global Reach of EU Disability Law?

This thesis represents a scholarly endeavour to examine the transfer of EU disability norms within the context of the EaP. As the analysis evidences, transfer of norms protecting human rights may sometimes be a sensitive matter and is often an economically unappealing exercise for partner countries. Nonetheless, it is of crucial importance for the EU, which views human rights protection within and outside its borders as an essential component of its security and stability. Therefore, this multifaceted and intricate process is quite distinct in its 'shape or form'

[13] See Elaine Fahey, *Global Reach of EU Law* (Routledge 2017); Marise Cremona, 'Extending the Reach of EU Law: The EU as an International Legal Actor' in Marise Cremona and Joanne Scott (eds), *EU Law Beyond EU Borders: The Extraterritorial Reach of EU Law* (Oxford University Press 2019).

methodologically and conceptually speaking from the rule-transfer in the economic-oriented areas, as it is not merely an effect of the EU's internal rules, like the 'Brussels effect' or the territorial extension of EU law discussed in the Introduction. It is a complex and often long-term endeavour, requiring the EU to deploy its entire arsenal of tools, including financial resources, to create an enabling environment for this process to be activated. Even in this case, the main decision remains with a partner country.

Nonetheless, the examples of EU disability norms transfer discussed in this thesis demonstrate that, although this process takes a distinct 'route' compared to other areas, the results are similar – the reach of EU law in the legal orders of the EaP partner countries.

This thesis focused on a small group of the EU's neighbours, its Eastern partners, therefore offering only a glimpse into the potential of the EU as a global advocate for disability rights. Trade agreements, specifically 'integration-type' agreements, as the basis for a complex cooperation framework that the EU establishes with partner countries, are a central tool for EU disability norms transfer in the EaP countries. Therefore, trade agreements can potentially have similar effects globally. Looking beyond the EaP, as of 2025, the EU has 86 active trade agreements with partners across all continents.[14] To this end, this thesis prompts the main question for future research: Does EU disability law have a global reach?

5. Contribution to the State of the Art

This thesis makes a significant contribution to the state of the art in several ways. Pioneering the study of disability rights within the broad field of EU external relations law opens new avenues for inquiry across both EU external relations law and EU disability law. In an attempt to 'catch' the process of EU disability norms transfer in the EaP countries, this thesis extended the analysis of EU disability norms and, by extension, EU disability law beyond their traditional internal scope to the external dimension of EU law, with a particular focus on the EaP. Few studies have examined the nexus between disability rights and the EU's development policy, or with trade

[14] Commission, 'EU Trade agreements — Negotiations and agreements' <https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/negotiations-and-agreements_en> accessed 20 September 2025.

agreements, as examined in Chapter IV. Even more so, the examination of the disability rights in the ENP, the CFSP, and (surprisingly) the EU's external human rights frameworks, with a focus on the EaP, has not been investigated yet. Therefore, by introducing new lines of investigation, this thesis broadened the horizons of both EU external relations law and EU disability law, introducing to the scholarship an emerging nexus between these subsystems of EU law.

Further, this thesis contributed to the legal examination of the rule-transfer and global reach of EU law by introducing disability rights as a new field of investigation. In doing so, it also advanced the scholarship on the ENP by examining the reach of EU law in the EaP. The developed methodological and conceptual approaches for analysing the transfer of EU disability norms within the EaP framework, as presented in this thesis, enriched a theory-informed analysis of the EaP and enabled the use of both methodological and conceptual frameworks to study the transfer of other human rights under the EaP framework.

Last but not least, this thesis enriched Ukrainian legal scholarship by advancing knowledge on disability within the framework of human rights and in the context of Ukraine's cooperation with the EU. Historically, studies of disability in Ukrainian scholarship have primarily developed in disciplines such as social work, psychology, rehabilitation, and education. Therefore, this thesis expanded the existing Ukrainian scholarship on disability beyond its usual confines.

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