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Multilateralism and Regionalism in Challenging Times: Relations between Europe and Latin America and the Caribbean

Coordinators: Ernesto Jeger, Diego Durán Cruz, Bruno Theodoro Luciano

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2022

Federal Foreign Office

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PRESENTATION

The EU-LAC Foundation and the Regionalism Observatory are pleased to present this publication that compiles a series of contributions from prominent dedicated to the analysis of relations between Europe, Latin America and the Caribbean from a multilateral perspective. This book is moreover a continuation of a series of webinars co-organised by both entities during 2021, whose recordings are available via the following link: https://www.youtube.com/c/Observat%C3%B3riodeRegionalismoODR

The first chapter of the book, written by Karina Mariano, Cairo Junqueira and Bárbara Neves, focuses on the overall EU-LAC relations in such challenging times. Considering the turbulent scenario seen in both regions, the authors reflected upon the following questions: How have recent geopolitical, economic, health and environmental challenges affected EU-LAC relations? How relevant is the EU-LAC bi-regional association to address global collective issues today? What opportunities can be identified for EU-LAC bi-regional relations? What EU-LAC countries need to do in order to seize them? Will future EU-LAC relations become more or less a priority for both sides of the Atlantic?

In the second part of the book, Gerardo Caetano, Isabel Camisão and Bruno Luciano assess how democratic and illiberal threats have been affecting both the European Union and the Latin America and Caribbean region, as well as the relations between the two, which has been traditionally grounded in shared norms such as democracy and the rule of law. In doing so, the authors aimed to address the following questions: How is the European Union responding to these democratic threats? How effective is the EU rule of law mechanism? How can the EU give a stronger voice to its citizens? How have Latin American governments and civil society responded to democratic breakdowns and the rise of illiberal leaders in the region? How has the region dealt with concrete cases of political, economic and humanitarian crises such as the one seen in Venezuela? How have these internal democratic drifts affected its external partnerships based on shared values, such as the EU-LAC partnership? Can current EU-LAC relations still contribute to the defence and promotion of democracy in the two regions?

The chapters from Sandra Guzmán and José Antonio Sanahuja, which focused on the environment and climate change agenda, highlight how environmental issues and climate change have been addressed within EU and LAC regional agenda. Therefore, they reflect upon questions such as: How is the European Union addressing climate change? How does the EU articulate its view regarding environmental issues and climate change in multilateral forums? How do environmental issues affect the interaction of the EU with key partners in international affairs? How have countries in the LAC region been affected by climate changes? How do they articulate the need to address environmental issues with economic growth? How have they articulated a common vision regarding climate change at a regional and global level? How are environmental issues and climate change introduced in the EU-LAC partnership? How do the EU and LAC countries manage key challenges in this dimension? Can EU-LAC partnership evolve into a more meaningful and strategic approach to climate change at a global level?

The part on trade and sustainability, composed of contributions from Mariana Vazquez, Marcus Salles and Regiane Bressan, discusses how the European Union and Latin American and Caribbean countries have been affected by an increasingly geopolitical trade order, but also by new sustainability concerns raised by the global climate emergency and the coronavirus pandemic. Thus, the authors explored: How have the trade relations between the EU and Latin American and Caribbean countries been affected by an increasingly assertive China and its major presence in international trade as well as the new US administration? Are trade relations between the EU and CELAC countries complementary or contradictory to the global trade governance underpinned by the World Trade Organization? What challenges lie ahead for the conclusion of the EU-Mercosur Agreement and what role do sustainability considerations play in the future of the agreement and of international trade?

The fifth part of the book discusses how current global challenges have impacted human rights in EU and LAC countries. Jan Wouters, Gustavo Müller, Dina Sebastião and Samara Guimarães address the following questions: What have the EU and LAC governments been doing to address social tensions and humanitarian crises endangering human rights? What is the EU doing to face erosion of human rights and the threat of potential setbacks in a multicultural Europe? What can EU-LAC cooperation do to put human rights and multiculturalism in the multilateral agenda? Have their internal related problems negatively affected cooperation in this field? Or can they foster solutions for both regions to improve human rights?

The coordinators thank all the experts who contributed to this publication, as well as all the panellists and attendees who participated in the series of webinars. A special acknowledgment goes to Ilenia Vásquez Ortiz, intern at the EU-LAC Foundation, who assisted with the revision and edition of this book.

Enjoy the read!

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INTRODUCTION

The Covid-19 pandemic has aggravated the multiple crises faced by multilateral institutions and regional cooperation. The rise of authoritarianism, autarchy, protectionism, and scepticism towards the scientific community and multilateral institutions has brought significant challenges to international cooperation regarding several global agendas. This trend is particularly observed in the European Union (EU) and Latin America and the Caribbean (LAC), where regional governance has encountered hardships to effectively provide regional public goods in times of pandemic. This happened within a background of the crisis of regionalism and multilateralism in pursuing global pressing agendas. The status and defence of democracy, environment and climate change, trade and sustainability, human rights and multiculturalism, and health, science and technology are some of the thematic agendas that have been subject to growing need for multilateral cooperation, given their global implications.

The end of the Cold War did not bring about the homogenisation of a universal political regime type with the characteristics of liberal democracy. The proliferation and complexification of interdependent relations did not necessarily lead to such political scenarios. Alternative regime types, with high concentration of power, emerged in many places. Domestic political processes in several societies strained and jeopardised the civil liberties and human rights agenda and exposed the limited capacities of the international system to process humanitarian crises, natural disasters, as well as structural imbalances related to inequality and inequity. The current pandemic crisis further accelerated this trend, raising concerns about the possible roll back of civil liberties and human rights and feeding the existing trend of intolerance and censorship of dissenting opinions.

On the environmental front, although climate change issues have been on the international political agenda since the 1960s, consensus on the need for sustained and sustainable cooperation in the fight against climate changes has often been de-prioritised by political leaders, who have often privileged the national interest. As such, important international mechanisms, such as the United Nations Framework Convention on Climate Change (UNFCCC), have become limited in their ability to promote a holistic strategy effectively enforced by all parties. This comes at odds with the fact environmental issues are transnational in essence and present a menace to the survival of mankind on a global scale. The economic-environmental paradox is often used to justify this lack of effective implementation, shedding light on sustainable development as the proper solution to reconcile environmental and economic issues and to emphasise their interdependence. The success of a sustainable approach has to be closely articulated and implemented in a multilateral environment, involving all relevant actors in international affairs, from international organisations to states, without ignoring the important role of human communities and the individual. Despite that, several actors continue to obstruct a global response to climate

change and environmental issues, as demonstrated by persisting alarming levels of pollution from great powers, such as China and the United States, by marginal progresses made by countries without the technologic means and financial resources to adopt a "green" economy, the then unilateral decision of the Trump administration to drop the Paris Agreement, or by the recent pandemic crisis that negatively affected unrecycled garbage production levels.

International trade has been another part of the architecture of the post-war liberal international order, fundamental to fostering deep integration across continents and regions and, consequently, ensuring peace and political advancement. Such a liberal paradigm has been based on the assumption that an open and international order facilitates growth, encourages exchanges, and brings countries together. However, this order, which was built on open multilateral trade, has come under severe strain in recent years. From the WTO Appellate Body's crisis, to the nationalist and transactional approaches of key trade actors like China and the United States, the multilateral trading system has suffered severe blows. Additionally, new challenges like the increased alarm over climate change and the global coronavirus pandemic, call the existing trade status quo into question.

The EU has often found itself as a key player in leading efforts in favour of open and fair trade. Its relationship across the Atlantic with the Community of Latin American and Caribbean States (CELAC) has been no exception to the Union's trade priorities. Together, the CELAC States represent a major trading partner for the EU, maintaining close political and cooperative ties with the single market. Various interregional association agreements, economic partnership agreements, multiparty trade agreements and bilateral framework agreements are components of this relationship. Nonetheless, these trade links too are not insulated from recent changes in the global trade landscape nor from pressure on the multilateral order. New global dynamics resulted, for example, in the EU's significant loss of market share in Latin America and the Caribbean, mainly to China. This has, however, not prevented the EU and Mercosur countries from renewing, in 2019, their commitment to multilateralism and fair trade by concluding an 'agreement in principle' on the trade pillar of an EU-Mercosur Association Agreement after two decades of talks, although there have been difficulties in the ratification process in both regions. If ratified, it will bring the total number of LAC countries with trade and association agreements with the EU to 31.

Regarding the human rights agenda, the Universal Declaration of 1948 was a hope to globalise human dignity. Freedom and equality in dignity and rights to every human being should be seen as the foundations of any democracy, guaranteed by the rule of law. Many countries in Europe, Latin America and the Caribbean proclaimed their commitment with

the Charter, although the bipolar world of the Cold War soon unveiled the realism of international relations, compromising the building of truly multicultural societies. With the end of the Cold War, the globalised economy was expected to foster development and income rise, but this was not equally delivered. The 2008 great recession, the global migration increase, and climate change have been unveiling inequalities as a trigger point to a retreat on human rights and multiculturalism. And Covid-19 may even worsen this scenario.

Furthermore, Health and Science & Technology have been seen as intertwined determinants to social wellbeing and economic development. Considered a priority in all areas of policymaking, such issues reflect directly not only in societal health but especially in issues of poverty and inequality around the globe. In 1978, the Declaration of Alma-Ata, an outcome of the International Conference on Primary Health Care, reaffirmed health as a fundamental human right, pointing to the urgent need of a joint action to protect and promote the health of all people in the world, linking health to other goals in social and economic sectors. In 1979, during the 32nd World Health Assembly, the World Health Organization (WHO) launched the "Global Strategy for health for all by the year 2000". WHO invited its member states to individually act by formulating national policies, strategies and plans of action as well as collectively formulate regional and global health strategies. In the European agenda, such efforts resulted in the implementation of the Health in All Policies (HiAP), focusing on health equity, protection and promotion, across policy areas, especially since 2006. The HiAP has aimed to translate into public policies the need of considering the implication of decisions in distinct areas and subjects to health and health systems, defending that a global synergy could avoid harmful health impacts and promote health equity.

At the same time, countries of the LAC region created and supported regional spaces for debate and joint actions since the beginning of the 2000s, especially on the sanitary and education agenda. Such efforts resulted in regional institutions that aimed to reorganize the regional context through the implementation of new cooperation agendas, creating governance models to articulate governments and its experts, as well as to facilitate the reallocation of resources through the continent. This process resulted as in the European case, in milestones for establishing health as a universal right. In 2000, Mercosur countries, together with Bolivia and Chile, signed the Social Commitment Letter of Buenos Aires, establishing its compromise to promote full access to health services, as well as to improve the quality of life and wellbeing of their populations. Other institutions and regional spaces, such as the Union of South American Nations (UNASUR)'s Health Institute (ISAGS), also followed this direction.

Despite significant development of the agenda on health since the 2000s in both regions, the Covid-19 Pandemic exposed limitations and structural bottlenecks in these areas. The

European Union was the second Covid-19 transmission epicentre, facing initial difficulties in 2020 to control its spreading and its consequences. Despite well-structured health systems and some level of health policies coordination, many problems affected the European continent from 2020. In LAC, the ineffectiveness of the regional institutions, in part due to their dismantling and discredit by national governments, resulted in a very limited regional response to the Covid-19 global health crisis, making Latin America the region with most cases and death numbers so far. Both scenarios reflected the prioritisation of unilateral and bilateral actions to the detriment of regional and global multilateral actions and decision-making.

Considering this pressing global scenario on multiple fronts, this edited volume aims to shed some light on how these contemporary challenges have been affecting EU-LAC inter-regional relations, exploring concrete topics of the agenda such as democracy, climate change, trade, human rights, and health. EU-LAC inter-regional relations have been traditionally conceived as a long-standing, multidimensional and productive dialogue. Besides the historical ties among both regions, in 1999 a Strategic Partnership between the EU and LAC countries was established, with the aim of institutionalizing, deepening, and expanding this bi-regional relationship. The creation of the Community of Latin American and Caribbean States (CELAC) in 2010 brought an opportunity for a more structured EU-LAC dialogue, which became organised into EU-CELAC Summits and Action Plans. Despite having much in common, EU-LAC interactions are in necessity to be consolidated and strengthened. There has not been a Summit since 2015 and few high-level visits have taken place since then. During the same time, other international actors are moving forward. The US has maintained constant engagement with both regions and especially now with the Biden administration. Chinese investment in LAC increased tenfold between 2008 and 2018 and China recently overtook the EU as Latin America's second most important trading partner. What is more, multiple crises have emerged in recent years, posing new challenges to current and future EU-LAC relations. For instance, due to the political and humanitarian crises of Venezuela, the organisation of CELAC Summits was jeopardised, which has also affected EU-CELAC high level meetings. At the same time, the EU has had to deal with crises in its neighbourhood and within the bloc itself with the UK's exit (Brexit). More recently, the contestation of multilateral institutions by leaderships in Europe and LAC countries as well as the Covid-19 pandemic brought new difficulties for ongoing and future regional and inter-regional cooperation, which deserve more attention from policy-makers, scholars and civil society actors.

By gathering experts on these topics from the two regions to discuss over key issues on the bi-regional agenda, this book starts from making a diagnosis of both European and Latin America regions in addressing such thematic challenges, to further reflect upon

the current challenges faced by EU-LAC inter-regional relations and possible solutions which may support actors from the two regions to overcome recent difficulties by supporting joint bi-regional coordination. Moreover, this publication aims to foster a broader dialogue on the bi-regional relations, by going beyond the intergovernmental agenda and providing a reflexive assessment of the contribution of other actors involved in EU-LAC relations such as parliamentarians and members of civil society organisations, aiming at developing a more comprehensive and plural debate on topical issues of the bi-regional agenda.

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1. TRANSOCEANIC RELATIONS BETWEEN LATIN AMERICA AND EUROPE IN THE LAST 30 YEARS: IDENTIFYING OPPORTUNITIES AND CHALLENGES IN THE TWENTY-FIRST CENTURY[1]

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1. INTRODUCTION

What defines Europe and Latin America as regions? Schimmelfennig (2016) states that the first represents a historical construction based on three perspectives: geographical, civilisational and institutional. Therefore, it encompasses the western peninsula of Eurasia, the ancient features of Christianity and the modern features of the West, as well as the symbol of regional organisations, respectively. As for the latter, the author states that, in political and media discourses, Europe is associated almost as a synonym for the European Union (EU) itself.

This breadth also appears in the possible definitions of Latin America, which comprise four dimensions: geographical, historical, idiomatic and "peripheral". Thus, it relates the countries colonised by Spain, Portugal or France, owners of languages derived from Latin and that are inscribed in a historical dynamic of exploitation and inferiorisation. According to Prado (1999), the name of Latin America was invented in the nineteenth century to mark a certain regional identity in the midst of the processes of independence and the creation of the Monroe Doctrine by the United States in 1823. In addition, with the division between a Saxon America and a Latin America (Farret and Pinto 2011), the idea of Latin America is also constituted as a reflection of the imperialist disputes for influence on the continent between France and the United States (Quental 2012).

However, in contemporaneity the concept came much closer to identifying an economic situation than a cultural one, since for Bruit (2000) this terminology was consolidated after the Second World War, based on the idea of underdevelopment, after the creation of the Economic Commission for Latin America and the Caribbean (ECLAC). Lambert (1979) emphasises that the concept of Latin America incorporated countries that in principle did

not belong to the former Spanish and Portuguese colonies, since from 1964 the own Demographic Yearbooks of the United Nations incorporated Jamaica, Barbados, Grenada, Trinidad and Tobago, Suriname and the Guyanas into the group of Latin American countries.

The terminological conception of Latin America can be considered as a European invention (Mignolo 2007), already demonstrating that the relations between both regions follow long-term processes and with different moments that present very different characteristics: the economic and social inequality that exists between these regions, and the European influence in Latin American countries. Historically and politically, relations between the regions began a long time ago and date back to 1492, when Latin America became a central aspect of modernity for the Eurocentric world (Dussel 1993).

At the beginning of the twentieth century, Latin America was fully connected to Europe in economic and migratory terms. Consequently, as Dehne (2014) points out, European countries sought diplomatic advantages in the region during the First World War, a conflict that was shaping Latin American identity and gave rise to a great influence of the United States, which has increased over the decades.

Latin America's identity established a break with its colonial past, seeking to diversify economic alliances and promote the development of the region autonomously, making it possible to overcome the peripheral situation experienced by the region. That was the focus of ECLAC from the 1950s, determining the bases of future regional agreements that will be established years later, such as the Latin American Free Trade Association (LATFA) in 1960, the Andean Community (CAN) in 1969, the Latin American Integration Association (ALADI) in 1980 and the Southern Common Market (Mercosur) in 1991. It is important to note that this search for a distancing occurred under a logic of European influence, since the initial model of Latin American regionalism was the European Coal and Steel Community (ECSC), the origin of the EU.

As for the financial and economic aspects, European banks and industries played an important role in promoting import substitution policies in Latin America between 1940 and 1960, relations that were a few losing strength. As Vellinga (1993) points out, the trade relationship between the countries of Latin America and Europe subsequently stagnated: in 1965, about 8% of the European Economic Community's (EEC) exports went to Latin America, falling to 6% in 1983 and 4.9% in 1987. The 1980s were very complicated for Latin Americans, a period known as the "lost decade" in the economic sphere. However, contrary to the author's own prognosis of stimulating only bilateral relations between the countries of both regions, the 1990s inaugurated a new interregional stage. In other words, the dialogue between Europe and Latin America is broad, plural and should be seen as a non-linear process that goes through moments of greater development and others of greater scepticism.

The current scenario of European and Latin American regionalisms is covered by a dynamic of deglobalisation that considers the general rules of social organisation, encompassing regional and international institutions, as redundant or harmful to political and economic relations between countries (James 2018). In Europe, movements such as Brexit paved the way for the great interruption of the EU's enlargement dynamics, while in Lat-

in America various tensions erupted that interrupted the processes of deepening Latin American regionalism.

Can the movements of critical conjuncture in each of the regions also be observed in the relations between Latin America and Europe? If some mutual interests between the two regions have been established historically, how are they analytically dimensioned over the past three decades? What are the biggest challenges and great opportunities in the current Strategic Partnerships established between the EU and Latin America?

To support these issues, the chapter aims to analyse EU-LAC interregional relations by placing them in the contemporary context of the disruptions of regionalism. In addition to this introduction and the final considerations, the following two sections propose to measure the transoceanic relations between the regions in the last thirty years, with special emphasis on the global and systemic challenges that arise to the current dynamics of the twenty-first century. The final conclusion is that future prospects in the EU-LAC relationship must be guided by multiple gains that must move away from unilateral preferences.

2. TRANSOCEANIC RELATIONS BETWEEN LATIN AMERICA AND EUROPE IN THE LAST 30 YEARS

From the 1980s there was a rapprochement between Europe and Latin America, promoted by a particular juncture that was globalisation. As this process progressed, it stimulated internal changes in the two regions and facilitated the convergence of interests and values on both sides. Europe embarked on a new integrationist cycle based on the Single European Act that broadened the number of participants and deepened integration with the proposal to create monetary union among its members.

In Latin America, the processes of political re-democratisation facilitated the resumption of negotiations for regional cooperation, which were invariably inspired by the European experience for the construction of regional blocs. Unlike Europe, which sought in integration an instrument to increase security and guarantee its role in the international system, for Latin American countries the main concern was to insert themselves into a globalised world.

In any case, the option to promote integration as a way to respond to the challenges of globalisation led to the negotiation of inter-regional agreements that cover economic, political and social aspects, incorporating in the negotiation values and principles such as democracy, human rights, multilateralism, environment and quality of life.

These issues are part of the EU-LAC Summits that have been taking place since the end of the 90s, which bring together heads of state and government with the purpose of building a bi-regional community. Each summit deals with a specific theme, based on previous agreements reached on the political scene, within the framework of a Bi-regional Strategic Partnership based on the intensification of political dialogue, together with the reinforcement of promoting cooperation in the commercial, economic and cultural areas.

From this Strategic Partnership there was a growing European contribution to finance programmes developed in this area: 264 million euros were allocated for the period 2002-2006 and 556 million euros for the following period from 2007 to 2013 (Romero and Mariano 2020). European financing is an indication that over the last three decades this rapprochement between Latin America and Europe would be marked by what (Vogel 2007) Vogel called common interests: promotion of peace, freedom and economic well-being.

These interests are the basis of the negotiations that began in 1995 between the two regions and that over time expanded the themes, incorporating issues such as cultural cooperation, education, territorial integration, sustainable development, etc. However, the focus of these agreements remains the issue of trade liberalisation.

The European strategy for LAC was to establish Association Agreements that sought to consolidate economic/commercial interests, as well as to strengthen cooperation on political and social issues for which the EU intends to strengthen its role in defining multilateral rules. On the other hand, Latin American countries seek with this participation to attract investments that allow them to promote processes of economic and social development, while improving their insertion in global value chains. These Association Agreements negotiated bilaterally by the EU have a common main structure, but they vary in the way the negotiations are conducted, as it is different for each case and conforms to the specific conditions presented by each country or bloc (Levi Coral 2010).

For Europe, negotiation with regional blocs is a way to reinforce their role as a model in the international system, while for Latinos it is a way to increase their negotiating capacity, especially in trade aspects. In this way, the '90s represent an important change in relations between the two regions, marked by the negotiations to concretize these Association Agreements between the EU and the Andean Community (CAN), the Central American Common Market (CACM), the Southern Common Market (Mercosur) and the Caribbean Community (CARICOM).[3]

Building on the EU's relations with the CACM, although the United States has historically been Central America's main trading partner, and China has now displaced Europe as the second largest exporter in the subregion, the EU still has a significant trade and investment presence in the region. In addition, there is a strong European influence in the same Central American integrationist process, which has had the contributions of European support programmes, such as the Development Cooperation Instrument (DCI) that seeks to promote the sustainable environment, mitigate climate change, stimulate growth with inclusion for human development, contribute to the educational field, in security and governance, among others.

Despite the European influence in the CACM, it was only possible to sign an agreement with the countries of that bloc that has a strong commercial component in 2010. That agreement has been provisionally applied since 2013, that is, it has not yet been fully implemented because it was not ratified by the European bodies. An important aspect to highlight is

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3. All information about the agreements was removed from the EU's official website. For more information see https://ec.europa.eu/trade/policy/countries-and-regions/negotiations-and-agreements/.

the content of trade between the two regions: Central American countries basically export coffee, bananas, pineapples and microchips to Europe; and import medicines, oil and cars.

The same dynamic occurs in relation to the Caribbean and Andean countries. In the case of the Caribbean, the EU promoted negotiations with CARICOM, which is an integrationist process as old as the CACM. Despite being an area of strong influence of the United States, which is its main trading partner, it has historical ties with Europe and strong trade relations with the European bloc. Like its Central American counterpart, CARICOM signed in 2008 the Economic Partnership Agreement with the EU, which is also in a provisionally applicable situation.

Another similarity with Central Americans concerns the contents of trade between the regions, since the Caribbean is also an exporter of primary products for the EU, while importing industrial products. CARICOM countries export to Europeans basically fuels and mining products, in particular petroleum gas and oils, bananas, sugar and rum, iron ore products and fertilisers. And they import boats, ships, cars, construction vehicles and engine parts, telephone equipment, milk and cream, and distilled beverages.

With the Andean countries members of the CAN, the EU established bi-regional cooperation from its predecessors, implementing over the years various programmes to promote development and cooperation, such as the PED-ALA and the Generalised System of Preferences (GSP) for Developing Countries (from 1973 to 1982), the Cooperation Agreement (between 1983 and 1992), and the 1991 GSP-Andean, which allowed most Andean industrial exports, some fishing and agricultural, to enter the EU duty-free. The GSP-Andean was in force until 2004, when it was revised to conform to World Trade Organisation (WTO) rules.

The extensive cooperation between the two regions was not enough to reduce the growing impasse in the negotiations of the EU-CAN Agreement, especially due to the different economic positions between the Andean partners. While Peru and Colombia were in favour of greater prioritisation of trade issues, Bolivia and Ecuador questioned these aspects and the liberalising logic that was being adopted in the CAN.

Tensions prevented the signing of an agreement between the blocs, which led the EU to propose a bilateral negotiation, abandoning interregional negotiations regarding the trade component of the agreement, maintaining political dialogue and development cooperation at the bi-regional level (Sanahuja 2013). Initially, only Colombia and Peru agreed to sign the free trade agreement proposed by the EU, whose trade negotiations were closed in March 2010. However, the agreement was signed only in 2012, and is not yet fully ratified, partially operational since 2013. In addition, Ecuador joined the agreement only in 2017.

Currently, the EU is the main investor in the Andean countries and the third largest trading partner. Until the first decade of the twenty-first century, Europe was the second largest trading partner, but the few were displaced by China, which has also increased investments in those countries. In relation to trade, more than once, the members of the CAN export primary products, while importing manufactured products.

In turn, Mercosur is presented in a different context. This process had a strong European influence from the beginning, with what academics called institutional mimicry (Medeiros, Meunier, and Cockles 2015), which stimulated the signing of the Interinstitutional Cooperation Agreement between the EU and Mercosur, which provided European support for the institutional consolidation of Mercosur and contributed to the expansion of its institutionalism, such as the creation of the Mercosur Parliament (Parlasur) for example.

The strong European interest in Mercosur occurred because this project brought together the two main economies of South America (Brazil and Argentina, respectively), which are important countries in agricultural trade, but also have an important industrial park and a large consumer market. These economic attractions underpinned the start of negotiations to establish an Interregional Cooperation Agreement in 1995 ("ACORDO-QUADRO INTER-REGIONAL DE COOPERAÇÃO" 1995) which will constitute the largest interregional agreement in the world.

However, the negotiations dragged on for almost three decades, often hampered by economic instabilities especially in South American countries and political tensions on both sides of the Atlantic. The conclusion of the negotiations in June 2019 was possible only because there was a favourable political situation: in Europe the trauma of Brexit allowed to expand support for the negotiations, while in south American countries the assumption of right-wing governments could soften the resistance of some economic sectors that found it more difficult to oppose the agreement.

The main resistance to this agreement on the part of the Europeans is from the agricultural sectors afraid of South American competition, while on the side of Mercosur they are from the industrialists. This is explained by the trade balance between the two regions: while 75% of Mercosur exports to Europe are primary products, almost 85% of imports are manufactured (European Commission 2021).

Still, the conclusion of the negotiations did not mean the implementation of the agreement that has yet to be ratified by the competent bodies of each party. That process has proven slower and more difficult than expected, especially from European countries that face resistance not only from economic groups, but also from political actors such as environmentalists and left-wing groups that criticize South American governments considered illiberal.

The analysis of trade relations between LAC and the EU shows that there are significant disparities between the interests of the regions. The agreements were possible with those countries that opted for a productive specialisation, accepting their role as suppliers of commodities to the European market, while importing manufactures or transforming them into assembly platforms, as in the case of Mexico. But for those who seek to base their economic development on industrialisation, these interregional agreements prove challenging and limiting.

On the other hand, relations between the two continents cannot and should not be restricted only to trade aspects, as there are many common challenges against which we find important convergences between LAC and the EU. Part of this agenda is incorporated in

the initiative of the Community of Latin American and Caribbean States (CELAC), which we can consider as an initiative for cooperation and political coordination between Latin American and Caribbean States. Likewise, this has been an important platform for cooperation with other parts of the world, especially the EU, to face the challenges of the current international context, as we will discuss in the next section.

3. THE GLOBAL CHALLENGES OF THE TWENTY-FIRST CENTURY

Although the beginning of the twenty-first century has reflected important advances in different areas for LAC, for EU countries, and for interregional relations between the EU-LAC, since the event of the global financial crisis in 2008, the world has been in a new moment, of changes and continuous crises. At the global level, the financial crisis, added to the end of the commodity boom, led to a gradual retraction of countries inward, to the detriment of the multilateral efforts and spaces hitherto promoted.

In turn, what was characterised by the crisis of multilateralism (Scantimburg et al. 2019), reflected a scenario of instability and stress resulting from political and economic changes in the main centres of power of the International System: the United States, the European Union and China (Hoffmann 2020). These changes have directly affected multilateral institutions and international regimes, once the power relations in the international structure were modified. The emergence of new political leadership in the different regions of the world impacts on the already established patterns of interaction, redefining the role that international institutions can have in this new context.

The institutions mirror the expectations and interests of their members regarding the future of the International System in the different issues discussed there. With the incidence of successive crises and changes in national spaces, a consequence of interdependent international dynamics (Weiffen 2020), States and non-state actors begin to seek the development of different cooperation mechanisms to meet the new demands on the rise.

In a cyclical and co-constituted way, crises at the international level drive changes at the national level that reflect in the change of national policies and their patterns of interaction that modify the way in which countries seek to insert themselves into the International System. In this dynamic, national changes resulted in greater stress from these States to modify international structures and organisations in order to meet demands and solve constantly changing problems. Based on this understanding, reflecting on these changes is, as Mariano, Menezes, and Moreira Junior (2017: 13, our translation) point out, "[...] a first step in understanding the international system and its future deployments."

Weiffen (2020) qualifies the different factors and variables that put pressure, at a global level, on existing transoceanic institutions and relations, these being: economic; political; security; sociocultural challenges; power changes; and the spread of crises at the regional level. Each of these factors also affects international institutions by impacting each State in different ways, limiting the scope of efforts established at different levels – national, regional and international.

Firstly, economic challenges relate to macroeconomic crises of a monetary, economic, fiscal, debt, financial market and banking nature. As Weiffen (2020: 22, our translation) reminds us, "due to the global interconnection of economies and financial markets, crises often spread transregionally." In addition, the economic challenges that arise under times of crisis also impact the social indices of the countries, such as the unemployment rate from the decrease in the Gross Domestic Product (GDP) in the face of a period of recession that expands the poverty rate and the percentages of inequality.

Secondly, there are political challenges. Some of these challenges reflect the economic problems faced globally, as they worsen the social impact of globalisation, leading to political crises. The expansion of poverty and inequality act as a trigger for the dissatisfaction of the people and the economic elites of each country, generating strikes, popular protests, internal conflicts and the overthrow of governments (Weiffen 2020).

When considering the case of LAC, what we see is the growing distance of these States from regional institutions that made bridges with other regions. The recent political changes in the region, which brought to power right-wing and far-right governments, characterised a new moment of rupture of the political convergence existing at the beginning of the 2000s (Junqueira and Milani 2019; Neves and Honório 2019).. The end of this convergence weakens the regional institutions created that cease to present themselves as effective spaces for cooperation and solution of common problems (Junqueira, Neves, and Souza 2020).

Faced with the stress of the political aspect of Latin American countries, and the different uprisings that took place between 2013 and 2021 in Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Peru and Venezuela, as a reflection of popular dissatisfaction with their governments and internal problems, a common factor was present in the way in which States reacted to these scenarios: violence.

In this way, and as Junqueira, Neves and Souza (2020) discuss, one of the most affected aspects during these periods of instability and political crisis throughout these years, and, mainly, the year of 2019, was democracy: a relevant factor for the guarantee of justice and strong institutions that are necessary conditions not only for regional integration (Malamud and Schmitter 2007) but also for the maintenance of the political and economic relations of these States with the world.

Therefore, the lack of democracy, which results in problems such as poverty and inequality, is presented as one of the current challenges to the extent that it ends up impacting the external positioning of these States and their relations with the region and with other international actors (Junqueira, Neves and Souza 2020), in addition to further distancing these countries from the fulfilment of the Sustainable Development Goals (SDGs) of the United Nations.

Thirdly, there are security challenges, pointed out by Weiffen (2020) as those that include conflicts, humanitarian crises, etc. In this factor a current example is that referring to the European problem with Russia, who occupied Crimea in 2014 and has been gradually pressuring the occupation of Ukraine, reaching a very critical scenario towards the EU by positioning Russian military on the border with Ukraine in 2022.

Security challenges also impact the socio-cultural dimension, forming the fourth aspect of stress over institutions in the twenty-first century, caused by the displacement of people and refugee movements. Fifthly, the twenty-first century marks the change of powers in the International System. Since the end of the Cold War, we have seen gradual changes and modifications to the current structure, but they have not significantly altered it.

However, the growth of the Chinese economy and its rise as a power actor (Hoffman 2020) mark a new period of power shifts, with the intensification of international dependency relations of other countries in the world with China (Junqueira and Milani, 2019). This change stands out in Latin America once most countries in the region have China as their main trading partner (Ray and Gallagher 2017).

The growing Chinese demand for Latin American raw materials in the twenty-first century marked the commodity boom that, with its end from 2008, puts pressure on the patterns of international political and economic relations by gradually modifying the balance of power between the centre and the periphery. In turn, this element becomes another challenge in the current scenario because it presents itself as a new source of stress in international relations and geopolitical conflicts (Vadell 2011).

In addition, what has been discussed with the growing presence of China as a relevant actor that can occupy the role of the United States in the status quo, are the conditions behind this presence, mainly in the field of the environment, an issue of great importance when evaluating relations between LAC and the EU. By occupying the position of provider of aid and investment, not only to LAC, but also to Asia and Africa, China - to some extent - ends up exporting its development model.

As detailed by Avendano, Melguizo and Miner (2017), from 2003 to 2017 more than 110 billion dollars were invested in Latin America by Chinese companies, mainly in the mining sector (Neves 2021). Even so, another sector of great importance for Chinese investments is in the field of transport and energy, which presents great challenges to the environmental issue (Leite and Neves 2019).

Finally, as a last element is the crisis of the EU after the achievement of Brexit. In addition to presenting itself as a challenge to the other models of regional integration in the world (Hoffman 2020), the EU crisis adds to the critical scenario of the disintegrating and discrediting tendencies of multilateralism by governments that question the effectiveness of multilateralism as a legitimate instrument to solve common problems (Weiffen 2020).

All these challenges that are currently presented end up putting pressure not only on the relations of the LAC countries and the EU regionally, as they are presented as factors that seem to distance these regions from the cooperative efforts hitherto promoted. As Gratius (2020) discusses, all these conjunctural factors, especially the Brexit process and the stress of regionalism in Europe and Latin America, have negatively impacted transregional relations.

What we see in recent years is the trend towards what is called 'regionalism à la carte' - a process in which countries orient their actions at the regional level and their participations in regional organisations based on their domestic preferences. In turn, this trend puts pres-

sure on the capacity of these regional institutions to act and consequently, transregional relations become more unstable and difficult to materialise.

4. FINAL CONSIDERATIONS

Reflecting on the transoceanic relations between Latin America and the Caribbean, and Europe (LAC-EU), we question the relevance of the relationship between regions to respond to these global challenges, mainly as we approach the year 2030 – framework of the SDG Agenda. How have the political, economic, social, and environmental challenges presented have affected relations between LAC and the EU and how relevant is this bi-regional relationship to combat these global problems currently faced?

EU-LAC relations in the face of challenges end up assuming a more bilateral character, in which cooperation efforts between regions through multilateral summits are enriched. In addition, the obstacles of the summits and negotiations between Mercosur and the EU for more than 20 years and the collapse of the EU-CELAC Summits point to the decline of the model of interregional cooperation based on dialogue throughout regional blocs.

What was seen over time in the rapprochement efforts between the EU and LAC was the prioritisation of unilateral trade agreements, not deepening multiple gains or the SDG targets. LAC continues to be for the EU a region that, for the most part, exports primary goods, which maintains the difficulties inherent to the region, such as poverty, weaknesses in its production chains, low awareness of environmental care and social inequality.

In this sense, the centrality of the trade issue is what explains the difficulty in concluding these agreements, since it is the point that generates most of the divergences, especially due to the possible economic and social impacts on countries, even Europeans who are very jealous in agricultural matters, in which Latin Americans are more competitive.

Another important aspect at this stage of bi-regional relations is that trade negotiations prioritised regional blocs, which made them more complex, and especially increased trade tensions, delaying the conclusion of agreements, which were substantially modified over time, incorporating new issues and demands.

However, trade relations remain a central point in the EU-LAC partnership, especially in the European interest of becoming an important trading partner of the region. In this case, it faces historical American competition and more recently the Chinese presence that has expanded its redirection by redirecting the focus of the American countries to the Pacific region.

Finally, on a more positive note, transoceanic relations between the EU and Latin America can also be strengthened to the extent that regions face common problems that cross borders and, in isolation, in such an interconnected world, are difficult to resolve, such as: public health issues - as seen with Covid-19, the growing of populist and far-right parties, inequality, climate change, territorial conflicts and their impacts on humanitarian security.

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2. GEOPOLITICAL HORIZONS FOR THE INTERNATIONAL PROTECTION OF DEMOCRACY IN LATIN AMERICA AND THE CARIBBEAN

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1. INTRODUCTION

The international protection of democracy has been a classic subject of study in International Relations since its formation as a modern discipline, especially associated with the idealist tradition and its neoliberal and institutionalist legacies. Its approach involves conceptions that have long been discussed and theorised in this field of studies, such as the notion of the democratic peace (Small & Singer, 1976; Russett, Layne, Spiro and Doyle, 1995), whose sources can be traced back to classic Enlightenment approaches of the 18th century, such as The Perpetual Peace (Kant, 2012). From the point of view of these approaches, the international protection of democracy is a practice that contributes to establishing a virtuous circle between democracy and peace at the domestic and international levels: if democracy at the national level is conducive to peace in the international system, the international system should seek ways to ensure that the countries within it maintain a democratic regime.

A recent study carried out with the support of the EU-LAC Foundation defines international democracy protection mechanisms (DPMs) as:

Formal, semi-formalised or informal rules and procedures through which regional organisations can intervene in the case of a potential democratic crisis. [...] DPMs codify the democratic consensus of the members of a regional organisation and define the implementation and sanction mechanisms in case a member state deviates from that consensus (Schnably 2000 and 2005; Closa 2013; Heine and Weiffen 2014). (Closa Montero, Palestini Céspedes and Castillo Ortiz 2016: 20).

The consideration of this issue in Latin America and the Caribbean must necessarily combine these conceptual formalisations with the region's historical and political experience, which defines its own path and tradition. On the one hand, the political disputes over the use of the concept of democracy that have marked the region's political life since the eighteenth and nineteenth centuries, giving rise to extensive debates in the twentieth century, must be considered. "This dimension of a disputed concept was one of the reasons why the noun "democracy" increasingly required numerous adjectives" (Caetano, 2019: 105). On the other hand, we must also take into account the influence of US hegemony, which since the

beginning of the 20th century has projected itself onto the region, establishing particular ways of understanding the international protection of democracy, frequently permeated by a tutelary logic of a puritan or martial nature (Halperin Donghi, 1969).

On the basis of these legacies and influences, and in permanent dialogue with those formal conceptions, the international protection of democracy has assumed great importance in the continent's politics. At the hemispheric level, this can be seen from the first Pan-American Conferences, through the policy of Good Neighbourliness and the subsequent emergence of the Inter-American System, to its institutionalisation in the 21st century through the Inter-American Democratic Charter, a democratic clause of continental scope. In recent decades, the issue has also been incorporated into the norms of many of the integration processes and regional blocs that have proliferated in the various sub-regions of Latin America and the Caribbean since the 1990s. This process, which was characteristic of the turn of the century, coincided with the emergence of a relative basic consensus on the norms and practices that could be considered as democratic, accompanying the optimism characteristic of the post-Cold War period, after the last civil-military dictatorships and civil wars that until then had plagued the continent.

Based on this background, in 2022 the issue remains absolutely relevant, but it also becomes a pressing one for Latin American and Caribbean countries. The region is currently experiencing a number of extraordinarily challenging situations regarding the quality and stability of its democracies, which point to a setback in relation to those advances.

> The prospect of a progressive 'regime disagreement' over what we conceive as democracy has emerged as a central problem in Latin America. Legitimacies of origin have been distancing themselves from those of exercise, and this has crossed right-wing and left-wing governments, even beyond the ups and downs of the changing rhetoric around the populism of both sides (Caetano, 2019: 107).

Among the main signs of this regression, the aforementioned analysis highlights the permanent political instability, the periodic "soft coups", the authoritarian drifts into which legitimately elected governments engage, the political confrontation of an exclusionary nature, and the increasing personalisation of politics, to the detriment of political parties and the prestige of democratic institutions in general (ibid.).

In a continent characterised by structural and multidimensional vulnerability, the multiplication of such challenges to democracies has also been facilitated, supported or incited by exogenous factors, on a global or worldwide scale, of growing influence in the last three years: the pandemic crisis and the associated economic crisis; the rise of neo-patriotic, anti-globalist or illiberal movements (as well as their international concertation); and growing tensions between world powers, leading to a return to the primacy of realist approaches in international relations, relegating cooperation to a secondary place on the international agenda.

In this situation, renewing reflection on international mechanisms for the protection of democracy is an essential mission today, thus contributing from the international sphere to guaranteeing that the will of the people is fulfilled in all countries that assume themselves to be democratic.

In order to advance in this direction, the following text offers an overview of what we call geopolitical horizons for the application of democracy protection mechanisms, based on the identification of different sub-regional, continental, hemispheric, inter-regional and multilateral spheres in which such mechanisms are developed. The aim is not to offer the reader an exhaustive overview of the universe of such mechanisms, but rather to present a specific set of cases that reflect their variability. It is particularly interesting to show how this variability is subject to historical-political particularities, linked to elements such as the interests and identity of the actors, which are expressed geographically and, in particular, geopolitically, and at the same time mark a limit to abstract or doctrinaire explanations with universal pretensions. The set of cases considered is also crossed by the authors' unintentional adoption of an Uruguayan locus, which possibly also marks the proposed interpretation, as it reflects a way of understanding the region and democracy.

The text is composed of three sections, in addition to this Introduction and the Conclusion with which it closes. The next section discusses conceptual aspects of the approach adopted to address the international protection of democracy from a Latin American and Caribbean perspective. This is followed by an overview of the range of international democracy protection mechanisms analysed, with an emphasis on those of the Southern Cone countries. The third part offers a discussion of old and new challenges that arise from the analysis of the aforementioned cases.

2. THE DEFENCE OF DEMOCRACY BETWEEN THE UNIVERSAL AND THE PARTICULAR

Despite the renewed topicality of the protection of democracy mentioned above, the basic question that has been asked in the world and in the region over the last century may still be the same: how to build effective international solidarity when a country suffers a democratic rupture?

However, the answer to this question cannot be general, but must be geographically and temporally situated, combining universal and particular elements. The following text proposes an approach to the issue by adding a second crossover (partially overlapping with the previous one) between doctrinaire or formal views and concrete historical-political experience. On the one hand, doctrinaire or formal approaches, which are often predominant, emphasise theoretical, abstract and normative aspects, with a universalist conception, whose reflection is underpinned by idealist visions of International Relations and procedural perspectives of political science. On the other hand, historical experience allows us to visualise the role played by historical-political particularities, defined by elements such as the interest and identity of the actors, which can only be visualised in the context of the application of these mechanisms in the American continent and its different sub-regions, thus specifying the concrete application of other more abstract aspects. This combinatory uneasyness seeks to transfer to the level of international democracy protection mechanisms a concern already highlighted in the literature about the limitations of addressing the debate on the question of democracy in the region by appealing only to formal or substantive approaches:

If it is clear that in a continent like Latin America, minimalist procedural definitions are always important but also insufficient, the applicability and conceptualisation of definitions of democracy from expanded or maximalist options (which incorporate other indicators, such as the demands that those who govern through elections have effective power to govern, or that there are certain basic levels of socio-economic equity and high levels of popular participation) are also challenged from different perspectives (Caetano, 2019: 116).

In the review of the literature offered in the aforementioned text by Closa Montero, Palestini Céspedes and Castillo Ortiz (2016), this contrast appears between approaches of a more universalist nature and others that incorporate the particularities of each region in their geopolitical expression. The first type of approach is characterised by these authors by the predominance of the diffusionist element over MPDs (Frank, 1992; Börzel and van Hüllen, 2015), according to which "there would thus exist a 'policy transfer' from certain regional organisations (mainly, but not only, located in Europe) to areas of limited state capacity such as Africa, parts of Asia and Latin America" (Closa Montero, Palestini Céspedes and Castillo Ortiz, 2016: 22). The second type of approach is exemplified by the authors in the analysis of Ribeiro Hoffman and Van der Vleuten (2007), who incorporate geopolitical aspects into their analysis that consider the particular element, expressed in this case through a realist conception of interest. In concrete terms, they address the role of the regional leader in the concrete application of the MPD (for example, in deciding whether or not to apply it in the face of a given episode).

The crossovers between the universal and the particular, and between abstract doctrine and concrete experience, which partially overlap, are addressed in this paper through the definition and analysis of various geopolitical horizons that delimit a series of fields of practical application of democracy protection mechanisms in the Americas. The interest in offering a delimitation and geopolitics of these mechanisms pursues three objectives. Firstly, it aims to avoid the excessive formalism that sometimes afflicts the approach to the subject, as mentioned above, by accounting for the political meaning of the particular spatially grouped realities. Secondly, linked to the previous point, it aims to avoid the universalist justification of certain democratic crusades that are often confused with the pursuit of the interests of powers, as can be suspected in several recent cases, such as Iraq or Libya. Thirdly, this approach also aims to draw attention to the need to incorporate geopolitics into the practices of political cooperation, thus avoiding abandoning the consideration of geopolitics to the exclusive realm of realism.

In this way, the text also attempts to contribute to the understanding of how the promotion and defence of values with universal pretensions, such as democracy, human rights or peace, must necessarily contemplate their particular aspect, associated with historical and cultural factors that are expressed and organised in an eminently geographical and, in relation to their political sense, also geopolitical dimension. In other words, the longing for a world in which these values are widely accepted and the search for a multipolar international system that takes into account the particularities of each region, far from being two opposing missions, should be considered as two sides of the same equation.

3. GEOPOLITICAL HORIZONS OF DEMOCRACY PROTECTION

There is a wide variety of international democracy protection mechanisms in the American continent. Without attempting to offer a systematic typology or exhaustive overview, the universe of DPMs involving Latin America and the Caribbean includes early failed attempts, such as the 1945 proposal for a Doctrine of Multilateral Intervention (also known as the Larreta Doctrine); ad hoc mechanisms, such as those promoted in relation to the long Venezuelan political crisis unleashed after the death of Hugo Chávez (the Montevideo Mechanism, the International Contact Group and the Lima Group); and democratic clauses, which assume a greater degree of stability, commitment and formality, as are typically the clauses of this type envisaged in organisations and blocs such as Mercosur, CAN, Unasur, SICA, CARICOM and the OAS. As Closa Montero, Palestini Céspedes and Castillo Ortiz point out, when the consensus on MPD "is formalised within an instrument of international law, such as a protocol or an international treaty, we typically speak of a democratic clause through which the regional organisation demands as a condition of membership that the states be and remain democracies" (2016: 20).

A first example of a geopolitical horizon of MPDs of interest for the current analysis is typically the hemispheric one. It postulates the existence of a continental space ("America" first, "The Americas" later) cohesive with its own identity, which since the 20th century has competed with the previous transatlantic identity constituted by the relationship between European metropolises and former American colonies. At the level of the Inter-American system, democracy played a decisive role during the 20th century in defining this cohesive space, differentiating it from other regions of the international system, limiting the influence of extra-hemispheric powers and excluding Latin American countries that showed themselves to be fractious in relation to the democratic consensus. In a certain way, at least since the post-war period, democracy plays the role that the idea of republic played two centuries ago in the establishment of the Monroe Doctrine and the limitation of the influence and projection of European monarchical powers over the region.[4]

A first failed attempt by MPD on this hemispheric horizon was the Doctrine of Multilateral Intervention, proposed under the influence of US diplomacy by Uruguayan Foreign Minister Eduardo Rodríguez Larreta in 1945 (hence also known as the 'Larreta Doctrine'), a politician of so-called 'independent nationalism' in charge of foreign policy in the government of Juan José Amézaga of the Colorado Party. The initiative, immediately rejected by most Latin American countries, proposed a doctrine stipulating multilateral intervention by American countries in the event of a breakdown of democracy in one of them. The episode has been widely interpreted in Uruguay as an attempt to ally itself with the United States to attack Juan Domingo Perón's government in Argentina (Real de Azúa, 2022; Methol, 2015).

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4. It is possible to nuance the comparison by establishing the caveat that in the 20th and 21st centuries, democratic consensus is (at least partially) based on a multilateral dynamic. However, this does not mean that the mechanisms for the international protection of democracy promoted in this hemispheric geopolitical horizon have not been marked by the pursuit of particular interests, in particular those of the only country on the continent with world power status.

In particular, Carlos Real de Azúa, recognised as one of the fathers of Uruguayan political science, explained at the time the distrust with which Latin American nationalisms were wary of the defence of democracy as a "mask" of the simple interests of the powers. "The unconditional democratic ideology was thus seen as the mask of the will to power, the decorated cohesion of national interests engaged in a fight to the death for their survival" (Real de Azúa, 2022: 8). Without prejudice to the failed nature of this attempt, it inaugurates a tradition of appealing to the defence of democracy to endorse interventions of different kinds in Caribbean and Central American countries during the Cold War, in opposition to communist, leftist, progressive or simply nationalist governments.

Once the Cold War and the last cycle of civil-military dictatorships were over, the region moved towards a basic consensus on the shared adoption of democratic regimes, admitting the representative element or a procedural criterion to define a common threshold (without prejudice to the need to move towards components of substantive democracy). This consensus crystallised at the hemispheric level with the Inter-American Democratic Charter within the framework of the OAS (2001):

> The signing of the Inter-American Democratic Charter by all the American countries (except for Cuba, marginalised from the Organization of American States - OAS) on nothing less than 11 September 2001, in the city of Lima, may have symbolised the latest milestone in this moment of relative convergence of views. This document contained a basic agreement in rather procedural terms, related to the advancement of representative democracy, in defence of political systems in which citizens can freely choose their rulers and representatives in competitive and transparent elections (Caetano, 2019: 106).

The importance of the IDC lies both in its character as a symbol and in its institutional underpinning of the aforementioned consensus of the 1990s. For example, it is significant that the Charter was signed by Venezuelan President Hugo Chávez, but not before requesting the inclusion of some clauses relating to participatory democracy (Romero and Cardozo 2002), which also reflects the possibility that seemed to be opening up at that time of making progress in dealing with the democratic question through truly multilateral processes. In the same vein, it is also significant that, in the failed coup d'état suffered by Hugo Chávez in 2002, the application of the IDC promoted by several countries was an element of international pressure to halt the democratic crisis, even though US diplomacy itself was involved.

But if these elements gave hope for a renewed and effective sense of democracy protection mechanisms on the hemispheric horizon, there are now more than enough elements to express concern. These include the ambiguous and unequal role assumed by Uruguay's Luis Almagro, the current OAS secretary general, in the face of the recent democratic crises in countries such as Venezuela, Honduras and Bolivia; as well as the decision of some governments embarked on an authoritarian drift to denounce their membership of the OAS, as in the case of Nicaragua (2021). Regardless of the particular assessment that can be made of each of these events, as a whole they reflect the aforementioned regression of the region towards "regime disagreement", as well as expressing the permanence of an undercurrent of mistrust that permeates the mechanisms for the protection of democracy in this hemispheric horizon.

A second geopolitical horizon of democracy protection is that of South America, which within Unasur (founded in 2008, on the background of the previous South American Community of Nations) has adopted a Protocol on democratic commitment (2010). In this case, the protection of democracy is marked by an emerging South American identity, associated on the one hand with the so-called Latin American shift to the left and, on the other, with the intention of advancing in spheres of autonomy for South America, as a continent differentiated from the rest of Latin America and the Caribbean (more closely linked to the US and its interests). This allowed the activation of Unasur in the face of specific threats to democracy in countries such as Bolivia and Ecuador.

Notwithstanding the short life of this regional bloc, it is interesting to note its intention to rethink the issue of the diversity of democracies in direct association with the primary objective of establishing South America as a zone of peace. For example, at a summit of the organisation, Brazilian President Luiz Inácio "Lula" da Silva stated:

> South America is currently a region of peace, where democracy is flourishing. All its leaders were elected in democratic elections and with broad popular participation. The instability that some seek to see in our continent is a sign of life, especially political life. There is no democracy without people in the streets, without confrontation of ideas and proposals. Neither are there democracies without rules and without dialogue (Lula, 2008).

It is remarkable how Lula's speech reworks the underlying logic of proposals such as "democratic peace", postulating the need for democracy to truly contribute to peace by accepting the diversity of forms of democracy associated with the historical and political experience of each region.

A third geopolitical horizon for democracy protection mechanisms in Latin America is Mercosur. The regional bloc, generally conceived as a regional integration process of an eminently economic and commercial nature, is also an agreement between democracies. This condition is shared by other integration processes of the so-called "new regionalism" in Latin America, such as the CAN. Unlike the two previous waves of regional integration agreements in Latin America, which gave rise to LAFTA (1960) or LAIA (1980), the regional processes of this generation are conceived in Latin America as agreements between democracies.

The literature has extensively analysed the fundamental role that the democratic condition shared by the founding countries played in the origin of Mercosur (Gardini, 2010). The role of the coinciding (and no less important) condition of overcoming the historical geopolitical rivalry between the bloc's two major partners, Argentina and Brazil, has also been highlighted (Caetano, 2011). Based on these two factors, the most critical literature on the difficulties of the Mercosur integration process rightly highlights the importance of the combination of peace and democracy in the nature of the bloc:

> Two decades past the stipulated deadline, the bloc does not even function as a customs union, the stage of integration prior to the common market. [...] But to describe

the project as a failure would be to exaggerate the importance of the signing role. Mercosur's most important contribution was not in the area of regional integration, but of inter-state peace and national democracy (Malamud, 2013: 280).

At the Mercosur level, three milestones stand out in relation to the MPDs. Firstly, the Declaration of the Las Leñas Summit in 1992, which in a context of periodic threats to the process of democratic transition highlights "the ratification by the Presidents that the full validity of democratic institutions is an indispensable assumption for the existence and development of Mercosur, as well as the market economy, stability with growth, openness and modernisation of the economies" (Peña, 1992). A few years later, in 1996, with more consolidated democratic stability, the Ushuaia Protocol was approved, which already constituted a democratic clause in the strict sense. And then, in 2011, during the height of the region's shift to the left, the Montevideo Protocol on Commitment to Democracy in Mercosur (also known as Ushuaia II) was approved, which was finally applied to suspend Paraguay after the coup that overthrew Fernando Lugo (2012) and to suspend Venezuela since 2017, due to the permanent democratic crisis that the country is experiencing.

In this framework, the question of the geopolitical horizon also emerges clearly, no longer in relation to the influence of the US and its interests, as was the case on the hemispheric horizon, but of a regional power such as Brazil. In 2016, when the impeachment of President Dilma Rousseff was widely questioned in relation to its legitimacy (and even its legality), at no time was it feasible to conceive of applying these clauses to the country that leads the bloc, which once again brings to the table the importance of the geopolitical dimension in relation to the MPDs.

A final aspect of special interest in relation to the MPDs and Mercosur is their inter-regional dimension, present for example in the chapter on Political Dialogue and Cooperation of the Association Agreement between Mercosur and the European Union. This type of mechanism, perhaps of less intensity and binding capacity than those mentioned above, is, however, very suggestive for thinking about geopolitical horizons of international democracy promotion in which the pre-eminence of cooperation removes suspicions about possible interests that might underlie the application of such mechanisms. Coincidentally, the opportunity that these inter-regional mechanisms offer to balance the predominance of the hemispheric horizon is of interest.

In this respect, the question of identity emerges here, associated with a cosmopolitan component present in cooperation with Europe, which brings into play values such as fraternity and equality. In this way, the long-standing concern of many Latin Americans for a substantive democracy could be addressed, as opposed to the tutelary logic often associated with that other hemispheric horizon, in which a purely procedural conception of democracy is imposed. A very good example of this is the aforementioned case of the International Contact Group (2019), in which the European Union partnered with other Latin American and Caribbean countries in the search for a negotiated solution to the Venezuelan crisis, as opposed to the type of solutions promoted at the time by the US.

4. OLD AND NEW CHALLENGES FOR THE INTERNATIONAL PROTECTION OF DEMOCRACY

Based on the cases just analysed, this section highlights some of the challenges facing the international protection of democracy in Latin America and the Caribbean, generally defined by the region's historical and political experience, but also conditioned by recent trends.

Firstly, democratic ruptures in the region are almost always associated with the irruption of authoritarianism, repression, systematic Human Rights violations and state terrorism. This type of violence is especially suffered by the most vulnerable populations in the most unequal continent on the planet (i.e. indigenous populations, Afro-descendants, agricultural workers, the working class, trade unionists and students), which brings us back to the need to consider the substantive component of the democratic question. Institutional ruptures exacerbate the democratic deficit in the region, demonstrating the close relationship that persists in reality between procedural and substantive democracy, regardless of theoretical debates.

Secondly, it is important to understand that the solution to the problem of democratic ruptures can in no way involve measures that violate the principles of non-intervention in the internal affairs of states and the self-determination of peoples. This is particularly important in the case of exogenous military intervention. In such a case, there is a risk that the cure will be much worse than the disease. The intervention in a state from abroad is always a dangerous tool, often associated with imperialism, for which it is impossible to define a safe threshold below which its use can be considered prudent.

A third point to consider, linked to the aforementioned aspect, is the asymmetry that small or medium-sized countries maintain in relation to regional or global powers. This is a problem present in both the hemispheric and regional spheres: think, for example, of the questionable legitimacy of the Impeachment of Dilma Rousseff in Brazil in 2016 or the storming of the US Capitol in 2021. Is it possible to apply democratic safeguards to global or regional powers by partners with whom they share an international system? To the initial, more or less intuitive, answer, a second reflection should be added, concerning the risk of imperialist practices associated with the safeguarding of democracy, mentioned in the previous point.

A fourth issue that deserves special attention in the case of Latin America is the application of sanctions that may affect economic activity. On the one hand, it is worth noting the dismal experience of the economic blockade of Cuba. The case is illustrative not only of the disastrous consequences for society of this type of initiative, but also of how counterproductive it can be in terms of the objective of forcing regime change, when it can actually lead to its entrenchment. On the other hand, with regard to regional mechanisms for safeguarding democracy, which are often associated with regional integration processes, it is necessary to avoid that the effects of the suspension of a member state could lead to setbacks in relation to the respective economic integration process, bearing in mind that the

reconstruction of economic ties is always much more costly, slower and contingent than the restitution of institutions.

A fifth point of interest is the idea of the diversity of democracies, which goes hand in hand with the need not to limit the issue of international protection of democracy to a strictly procedural vision, always considering the need to contemplate substantive elements (associated with the first issue mentioned). For example, when discussing press freedom as a component of democracy, the legitimate concern about the free exercise of journalism without pressure from governments should be complemented by the incorporation into the democratic agenda of the concern to prevent the sector from falling into the hands of oligopolies or monopolies (public or private), which historically have also been actors that affect the quality and stability of democracies in Latin America.

5. CONCLUSION

The international protection of democracy and its current challenges are necessarily linked to the conception of democracy. In this context, after the relative democratic consensus achieved in Latin America and the Caribbean during the 1990s and 2000s, Latin America and the Caribbean are currently facing a delicate situation that can be defined as "democratic confusion" (Sartori, 2000), in which no one claims to be non-democratic, yet many actors construct authoritarian perspectives with the idea that they are not violating the democratic norm. In the face of this threat, we ratify that "the renewal of a political-intellectual discussion of effectively international projection, in which it is possible to debate in a consistent and unbending manner about certain conceptual filters that are indispensable for the qualification of a genuine democracy" (Caetano, 2019: 115).

In this international sphere, it is precisely the preceding analysis and reflection on international mechanisms for the protection of democracy in Latin America and the Caribbean that allows us to highlight a series of conclusions. First, to ratify the need to leave open the possibility that States and citizens can build an internationalist defence of democracy in the face of situations of institutional breakdown and Human Rights violations. Second, to underline the need for such practice to be developed in the broadest and most diverse ways before risking solutions that imply interventionism and, in particular, military intervention. In the face of this risk, thirdly, it is necessary to highlight particular aspects, associated with a spatial, geographical or geopolitical dimension, which contribute to constituting a diverse universe. This leads to a fourth, more propositional point: the idea that strengthening cooperation and establishing ties with the greatest possible diversity of democratic actors in the international system is a valuable option if the defence of democracy is to be based on cosmopolitan values of fraternity and equality, above any kind of tutelary logic. The defence of democracy must also be the defence of diversity and multipolarism.

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3. CHALLENGES TO DEMOCRACY IN THE EUROPEAN UNION

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ABSTRACT

The European Union (EU) is founded on a set of shared values that include the respect for democracy and the rule of law. The promotion and strong protection of these values is at the very core of the EU's identity and must shape the Union's (and for that matter, member states') internal and external policies. However, over the last years the decisions of some national governments are a reminder that this assumption should not be taken for granted. This chapter focuses on recent challenges to democracy and the rule of law in Poland and Hungary and on the EU institutions' response. Our goal is to answer one chief research question: How is the EU responding to democratic threats that originated within its Member States? Democracy, the rule of law and the protection of fundamental rights are building blocks of the EU political system and the Union's ability to uphold these values is vital both to safeguard the integrity of the European project and to guarantee its external credibility.

1. INTRODUCTION

The (virtually) unpredicted demise of the Cold War marked a major change in international relations (IR) that was believed to be the beginning of a New World Order. As normally happens in periods that follow the end of a great war, the optimistic vision of IR gained ground (Baylis and Smith, 2005). The epitome of this optimistic view was Francis Fukuyama's "The End of History" thesis (1989), which was built on the idea of the triumph of economic and political liberal values and therefore of the triumph of liberal democracy. This optimistic vision also fed the Democratic Peace theory, which assumes that democracies are more peaceful in their foreign relations (or at least in their relations with other democracies). Accordingly, the global expansion of democracy would create a favourable environment for global peace. However, as frequently occurs in IR studies, the idea of a New World Order was soon challenged by a pessimistic vision that pointed to a New World Disorder, described in the writings of authors such as John Mearsheimer and Robert D. Kaplan, who put Realism back into the equation. For them, the certainty of

the bipolar order was being substituted by an uneven and in some parts chaotic world, where the anarchic nature of the international system subsisted and consequently conflict remained a central feature. Accordingly, Europe's faith was most likely to go "back to the future" (Mearsheimer 1990). By the same token, in his "Clash of Civilizations" (1993) Samuel Huntington argued that, rather than the end of conflicts, the post-Cold War world was witnessing new types of conflicts rooted in cultural differences.

Even though the number of democratic regimes continued to grow at a steady pace for some years after the end of the Cold War, apparently confirming some parts of the Liberal interpretation of the new order, the events that marked the last decade of the twentieth century and the outset of the new century unveiled a scenario that also partly confirmed Realist's doubts regarding the spread of democracy and the resulting pacification of world politics. Not only did the automatic expansion of liberal democracy across the globe fail, but also some authoritarian regimes experienced an impressive rise that lifted them well higher in the rank of international powers. What is more, both old and new democratic regimes were (and remain) vulnerable to an increasing number of threats that gradually have been putting "democracy in retreat" (Kurlantzick 2014). The global financial crisis that severely affected the Western democracies' economies, the growing use of the so-called hybrid threats (including cyber-attacks, electoral interference and disinformation campaigns), the international system's incapacity to timely respond to humanitarian crises resulting from failed states, environmental disasters or economic and social inequalities, the lack of trust in political institutions, fuelled the popularity of populist leaders and the striking increase in electoral turnout of anti-system political parties that ride on extremist and nationalist rhetoric. The rise of illiberal regimes, that call into question key democratic premises (such as the rule of law, the respect for minorities rights, and the freedom of the press), became a reality worldwide. The current pandemic crisis further accelerated this trend, triggering serious concerns about the possible roll back of civil liberties and human rights and powering the existing trends of intolerance and censorship of dissenting opinions (The Economist Intelligence Unit 2021).

Although this democratic decline appears to be a dynamic difficult to countervail, it would be expected that the European Union (EU), a democracy-based construction, is well-equipped to prevent or to punish breaches of democracy in its Member States. And yet, it has not been the case. The drifting away from democracy noticeable in Poland and Hungary at least since 2015 (certainly earlier in the case of Hungary) puts into question the whole EU's building, as democracy is a founding base of the EU's project. The Treaty of the European Union (TEU) explicitly lists the respect for human dignity, freedom, democracy, equality, the rule of law and the respect for fundamental rights, including those of minorities, as founding[5] values of the EU (article 2 TUE) and refers to representative democracy as a principle on which the functioning of the EU shall be founded on. Therefore, the EU is strongly committed to promote and protect these shared values internally and abroad. They are part of the EU's identity and are embedded in its internal and external policies. However, over the past few years these two Member States have repeatedly challenged some of these principles, confronting the EU with a serious breach of democracy within its

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5. For the purpose of this chapter the words "founding" and "fundamental" will be used interchangeably.

own borders. Furthermore, the exceptional circumstances brought by the COVID-19 pandemic facilitated the approval of exceptional measures, which could be instrumentalized by "authoritarian-minded" leaders (Erlanger 2020) to consolidate their power. Although the temporary halt of some liberties and rights was justifiable to fight the pandemic, not all decisions taken by national governments under "emergency powers" passed the test of necessity, proportionality and time limitation, three out of the criteria foreseen by international and EU law to guarantee that exceptional measures do not jeopardise the protection of fundamental rights (Vila Maior and Camisão, 2022).

This chapter focuses on challenges to democracy and the rule of law in Poland and Hungary. Our aim is to assess the EU institutions' response to the political trajectory towards illiberal democracy that has been followed by these two Member States in order to answer one chief research question: How is the EU responding to democratic threats that originated within its Member States? Since democracy, the rule of law and the protection of fundamental rights are building blocks of the EU political system, both the Union's integrity and external credibility lie greatly on its ability to effectively uphold these values.

The chapter is organised as follows. In the next section, we briefly showcase how the EU protection of fundamental values evolved in terms of rules and procedures. Section 3 addresses the EU's historical concern with the promotion of democracy in its neighbourhood, while problematizing the EU's apparently unreadiness to deal with internal democratic backlash by zooming in the EU's response to democratic retreat in Poland and Hungary. Section 4 highlights the main findings of the chapter and explores avenues for future research.

2. THE PROTECTION OF EU'S FUNDAMENTAL VALUES: EVOLUTION IN TERMS OF RULES AND PROCEDURES

Neither the Treaty of Paris (1951), nor the treaties of Rome (1957) - the treaties that established the three European Communities[6] that preceded the EU - mentioned the word democracy or the expression rule of law[7]. Arguably this absence could be explained by the sectoral nature and by the specific goals of the organisations that were being forged. At that time, the pacification of the European continent and economic and social development were the immediate priorities. That does not mean that democracy, the rule of law and the other values that eventually were listed as the EU's founding principles were not relevant to the European project. Indeed, even before the formal existence of accession criteria (also known as the Copenhagen Criteria), the accession of new member states to the former European Communities was conditional to the existence of a pluralist democracy, as illustrated by the processes of accession of Greece, Portugal and Spain. The Iberian countries first showed interest in a cooperation with the European Communities while still under the rule of authoritarian governments (1962), but the requests were denied until both states

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6. Respectively, European Coal and Steel Community (ECSC), European Economic Community (EEC) and European Atomic Energy Community (EAEC).
7. Although the Treaty establishing the European Economic Community mentioned in its Preamble the desire "to preserve and strengthen peace and liberty" it is not evident if the reference to "liberty" was used as a shorthand for democracy or whether it referred to free movement (Janse 2018).

became democracies. As for Greece, the Association Treaty (the Athens agreement) it had signed with the Communities (1962) was largely put to a halt after the military coup d'état that imposed a military dictatorship in the country between 1967 and 1974 (Janse 2018). Greece applied for full membership in 1974, immediately after the end of the "Colonels" dictatorship. In its Opinion on the Greek application, the European Commission (thereafter Commission) tied its favourable recommendation to the existence of a pre-existent relation, but also to the restoration of a democratic regime in the country:

> "Given the avowed aims of the Community in establishing the Association, and Greece's return to a democratic form of government, there can be no doubt, in the view of the Commission that the Community must now give a clear positive answer to the Greek request." (European Commission 1976, 7)

But the construction of the EU's political conditionality began even earlier. The European Parliament (EP) played an important role in preventing the accession of non-democratic states, being the "first to explicitly require respect to for human rights, democracy and rule of law as conditions for membership in 1962" (Janse 2018, 75). The Commission would follow. In its Opinions (1967 and 1969) on the application for membership from the United Kingdom, Ireland, Denmark and Norway, the Commission established a clear link between the ideal of liberty present in the Preamble of the EEC Treaty and the existence of a democratic government (Janse 2018). The idea that membership was only open to democratic regimes was again clearly stated in the Commission's Opinion on the Portuguese application for membership (submitted by Mario Soares in 1977): "[t]he Treaties of Rome and Paris signify the clear intention that other European States sharing the democratic ideal of the European Community Member States should be able to accede to the Community" (European Commission 1978, 7). Eventually, political conditionality for accession was formalised in 1993 as one of the accession criteria[8] adopted by the Copenhagen European Council (and strengthened by the Madrid European Council in 1995). The TEU, modified by the Treaty of Lisbon (2009), includes an explicit reference to these "conditions of eligibility" which "should be taken into account" for the decision on a third state's application for membership (article 49 TEU). Membership is also conditional to the respect of, and commitment to promote, the values referred to in article 2 (article 49 TEU).

Perhaps more clearly than democracy, the rule of law is part of the European's project DNA from the start. Both values are intrinsically linked, as the rule of law is an 'umbrella principle' (Mader 2019, 142), i.e., a condition for the protection of democracy (and for that matter, for the protection of all EU fundamental values). Despite the absence of reference to the rule of law in the original founding treaties, the provisions establishing a wide jurisdiction of the European Court of Justice (ECJ) to guarantee that the law was observed are considered by some authors as "encapsulating the core meaning of the rule of law" (Pech

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8. Also known as the Copenhagen Criteria (the criteria were named after the European Council meeting in Copenhagen which adopted them): political criteria (stable institutions able to guarantee democracy, the rule of law, human rights and respect for and protection of minorities; economic criteria (functioning market economy and the ability to cope with competition and market forces); the acquis criteria (administrative and institutional capacity to implement the acquis and ability to take on the obligations of membership). A sort of fourth criteria is the Union's capacity to absorb a new member without losing the momentum of European integration. See European Commission, Accession Criteria. Available at: https://ec.europa.eu/neighbourhood-enlargement/enlargement-policy/glossary/accession-criteria_en [4.01.2022].

and Grogan 2020, 7). The first explicit reference to the rule of law was made precisely in a 1986 ruling of the ECJ[9] that defined the European Community as "a Community based on the rule of law" (ECJ cited in Pech 2020, 7). This was followed, starting in 1993 with the Treaty on the European Union (TEU), by several important references enshrined in the founding treaties (Pech 2020, 7).

Indeed, the TEU (1993)[10], which created the EU, included in its Preamble a clear reference not only to the rule of law, but also to the other fundamental values: "[c]onfirming their [member states] attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and the rule of law". Democracy was also refereed in article F(1) TEU: "… the Union shall respect the national identities of its Member States, whose systems of government are founded on the principles of democracy". Furthermore, both the EU's foreign and security policy and the EC's development cooperation policy (respectively articles J.1(2) and 130u(2) TEU[11]) were given the aims of developing and consolidating democracy and the rule of law and respect for human rights and fundamental freedoms. However, these references were at first largely symbolical (Pech 2020, 12).

The revision made by the Treaty of Amsterdam (TA) (1999) "upgraded" the salience of democracy and the other fundamental values by considering them "founding principles" (article 6 TEU[12]). Another noticeable novelty of the TA was the creation of a sanction mechanism to ensure that the fundamental values are respected. According to the provisions of article 7 TEU, the European Council[13], acting by unanimity "on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament", was empowered to "determine the existence of a serious and persistent breach by a Member State of principles mentioned in article 6(1)", i.e., the article that then listed the EU founding principles. The provisions foresaw that the Council, acting by a qualified majority, "may decide to suspend certain of the rights deriving from the application" of the Treaty, including voting rights, to the Member State responsible for the breach (article 7 (1) TEU[14]). It is worth noting that the Member State concerned does not take part in the votes of the European Council or the Council.

Article 7 TEU was afterwards amended by the Treaty of Nice (2003), which added a preventive phase (that precedes the activation of the sanction mechanism) during which the Council, acting on a proposal by one third of MS, the EP or the Commission, may determine a clear risk of a serious breach by a Member State of the principles mentioned in article 6(1), and address appropriate recommendations to that State. The determination is preceded by hearings of the Member State in question (article 7(1) TEU[15]). This preventive phase, which is a clear attempt to avoid the escalation to the "sanction phase" of the article,

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9. Case 294/83 Les Verts v. Parliament, ECLI:EU:C:1986:166, para. 23.
10. The Treaty on the European Union was signed in Maastricht on 7 February 1992 and entered into force on the 1st November 1993.
11. In the first redaction of the TEU.
12. In the redaction given to it by the Treaty of Amsterdam.
13. At that time the European Council did not have the status of institution, being rather considered a formation of the Council. Therefore, the article used the terminology "The Council, meeting in the composition of the Heads of State or Government…".
14. As modified by the Treaty of Amsterdam.
15. As modified by the Treaty of Nice.

was activated by the Commission in relation to Poland (in December 2017) and by the EP in relation to Hungary (in September 2018) (see section 3 below).

The Treaty of Lisbon (TL) (2009) resulted in further changes to the provisions of the founding treaties related to the fundamental values. One of these changes occurred in the wording of article 6 TEU, now article 2, where the word "principles" was substituted with "values", although it remains unclear if this change in terminology is legally meaningful (Pech 2020, 13). Also, the list of values was expanded to include "human dignity", "equality" and the "rights of persons belonging to minorities", and to describe a European society in which "pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail" (article 2 TEU). Furthermore, a new article introduced by the TL (article 21 TEU) extends the observance of EU's fundamental principles to all EU's external action. Another important step was the binding character of the EU Charter of Fundamental Rights[16].

Despite the advances as regards the formal enshrinement of the rule of law and the other fundamental values in EU's primary law, in what concerns treaties' provisions, the mechanisms to prevent or sanction serious breaches of EU's fundamental values remained essentially based on Article 7 TEU[17]: "Article 7 TEU remains an exceptional, but the most emblematic, tool for the EU to act in case of serious rule of law failings in a Member State" (European Commission 2019a, 3). Yet, although being informally labelled EU's "nuclear option" (Pech 2020, 12), Article 7 is difficult to implement as demonstrated by the cases of Poland and Hungary (respectively more than four and three years after the activation of the preventive mechanism of the article, none of the cases have yet passed the hearings phase). Therefore, the Commission launched in 2014 the EU Framework to strengthen the rule of law[18], seeking "to resolve future threats to the rule of law in Member States before the conditions for activating the mechanisms foreseen in Article 7 TEU would be met" (European Commission 2014, 3). In the Commission's own words, rather than being an alternative to Article 7, the Framework "precedes and complements" it (European Commission 2014, 3). The process is composed of three stages: a Commission assessment (which includes gathering all the relevant information and, if needed, initiating a dialogue with the Member State concerned by sending it a "rule of law opinion"); a Commission recommendation and a follow-up to the recommendation (European Commission 2014). Despite the Commission's best expectations, the Rule of Law Framework soon revealed its

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16. The EU Charter of Fundamental Rights was solemnly proclaimed by the EP, the Council and the Commission in 2000, but only became legally binding when the Treaty of Lisbon entered into force. Considering the scope of this chapter, it is worth noting that Poland is the only Member State that has a formal opting-out from some provisions of the Charter.
17. In case of violations that fall within the scope of EU law, the Commission may also use infringement procedures (article 258 TFEU), but with limited effects (European Parliament, 2021). Furthermore, a number of other mechanisms and frameworks help address rule of law issues in Member States, such as the European Semester, the EU Justice Scoreboard, the Cooperation and verification mechanism, the European Anti-Fraud Office and the European Public Prosecutor's Office (EPPO), amongst others (European Commission 2019a, 4-6). Regarding specifically the EPPO, which aims to investigate, prosecute and bring to justice crimes against the EU budget, Member States have to accept its jurisdiction in order for the EPPO to act. Twenty-two Member States have accepted the EPPO jurisdictions, but that was not the case of Poland and Hungary.
18. Late in the same year, the Council decided to adopt its own new tool known as the annual Rule of law Dialogue. Since first established, several "dialogues" have taken place. However, the initiative has been criticised for not leading to "tangible results" (Pech 2020, 24).

shortcomings[19]. Consequently in 2019, the Commission launched a new Communication foreseeing a Rule of Law Review Cycle covering:

> "all the different components of the rule of law, including for example systemic problems with the process for enacting laws, lack of effective judicial protection by independent and impartial courts, or non-respect for the separation of powers". (European Commission 2019b, 9).

The review cycle (also known as European rule of law mechanism) is based on a Commission's annual Rule of Law Report[20] that monitors the situation in Member States and serves to inform the dialogue with (and within) the EP and the Council (European Commission 2019b) as well as with Member States and other stakeholders. Although the close monitoring of the situation in Member States is a step in the right direction, some critics point to a certain naivety of the new measures, as they rely essentially on the merits of dialogue, which could turn out to be the "autocrat's best friend" (Pech et al 2019).

A recent addition to this rule of law toolbox is the Rule of Law Conditionality Regulation[21]. The proposal for establishing a financial conditional mechanism was issued by the Commission in 2018. According to the Commission "[e]ffective respect for the rule of law is a prerequisite for confidence that EU spending in Member States is sufficiently protected" (European Commission 2018, 1). After intense negotiations, the Regulation was finally adopted on 16 December 2020 and entered into force on 11 January 2021. The Regulation allows the Council, at the request of the Commission, to take measures (such as the suspension of payments or financial corrections) against Member States in case of serious breaches of the rule of law that directly affect the sound financial management of the EU budget. In practice this means that the new mechanism will be used to restrict access to EU funds for Member States whose actions represent a violation to the rule of law. Therefore, if broadly applied this new tool could be a turning point to stop democratic backsliding within the EU, meaning that ultimately its relevance will depend on its implementation[22]. In the next sections, we will look in more detail to the cases of Poland and Hungary to see how the EU is using these tools to respond to breaches of democracy and the rule of law that originated within its Member States.

3. EU'S RESPONSES TO RECENT DEMOCRATIC CRISES

Considering the historical role of the EU in promoting democracy and the rule of law in Europe and beyond, and its latest challenges to protect democratic institutions within its

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19. The rule of law Framework was applied to Poland in 2016 and it was precisely its lack of success that led the Commission, for the first time ever, to launch an Article 7 procedure against Poland in December 2017 (European Parliament 2021).
20. The first report was published in September 2020 (European Parliament 2021).
21. Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget.
22. In March 2021, both Hungary and Poland brought actions of annulment against the Regulation before the ECJ. The Court is expected to issue its ruling in early 2022. The Advocate General Opinion issued in December 2021 considered that "That regime was adopted on an appropriate legal basis, is compatible with Article 7 TEU and respects the principle of legal certainty" and therefore proposes that the **"Court should dismiss the actions for annulment brought by Hungary and by Poland"** (Curia 2021, 1; 3) [italic and bold in the original].

Member States, this section addresses how the EU has performed in two concrete cases of democratic backlashes (Hungary and Poland), highlighting both its instruments and limitations to ensure its democratic and rule of law values internally.

3.1 EU's concern with democracy promotion in the neighbourhood and unreadiness to deal with internal democratic backlash

The scholarship on EU studies has traditionally emphasised the contribution of the European Community and the EU to the democratisation of Southern, Central and Eastern Europe since the enlargement process of Greece, Portugal and Spain in the 1980s. As previously mentioned, mechanisms of conditionality and their connection to the respect of the democratic, rule of law and human rights principles, turned EU accession one of the most effective mechanisms of democratisation of the European continent in the aftermaths of the Cold War. Via the distribution of technical and financial resources, Community institutions were directly involved in the democratic transition of Central and Eastern European countries wishing to become full members of the European Union and to benefit from a stronger economic interdependence with Western European economies.

> "The accession process therefore consisted of a contract between Community institutions and domestic political elites in which on the one hand, the EU would provide the road map for obtaining membership (including the resources necessary to generate institutional change and the necessary market reforms), and, on the other hand, the domestic elites would make a commitment to implement stable democratic regimes". (Closa et al. 2016, 32).

Indeed, the Copenhagen criteria set up in 1993 structured the benchmarks for EU membership, setting the bars to future EU countries and signalling that European integration should remain a project exclusive to European full democracies.

However, over the past years the EU has dealt with an unexpected trend. While the European project has been recognised as a crucial contributor to the democratisation of European countries, it has not been capable of avoiding democratic backlash within its internal borders. Recent political dynamics in Central and Eastern Europe, particularly those seen in Hungary since 2011 and Poland from 2015 onwards, have shown that democracy is not irreversible, 'the end of history', nor 'the only game in town'. The rise of populist parties and their support to the development of illiberal regimes have shown that while conditionalities in the process of EU accession were effective to ensure democratic consolidation of EU candidates; once countries become full EU members, their incentives to promote further democratic reforms and to protect fundamental rights in place are reduced. In fact, EU supranational institutions have performed quite actively to consolidate and protect the single market, and less so when it comes to its democratic principles (Closa et al. 2016). While focus was given to the democratic standards of EU acceding countries, less attention was given to insert legal tools to guarantee the permanence of those principles for full Member States, despite the existence of the mechanisms such as the infringement process and Article 7 TUE, which have shown limitations to enforce rule of law in concrete cases, which is mostly due to the priority of EU core members to simultaneous crises such as the eurocrisis and the refugee crisis (Ágh 2018).

The challenge posed to democratic institutions within EU Member States is attested in the latest EU Rule of Law Report (2021), which highlighted that "many positive developments in Member States, including where challenges identified in the 2020 report are being addressed. However, concerns remain and in certain Member States these have increased, for instance when it comes to the independence of the judiciary and the situation in the media" (European Commission, 2021, 1).

3.2 Democratic decay in Hungary (2011)

Since the beginning of his administration of Hungary in 2010, Viktor Orban – while defending an 'Eastern view' of democracy, which has taken rather populist and illiberal characteristics – has promoted several legal reforms, including a new national constitution, which among other aspects have reduced the independence of the judiciary, freedom of speech, media pluralism, and the protection of minorities, undermining the country's rule of law conditions. More recently, in the context of the covid-19 pandemic, the Hungarian government has passed emergency measures which gave the executive extraordinary powers to act in measures beyond sanitary ones. In practice, over the past years, Hungary has moved from a successful case of post-communist democratic transition via EU membership to the most exemplary case of democratic decay in Europe, with the consolidation of an illiberal regime inside the EU (Bugaric and Kuhelj 2018; Gomez 2021).

EU's reactions to the democratic backsliding of Hungary have demonstrated so far both EU's institutional and political limitations to protect its democratic standards within its Member States, contrasting to the optimistic view shared by the policy and academic communities over the EU's role in the democratic transition of Central and Eastern Europe since the end of the Soviet Union. Despite public declarations from both Commission's Presidents Barroso and Juncker in the past years warning about Hungary's illiberal path, European institutions have been ineffective in halting the reforms adopted by Orban since 2011. The Commission, as guardian of the EU Treaties, was expected to become the most active body when it comes to the defence of the rule of law in the EU.

> "In 2012, the European Commission initiated three infringement proceedings against Hungary in the areas of the independence of the judiciary, the independence of the Central Bank and the independence of the Data Protection Authority that did not however prevent the Hungarian government from adopting further constitutional modifications later." (Closa et al. 2016, 92)

Since then, the approach chosen by the Commission was a less confrontational one, opting to repeatedly favour a political dialogue with Hungarian authorities in order to convince the country to reverse its most controversial reforms in order to respect EU principles. As seen in the past years, a dialogue-centred posture has been either ineffective or counterproductive in cases of engagement with a country that remains deliberately and systematically undermining its own liberal institutions (Pech and Schepelle 2017).

On the other hand, Member States, via the Council and the European Council, have been mostly absent from the discussion, showing their reluctance in denouncing a 'fellow coun-

try' even when the attacks to the rule of law are clear. Most criticism coming from the European Council benches was of French President Macron, who has clearly stated his differences with Hungary regarding LGBT rights, rule of law and democratic standards. However, with the beginning of the French Presidency of the Council (1st semester of 2022), Macron has moved to a more conciliatory tone on Hungary (Euractiv 2021).

In fact, the EP has been the most vocal institution in the case of the illiberal transition of Hungary. For instance, through parliamentary resolutions, the Parliament has called attention to the authoritarian nature of the reforms taken in Hungary.

> "The strongest critique of the new Hungarian constitutional order so far came from the Tavares report adopted by the European Parliament in July 2013. The Tavares Report harshly criticises the state of fundamental rights in Hungary, and it recommends the establishment of an independent mechanism to follow the development of fundamental rights in Hungary." (Bugaric 2016, 89).

However, even seeing the inaction of other EU institutions, it took the EP a while to take the lead and activate Article 7, therefore initiating the rule of law process over Hungary and inciting other EU policy-making bodies to meaningfully react to Hungary's authoritarian reforms. Arguably, the party-politics logics of the EP have initially restrained a more decisive parliamentary performance. First attempts to reach a "super-majority" towards Article 7 activation failed, which could be partially explained by the fact that Orban's Fidesz Party was a member of the EP's largest political group (the European People's Party - EPP) (at least until 2021) (Pech and Schepelle 2017). Eventually though, the EP reach the absolute majority needed to activate Article 7. The proposal through which the Parliament asked EU member states to determine, in accordance with Treaty Article 7(1), whether Hungary was at risk of breaching the EU´s founding values was approved on 12 September 2018 by 448 votes to 197. And yet, more than three years after the activation of the preventive measures, the procedures have not moved from the hearings phase, which means that no concrete recommendation to Hungary was made by the Council.

The democratic backslide of Hungary since 2011 has been a crucial case of the EU's political and institutional inability to reverse authoritarianism when it comes to its own Member States. Politically speaking, the fact that the EU has had multiple crises to deal with since 2010 added to Orban's allegiance to the most prominent European political group have restrained the EU's willingness to 'go nuclear' and move to the sanction phase of Article 7 (Gostyńska-Jakubowska 2016). On the institutional level, with the subsequent case of democratic erosion in Poland since 2015, the likelihood of activating Article 7(2-3) sanction mechanism for either case (that could result in the suspension of voting rights in the Council for both countries) became even more reduced, as unanimity (excluding the vote of the Member State under analysis) is required in the European Council to determine the existence of a serious breach. This determination by the European Council is mandatory to trigger the adoption of a sanction by the Council (this time by qualified majority) and both countries have promised that they will vote against when the other's case is under analysis in the European Council (therefore, in practice, blocking the application of the sanction) (Pech and Schepelle 2017).

3.3 Institutional backsliding in Poland (2015)

Since 2015, the Polish government under the Law and Justice Party (PiS) has followed Hungary's illiberal path, starting off by altering the composition of its Constitutional Court and the retirement age of judges of the Supreme Court (Gomez 2021), reducing the autonomy of the civil service, and putting the media under tighter governmental control (Bugaric and Kuhelj 2018). While illiberal reforms conducted in Hungary took a more formal fashion, grounded in the adoption of constitutional changes, Polish backsliding has developed according to informal practices taken by governmental authorities, which have disregarded constitutional provisions (Drinóczi and Bień-Kacała 2019).

Despite the fact that Poland followed Hungarian illiberal script, EU's responses regarding Polish attacks to the rule of law have differed from those targeting Hungary. For instance, in 2016 the European Commission initiated its newly created Rule of Law Framework – a mechanism created by EU institutions due to the authoritarian path of Hungary, but so far not used to address this country – in order to monitor and dialogue with Polish authorities regarding threats to EU principles taking place in the country. Some dynamics explain why the Rule of Law Framework was invoked by the EU to deal with Poland but not with Hungary, considering that the latter was the reason for the creation of this mechanism in the first place. Firstly, the Hungarian precedent had reduced the tolerance and increased the awareness of EU institutions regarding attacks to the rule of law by Member States, making the Juncker Commission more sensitive to this issue than its predecessor. Secondly, Orban's illiberal reforms have been promoted due to his majority in parliament, while the Polish authoritarian path has been grounded in the systemic exclusion of political opposition. Thirdly, Hungary has so far played the 'EU game' accepting rhetorically a political dialogue with EU institutions regarding the rule of law – despite in practice not altering its illiberal script, contrasting to the more confrontational tone taken by Poland. Finally, Hungary's Fidesz has been politically associated with the biggest European political family (EPP), which, at least for some time, reduced his chances to be sanctioned by EU's partisan institutions such as the European Parliament, Poland's PiS is affiliated to a smaller political group (Conservative and Reformists – ECR), which have become even less relevant with the departure of the British Conservative Party after Brexit (Gostyńska-Jakubowska 2016; Pech and Schepelle 2017).

Despite the Commission's best efforts, the application of the Rule of Law framework to Poland has proved unsuccessful in reverting the country's illiberal path. The successive recommendations issued by the European Commission until now have been systematically ignored by the Polish government, putting into question the effectiveness of dialogue promotion with autocracy-prone leaderships: "instead of promptly activating Article 7 TEU so as to prevent the capture of the Constitutional Tribunal before the expiry of its President's term of office on 19 December 2016, the Commission decided instead to adopt an additional Recommendation on 21 December 2016, the Commission failed to trigger Article 7 and instead played for more time" (Pech and Schepelle 2017, 17). Acknowledging the failure, on 20 December 2017 the Commission activated the preventive measures of Article 7(1) against Poland. However, as happens with Hungary, the procedures have not

yet passed the hearings phase. The morosity of the process, that is taking years in the preventive phase of the Article, is telling of the difficulties of applying a sanction mechanism against a fellow Member State, when the decision is in the hands of the other Member States. Although the absolute necessity to punish breaches of democracy and rule of law in a Member State is not debatable, the truth is that the choice for open confrontational mode has revealed to be a hard one to take. Even the Commission, which is the Guardian of the Treaties, has somewhat drag its feet when it comes to clearly apply the full force of the instruments at its disposal, as visible by the recent hesitation in using the yet-to-be-triggered Rule of Law Conditionality Regulation (in force since January 2021), that could restrict the disbursal of EU budget funds to Poland and Hungary.[23]

4. CONCLUSIONS

This chapter aimed to assess the challenges to democracy and the rule of law in the European Union, highlighting both the instruments at its disposal and its performance in responding to concrete cases of democratic backsliding, particularly focused on the most recent cases of illiberal changes taking place in Hungary and Poland. Despite democracy, rule of law and the protection of human and minority rights have been considered as key principles of European integration, the EU has been much more effective in promoting democratic reforms in its neighbourhood – via conditionalities to EU accession – than within its Member States. As seen in the cases studied, successful democratic transitions seen in Hungary and Poland have been undermined by current leaderships and – for institutional and political reasons – the EU has been so far ineffective to turn this illiberal wave.

Latest developments are yet to prove whether the EU will be able to set out stronger mechanisms to deal with the authoritarian routes of Hungary and Poland, but also with other Member States that may follow a similar path. In January 2021, the European Commission's proposal for a new mechanism to bar European funds for Member States in violation of its rule of law principles was adopted, as a way of putting financial disincentives for democratic backsliding. Nonetheless, so far the Commission have delayed in making use of the new Regulation, something that has been criticised by the European Parliament. Other EU institutions have also the potential to play a more prominent role in the protection of rule of law. The European Court of Justice has issued judicial decisions over authoritarian and anti-migration measures in both Hungary and Poland. While it seems that EU institutions have reached their limits regarding the democratic regression of the two countries, it remains to be seen whether other Member States will be willing to support the EU's assertion with regard to the respect of democracy and the rule of law. The stakes are high because to compromise on these foundational values not only risks what the Union is, but also destroys its external credibility, halting its role as global actor.

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23. The Commission did however sent letters to Poland and Hungary asking questions over alleged rule of law violations, in November 2021, as an informal step before triggering the new rule of law conditionality mechanism. See European Commission Presses Poland and Hungary on the Rule of Law, Financial Times. Available at: https://www.ft.com/content/ef1f2c45-c792-4569-88fc-a454ed2d9bb8

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4. THE CLIMATE CRISIS, AN OPPORTUNITY FOR REAL COLLABORATION BETWEEN LATIN AMERICA AND THE EUROPEAN UNION

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1. INTRODUCTION

The world has undergone various changes that have posed threats to people and ecosystems, but climate change, caused by human activities themselves, such as the burning of fossil fuels and deforestation, have today become the greatest threat to their own livelihoods. While climate change will affect every corner of the planet, as suggested by the Intergovernmental Panel on Climate Change (IPCC) in its various reports, the reality is that the ability to respond to the threat remains very different.

While European countries with long development trajectories have managed to build economic and social capacities to face the onslaught of climate change, in Latin America and the Caribbean, there are still large social lags that represent an obstacle to climate action. This was evidenced in the context of the COVID-19 pandemic. However, it is clear that the lack of action in one region will affect the other. That is why a new era of cooperation and true collaboration must break through.

The climate crisis represents a challenge for the human species and diverse ecosystems, but can also represent an opportunity in which political borders are not the ones that prevail, but where the sense of survival prevails. In this article I list three areas in which bi-regional collaboration between the European Union (EU) and Latin America and the Caribbean (LAC) can be further strengthened, within the framework of compliance with multilateral agreements such as the Paris Agreement: 1) achieve the just and sustainable energy transition; 2) achieve the transformation of the transport sector through electrification and 3) transform the financial sector towards a more sustainable one. While there are many areas that can help this exchange, these three are in urgent need of achieving the most profound transformations that the world must achieve if the climate crisis is to be addressed in time.

2. THE CLIMATE CRISIS, A COMMON PROBLEM

In 2014 one of the most comprehensive reports of the Intergovernmental Panel on Climate Change (IPCC), documented the impacts that climate change was bringing to all regions of the world. In the case of the European continent, it was known with a high degree of uncertainty that there was a significant decline in ecosystem services in the south of the

continent (2014, p. 1270). It was also noted the increase in the sea level and that storms would increase in the coastal area with high flood risks. But the vulnerability of the continent was not only in the ecosystems but also at the level of populations and infrastructure. There was talk that climate change would affect the production and transmission of energy, including hydropower, whose production would be reduced in all regions except Scandinavia (IPCC, 2014, p. 1271).

In addition, cereal production was forecast to decline in the north and particularly in the south of the continent, affecting food security (IPCC, 2014, p. 1271). In general, it was established that climate change would generate impacts from extreme climates, both hot and cold, and that this would bring economic damage and high adaptation costs.

For its part, the IPCC report for Latin America and the Caribbean indicated that there would be changes in the flow and availability of water, especially in Central and South America, which would affect more vulnerable regions. It was also noted that, as a result of land-use change, environmental degradation on the continent was increasing, exacerbating negative impacts (IPCC, 2014a, p. 1503). Among many of the most relevant impacts were the increase in the sea level and the effects on ecosystems such as marine ecosystems.

The diagnosis with a high degree of certainty spoke of the fact that changes in weather and climate patterns were already creating negative impacts on human health, increasing morbidity, mortality and disabilities, through the appearance of diseases in non-endemic areas (IPCC, 2014a, p. 1503).

The 2014 report generated a major global alert that later led to the signing of the Paris Agreement of the United Nations Framework Convention on Climate Change (UNFC-CC) in 2015. But what that report would say would be reinforced by the Climate Change Science Report published in 2021 (IPCC, 2021), which again presented regional reports, confirming what was already known and presenting an even more forceful scenario on the impacts of climate change on the world. Making it clear that there is no corner of the world that is safe from the impacts of climate change. The only difference, if any, for now, is responsiveness.

The IPCC noted in its 2014 report that the adaptive capacity in Europe is high compared to other regions of the world, but that there were important differences in impacts and responsiveness also within Europe (2014, p. 1272). In the case of LAC, the differences in responsiveness are increasing. Although socio-economic conditions have improved, in many countries of the region, high levels of poverty predominate, which is another factor favouring the vulnerability of populations in the face of the impacts that climate change brings, which the IPCC considers a very important aspect to understand the differences in terms of action in countries of the region (2014a, p. 1503). Years later the scenario is the same, or perhaps worse, because after the pandemic, the economies, societies and government structures of Latin American countries were greatly affected and breached.

In this sense, it is a reality that climate change will affect all countries, but the responsiveness is what makes the big difference. Therefore, in its most recent report on "Impacts,

Adaptation and Vulnerability" (2022) the IPCC calls for rethinking the adaptive approach as a maxim for the development of countries. But it is necessary to understand that a bad response in one country can

 have an impact on the rest of the world. Therefore, generating schemes of true collaboration and cooperation to address the climate emergency is a win-win.

The EU and LAC may have diverse socio-economic realities, which in many cases are incomparable, but the climate crisis is today a reality that unites and which, if it is not addressed jointly, will be difficult to resolve. The climate crisis is therefore a challenge, but above all, an opportunity to change course.

3. THREE AREAS OF EU-LAC COOPERATION: ENERGY, TRANSPORT AND FINANCE

There are many areas in which the European Union and Latin America could generate more and better synergies, and although there are many and in various sectors, here I emphasize three where the deeper transformations that the world must achieve if the climate crisis is to be addressed in time are urgent to achieve: 1) Achieve the just and sustainable energy transition; 2) achieve the transformation of the transport sector through electrification and 3) transform the financial sector towards a more sustainable one.

3.1. Towards a just and sustainable energy transition

According to the IPCC (2018) the energy transition is an imperative in order to achieve a 45% reduction in global emissions by 2030, to avoid an increase of more than 1.5° C as established by the Paris Agreement. It is well known that the burning and production of fossil fuels accounts for 80% of greenhouse gas emissions in the world (UNEP, 2021). And although for decades there has been talk of the impossibility of ending the use of fossil fuels overnight for everything, and hence the importance of the energy transition, as a process, moving towards renewable energies as a primary source of energy, this has not been possible at the desired pace around the world.

In Europe, the energy transition advanced at a rapid pace, especially in countries with limited fossil resources. In 2020, Europe's electricity production was 38% from renewable sources, compared to 34% in 2019 (Ember Climate & Agora Energiewende, 2021; EEA, 2020). The advance has been mainly in wind and solar generation, with 20%, and 13% and 6% hydroelectric and bioenergy, respectively. The countries where there has been the greatest progress are Germany, Spain and the United Kingdom. But in addition to the advance of renewable energies, we have also seen the collapse of coal-based power generation, which fell by 20% in 2020 (Ember Climate & Agora Energiewende, 2021).

However, one of the great challenges of the energy transition in Europe remains the dependence on so-called natural gas, which is a fossil gas. Gas has maintained its consumption even in times of pandemic, and today it represents one of the resources that even has motivated an invasion such as the one happening in 2022 with Russia and Ukraine (Harvey, 2022).

In Latin America and the Caribbean, the energy transition has been slower. But according to the Latin American Energy Organisation (OLADE), countries such as Argentina, Belize, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Haiti, Jamaica, Nicaragua, Panama, Peru, Dominican Republic, Suriname and Uruguay have made significant progress. Mexico is not listed herein because since 2018 it has significantly changed its policies on energy transition, reversing decisions such as the holding of auctions and the issuance of clean energy certificates that had allowed progress towards renewable energy generation (Guzmán, 2020).

OLADE (2021) points out that the achievement in 2020 is that 60% of the installed generation capacity is renewable, including hydroelectric plants. The slow but steady progress of some countries has generated new investment interest, particularly in South America. According to a report published by Ashurts, investors from G20 countries have expressed a growing interest in investing in renewable energy in South America, energy transition and low-carbon technologies. 78% of investors are European. Some of the areas of greatest interest are offshore solar and wind energy, in addition to the fact that there is a growing interest in investing in energy storage batteries (Ashurts, 2021).

While European companies have been among the main stakeholders in the development of renewable energy projects in LAC, they have not been developed in all cases with the same success. In some cases companies have been generators of jobs, in others, they have been questioned for their lack of sensitivity to the social and cultural realities of local communities, as in the case of Mexico, for the problems that companies have generated with the development of wind farms in the Isthmus of Tehuantepec, Oaxaca (Ramírez, 2021).

In addition to this, in LAC there is a reality that has to do with the scarcity of public resources or the lack of allocation of public resources to issues of energy transition, in many cases associated with the dependence that their economies have on fossil fuels as it is the case with Ecuador and Mexico. According to the Sustainable Finance Index of the Climate Finance Group for Latin America and the Caribbean (GFLAC), the budget allocation to sustainability issues including renewable energy and energy efficiency did not exceed 2% of total public spending in 2020 (Guzmán, et al, 2021).

The truth is that the energy transition is one of the most important fronts and that it needs collaboration between the EU and LAC to accelerate. There are three major issues where collaboration can increase: local projects, technological development and financing mechanisms. The democratisation of energy, through projects for the use of decentralised energy, at the local level will be one of the most successful ways to achieve energy security in a fair way, but this requires investments. Therefore, it is necessary to look for diverse ways in which financing schemes can trigger the transition, especially through public-private partnerships where small and medium-sized enterprises including family and community businesses can participate. This also requires technological development that allows the adaptation of these technologies at all levels, and not only on a large scale. Approach technology for households and small and medium-sized businesses will be a way to a more rapid advancement.

Although there is an increasing mobilisation of financing, for example, CAF announced that it would mobilize 25 billion dollars towards the energy transition, nevertheless, international investments only will not be enough, and the transformation of public finance systems will be necessary to achieve the changes that are required (Frisari, et al, 2020).

3.2. Towards the electrification of transport

The transport sector is one of the sectors that has increased the emission of greenhouse gases in the world, both in Europe and in LAC. Given this, in the European Union a legislation was proposed that establishes to reduce vehicle emissions by 55%, and Vans by 50% by 2030 (EU, 2021). This legislation also proposes to cut transport emissions altogether by 2035. To achieve this, the electrification of transport has established itself as the most important alternative. This regulation has created the conditions to accelerate the penetration of battery electric vehicles and plug-ins, as well as hybrid vehicles.

According to the European Environment Agency (EEA), the number of electric vehicles has increased rapidly from 700 units in 2010 to 550,000 units in 2019. And moving on from 550.000 units in 2019 to 1.325.000 in 2020. This represents an increase from 3.5% to 11% of the total number of vehicles registered in the year (EEA, 2021).

The countries where there has been the greatest rise in plug-in electric vehicles and hybrids are Norway, Iceland, Holland, Germany, France and the United Kingdom, the latter three summing up 60% of sales of plug-in electric vehicles. What has motivated this expansion is the association with financial incentives, tax reductions and tax exemptions for electric vehicles.

In Latin America and the Caribbean, the discussion and advances in policy and regulation in the matter are advancing more slowly but pointing towards a transport model that takes advantage of hybrid and electric technologies.

However, the advance of electromobility has occurred very unevenly. For example, in 2019 Colombia was positioned as the leader in the commercialisation of light battery electric vehicles (BEV) with 923 registrations of such vehicles, followed by the Dominican Republic with more than 620 new registrations of light vehicles powered by electric motor. While in the field of plug-in hybrid electric vehicles, Mexico positioned itself as the leader in the region with almost 1,340 registrations in 2019 (Statista, 2021).

The fundamental problem of Latin America and the Caribbean remains the dependence that many economies have on oil revenues and, therefore, the need they have had to maintain an energy matrix based on fossil fuels. This has led countries of the region to continue using fossil fuels for power generation and other industrial processes. This means that if electromobility advances without a change in the energy matrix of the countries of the region, the problems associated with emissions will remain, and could even increase.

Therefore, for regions such as Europe and Latin America, the transition consists of several steps: changing the energy matrix from fossil to renewable, giving impetus to electromobility based on renewable energy and a continuous increase of energy efficiency.

In addition to the problem of energy supply, in LAC the acquisition of electric vehicles continues to have high costs for the consumer, which has prevented demand from increasing at the same speed as in Europe, where purchasing power and payment facilities are better.

Although the market will change according to the law of demand and supply, and according to regulations and goals, much remains to be done. For example, in Europe, more demanding regulations are already being established, such as that of the United Kingdom, where new internal combustion vehicles will no longer be sold from 2030 (Cerrillo, 2020). This will force the various regions to move towards this trend. But for progress to be fair and progressive around the world, including LAC, there are three areas in which European and Latin-American countries can meet and cooperate more: Regulatory improvement; technology transfer and incentives for production and sale.

Regulatory reform is a crucial issue for any technological breakthrough, and Europe has made progress in this regard, and a better dialogue including good practices will be a necessary issue in the years to come. On the other hand, and given the cost of technology, it is still necessary to have access to cutting-edge technologies in the field of electric vehicles, that is, that LAC can have access to all new developments and not only to the old products on the market. And finally, LAC has a lot to learn about incentives for production and sale of vehicles, and in this case, European countries can provide and exchange experiences in the field.

3.3. Towards the transformation of the financial sector

Combating climate change, pandemics and many problems that threaten society requires the profound transformation of the financial sector. Moving from the vision of the intrinsic value of capital, to one that values life in all its forms, is one of the greatest challenges facing humanity.

However, in recent years, the global financial sector and particularly the European financial sector have recognised that climate change is a threat to its stability. Over time it has been recognised that making investments or investment projections without considering climate change is a failure that can cost the system dearly.

Since 2015, climate-related risks have been officially placed on the agenda of financial regulators and supervisors, as well as financial market players. This started in Europe, where Mark Carney, former Governor of the Bank of England, identified the link between climate change and its impacts with economic systems, financial markets and their stability (IDB, 2020). Later, the Financial Stability Board also established a working group to promote climate-related financial disclosure (TCFD) with the aim of supporting the financial system in its entirety, in understanding the impact of climate change on financial markets and in identifying, managing and communicating climate-related risks.

The recommendations derived from TCFD in 2017 have been rapidly expanded to be implemented both in the private sector and by financial sector institutions. In 2017, central banks and financial supervisors created a support network for the greening of the financial systems (NGFS) in which central banks such as the Bank of Mexico, the Financial Superintendence of Colombia and the Central Bank of Costa Rica participated, in addition to the National Commission of Bank and Securities of Mexico.

Although in LAC the discussion on the importance of the financial sector in the fight against climate change has been increasing, it is still far from transforming the vision of the sector. In the case of Europe, following the formulation of the European Green Deal, which stipulates that the EU will be carbon neutral by 2050 (European Commission, 2019), attempts have been made to transform the vision of the financial sector and of public as well as private investments.

To finance the European Green Deal, the EU announced that it will invest 1 trillion euros to transform the continent's economy. These funds will come from the Multiannual Financing Framework (MFF) and the EU's Next Generation Fund, amounting to €750 billion (from 2021 to 2027). And while there has been a growing mobilisation of financing, it is not yet close to the mobilisation required to transform the region's economies. Since it is indicated that just to achieve the energy transition by 2030, 350 billion dollars would be needed if the reduction of emissions by 55% is to be achieved.

A critical point in the transformation of the financial sector has been the formulation of the so-called European Taxonomy, which is a classification system of environmentally sustainable economic activities. This classification seeks to determine which activities are considered sustainable. Generally speaking, it is seen as a roadmap for investors to have more security regarding which of their activities are sustainable and thus help the transformation and change of route of those that are not.

This is envisaged as a basis for achieving the commitments that the EU has established in environmental and climate change matters towards 2030. The taxonomy has marked a milestone in the EU's discussions, because it seeks not only to guide, but to regulate such activities, so that they meet the six environmental objectives: Mitigation to climate change, Adaptation to climate change; Sustainable use and protection of water and marine resources; protection and restoration of biodiversity and ecosystems; pollution prevention and control and transition to a circular economy (European Commission, 2021).

This taxonomy has inspired the creation of similar frameworks in LAC, such as the Green Taxonomy of Colombia. However, at the beginning of 2022, there was a discussion that calls into question the progress of this system, and that is that it was approved that activities such as the use and exploitation of fossil gas and nuclear energy as activities that can be classified as "green" within the framework of definition of sustainable activities.

For years there has been a debate about whether gas and nuclear power should be part of green activities, discussions encouraged by those who have an interest in the development of such industries. However, gas remains and will remain a fossil fuel and nuclear power

will continue to have radioactive waste, that no matter how well treated they are, if the technology expands, there is a risk that there is no space in the world to store waste that cannot be recycled in any way.

The transformation of the financial sector must then start from the understanding that there are limits to the activities that can be developed in the world and that it is necessary to redefine the priorities. Some of the areas in which collaboration between the EU and LAC can be strengthened from the perspective of the financial sector are: improvement in the formulation and implementation of taxonomies; strengthening transparency apparatuses and access to financial information; building and strengthening the capacities of financial institutions on climate change.

Defining what counts as climate, green or sustainable finance, depending on the area of interest, is critical to better determine investment gaps. For this it is essential to improve transparency and access to financial information, and in this not only LAC can learn from Europe, but also LAC has examples to share, such as the work on financial transparency in Colombia. These processes will require an exchange of experiences and, above all, capacity building, in particular, of regional, central and local financial institutions.

4. CONCLUSIONS

Climate change is advancing in all regions, bringing with it significant economic, social and environmental costs. Facing the problem will require the participation of all countries, under the principle of common but differentiated responsibilities. Given this, European countries, whose development has been based on activities such as the burning and production of fossil fuels, today have the opportunity to reverse the impacts historically created, seeking better ways to collaborate with other regions, whose development in strategic areas has been slower, as in the case of Latin America and the Caribbean.

Although in LAC climate change is placed as an agenda item, its treatment is even slower in the face of social realities that continue to affect the vision of the future, such as high levels of poverty. The great regional disparities were evidenced in the context of the COVID-19 pandemic, but the climate crisis brings with it a greater demand to join forces and jointly promote a sustainable vision. Moving from the European Green Deal to a Global Green Deal that allows regions to accelerate compliance with the Paris Agreement is an imperative.

In this analysis I identify three urgent areas to achieve the profound transformations that are required and where the EU and LAC can collaborate more: 1) achieving the just and sustainable energy transition; 2) achieving the transformation of the transport sector through electrification and 3) transforming the financial sector towards a more sustainable one.

The energy transition is one of the most relevant fronts and one that needs collaboration between the EU and LAC to speed it up, through renewable energy projects at the local level, technological development and financing mechanisms. It is also essential to move towards the electrification of transport, where regulatory improvement is a crucial issue for any technological breakthrough, added to access to cutting-edge technologies and the creation of

incentives for the production and sale of electric vehicles. Without forgetting that the success of electrification depends on the first point on energy transition towards renewable sources.

Finally, a transformative vision of the financial sector is needed, based on the clear definition of what counts as climate, green and/or sustainable financing; improving transparency and access to financial information, and continuing to work on strengthening capacities on the risks brought about by climate change, in particular for international, regional, central and local financial institutions.

Climate change, or rather the climate crisis, is clearly threatening all forms of life. Achieving bi-regional cooperation at all levels cannot be postponed, and above all those transformations on which life itself depends. This exchange must be based on respect and not on the condescension with which the cooperation has moved for years. Well, beyond donors, European countries bear a large part of the historical responsibility, so this collaboration is not only to repair the damage, but it is a way to share those practices of what could have gone wrong and the ways to leapfrog these practices and help not to make the same mistakes in Latin countries, in order to embrace change. That is, moving towards a spectrum of true collaboration, in which we know that there is a mutual dependency, and what fails some will affect all.

The clock is ticking, and climate change knows no borders or responsibilities, which is why it is time for cooperation to transform itself into an environment of effective and transformative collaboration. Either we change today, or climate change will change everything tomorrow.

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5. THE GREEN DEAL AND THE NEW GEOPOLITICAL EUROPE

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The response to COVID-19, the ecological transition and strategic autonomy are the three axes on which a broad transformation programme of the European Union gravitates. This transformation affects its own social and economic development, as well as its relationship with the rest of the world and its foreign and security policy, at an international situation characterised by the crisis of globalisation and the challenge of the liberal international order. Both events were visible before 24 February 2022, the date of the Russian attack on Ukraine, and that war has made even more visible the EU's shift towards a "geopolitical Europe". Although this turn had already begun, the emergence of a war of aggression in Eastern Europe is, in the words of the President of the European Commission, Ursula von der Leyen, a real watershed for Europe; in the words of the High Representative of the Union for foreign and security policy, Josep Borrell, a "moment of life or death" (Borrell, 2022a); and according to the Chancellor of Germany, Olaf Scholz (2022), a real turning point (Zeitenwende) for the main Member State of the Union in terms of its economic and political weight and, from now on, also in its security and defence policy. In one way or another, the European Union's relations with Latin America will be oriented on this basis.

COVID-19 has been one of the initial catalysts for change. In many respects, the pandemic has exposed many of the EU's weaknesses, and has induced a strong social and geopolitical response that combines a broad social, green and digital transformation for itself, with the affirmation of the European project in the face of a more adverse international scenario. In the words of Max Bergmann (2020), it has been a true "geopolitical awakening" of the EU.

A sample of these changes are the July 2020 agreements of the European Council, with a package of 1.8 trillion euros, including just over one trillion of the new multiannual financial framework 2021-2027, and the EU-Next Generation recovery programme, with 750,000 million. Just because of its important economic effects, it is also a vindication of multilateralism and regional integration, challenged in Europe and elsewhere by extreme nationalism and a rising ultra-right movement. This agreement is a federal breakthrough, which only six months earlier was unimaginable (Vidal-Folch, 2020). It involves linking budget, taxes and Eurobonds, starting the way to a common treasure. This fund, it is important to emphasise, is both a countercyclical instrument to face the pandemic, and an investment mechanism with a transformative vocation. It will have to contribute to resilience and social and territorial cohesion and, above all, to a change in the economic model, greener and more digital.

In this broad social and geopolitical response there are two interrelated axes. First, the European Green Deal, the governance programme of the European Commission chaired by Ursula von der Leyen. Second, the autonomy or strategic sovereignty of the EU. This concept appears in the European Union Global Strategy (EUGS) of 2016, linked to the strengthening of security and defence policy, but with the "Geopolitical Commission" that begins its mandate in 2019, it extends to other areas: industrial policy, in order to reduce the vulnerability of the EU to the dislocation of supply chains or external dependence on essential goods, such as microprocessors; or energy security, as revealed by the high dependence on Russian gas in several Central European countries (Sanahuja, 2021a). In this area, strategic autonomy and the Green Deal converge: days after the Russian attack on Ukraine, German Finance Minister Christian Lindner declared that "renewable energy is the energy of freedom" (Reuters, 2022).

This text presents an overview of the European Green Deal taking into account its background, content and scope from the point of view of international political economy, as a response strategy to the crisis of globalisation and the COVID-19 pandemic, and as a framework for the EU's external relations and its will for "strategic autonomy". It is important to start from a basic observation: the European Green Deal is not a mere reissue of sectoral policies for the mitigation and adaptation to climate change, or for the care of biodiversity. It is a comprehensive and long-term strategy with a vocation to transform the European economy and societies to ensure climate neutrality by 2050, involves a complete redefinition of the social contract, with present and future generations, and aims to reposition Europe in the world and in the multilateral system.

1. THE GREEN DEAL AND EU'S ENVIRONMENTAL POLICY

In both the United States and Europe, the expression "Green New Deal" has as a historical reference the New Deal of President Franklin D. Roosevelt, with which the United States faced between 1933 and 1939 the Great Depression and mass unemployment. The fact it reappears as a reference in the face of the climate emergency is because it represents an effective symbol or narrative to face a crisis that, as in the thirties, has a systemic character. It can be useful for social mobilisation and for articulating the political coalitions that will drive the broad economic and social transformation that is required today. It would be a question of responding to an organic crisis of globalisation in its environmental, economic, social and political dimensions; to deploy new narratives of human progress, and an individual and collective ethic based on the common good in the face of the exhaustion of neoliberalism and the climate crisis. In fact, since the financial crisis of 2008 the concept of "green new deal" has appeared, both in Europe and in the United States, as a progressive project to recover the ideas of social democracy and international cooperation in the face of the rising of extreme right movement, which as mentioned, challenges multilateralism and the international order (Sanahuja, 2021b).

The idea of the Green Deal reappeared, for example, in different proposals of the Greens in the European Parliament, in the British Labour Party (Pettifor, 2019), in the left wing of the Democratic Party of Bernie Sanders in the primaries in the United States, and, more articulately, in the proposal of Congresswoman Alexandria Ocasio-Cortez (2019) to the House of Representatives; and in the demands of new social movements led by young people, such as Extinction Rebellion, Fridays for Future (Greta Thunberg) and the Sunrise Movement, in the US. To this will be added the European Union itself: in November 2019, through an important resolution, the European Parliament declared the situation of "climate emergency", and in December 2019 the European Green Deal was approved as a government programme of the European Union through the von der Leyen Commission. It is the expression of a great agreement between liberals, socialists and Christian Democrats, although it is strongly influenced by the trajectory and previous learnings of design and implementation of public policies in the EU.

In fact, it is part of an important accumulated acquis. In April 2021, the Financial Times acknowledged the pioneering role of the European Union in environmental policies and the response to climate change, recalling that it had been the first to support the take-off of renewable energies with subsidies; to establish a pioneering market for carbon and emission rights; to issue "green bonds", through the European Investment Bank (EIB); in adopting the most demanding emission reduction targets; and, since 2018, in regulating what is "green" and can be considered sustainable finance, through a taxonomy based on environmental, social and governance (ESG) criteria also pioneering around the world. In part, this environmental and climate leadership is partly explained by the strong weight of green parties and movements for climate justice in the EU, and the very logic of European integration, which endows environmental policy, in the key of "Europeanisation of policies", with its own dynamic in the name of regulatory harmonisation and coordination.

2. SUSTAINABLE DEVELOPMENT AND TRANSFORMATIVE VOCATION OF THE EUROPEAN GREEN DEAL

The European Green Deal goes beyond the usual gradualist and technocratic logic of sectoral policy common in the European institutions in the field of energy, climate, or biodiversity. It is a comprehensive strategy, of great political depth and societal scope. It makes the fight against climate change the main goal of the EU, so that this allows to meet the goals of the Paris Agreement and, at the same time, build "... an equitable and prosperous society, with a modern, resource-efficient and competitive economy." Thus, it seeks to coherently integrate economic, social and environmental policy, and foreign policy, and become a new strategy that promotes both economic growth and sustainability. To this end, it addresses the three main environmental challenges – climate, biodiversity and pollution – with a policy matrix that covers energy, industry, construction, mobility, and agriculture and food. It resorts to market mechanisms, but also recognises the leading role of public policy, leaving behind ordoliberal orthodoxy. It proclaims the priority of the human dimension, in a "just and inclusive" manner. As a socio-political pact, it aims to recover the bond of trust between "... national, regional and local authorities, civil society and economic sectors" (European Com-

mission, 2019: 2).

The fight against climate change and decarbonisation is chaired by a Climate Law that sets out a binding mandate to achieve net zero emissions and climate neutrality by 2050. Achieving these goals means maintaining an adequate supply of clean, affordable and safe energy, with a radical change in the energy mix and greater use of renewable sources, the decarbonisation of gas; the development of storage technologies and smart grids, batteries and "green" hydrogen; electric mobility and much tougher emission standards; better integration of national electricity systems with the "Union of the Energy"—. This leads to more burdensome energy taxation, and mobilises public and private investment. A key component is the improvement of insulation in buildings, which in addition to saving energy will allow to reactivate employment in construction. It will also be necessary to address the problem of energy poverty, and to mitigate the costs of this transformation for the regions, countries and social groups concerned, particularly in sectors such as coal. As Martin Sandbu (2021) pointed out, it would be about avoiding the risk of climate policy intersecting with class conflicts and far-right "culture wars", jeopardising the political viability of the European Green Deal.

All of the above entails a return of industrial policy and a new cycle of innovation, now with decarbonisation objectives. A cycle of about 25 years is foreseen to transform the industry, so that it is much more efficient and, through the circular economy, it is possible to decouple economic growth from the use of fossil energy and natural resources, and develop climate-neutral product markets. The President of the Commission has called for a "new Bauhaus" to reactivate industrial design and architecture in a way that serves the new social rationality implied by climate objectives.

3. EXTERNAL IMPLICATIONS OF THE GREEN DEAL: CARBON TARIFF AND SUSTAINABLE FINANCE

Achieving climate neutrality and net zero emissions will require a sharp increase in the price of carbon, internalising its environmental costs. This will have to be achieved, in particular, through the strengthening of the Emissions Trading System (ETS) that the Commission has proposed in the Fit for 55 Legislative Package of April 2021. This scheme applies to the sectors with the highest emissions (energy, steel, cement plants, paper mills, petrochemicals, other large industrial installations, and internal flights in the EU), which account for 40% of total Union emissions.

Strengthening the ETS, however, poses a high risk of "carbon leakage". The increase in the price of carbon via emission allowances, and the demand for greater investment in clean technologies can damage the competitiveness of the European economy, and make the ETS ineffective for decarbonisation purposes if carbon-intensive European production is replaced by imports from countries where similar systems do not exist, or industrial off-shoring is encouraged to escape these costs. This could encourage environmental dumping and destructive downward competition from other countries, contrary to the collective effort required by the Paris Agreement. In addition, if this damages employment and social cohesion, it can feed discourses of grievance from the far right and other political actors

against the Green Deal and the EU itself, as the "yellow vests" in France or the reactions of the governments of Hungary or Poland have already shown.

That is the foundation of one of the most important singular elements of the European Green Deal: the "carbon tariff" at the EU's external borders, or " carbon border adjustment mechanism" (CBAM). That levy, to be set in 2023, internalises environmental costs, levelling the playing field for European businesses – indeed, supported by the business sectors concerned – and may encourage ETS-like schemes in other countries and/or on a global scale. Additionally, the CBAM is considered as one of the new taxes or "own resources" of the EU, to finance Next Generation EU. It will help companies to remain in Europe and not relocate production, and may even induce on-shoring movements. This rate is part of a broader dynamic of deglobalisation and is also part of the industrial or reindustrialisation policy that the Green Deal incorporates.

To determine the appropriate option and its compatibility with the rules of the World Trade Organisation (WTO), avoiding demands from other countries, the non-discriminatory nature of the CBAM must be ensured. The extension of the ETS is the one that seems most feasible to respond to this requirement (Alloisio, 2020; Schwarcz, 2021). However, the fact that it is conceived as a source of tax revenue, as well as a climate instrument, makes it likely that it will be challenged before that organisation and that the EU will be accused of protectionism (Beattie, 2019). For this reason, the European Commission has raised the need to multilateralise these mechanisms with a global carbon rate agreed in the WTO, or with mechanisms analogous to the ETS in key countries, with a "carbon club" or a "climate club", and only in those cases could the CBAM be avoided.

The CBAM will most affect countries that export steel, cement and aluminium, petrochemicals or fertilisers to the EU, in particular Russia, China, Turkey, the United Kingdom, South Korea, India and the United States. Its negative effects in Latin America will be around 1% of its exports to the EU, but will be significant in the case of Brazil or Colombia, while countries with different export basket and better environmental standards, such as Chile, Uruguay or Peru, may register positive effects (UNCTAD, 2021). The CBAM can also be seen as an incentive for greener growth (Iribarren and de la Cruz, 2021).

A second element with external implications is the so-called "Environmental, Social and Corporate Governance Taxonomy" (ESG). As mentioned, the EU is also a pioneer in the regulation of sustainable finance, through the first ESG taxonomy. The EIB was also the issuer of the world's first "green" bonds, and in social matters, of social bonds to finance the SURE instrument adopted in 2020 to support unemployment insurance and support for companies in the COVID-19 crisis. The latter, which were in great demand among investors, are one of the first and largest issues of social bonds so far.

Because of its pioneering nature, its wide coverage, and its application in the EU's vast internal market, ESG taxonomy can become a de facto global standard for green investing, risk assessment and ratings, and the design of standards adopted in other countries. It can also help expand the use of the euro as the world's reserve currency through green bond issuances.

That potential to define a global standard also exists in the CBAM, which like the ESG taxonomy, shows the characteristic "regulatory power" of the EU. This expression refers to its ability to set global standards based on the size of its internal market. Anu Bradford (2020, 2021) calls it the "Brussels effect", which, in essence, assumes that companies and authorities from other countries assume EU rules and standards in exchange for access to the European market. Something similar happens, for example, with the rules on data protection and privacy in the digital field. This expresses the geopolitical role of the European Union as a global regulatory and regulatory actor, and its ability to influence through socio-economic interdependencies and technical standards, rather than as a traditional military or political power.

In April and December 2021, following consultations with stakeholders and the scientific community, the European Commission adopted, via delegated acts, the section of the taxonomy on energy and climate. The Commission's decision did not satisfy everyone by considering natural gas and atomic energy "sustainable", even temporarily. It was backed by Germany and other central European countries as a necessary transitional, low-emission energy to leave coal and oil behind. Nuclear energy was defended by France as "clean" energy for not assuming carbon emissions. But for many Member States and environmental movements, both energy sources, even if temporarily needed, could not be considered "green", and this, in addition, could undermine the international and European credibility of the ESG taxonomy since its inception. The rejection of some governments, and the announcement of stricter national measures may also pose an added risk to the consistency and viability of that standard (Khan, 2022).

4. GREEN DEAL, CLIMATE DIPLOMACY, TRADE AND DEVELOPMENT AID

The global nature of the climate emergency and the consideration of the environment and climate as global public goods places the goals of the European Green Deal within the framework of the EU's international cooperation and external relations. Promoting the ecological transition and greater ambition in the decarbonisation targets of the Paris Agreement must also be central goals of the Union's foreign and security policy. It means recognising the climate emergency as a source of global instability, a cause of local and regional conflicts, food insecurity, population displacement, and an "existential threat" to humanity as a whole (European Commission, 2019: 24). The Russian attack on Ukraine in February 2022 has dramatically highlighted the risks posed by the high dependence on gas from Russia by many member states, especially Germany (Poitiers et al., 2022), at a time of globalisation crisis and return of geopolitics to the international economy (Sanahuja, 2017; Pisani-Ferry 2021), and increasing use of interdependencies as weaponisation by authoritarian leaders.

The Green Deal envisages an important external dimension to guide the European Union's foreign and security policy, trade and development cooperation policy to promote sustainable development, contributing with its leadership to mobilising collective action and, in particular, supporting developing countries, given the initial asymmetries that exist in terms of greater European responsibility for global emissions, and also its greater resources

and capabilities. Climate leadership was already part of the EU's international narrative and identity, but it is recognised that "leading by example" will require greater effort in the application of the principle of policy coherence for sustainable development, both in all its external policies and in the relationship between its external action and its internal policies (European Commission, 2019: 23). For example, in development cooperation, climate objectives should account for 30% of external assistance in the 2021-2027 budget period, and together with EIB loans, fossil fuel projects should be abandoned and focus on renewable sources and efficiency improvements, and new investments in fossil energy projects in third countries will be discouraged.

The Foreign Policy of the Green Deal entails, first of all, a more assertive climate diplomacy in multilateral forums, and in interregional and bilateral relations, to establish "green alliances" that encourage greater ambition in the objectives of decarbonisation and climate neutrality. (Reiners and Grimm, 2020; Ribera, 2021). The EU must be a "constructive but also energetic partner", pursuing climate neutrality by involving other actors, but without renouncing to maintain the competitiveness of the European economy[25]. This action will also contribute to the EU's strategic autonomy to achieve its own objectives in a world of greater geopolitical competition (Sanahuja, 2021a).

The Green Deal's decarbonisation and climate neutrality objectives entail profound changes in the EU's trade relations with many countries, particularly in its vicinity, with important geopolitical implications. Important suppliers of oil and gas to the EU, such as Algeria, Azerbaijan, Kazakhstan or Egypt are in turn economies very dependent on these exports, both in their external balance and in their tax revenues, so the EU must support their productive and energy diversification, something to which technologies such as green hydrogen or solar photovoltaic can contribute. With Russia, the attack on Ukraine may mean a rapid disconnection, the search for alternative suppliers of liquefied gas, and the acceleration of the energy transition to renewables, as already announced (Reuters, 2022). If the Union fails to associate other powers such as the United States or China in the decarbonisation effort, it can encourage a rapprochement of the countries concerned with China, or of these with each other, as would happen with China and Russia, which would have important consequences from the geopolitical point of view (Leonard et al., 2021). The proposal to multilateralise the Green Deal is also relevant in this context. So far, the steps taken by China and the United States point more to climate convergence and greater cooperation, but this is a major challenge to which the Union's foreign policy must pay attention.

The Green Deal calls for combining trade openness, on which the Union's prosperity depends to a large extent, with stricter environmental standards. It implies, in other words, an approach to trade and investment with environmental and geopolitical principles that is different from the traditional liberal approach that the EU and, in particular, the European Commission has championed. It has already been pointed out that without CBAM and ESG standards, and without a tightening of labour and environmental standards, public opinion and parliaments may be reluctant to open trade. But in the face of developing countries, there

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25. See the Council conclusions on climate diplomacy of 20 January 2020 (5033/20), and on climate and energy diplomacy of 25 January 2021 (5263/21).

are asymmetries of power that cannot be ignored, and these rules can also be challenged as non-tariff barriers and a new "green" protectionism, which would seek to impose European principles and standards on the rest of the world. The EU will be able to make use of its regulatory power and the influence of the internal market, but it cannot act unilaterally and alienate support. Therefore, leading will mean greater political dialogue, strengthening development cooperation and, as noted, much more attention to policy coherence.

These dilemmas are clearly raised in the WTO, and even more clearly in the association agreements of the EU and other countries. This is the case of the debates on the EU-Mercosur Agreement and deforestation in the Amazon. It is not acceptable to appeal to legitimate environmental arguments with unconfessed protectionist purposes when challenging that agreement, as France does. But the fact that there is covert protectionism does not mean that these environmental objections do not have to be addressed. Part of the European citizenry refuses to associate the EU with governments like that of Jair Bolsonaro, who rejected the Paris Agreement and despises environmental issues. For the agreement to be politically acceptable in the EU, its environmental safeguards will need to be strengthened. Like other state-of-the-art agreements, this one includes a very advanced chapter on trade and sustainable development, but it is sufficient. When approved, the European Green Deal itself raised the need to add to any global trade agreement a binding commitment to the ratification and effective implementation of the Paris Agreement, as an environmental clause analogous to the democratic clause that since the nineties, in a mandatory manner, is included in all EU agreements with third countries (Giles 2021; Sanahuja and Rodríguez, 2021).

Beyond these binding commitments, and the possibility of adopting trade sanctions in the event of non-compliance, it is necessary to contemplate these agreements with a broader view. They should not be seen as mere free trade agreements. They have a marked geopolitical character: they are tools for the strategic autonomy of the EU and its partners in the face of the crisis of globalisation and a supposed bipolarity between the United States and China, and, in terms of sustainable development, they should also be seen as a common space for policy dialogue and regulatory convergence for the change of production and consumption models in favour of sustainability.

5. FINAL COMMENTS: GLOBALISATION CRISIS AND GREEN DEAL, A CROSSROADS FOR EUROPE

Since the global financial crisis of 2008, the EU has faced a series of crises that are part of the broader crisis of globalisation and the liberal international order (Sanahuja, 2017). The euro crisis revealed the origin flaws of the monetary union and its ordoliberal design. The self-destructive "expansive austerity" policy of that stage induced a vicious circle of recession and questioning of the EU and its policies, led to a visible setback in its social and territorial cohesion, aggravated disaffection, nationalism and Euroscepticism, distrust of the elites and the rise of the far right. All this, as a reaction to the uncertainty and fear of European societies in the face of the effects of globalisation, immigration and technological change on employment, social protection, and opportunities for the next generation.

Various reflection exercises, and the Juncker Commission's call for "a Europe that protects", had not led to an articulated EU response to these challenges and to social demands that, taken together, pointed to the need to rebuild the social contract. The no less important advance of the green parties and the assumption of the environmental agenda by the majority parties also showed that this new social contract required a more decisive policy in the face of the climate emergency. As for the international order, the challenge to multilateralism and the growing economic nationalism of the Trump administration and other nationalist and far-right actors, its evident contempt for the EU, and the greater geopolitical competition were pushing the EU to leave behind its traditional cosmopolitan approach to globalisation, in favour of a more circumspect and defensive vision of the international order.

Since 2019, as underlined, the EU has sought to react through two interrelated axes: the European Green Deal and the search for greater "strategic autonomy". On the latter, the initial approach was limited to foreign and security and defence policy, but the new international scenario and the COVID-19 pandemic have promoted a broader definition that covers, among other issues, energy, digitalisation or industrial policy, with the financial support of the Next Generation EU reconstruction plan.

This paper has highlighted the systemic nature and transformative vocation of the European Green Deal once the EU recognised the climate emergency as such. It leaves behind the technocratic and sectoral approach to environmental and climate policy to become the economic and social matrix of the EU as a whole. It is based on a great political pact between social democrats, centre-right, liberals and greens based on the assumption of the environmental agenda and its call to defend the common, until a few years ago located on the margins of the dominant political and economic debate, and a renewed commitment to the fight against inequality and the protection of society, that would otherwise be left in the hands of the far right. It will also be a linchpin of the Union's foreign and security policy, promoting energy security, and will shape its international identity, and its relations with the world.

Explicitly, the European Green Deal means the return of industrial policy and a greater role for the public sector in leading innovation and change. It defines strategies for renewable energies and their storage, digital technologies or the automobile, encouraging electromobility. With this, the EU assumes that the global political economy had entered a new phase of deglobalisation and retreat from production chains, motivated by both technological change and geopolitical reasons. It opts for productive reconversion and a strategy of growth and job creation that, without renouncing exports, will be more focused on the market itself. In this area, the Green Deal also converges the EU's aspirations for strategic autonomy.

In terms of sustainable finance, the previous European Green Deal integrates elements present in the progressive proposals of the Green New Deal on defunding and boosting productive investment, employment and the "just transition", giving a key role to public finances. However, there is a risk that this strategy will involve the funding of sustainable development and the energy transition, with the State in a subsidiary role as guarantor and risk reducer of private investment.

As the axis for the reconstruction of the social contract, the Green Deal poses difficult dilemmas. It will entail asymmetric costs between countries, regions and social groups; it affects key aspects of citizens' daily lives, such as employment, consumption patterns, mobility and living habits, which need to change to ensure that the 1.5°C target is achieved. It reconfigures the contours of the public, the private, and the common good. The distribution of these costs, the way to deal with them, and the societal changes that the Green Deal entails will be the subject of dispute and social and political confrontation. From these disputes a new green or social consensus may emerge, of broad spectrum, or they will be politicised and contested by nationalist and far-right forces, subjecting the European project to strong tensions (Leonard, 2019; Buras, 2020)

The interaction of the globalisation crisis, the climate emergency and the coronavirus pandemic represent what in historical sociology is called a critical juncture. That is, a moment of crossroads, in which the historical evolution opens up in multiple possibilities and social forces struggle to define the possible futures. The Green Deal is not an ecosocialist project, but neither can it be dismissed as a strategy of "transformism" for a "green" facelift of neoliberalism. Ninety years ago, the New Deal rebuilt capitalism and democratic societies with social pacts between capital and labour previously unprecedented. The Green Deal can extend those pacts to the planet and thereby extend to future generations.

Finally, as dramatically manifested by the Russian attack on Ukraine and the EU's high dependence on Russian gas, decarbonisation and strategic autonomy are inextricably linked issues. In part, Germany's strategic turn and the geopolitical awakening of the Union, beyond the COVID-19 pandemic, responds to the realisation that what were considered risks have become realities following the Russian aggression against Ukraine on 24 February 2022. The extraordinary deployment of sanctions and other measures against Russia in the days following the invasion is also a sign of its relevance and material and symbolic capacity, insofar as it gives rise to a renewed narrative regarding the construction of Europe, its importance for citizens, and the place of the EU in the world. In his speech to the European Parliament on 1 March 2022, the Union's High Representative for Foreign and Security Policy, Josep Borrell (2022b) put it this way: "this is the moment in which geopolitical Europe has been born".

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6. TRADE, SUSTAINABILITY AND THE COURSE OF THE MERCOSUR-EUROPEAN UNION NEGOTIATION

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1. 20 YEARS OF NEGOTIATIONS. READING KEYS

Between the beginning of the MERCOSUR-European Union negotiation, and the conclusion of the substantive part of that negotiation, more than twenty years passed. It is an agreement, not yet finalised, of great relevance for international economic and political cartography, involving three continents, given the bicontinental character of the Argentine Republic. Its development took place at a time when the world experienced and continues to undergo great transformations, with their particular impacts and subregional manifestations. In these times, without going any further back, the world has gone through two situations that have shaken its foundations: the COVID-19 pandemic, and the conflict geographically located in Ukraine, but which refers to more structuring elements of the international system, and whose consequences will go far beyond that specific territory, as can already be evidenced.

To find a more or less effective compass in this trip, we propose to approach it in a geopolitical and geoeconomic perspective, considering two of its aspects: one of long history, and another of recent history. In any of these perspectives there are two constants: **the relative intensity of the bilateral relationship,** understanding this in a sense that goes far beyond the economic dimension, and the **asymmetry** between both regions. These constants are anchored in the long history, they find their roots in the European colonisation of Latin America and the Caribbean, and in the form and moment in which this region was inserted into the world economy, in a peripheral and dependent way, while taking various forms at each stage.

We propose in this sense four reading keys: 1) the geopolitical and strategic question; (2) the timing of the multilateral trading system; 3) asymmetries in development and public capacities; and (4) the structural difficulties of the negotiation linked to, but not explained exclusively by, the latter. While the geopolitical dimension and the multilateral trading system were transformed in these 20 years, asymmetries and structural difficulties remained constant, even increasing.

2. MERCOSUR-EUROPEAN UNION. THE SHORT STORY OF A LONG AND WINDING NEGOTIATION

This 20-year path had its origin in the framework of a triangular logic (MERCOSUR-European Union- US proposal for the creation of a Free Trade Area of the Americas/FTAA), coinciding in time with the creation of the World Trade Organisation (WTO), and framed in hyper-globalisation as a hegemonic historical structure, and what that implied in terms of the mode of production, institutionalism and beliefs (Sanahuja, 2022, in press).

At the commercial level, the objective was to achieve a "WTO-plus" type agreement, a type of agreement that implied a lock on the liberal, structural reforms promoted in the stage, which has been conceptualised as the constitutionalisation of the rights of transnational corporations, relevant protagonists of the governance of the international trading system (Gill, 1995).

It was in 1995 that the Interregional Framework Agreement on Cooperation was signed, a legal and political umbrella for the relationship between the two blocs. Interregionalism largely transcended the trade question, containing geopolitical and strategic components that are worth highlighting, from the beginning and in each of its stages (Álvarez and Zelicovich, 2020). It is also explained as a European strategy of international projection (Sanahuja, 2007). The Agreement also implied a more comprehensive and institutionalised political dialogue through the meetings of Heads of State and Government, which began in Rio de Janeiro in 1999.

Beyond the historical ties between the two regions, there seems to be consensus that the launch of the trade negotiations provided for in that agreement, already at the end of the decade, did not respond to a proactive initiative but rather to the European reaction to the negotiations for the setting up of a hemispheric free trade area (Caetano, 2021; Rodríguez and Sanahuja, 2019).

In that scenario, "(...) a complex triangular logic was configured in the Atlantic, which in turn interacted with multilateral trade negotiations, generating an intricate geopolitical and geoeconomic landscape." (Caetano, 2021, p. 2). This plot, simultaneously bi-regional triangular and multilateral, did not lack impact on the negotiating process, to the point of having been identified as one of the causes of the first of its multiple failures, as we will see.

The structural limitations appeared, in any case, from the outset, since the comparative advantages of each block coincided almost as a copy with the sensitive sectors of the counterparts, with liberalisation having substantive distributional consequences.

In the European case, the negotiating mandate for such negotiation with MERCOSUR "(...) was adopted in extremis a week before the Rio Summit in 1999, after three years of deadlock in the Commission, the Permanent Representatives Committee (Coreper) and the Council, in order to avoid the discredit of presenting oneself at that meeting empty-handed. This mandate also postponed tariff negotiations until 2001 and made them conditional on what

was agreed in the multilateral framework of the WTO, which since 2000 announced the start of what would later be the new Doha Round." (Rodríguez and Sanahuja, 2019, pages 6-7) This delay was not accidental, but the result of significant resistance to progress on the negotiating path.

The first meeting of the Cooperation Council, an operational area created by the Framework Agreement, took place in Brussels on 24 November of the same year. At that meeting, the MERCOSUR-EU Bi-regional Negotiations Committee (CNB), responsible for trade negotiations, was established. This body established three general principles for the latter: 1) that they be comprehensive and with balanced results; 2) that no sector be excluded by virtue of the sensitivities existing in certain sectors producing goods and services; 3) that they be part of an indivisible whole or single commitment ("nothing is agreed, until everything is agreed").

Furthermore, the main objectives of the negotiation were set as: 1) bilateral and reciprocal liberalisation of trade in goods and services in accordance with WTO rules; 2) improving access to government procurement in markets for products and services; (3) promoting openness and a non-discriminatory investment environment; (4) ensuring adequate and effective protection of intellectual property rights; 5) the establishment of adequate and effective competition policies, 6) the implementation of adequate and effective disciplines in the field of trade defence instruments; and (7) the establishment of an effective dispute settlement mechanism.

Between 1999 and 2004, 16 rounds of negotiations took place within the framework of the CNB. Given the differences in relative development and productive structures on both sides, the objectives and outcomes sought were clearly divergent. While the EU focused its sights on the extension of the "WTO plus" type preferences provided for in this new type of agreement and on the liberalisation of the market for industrial goods; MERCOSUR had access to the European market for trade in agricultural products as one of its main objectives. The offensive interests of one side evidently coincided with the defensive interests of the other. Negotiations stalled.

From June 2000 to September 2004 "(...) the main short circuits were generated by the aggressiveness with which the EU tried to impose its offensive interests, and by the little flexibility shown by European negotiators in responding to Mercosur's demands." (Bianco, 2016, p. 29).

"The commitment on the part of the EU to guarantee special and differential treatment in favour of Mercosur, as it is a customs union composed of developing countries, was never manifested either in the tariff reduction schedules or in the coverage of the offers. On the contrary, the negotiations proceeded as if both sides had an identical level of economic development and were therefore obliged to engage in equal magnitude in all negotiating disciplines. In this context, the negotiations reached a kind of zero-sum game, where the gains of one side implied losses for the other and the ambition to find common interests and work together proved non-existent." (Bianco, 2016, pp. 29-30).

Despite this, on 21 May 2004 there was a first exchange of offers, which was defined as a resounding failure (Bianco, 2016). Faced with a request for improvements, there was a new exchange in September and, after both sides found their counterpart's proposal insufficient, there was in fact a disruption of the negotiating process.

"(...) throughout the first part of the negotiation, the EU refused to give effect to the special and differential treatment required by the Mercosur countries for the eventual agreement to be mutually beneficial." (Bianco, 2016, p. 30).

Furthermore, and as we pointed out, the EU's definition of linking this negotiation with the results of the Doha Round in the WTO obviously had unfavourable consequences for this process. The failure of the multilateral negotiations reflected what would happen with the negotiations between the two blocs. In November 2005 in Mar del Plata, Argentina, the collapse of the negotiating process for the formation of the FTAA would remove even more incentives to continue.

It should be added, at the end of the decade, the double crisis that took place in the two largest economies of MERCOSUR, in Brazil in 1998 and in Argentina in 2001, respectively, with a strong impact on the South American integration process, not only in the economic-commercial dimension but also in the political and institutional dimension. This crisis led to a change of political cycle in the countries of the South American bloc, which affected the strategy of international insertion of MERCOSUR, and this negotiation in particular (Vazquez, 2019). The new governments added to the concern about structural issues, the resistance to losing margins to implement development policies, a loss that would happen as a result of the realisation of an agreement of this type. In this context, a stage characterised as "of mutual disinterest" began (Rodríguez and Sanahuja, 2010). The European Union, during these years, prioritised bilateral negotiations with the countries of the Pacific axis.

The negotiations resumed in 2010, within the framework of the VI European Union-Latin America and the Caribbean Summit that took place in March of the same year, in Madrid. The global and regional contexts had changed. Among other elements, we highlight: the evident stagnation of multilateral negotiations within the framework of the WTO; the financial crisis of 2008 and its subsequent global and regional impacts; the enlargement of the EU, which increased the bloc's sensitivities to trade in those sectors in which MERCOSUR was more competitive. We will make a brief reference in greater detail to the internal situation of MERCOSUR later. However, if there was one thing that remained constant over time, it was the structural reasons that had been at the root of the stalemate in trade negotiations at the previous stage. Rather, the scenario had become even more complex, in geopolitical and commercial terms, with the presence of a new protagonist of global and regional weight: China.

Again, this stage was characterised by difficulties in moving towards a first exchange of offers. MERCOSUR, despite internal differences that varied in intensity according to the moment, remained firm in demanding the EU special and differential treatment that would take into account the strong asymmetries between the two blocs. In this sense, at

the meeting of chief negotiators that took place in Brussels in March 2014, the bloc conditioned the presentation of the offer on the acceptance by the EU of the following premises: 1) limitation of EU quotas to agricultural products to a reduced universe of products; (2) exclusion from preferential trade of products subject to export subsidies; (3) establishment of a mechanism to neutralise the effects of European domestic support (production subsidies); (4) relief applied to all tariff components and any other charge having equivalent effect; 5) application of a "nascent industry clause" that allows to suspend preferences and / or raise tariffs in industrial sectors that are intended to be installed; and (6) establishment of a bilateral safeguards mechanism with suspension of preferences in cases of injury or threat of injury.

During this stage, the European Union not only did not accept the demands of MERCOSUR, but also hardened its position, arguing that the South American countries had had significant economic growth and improved the quality of life of their population, with which special and differential treatment did not correspond to the case. In vain, Mercosur put forward arguments that supported the obvious difference between growth and development and the magnitude of the differences between the two blocs. In the various rounds of negotiations, the representatives of the EU sought: 1) the fulfilment of symmetrical deadlines in the reduction and with sectoral reciprocity for both parties; 2) the lifting of export subsidies only for those goods that had total and free access to MERCOSUR; (3) the exclusive elimination of the ad valorem component of tariffs; (4) the establishment of tariff quotas on agricultural products subject to progress in the multilateral arena; and (5) opposition to the safeguards system indefinitely (Bianco, 2016).

Likewise, the conditionalities requested by the European bloc consisted of: 1) a 90% coverage in the MERCOSUR offer; 2) the inclusion of disciplines in the area of government procurement similar to those agreed at the multilateral level (WTO Plurilateral Agreement on Government Procurement); 3) limitations on the special and differential treatment offered to MERCOSUR (e.g., maximum divergence of 3 percentage points in the coverage of EU offers of goods with respect to MERCOSUR); 4) granting improvements in the quotas offered to MERCOSUR, but not necessarily in volumes, but in the intra-quota tariff or in the implementation deadlines; 5) elimination of export duties applied by MERCOSUR countries; 6) the elimination of draw-back and temporary admission regimes; 7) the recognition by MERCOSUR of geographical indications protected by the EU; 8) sectoral reciprocity in industrial goods (especially textiles and footwear); and 9) the regulation of non-automatic licences, among others (Bianco, 2016).

As we can see, the important asymmetries and the difficulties in finding points of agreement were maintained over time. A new exchange of offers would take place in May 2016, as a result of a pronounced, though not necessarily based on democratic legitimacy, political shift in the South American bloc[26].

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26. The substantive changes in the Brazilian position took place after the institutional coup against the government of President Dilma Rousseff and, subsequently, an electoral triumph of Jair Bolsonaro in conditions of legitimacy, at least doubtful, given the disqualification of former President Lula da Silva to run as a candidate.

We note above that the beginning of negotiations between MERCOSUR and the EU took place in the context of hyper-globalisation as a hegemonic historical structure. At the time of reaching the "agreement in principle", in June 2019, which gave an account of an agreement in the substantive in the trade negotiation, that structure was in crisis in all its dimensions: the multilateral trading system, the hegemony of the United States and the ideas and practices that had led to the beginning of a negotiation between two asymmetrical " open regionalisms".

A particular configuration of factors explains that "agreement in principle" of 2019 between both blocks. Most of the literature emphasises the factors of international political economy (the crisis of globalisation, weakness of the multilateral system, hegemonic dispute, protectionism, the EU's quest to position itself as a representative of a trade according to rules, etc.).

"One of the paradoxes of the EU-MERCOSUR agreement is that it was born under the influence of globalisation, (…), but it is precisely the crisis of globalisation and the fear that it will be extinguished that has made it possible." (Rodríguez and Sanahuja, 2019, p. 19).

"The crisis of globalisation – a process in which movements of discontent with the pillars of globalisation and the liberal international order emerge – has had a noticeable effect on trade. In this context, there was a lower elasticity of trade growth in relation to GDP growth while protectionist measures and the inclusion of non-trade concerns in the negotiation processes were advanced, along with the erosion of multilateral forums. In this framework, agreements such as the MERCOSUR-EU increase their value, by becoming not only instruments to preserve greater degrees of certainty in contexts of rising risks of systemic instability, but are also pieces to dispute the (re)constitution of the global governance of world trade." (Álvarez and Zelicovich, 2020).

We prefer, however, to highlight the political changes that took place in South America, with the coming to power of Mauricio Macri in Argentina and Michel Temer and Jair Bolsonaro in Brazil, respectively. In any case, beyond its relative weight, the result is understood considering all the factors[27].

Now, in these twenty years there are two constants: asymmetries and structural difficulties in reaching an agreement. These constants today block its approval and raise questions about its viability. It was no coincidence that already in 1999, as we pointed out, the negotiating mandate was approved a few days before the Rio Summit, after three years of being blocked and postponing tariff negotiations until 2001, given the resistance in the European Union itself to this negotiation. But today the scenario is even more complex: it particularly highlights the changes in the dynamic centres of the global economy and, linked to it, specifically the role of China in Latin America and the Caribbean. Likewise, while we finish

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27. For a further development of these variables, please consult: Alvarez and Zelicovich (2020); Caetano (2021); Rodriguez and Sanahuja (2019; 2021); Zelicovich (2019).

writing this work, the world experiences a new seism that is expressed in the territory of Ukraine, but whose palette of consequences (geopolitical, economic, cultural) although it is still a little premature to anticipate, will undoubtedly be a mark of the times that lie ahead.

Before continuing to refer to the agreement, a brief characterisation of the foreign trade situation of MERCOSUR is presented below, in order to put on the table some structural issues at stake.

3. MERCOSUR FOREIGN TRADE. CHARACTERISATION AND REFLECTIONS ON SUSTAINABILITY

In the analysis of the political economy of MERCOSUR, it is necessary to note a structural situation that, although it is prior to the COVID-19 pandemic, has been aggravated by it[28]. This is what ECLAC (2020; 2021) has called "productive and commercial hollowing out", that is, the loss of relevance of the common market in the exchange between the States parties of the bloc, accompanied by a low export dynamism, particularly since 2008-2009[29], and a growing weight of goods based on natural resources in its export basket. Here there is vicious feedback to the extent that primarisation is linked precisely to the increase in trade ties with extra-regional partners to which the bloc exports primary products. In 2020, all these trends sharpened. In that year, according to ECLAC, exports of natural resources and derivatives accounted for 76.8%, the highest level since the creation of the bloc, partly explained by China's relatively rapid recovery compared to other destinations, and undoubtedly with the regional market.

"The increasing weight of raw materials in the MERCOSUR export basket tends to weaken the pace of export growth in the face of other regions of the world and in the face of world growth. (...) this trajectory is inseparable from the growing productive disintegration of MERCOSUR." (ECLAC, 2021, p. 34).

This composition of MERCOSUR's foreign trade brings with it an important sustainability problem, given that the growth of the bloc's economies becomes strongly correlated with the dynamics of international prices.

On the one hand, this export basket, given its composition, is not very flexible to global growth. It is, on the contrary, to the dynamism of the bloc's partners[30]. It is highly sensitive to changes in the cycles and levels of activity of the States parties themselves. On the other hand, this composition makes economies extremely vulnerable to movements in the prices

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28. ECLAC (2021) points out that MERCOSUR has been one of the regions of the world most affected by COVID-19, concentrating 12.8% of cases as of June 2021, with only 3.4% of the world's population. In this context, the fall in economic activity in the bloc was more pronounced than at the global level.

29. Since the financial crisis of 2008-2009, the pace of growth of the volumes exported by the bloc fell significantly. While between 1990 and 2007 the quantities exported grew at a rate of 7.5% per year, matching or exceeding the pace of global trade, since 2011 this rate has fallen to 2.3%. (ECLAC, 2021). The stagnation of exported quantities ties the dynamics of the bloc's external sales to the evolution of international prices of its export products, which are highly volatile. This in turn has important impacts on internal distributive bidding that are pronounced and highly conflictive, particularly in the case of Argentina.

30. The elasticity of the exports of the MERCOSUR countries to the growth of their members, on average, triples the elasticity of exports to the growth of their extra-regional partners. (ECLAC, 2021, p. 35).

of exported goods, and generates bottlenecks linked to historical external restrictions. The arguments in favour of the productive diversification of the countries of the region have a long history and multiple libraries that sustain them consistently. Following this line of argument, the strengthening of the common market and of the links with the rest of the region, insofar as they are characterised by a more diversified and elastic exchange to economic activity, remain central.

"(...), in addition to a short-term strategy that prioritises new destinations for primary production, it requires the implementation of a more far-reaching strategy that prioritises the productive diversification of the region based on the intensification of complementarities between their countries. This need is not only a priority in terms of long-term external sustainability but also to generate more stable foreign exchange income streams over time, allowing the bloc's countries to extend the limits for their growth and reduce their exposure to fluctuations in international commodity prices." (ECLAC, 2012, p. 45)

4. IMPACT OF THE MERCOSUR-EUROPEAN UNION AGREEMENT?

In this scenario, MERCOSUR, in a desirable and sustainable path of growth and development, would require greater productive diversification, a strengthening of regional chains, and transformations of this pattern of international economic insertion. In turn, from the geopolitical point of view, in this context the bloc needs to strengthen its relative political and strategic autonomy. The question that we cannot ignore is whether what was agreed in 2019 with the EU leads that way. And everything would indicate that no, rather the opposite.

Since the beginning of the negotiation, and punctually since 2019, there have been numerous evaluation studies of the agreement[31], with different methodologies. Beyond the divergences in method and results, there is consensus that the aforementioned matrix would deepen if the agreement enters into force: rupture of regional chains, greater primarisation, loss of employment, greater productive and technological dependence, deterioration of dynamism and, therefore, greater external vulnerability and uncertainty given the aforementioned volatility. The models are not perfect, they have limitations and are static, but the balance sheets (historical and, therefore, with a dynamic look) of the results of similar agreements that did enter into force in the region (we have already 25 years of asymmetric agreements signed by countries in Latin America and the Caribbean), tend to confirm them[32]; in turn, they add one more issue: the strengthening of domestic coalitions benefiting from this pattern, a socially exclusive pattern that puts political stability at risk.

A study with a different methodology (Capalbo and Omer, 2021), with a more structural look, recently carried out by Boston University, would set off more alarms. In this study, which starts from a critique of traditional models, it shows a strong polarization between dynamic sectors (with higher productivity and wages) and stagnant sectors (to which employment would be directed), which would be aggravated by trade liberalization and the

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31. Some of them that we consider noteworthy can be found in the references of this article.
32. Cf. Ghiotto, Luciana and Laterra, Patricia (eds.), 25 years of free trade and investment agreements in Latin America. Analysis and critical perspectives, The Rosa Luxemburg Collective / Foundation, 2020.

loss of policy space involved in the agreement. Obviously, this worries the political and social forces committed to a path of productive transformation with equity, more autonomic, and democratic, and cannot be left aside in this debate.

5. THE MERCOSUR-EU AGREEMENT. FROM THE PARADIGM OF AN ERA TO THE SYMBOL OF OBSOLESCENCE

The original proposal for a free trade agreement between MERCOSUR and the EU, in its particular format of bi-regional partnership that went far beyond the trade dimension, undoubtedly reflected quite rigorously the "climate of the time". Today, the content of what was negotiated in 2019 would seem, without the agreement being signed yet, already obsolete.

Throughout this article we have seen the asymmetries and structural difficulties that have accompanied the 20 years of negotiations as constants. Today, new changes in the other two dimensions, variables, geopolitics and the state of the multilateral trading system, add new concerns. One of them, not least, has to do with the fact that, without denying the relevance of the environmental crisis, and the imperative need to seek a global cooperative response in this regard, within the framework of the "green agreements" new rules are being written that sooner or later will be incorporated into a multilateral legal structure, and that lead to scenarios of greater protectionism (in this case green) and greater exclusion of markets and technological dependence for the countries of the periphery. This not only makes the development of these geographies unsustainable, but also economic growth itself, social inclusion and the stability of political regimes.

We propose here, contrary to other opinions, that both at the beginning of the negotiation and today, in multiple aspects Latin America and the Caribbean is not an ally of Europe to put a brake in the region to an advance of a power, whether it was the United States at the time or China today. In many ways the region is a geography in dispute, with two main protagonists (today the US and China) and a Europe seeking greater prominence. In that sense, there may be partial alliances, but in many aspects the agreement with the European Union will not contribute in terms of strengthening the autonomy of the region, because for the periphery, and there is a Latin American library in this regard with names like Prebisch or Puig, autonomy would require a material basis that would be hindered from entering into force as it was negotiated.

6. CONCLUDING

What was agreed in June 2019, and even more so if the agreement is divided and only the trade component enters into force, does not go in the right direction. A bad deal is no better than a no-deal. It is necessary to redo the foundation of the pillars of the bilateral relationship, from other principles: the right to development of the countries of Latin America and the Caribbean, in this case of MERCOSUR, the recognition of development asymmetries in a sense that did not exist in that agreement, and the recognition also of the differentiated historical responsibilities in environmental matters, with the implications in financing and technology transfer that this has.

With regard to the shared values that are proclaimed, undoubtedly a central one in these times is the commitment to the promotion of peace. This includes, if it is really intended to abandon the character of a mere declaration of intent, a basic agreement on a process of demilitarization of the South Atlantic, in compliance with international law. From that place, we will be able to start a path of greater equity, which will have a virtuous impact not only on the bi-regional geography, but also on the global one.

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7. SUSTAINABLE DEVELOPMENT AND TRADE: THE EUROPEAN UNION AND MERCOSUR AGREEMENT

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1. INTRODUCTION

This chapter deals with the Eu-Mercosur Agreement within the environmental and sustainable development aspects. Despite criticism around the issue of the agreement, its limitations and challenges, the treaty can improve and deepen the development of environmental protection between South America and Europe.

The free trade agreement between Mercosur and the European Union was announced in 2019, after twenty years of negotiations. The blocs bring together 750 million consumers, setting up the largest agreement between blocks. But, there are serious criticisms from Europeans, who accuse Brazil's position in relation to the environment. Environmental fires and devastation in the Amazon are among the main obstacles to the ratification of the agreement (Bressan 2020).

According to Nolte (2020), the agreement facilitates the adoption of European environmental standards in South America, mainly in relation to trade and products that are exported to the EU. Similarly, the treaty can be a political lever to protect the environment, reduce the emission of greenhouse gases and fight deforestation. The agreement facilitates the expansion and deepening of environmental protection networks between South America and Europe, while allowing the response to the claim of absolute sovereignty over the environment in the national territory.

As will be discussed later, environmental protection and trade are not mutually exclusive. With the new discussions on sustainable development of the United Nations 2030 Agenda, the areas must walk in parallel, and the EU-Mercosur agreement has normative and institutional potential to promote it.

2. SUSTAINABLE DEVELOPMENT AND TRADE IN LATIN AMERICA

The term "sustainable development" should be considered as the new civilizational milestone from the 2030 Agenda of the United Nations. In general terms, this 2030 Agenda aims to maintain social commitments, for a quality life, with overcoming poverty, social search for the reduction of social inequalities, adding to the effective and full guarantee of fundamental rights, in addition to including sections related to health, education and security (UNDP 2022).

The paradigm of the term "sustainable development" is held as a process of permanent expansion of substantive freedoms of individuals in conditions that encourage the maintenance and regeneration of ecosystem services for human societies (Abramovay 2015). Therefore, the civilizational project of the 2030 Agenda of the United Nations Organisation involves the reformulation of concepts, the understanding of which is necessary in society for the fulfilment, promotion and implementation of the sustainable development goals (UNDP 2022).

The addition of the trade agenda to the concept of sustainable development is not recent. The debate on the relationship between the two pillars has gained more attention on the international stage since they began warning governments and civil society about the potential impacts on the environment from global production and exploitation. The abrupt increase in air pollution, global warming, environmental degradation, transboundary pollution and pollution of rivers and seas will become a concern for civil society, governments and international organisations. It is clear that environmental problems are characterised by being interdependent, since they produce consequences whose effects are felt throughout the globe, not being limited to national borders (Abramovay 2015).

Therefore, in the economic area, the great challenge of adapting international trade and modes of production of goods to a sustainable economy arose. The international scenario has been complicated by the globalisation of economies and the increase in trade flows since the 1990s. After the last decades, it was concluded that the growth of exports in developing countries due to the globalising effects did not properly imply the expressive reduction of poverty, the worst, also consisted of more degradation of ecosystems, which has awakened the international community to rethink the parameters of international trade, especially in developing countries, as well as Latin America.

Thus, since the beginning of the century, developed countries have tried to link socio-environmental policy, not only to the unilateral trade policy of these countries, but also to other policies and regulations applicable to the international market (Veiga and Ríos 2009). This policy is identified not only in relation to the environmental and labour agendas, but also, more recently, in the climate change agenda and the sustainable development goals (UNDP 2022).

Historically, in trade forums and negotiations, Latin American countries have adopted a defensive and reactive stance in dealing with issues related to sustainable development, especially on the links between trade and environmental and labour issues (Veiga and Ríos 2009). In general, the countries of the Latin American region interpret protectionist attitudes as efforts to link these issues to trade negotiations.

However, the perception of Latin American countries has changed significantly in recent years, including due to the discussions of the 2030 Agenda of the United Nations Organisation (UNDP 2022). On the one hand, some countries agreed to include chapters dedicated to environmental and labour issues in trade agreements from the beginning, on the other, it has been gradually increasing, as can be seen in the comparison between some older agreements with the US and more current agreements.

The structural economic characteristics of Latin American countries, with a concentration in energy- and natural resource-intensive sectors combined with archaic labour relations and precarious environmental protection practices, generate strong pressures for the incorporation of sustainable development issues into the economic and commercial area of Latin American countries (Veiga and Ríos 2009). In addition, there is an understanding that the growing interdependence between countries must promote convergence towards minimum environmental and social standards to achieve the Sustainable Development Goals (UNDP 2022).

The policies adopted by developed countries, as well as the European Union, for the propagation of "non trade concerns" consist of the establishment of new standards and technical regulations, both for government and private sectors. Products and production processes are included, as well as proposals that imply greater protection for products from countries that do not adopt climate change legislation compatible with those implemented in the countries of the North – Treaty of Paris. At the same time, there is a growing pressure to incorporate social and environmental clauses, increasingly demanding in the trade agreements negotiated by the US and the European Union within the framework of the new generation agreements, as will be seen later.

3. THE EUROPEAN UNION AND THE NEW GENERATION AGREEMENTS

In the European Union, the reorientation of the trade strategy called "Global Europe" - 2006 and the Treaty of Lisbon - 2009, introduced a series of modifications subjecting the new Common Commercial Policy, to be carried out in accordance with the principles and objectives of European external action. Since then, the focus has shifted to next-generation trade agreements, which also aims to be used as a vehicle for the promotion of European principles and values outside the European Union (Kleimann 2013).

Therefore, the European Union's commitment to trade policy and sustainable development is gradually present and is reinforced in various legislations and documents of the institutions of European integration (Antimiani and Salvatici 2015). The European Union promotes sustainable development by addressing policy issues specific to trade, also involving social justice, respect for human rights, labour law and to the environment.

The Trade and Sustainable Development chapters are part of a strategy to mainstream social and environmental issues into the European Union's trade policy objectives, encompassing three areas: (i) commitments to implement key ILO conventions and agreements on multilateral environmental issues; (ii) commitments not to lower labour and environmental standards in order to improve trade and attract investment (non-regression clause); and (iii) obligations for sustainable management of natural resources, suppression of illegal trade (e.g. endangered species) and cooperation through corporate social responsibility and ethical trade (Moura and Posenato 2021).

Within this commitment, involving trade policy with sustainable development is one of the rights of the "new generation" Free Trade Agreements (European Commission 2021). Thus,

the FTAs of the European Union increasingly incorporate 'non-trade issues' to reflect the political meaning of the concept of sustainable development (Moura and Posenato 2021).

The EU must continue to develop a balanced trade and investment agenda, based on progressive rules covering global governance on issues such as human rights, labour rights, food safety, public health, environmental protection and animal welfare. These agreements should support the ability of the EU and the Member States to achieve the objectives of a legitimate public policy and maintain the existing high EU standards in these areas, to protect citizens and safeguard the industry from unfair competition. In addition, new generation agreements also contribute to the fulfilment of the SDGs (European Commission 2020).

Sustainable development chapters in EU FTAs are generally well received and there is strong support within the European Union for that non-trade agenda, such as work, environmental protection, human rights and also the principle of promoting the active role of civil society (Moura and Posenato 2021).

The European Union's first "next generation" bilateral FTA, with a chapter dedicated to Trade and Sustainable Development, was the Agreement between the European Union and South Korea. The agreement has been provisionally applied since 2011. Since then, the European Union has sought to include ambitious commitments on human rights, labour and environmental protection, as well as to promote the active role of civil society through the Trade and Sustainable Development chapter in all current and future FTAs. Another similar agreement is the EU-Colombia-Ecuador-Peru trade agreement, signed in 2012. In regional terms, it consisted of a trade agreement with three countries of the Andean Community, Bolivia being the exception (Kleimann 2013).

Despite the democratic deficit and the situation of suppression of human rights in some ASEAN member countries, added to the high levels of inequality in economic development, the member states of the European Union decided that the Commission would continue bilateral FTA negotiations with ASEAN countries. Between 2010 and 2017, treaties were signed with Singapore, Malaysia, Vietnam, Thailand, the Philippines and Indonesia (Moura and Posenato 2021).

To successfully achieve the effectiveness of such provisions, all trade and sustainable development chapters of the "New Generation" Free Trade Agreements offer in their latest provisions, rules on mechanisms for monitoring and supervising compliance with the obligations of the terms involving environmental and labour issues (Bradford 2020).

Even so, it is a great challenge for trade agreements to control all the rules of the "New Generation", especially when it occurs between the European Union and developing countries. The chapter then shows how the Association Agreement between the European Union and Mercosur, even if its negotiations predate the period of the "New Generation" agreements, can contribute significantly to the environmental agenda and sustainable development of the 2030 Agenda.

4. TRADE AND SUSTAINABLE DEVELOPMENT IN THE MERCOSUR-EUROPEAN UNION AGREEMENT

4.1. The agreement "in principle"

After two decades and 38 rounds of negotiations, the European Union and the Mercosur Countries, on 28 June 2019, politically announced the conclusion of the trade negotiations and that they reached an agreement in principle for an "ambitious, balanced and comprehensive trade agreement"[33].

Negotiations towards a European Union-Mercosur Association Agreement began in 2000, with the aim of boosting the international integration of Mercosur member states and creating new opportunities for trade and investment with the EU.

Negotiations on the trade pillar have encountered several opposing barriers and approaches throughout their negotiation.

- In 2004, negotiations were halted in the context of the 2003 WTO Cancún Ministerial Conference.
- Bi-regional negotiations were relaunched in May 2010, but then halted in 2012 due to the suspension of Paraguay's Mercosur.
- Negotiations resumed in May 2016, followed by a round of negotiations in October 2016.
- A political conclusion of the negotiations was reached in June 2019.

The envisaged treaty consists of two parts: the main part, the trade agreement, deals with tariffs, import quotas and non-tariff barriers to trade - a free trade agreement - and the political agreement (association agreement in a strict sense) which would address general policy, cooperation and institutional issues.

The treaty should enter into force between the EU, the 27 EU Member States and the four Mercosur Member States, but so far, almost 3 years after the political announcement of the conclusion of the negotiations, it is still an agreement in principle, in the phase of legal cleansing and translation of the draft, and there is no clarity on when or how the agreement will enter into force.

As will be discussed below, the draft agreement can be divided into a commercial and a political part, in which case the trade part could be signed as an exclusive agreement of the EU and avoid ratification processes by its member states (Mendez-Parra 2020).

The Trade and Sustainable Development Chapter of the Agreement is only one chapter in the trade part of the agreement, but because of its innovative and strategic nature for both regions, it deserves special attention.

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33. The bi-regional relation is based on a Framework Agreement of Interregional Cooperation signed between the European Union and the Countries of Mercosur in 1996 (which entered into force in 1999). Its objective was to strengthen the relations existing between them, giving rise to the creation of one Interregional Association.

From Mercosur's point of view, the Chapter is a turning point in terms of rules and disciplines that regulate and monitor sustainability and trade. On a more positive note, the agreement contains specific obligations and commitments regarding environmental protection and climate change, and some other, detailed innovations to follow.

However, the text of the draft agreement suggests that the Parties have not been very ambitious in their sustainable development commitments. In fact, the comparative analysis with other recently concluded trade agreements, published by (Gehring et al 2021) reveals that Parties have shown a greater degree of innovation and respect for their sustainability commitments with many other trading partners over the years.

Even from the perspective of the generations of trade agreements presented in the first section of the chapter, this agreement has indications of being an earlier generation agreement, since it was negotiated for many years and the related provisions in the chapter on the environment, by the nature they present, were probably negotiated even before some of the most recent EU FTAs were concluded.

Still, the current text of the draft agreement could best be seen as a starting point for a more ambitious final agreement, in terms of its potential to contribute to the achievement of the world's SDGs and integrate environmental and social priorities into economic decision-making, as the international community is obliged to do (CNI 2021).

In the context of the current process of legal cleansing of the draft agreement, the objective of this section is to analyse the incorporation of environmental commitments in the draft to assess to what extent the current regulatory framework agreed in the draft agreement can promote sustainable development results.

For this purpose, the analysis was divided into two main sections: the first focused on the trade and sustainable development chapter, and the second covered an assessment of the selected chapters of the agreement.

4.2. The chapter Trade and Sustainable Development

Objectives and scope

The evolution of trade and sustainable development is becoming more explicit. The World Trade Organization (WTO) does not adequately regulate this relationship, the emergence of trade agreements - bilateral and plurilateral - in recent years, expanded the scope of regulated issues, with the aim of promoting sustainable development through trade and avoiding negative externalities that may arise.

In this sense, the rules of the EU-Mercosur agreement governing trade and sustainable development encompass the fundamental international treaties and instruments on environmental and labour matters. The chapter defines principles, general commitments and rules to facilitate the common advancement of trade and investment measures in a way

that fosters the achievement of the SDGs while recognising the needs, levels of development and policies of Parties (Azevedo 2019).

In general, the chapter reinforces international environmental agreements, regulating issues such as the relationship between trade and climate change, biodiversity and sustainable forest management. The chapter also creates a subcommittee to structure dialogue (including governments, the private sector and civil society) and cooperation, as well as a specific instrument for dispute settlement.

Article 1 of the Chapter on Trade and Sustainable Development clarifies, in a general way, three types of objectives:

a) frame all obligations established in the light of existing multilateral commitments, explaining the framework within which economic relations develop;

b) establish that the newly created "trade and economic relations" would promote the achievement of the sustainable development goals; and

c) highlight how "common values and interests" would help achieve such objectives when the two Contracting Parties are at "different levels of development".

Multilateral environmental agreements

With regard to the first key aspect of the provision, a number of international environmental instruments are 'recalled', in particular Agenda 21, the Rio Declaration on Environment and Development of 1992, the Johannesburg Declaration on Sustainable Development and the Johannesburg Plan of Implementation for Sustainable Development of 2002.

In terms of the general relevance of such references, they serve a specific function in terms of interpretation, while these instruments are not expressly incorporated and, as such, do not fall within the corpus of the treaty. However, while there is a narrow scope in terms of implementation, there remains an extended scope in terms of the principle of systemic integration under the Vienna Convention on the Law of Treaties (Gehring et al 2021).

The MEAs mentioned in the draft EU-Mercosur Agreement are as follows:

- United Nations Framework Convention on Climate Change (UNFCCC)
- Paris Agreement
- Convention on Biological Diversity
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
- International Treaty on Plant Genetic Resources for Food and Agriculture
- Montreal Protocol and any amendments thereto ratified by the Parties
- United Nations Convention on the Law of the Sea
- Code of Conduct for Responsible Fisheries adopted by the Conference of the Food and Agriculture Organisation on 31 October 1995

Firstly, it is important to note that the draft EU-Mercosur agreement is rather restricted in terms of the effects of its references to multilateral environmental agreements (MEAs) and more general instruments. It adopts a general obligation for the respective Parties to "re-affirm their commitments to effectively promote and implement the MEAs, protocols and their amendments to which they are a party", to which the Parties must assume obligations of exchange of information and cooperation.

However, a limitation to this form of general commitment is that none of the specific obligations found in the MEAs are expressly incorporated into this treaty and, as such, any contracting party to the agreement that decides to withdraw from a specific MEA has no impediments to do so and subsequently change its standard (Hoffmann and Krajeewski 2021).

Cooperation in environmental matters

In terms of the language used, all references annotated were based on wishes that there should be cooperation and use of such MEAs and other instruments or, alternatively, that there is an obligation to enforce or implement them. There is therefore room to reaffirm the Parties' commitments on MEAs.

A cooperative approach, as set out in the agreement, is a promising strategy to be adopted and promote common and coordinated efforts by the EU and Mercosur countries.

In this regard, the 2030 Agenda for Sustainable Development clarifies that commitment to cooperation becomes tangible through greater policy coherence, building partnerships, investment promotion, financial and technical support for capacity-building activities, and mobilising additional resources for developed countries. In addition, the Parties' commitments on MEAs for cooperation, technology transfer and financial resources are also considered (Hoffmann and Krajeewski 2021).

Its implementation will allow a cooperation agenda aimed at aligning trade with the key Sustainable Development Goals and will become a reference for other bilateral, regional and multilateral trade agreements.

4.3. Beyond the specific chapter on Trade and Sustainable Development

Goods and origin

The core of most free trade agreements is their trade in goods chapter, as those chapters contain the rules on reciprocal trade preferences and market access conditions. In preferential agreements, market access provisions are complemented by rules of origin to identify which goods will be subject to preferential treatment. Two main points can be highlighted with regard to the scope of the chapter on trade in goods and how it could better reflect sustainable development.

The draft EU-Mercosur agreement is limited in terms of scope and regulatory developments, as it refers to environmental considerations within its market access chapter as part

of the general exceptions in which "The Parties understand that (a) the measures referred to in Article XX(b) of the GATT of 1994 include environmental measures, such as measures taken to implement multilateral environmental agreements, which are necessary to protect human, animal or plant life or health."

There are two instruments that could be adopted to further promote sustainable trade in goods between the two regions. One instrument that has been discussed to promote sustainable production and consumption is carbon adjustment taxes, to offset the emission of various products, in particular imports, which are not addressed in the chapter.

Another instrument that can be used is tariff reductions that stimulate trade in so-called "environmental goods and services," which can include energy-saving products, environmental monitoring products, waste management goods, water treatment products, and renewable energy goods, among others. Negotiations to promote the liberalisation of trade in environmental goods and services have been ongoing for many years, both within the framework of the WTO and through other plurilateral negotiations.

As for the rules of origin annex, this section is similar to those included in many preferential agreements, including those of the EU, since when describing the regulation and specific provisions for a product to be considered as originating in a member party in order to benefit from the preferences of the agreement, no references or special provisions for environmental goods are included.

The incorporation of a provision on the promotion of trade in environmental goods and services within the "trade in goods" chapter, as well as a provision on trade that favours sustainable development within the TSD chapter, could be a valuable means of promoting trade as an engine for sustainable development. For example, such trade could include cars and their parts, favouring those using alternative fuels, as these products are part of sensitive sectors within the productive structures of both Mercosur and the EU. In addition, a second specific sector to promote is that of renewable energies and the reduction of the use of fossil fuels.

Technical barriers to trade

Chapter 5 of the draft agreement reaffirms the rights and obligations of the Parties under the WTO Agreement on Technical Barriers to Trade (TBT), considering legitimate objectives such as "the protection of human health or safety, animal or plant life or health, or the environment".

The TBT chapter of the draft EU-Mercosur agreement defines its scope, including the "preparation, adoption and application of standards, technical regulations and conformity assessment procedures that may affect trade in goods between the Parties". It strengthens cooperation towards "the identification, promotion, development and implementation, as appropriate, of trade facilitation initiatives, on a case-by-case basis".

The negative highlight of that chapter, in terms of sustainable development, is the absence

of the institute's recognition of eco-labelling as an environmental performance certification. This issue has been addressed only in the chapters of trade and sustainable development, especially within the cooperation schemes. In Article 9 of the draft EU-Mercosur agreement, "marking and labelling", there is a reference to the "environment" in the context of protection against deceptive practices to accept non-permanent or removable labels.

With that in mind, it seems relevant to deepen the commitments of the EU-Mercosur agreement to promote cooperation and technical assistance on eco-labelling in the TBT chapter, rather than simply referring to it in the chapter on Trade and Sustainable Development.

Public procurement

The draft EU-Mercosur agreement includes a chapter dedicated to public procurement, which recognises the contribution of transparent, competitive and open tendering to economic development.

Bearing in mind that Mercosur members do not adhere to the WTO Government Procurement Agreement (GPA), the chapter comprises definitions, scope and coverage, valuation, general exceptions and principles, among other relevant issues.

The draft EU-Mercosur agreement, within the "General Exceptions" to the public procurement chapter, includes an environmentally related provision. It states that nothing in the chapter shall prevent the Parties from taking measures "necessary to protect human, animal or plant life or health, including environmental measures". This provision is based on the general exceptions of the GPA but adds the term "environmental measures".

In addition, the EU-Mercosur agreement states that the provisions on technical specifications are not intended to "prevent a procuring entity from preparing, adopting or applying technical specifications to promote the conservation of natural resources or protect the environment".

Based on the provisions included in the EU-Mercosur draft, there is room for Parties to agree on further environmental considerations throughout the procurement procedure. To this end, it is necessary to ensure, through dialogue and technical cooperation, that Parties take into account environmental, labour and social considerations throughout the procurement process.

Transparency and cooperation

The draft EU-Mercosur agreement, in the chapters on environment/sustainable development, explicitly focuses on encouraging public participation rather than expressly providing opportunities for interaction. Civil society participation is an important element of trade policy-making, particularly when it comes to cross-cutting issues such as sustainable development. That is why the EU-MERCOSUR Agreement can benefit from strengthened mechanisms to cultivate the participation of civil society through already institutionalised dialogue forums.

In terms of cooperation, it is important to note that the scope provided by such provisions is significantly broader than the focus areas for the implementation of MEAs and environmental instruments. In that sense, the draft EU-Mercosur agreement focuses substantially on promoting cooperation between the Parties. A very prominent case in the draft agreement includes cooperation in sustainable fishing practices, an issue not mentioned in the vast majority of contemporary trade agreements.

Indeed, the draft EU-Mercosur agreement, when it enters into force, has great potential to be a useful policy instrument to promote soft obligations and extend soft power in many more aspects of sustainable development where cooperation is required, rather than a perspective of enforcement, adherence and submission to international law.

With regard to multilateral-level cooperation on sustainable development, the Draft EU-Mercosur Trade Agreement provides a list of forums where Parties can cooperate: "WTO, ILO, UNEP, UNCTAD, High-Level Political Forum for Sustainable Development and multilateral environmental agreements".

5. Pathways to expand the protection of sustainable development in the draft Agreement

The draft EU-Mercosur agreement has been widely criticised in recent years, both in terms of its impacts and its transparency. Although the political negotiations are closed, the full text of the negotiations is not yet available to the public, neither from the commercial pillar nor from the political pillar.

The importance of the EU-Mercosur agreement is immense: it would be the largest free trade agreement of the EU and the Mercosur to date and would have the profile to be in the role of the new contemporary mega-trade agreements.

Therefore, the agreement will have to ensure that the human rights and rights of indigenous populations are guaranteed; if the environment and climate are protected; if sufficient income and reasonable working conditions are guaranteed for the people concerned; and if trust in the rule of law and democratic participation is not abused (Iamazon 2020).

In the context of the current process of legal cleansing of the draft EU-Mercosur agreement, and in light of the growing opposition against the draft, there are currently several studies and reports in which several options for changes to the legal terms of the agreement are discussed and possible reforms are analysed (Gehring et al 2021).

There seems to be a consensus that the only option to improve this agreement would be the renegotiation of the treaty. A new EU-Mercosur agreement should include a progressive Trade and Sustainable Development Chapter with substantive sustainability standards and effective implementation measures and a dispute resolution mechanism. This objective could be achieved only through renegotiations (Mendez-Parra 2020).

A separate protocol/agreement that could implement changes to the chapter, with respect to its substance, procedure, or both, would not be helpful. This option would be based on

the assumption of leaving the EU-Mercosur AA text intact. Therefore, such an additional agreement cannot address all the shortcomings of the current chapter. (Hoffmann and Krajeewski 2021).

A mere statement of interpretation to the Trade and Sustainable Development Chapter would not be useful as it does not change the substantive rules and does not establish a binding enforcement mechanism.

Importantly, the best Trade and Sustainable Development Chapter alone does not guarantee the sustainability of the agreement. Establishing sustainable development clauses in a closed chapter without integrating Parties' sustainable development obligations into other chapters of the trade pillar is not sufficient. A comprehensive approach must take into account all the details of the treaty. Labour, environmental and human rights protection requirements should be integrated throughout the text of the agreement. In addition to the Trade and Sustainable Development chapter, only minimum requirements related to the environment can be found in the entire Preliminary Agreement (Hoffmann and Krajeewski 2021).

Recently, there have been increasing indications that the two parties to the Agreement could be split into a trade agreement that would fall within the exclusive competence of the EU (EU only) and the political part of the Agreement that would fall within the shared competence of the Member States and the EU (mixed agreement) to ensure the rapid ratification of the trade part without requiring ratification by the EU Member States and, therefore, the approval of the national parliaments.

Whether or not the division of the agreement would have a negative impact on sustainable development would depend on the final version of the trade part of the agreement. As human rights are not currently included in the trade part, there is a danger that sustainable development will be limited to labour and environmental issues if the text as it currently stands becomes the trade agreement.

It is clear that declaring sustainable development as a main objective in the preamble to the agreement is critical, and this has been done in other EU agreements. From the recognition of the relationship between trade, environment and sustainable development, it is possible to include these elements in several chapters, such as, trade in goods, sanitary measures, phytosanitary measures, subsidies and intellectual property.

However, the agreement has a very valuable perspective, recognising that barriers to environmental ambition inherently arise from differences in the level of development between the Parties, creating a fundamental culture of governance, technical assistance and cooperation schemes aimed at sustainable development.

Finally, it should be noted that environmental considerations are part of a broader sustainable development agenda. Therefore, action in this regard must be framed in comprehensive strategies, such as the 2030 Agenda. In this context, the interrelationship between climate change, gender issues, consumption, energy, among other issues, could be addressed in future EU-Mercosur discussions.

It is essential to support further public debate on the proposed text of the draft agreement in both regions, mobilising the commitment to transparency, cooperation and governance that can only strengthen the EU-Mercosur negotiations for a fairer, more sustainable and more ambitious trade agreement.

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8. THE EUROPEAN UNION'S PROMOTION OF HUMAN RIGHTS ABROAD: THE CASE OF LATIN AMERICA AND THE CARIBBEAN

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1. INTRODUCTION

The European Union (EU or Union) has a deep and longstanding commitment to protect and promote human rights, both internally and externally (Wouters & Ovádek, 2021). In its relations with Latin America and the Caribbean (LAC), the EU promotes human rights through multichannel and multilevel interactions that follow different degrees of institutionalisation (Müller et al., 2017). This chapter maps and analyses the most relevant dynamics of the EU's policies that promote human rights in Latin America and the Caribbean with a focus on their political and institutional dimensions. It identifies multiple challenges to the Union's promotion of human rights, including the fragmentation of LAC regionalism, institutional and socio-economic asymmetries between Europe and Latin America, a growing global systemic rivalry with consequences for LAC external relations, and the particular importance of third-generation human rights for LAC. It argues that these challenges open windows of opportunity for improvement but demand a flexible European approach to the region in a joined-up external action. Such an approach should fully incorporate broad understandings of individual and collective rights and accommodate the continuous changes in the Latin American and European political and economic landscapes. New and old challenges require proactive Union policies to the region that are flexible enough to maintain open and growing channels of interaction, and consistent enough to lead to meaningful contributions in the long term.

This chapter's first section presents the fundamental aspects of the Union's promotion of human rights as part of its external engagements with a focus on instruments that are relevant in its relations with Latin America. The second section zooms into the EU-LAC relations in the field of human rights to present key channels of interaction, such as the EU-CELAC summits, the EuroLat Parliamentary Assembly, and the human rights components of trade and development. The third and final section reflects on the particular structural challenges for the EU's promotion of human rights in LAC.

2. THE EU EXTERNAL PROMOTION OF HUMAN RIGHTS

Promotion of human rights is a core component of the EU's external action, conceived as a "reflection of the norms which underpin the Union's internal structure and which are fun-

damental to its own identity" (King, 2011, p. 78). This centrality has become fully enshrined in the EU Treaties with the 2007 Treaty of Lisbon, which entered into force on 1 December 2009, and most notably in the current Article 21(1) of the Treaty on European Union (TEU):

> The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity and respect for the principles of the UN Charter and international law (emphasis added).

EU external promotion of human rights is guided by the principles of indivisibility and universality. There is, however, "no specification of the mean of achieving these already broad and relatively vague objectives" (Wouters & Ovádek, 2021, p. 543). As such, beyond the Treaties themselves, other reference points in EU human rights policy include the EU Strategic Framework on Human Rights and Democracy of 2012, which is itself complemented by the EU Action Plan for Human Rights and Democracy (henceforth, Action Plan), currently covering the period between 2020 and 2024. The Action Plan recognises the need for coordinated action by the EU and its Member States (MS), respecting the distinct competences of the various actors involved in the promotion of human rights such as the High Representative/Vice-President (HRVP), who is assisted by the European External Action Service (EEAS), the European Commission, and the Council of the EU (henceforth, the Council). The Action Plan also highlights the key political role of the EU Special Representative (EUSR) for Human Rights (Council of the European Union, 2020, p. 32) whose main tasks are to enhance the visibility and effectiveness of human rights policies.

The EU has a large toolkit of actions and policies to promote human rights globally, from conditionality in development cooperation to public statements and human rights dialogues to clauses in trade agreements. Development policy is a traditional channel for the Union's promotion of human rights, anchored on an understanding of "mutually reinforcing interaction between socioeconomic development on the one hand, and human rights" (Crecht, 2020, p. 387). The Court of Justice of the EU has cited Article 21(2) TEU to support a broader reading of the Union's development cooperation that is "not limited to measures directly aimed at the eradication of poverty, but also pursues the objectives referred to in Article 21(2) TEU" (C-377/12—Commission v Council, 2014, para. 37). Furthermore, the European Consensus on Development of 2017 commits the EU and its MS to implement a human rights based approach (HRBA), which places human rights front and centre in the development policy cycle (Crecht, 2020, pp. 401–402) and includes more technical cooperation sectors such as infrastructure and energy, education, health care, and food security. Hence, the HRBA places human rights fulfilment as a critical element of development cooperation alongside more traditional goals such as poverty alleviation. Within development policy, the Union's main instrument of promotion of human rights is the use of conditionalities – allocation of financial resources (e.g. grants and loans) to sanction (negative conditionality) or reward (positive conditionality) recipients of development cooperation to ensure their compliance with human rights principles. The Union's delivery of humanitarian aid is also conditionalised by respect for human rights. It is important to

mention, however, that contrarily to the Union's common commercial policy (CCP), which is an exclusive competence of the Union, , development cooperation and humanitarian aid are cases of "parallel" competence, as the EU's policies do not prevent the MS from developing their own policies in parallel (Crecht, 2020, p. 386).

The Union also uses its CCP competences to leverage human rights via unilateral and bilateral instruments. Article 207 of the Treaty on the Functioning of the European Union (TFEU) establishes that the CCP shall be conducted in the context of principle and objectives of the Union external action, which include human rights under Article 21 TEU. The 2015 'Trade for All' Communication of the Commission further confirmed the commitment of promoting human rights through trade (Marx & Hachez, 2020). Under the CCP, the unilateral instruments are the various versions of the Generalised Scheme of Preferences (GSP), while the bilateral instruments are human rights chapters and clauses in free trade agreements (FTAs) and provisions for foreign direct investment (FDI). In this context, the Union's overall approach is that an expansion of trade increases the parties' GDP with a positive impact on people's standard of living and enjoyment of rights. In both unilateral and bilateral instruments, the EU uses conditionality to address possible negative consequences of trade liberalisation on human rights such as those related to health or labour rights. In CCP, conditionality refers to a "legal mechanism by which the EU will grant trade preferences or collaborate with other countries on facilitating trade [...] on the condition that the partner country or countries commit to implement and enforce international human rights commitments" (Marx & Hachez, 2020, p. 366)

A third major element of human rights promotion is the use of political dialogues in the Union's external action. The EU has regular human rights dialogues with around 60 countries and regional groupings following different formats. These dialogues are embedded in the Union's overall relations with third countries and groupings. Contrarily to human rights promotion through trade, development cooperation, or humanitarian aid, which are led primarily by the European Commission, human rights dialogues are captained by the EEAS. Following the most recent guidelines (Council of the European Union, 2021), the Union aims at holding genuine peer-to-peer exchanges as well as at sharing best practices in the field. Finally, the newest addition to the EU toolbox is the Global Human Rights Sanctions Regime. Introduced in 2020, it enables the EU to impose restrictive measures targeting human rights abusers separately from the EU's strategy towards their country of origin (Portela, 2022; Youngs, 2020).

The EU's relationship with civil society, both in Europe and in partner countries, is a crucial element of its promotion of human rights. On the one hand, non-governmental organisations (NGOs) are active in the advocacy for human rights at the EU level, which is often more open to civil society advocacy than the national level. The EU has also expanded mechanisms for consulting with NGOs, from civil society seminars to space for NGOs to brief meetings with EU institutions. Through advocacy, but also via the information provided in reports and policy papers, NGOs are "influential in ensuring that human rights concerns are constantly brought to the attention of policy-makers" (King, 2011, p. 84). On the other hand, the EU aims to protect and strengthen a dynamic space for independent civil society action in partner countries. Particular attention is given to the protection of

human rights defenders (HRDs), including gender and environmental dimensions of their work (Council of the European Union, 2020, p. 9). In particular, the Human Rights and Democracy Thematic Programme, under the 'Global Europe: Neighbourhood, Development and International Cooperation Instrument', supports human rights defenders in situations of risk and aims to counter shrinking space for civil society. This support includes an Emergency Fund for HRDs as well as a special mechanism, called ProtectDefenders.eu, which aims to protect HRDs with a helpdesk, emergency grants, temporary relocation, and raising awareness.

Following the 2020 Action Plan, the Union aims at reinforcing mechanisms to promote a global system for human rights and democracy via multilateral cooperation (e.g. UN and its agencies), regional partnerships (e.g. OSCE, Council of Europe, African Union), bilateral cooperation that includes civil society and national human rights institutions, engagement with the business sector, and compliance with international human rights law. In addition, the current version of the Action Plan also emphasises challenges and opportunities originating from new technologies, stating that "human rights apply equally online and offline" (Council of the European Union, 2020, p. 27). On the one hand, new technologies can enhance public participation and transparency, and facilitate documentation of violations and abuses of human rights. On the other hand, new technologies can also accelerate the spread of disinformation and hate speech, enable new forms of violence and abuse of rights, and increase widespread surveillance that limits freedom of expression and shrinks civil society space.

3. HUMAN RIGHTS IN THE EU-LAC INTERREGIONAL RELATIONSHIP

The EU promotes human rights in various policy fields of its relations with Latin America and the Caribbean, and through different channels, which have various degrees of institutionalisation. This section presents the different channels of EU human rights promotion towards Latin America and the key institutional interactions at the region-to-region level (Dominguez, 2015).

The key policy fields of human rights promotion in the EU-LAC interregional relationship (De Lombaerde et al., 2015; Ribeiro-Hoffmann, 2016) are development cooperation and humanitarian aid as well as trade, in which the European Commission plays a leading role. The EU and its MS, taken together, are the largest development partners for LAC. Development cooperation, coupled with its conditionality mechanisms, constitutes a major EU tool of human rights promotion in the region. In the last decade, however, many LAC countries have 'graduated' from low-income countries to upper-middle-income countries and no longer qualify as recipients of official development assistance (ODA). This means that the EU needs to show further flexibility in its approach to the region through thematic funding instruments as well as by paying close attention to inequalities within LAC countries themselves.

Regarding CCP, the EU has concluded 'association, trade or economic partnership agreements' with the large majority of LAC countries, either bilaterally or with sub-regional

groupings. In line with the objective of furthering human rights through trade agreements (Council of the European Union & European Parliament, 2019), many of these deals contain chapters and clauses that are directly or indirectly linked to human rights. In June 2019, the EU and Mercosur representatives agreed in principle on an interregional trade deal. The agreement in principle has been criticised for lacking sufficient means to monitor the impact of trade liberalisation or to protect against negative consequences for human rights protection and sustainability. Members of the European Parliament, in particular, have voiced concern over the need to include stronger human rights protection mechanisms in the deal. (Pasquariello Mariano & Theodoro Luciano, 2019)

Beyond trade and development, the EU implements diplomatic initiatives linked to, on the one hand, regular dialogues in which the EEAS plays a prominent role and, on the other, summits and high-level meetings with heads of governments and ministers. The Union currently engages in high-level Human Rights Dialogues in LAC with countries such as Brazil and Mexico (Blanco & Luciano, 2018; Pavese et al., 2014) in an effort to promote human rights bilaterally through dialogue. These dialogues are held regularly despite changes of government in both countries.

In its most recent joint communication on the EU relations with LAC, the European Commission and the High Representative plan to continue and enhance the promotion of democratic principles and respect for human rights. In particular, the communication puts emphasis on the promotion of the following rights:

> […] freedom of expression and of association; gender equality and girls' and women's empowerment; non-discrimination including for minorities, such as lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, indigenous peoples and persons with disabilities; children and youth; economic, social and cultural rights, including land, water and sanitation, housing and labour rights; the impartiality of the judiciary and the effectiveness of justice systems; an end to the practice of torture and abolition of the death penalty. (Commission & High Representative, 2019).

Most of the rights listed in the joint communication, such as the abolition of the death penalty, are traditionally embedded in the EU's external promotion of human rights. At the same time, the communication also lists rights that are particularly relevant in the context of LAC, such as the rights of indigenous peoples.

In the field of human rights, the joint communication directs the EU to cooperate closely with LAC countries, but also with the relevant bodies of the Organization of American States (OAS) and the Inter-American System of Human Rights (IASHR). The EU's relationship with the OAS in the field of human rights consists of both dialogue and financing. EU-OAS political dialogues allow for the identification of specific areas of cooperation "such as the destination of EU funds and the protection of the most vulnerable groups" (Salmon & Killander, 2020, p. 220). The inter-organisational dialogues also include discussion of common standards of human rights and how to improve institutions of the IASHR. Financially, the EU supports institutions of the IASHR such as the Inter-American Court and the Inter-American Commission, including by addressing the institutional back-

logs. Particular focus is put on the rights of the most vulnerable and excluded groups and communities in the Americas as well as their access to international justice. This financial support is crucial because the IASHR is allocated only a small fraction of the regular OAS budget and therefore relies on voluntary contributions and projects. (Salmon & Killander, 2020, pp. 220–224).

Another channel of region-to-region promotion of human rights refers to the EU's relations with the whole group of LAC countries and without the United States and Canada. In this case, the promotion of human rights is carried out mostly through dialogue during summits and meetings between the EU MS and LAC countries, which are together under the Community of Latin Americana and Caribbean States (CELAC). EU-CELAC summits, in particular, have given impetus to interregional relations in the field of human rights and identified key areas for cooperation. The 2015 EU-CELAC Action Plan, for instance, lists 10 focus areas for cooperation between the EU and LAC countries. In the Action Plan, human rights do not constitute a focus area in themselves, but they are mentioned in chapters such as migration, the world drug problem, and citizens' security.

The third channel of region-to-region promotion of human rights is the Euro-Latin America Parliamentary Assembly (EuroLat), where the European Parliament, and in particular its delegation to EuroLat, plays the leading role from the EU side. In parallel, the Union's Action Plan for LAC recognises the EP's "[…] distinct role and importance in contributing to the promotion of human rights and democracy" (Council of the European Union, 2020). EuroLat is a parliamentary assembly that is supported by a permanent secretariat and brings together 75 members of the EP and 75 members of LAC parliaments, both national and regional. While EuroLat resolutions approved by its General Assembly are not binding, its meetings and demarches create a space for regular transnational socialisation, exchange of best practices, and identification of priorities in various fields of EU-LAC interregional relationships (Müller, 2019). As in the case of the EU-CELAC Action Plan, human rights per se have not been the main topic of EuroLat resolutions so far. Concerns for human rights, however, appear transversally in various resolutions touching upon a variety of topics, from climate change and sustainable development to digital agenda and food security. One of EuroLat's four special committees is also tasked with debating and proposing resolutions on human rights more directly: the Committee on Political Affairs, Security and Human Rights.

4. STRUCTURAL CHALLENGES FOR EU HUMAN RIGHTS PROMOTION IN LAC

The EU's human rights promotion towards LAC, a region composed of over 30 States, is challenging in itself given the specificities of each of the LAC countries, the particular interests and approaches on the side of EU Member States, and the dynamic nature of international affairs. The Covid-19 Pandemic, for example, has substantially shaped EU-LAC relations by placing human health at the top of the agenda ('Joint Communiqué', 2022). There are, however, more structural and long-term challenges to the effectiveness and adequacy

of human rights promotion towards LAC. This section looks at four structural challenges and how they impact EU-LAC relations in the field of human rights.

The first structural challenge to human rights promotion relates to the trend of fragmentation of regionalism and regional integration in LAC. Over the past two decades, regional integration initiatives in LAC, such as the Union of South American Nations (Unasur) and CELAC, led to the coexistence of multiple integration approaches and organisations without a clear division of labour and without significant political and financial backing by LAC countries, whose approach to integration changes with each new government. In particular, CELAC has been unable to meet at the summit level given ideological clashes amongst its members, most notably over the crisis in Venezuela. Consequently, the last high-level EU-CELAC summit dates back to 2015, and the EU is unable to find an interlocutor for human rights for the whole of LAC. Hence, fragmentation of regionalism in Latin America, and in particular the breakup of key groupings such as CELAC, make it difficult to renew impetus and commitment for the promotion of human rights in a truly interregional manner.

A second structural challenge is the growing strategic competition, amongst external powers, for influence and privileged relations with LAC countries. Economically, this refers above all to the relations between China and LAC countries. China is a major trading partner for LAC countries and includes the region in its Belt and Road Initiative (Mander, 2019). Other countries – Russia, Japan, and India, for example – also offer different models of political and economic interaction with LAC that coexist with the more traditional presence of the United States in the region. At the same time, the international standing of the Union as a promoter of human rights, which is seen as an extension of its own policies and structures, has diminished due to its internal crises, such as the migrant and refugee crises and Rule of Law backsliding in Member States such as Poland and Hungary. While the aforementioned external powers do not offer, strictly speaking, direct alternatives for EU-LAC relations in the field of human rights, they can propose non-traditional models of development cooperation and trade relations. Without strict conditionalities or human rights clauses, these alternative models can appeal to LAC countries that seek autonomy and non-interference in their domestic affairs. In this context, the challenge for the EU is to continuously link development cooperation and trade to respect and promotion of human rights while offering flexible mechanisms that ensure ownership and mutual benefit.

The third group of structural challenges refers to the various asymmetries between the EU and LAC as well as between both regions' countries and economies. First, there is an institutional and legal asymmetry that refers to the competences of both sides in the field of human rights. On the one hand, the EU has limited legislative and enforcement competences regarding fundamental rights. At the regional level in Europe, the organisation directly linked to the protection of human rights is the Council of Europe and its European Court of Human Rights under the European Convention of Human Rights. As such, the Union cannot enforce internally many of the human rights standards that it promotes externally, a situation that "has provoked criticism of double standards" (Wouters et al., 2020, p. 3). On the other hand, individual LAC countries – the counterparts of many EU initiatives of

human rights promotion – are fully accountable for their domestic legislation and protection of human rights, or lack thereof. This asymmetry is particularly salient during human rights dialogues between the EU and individual countries, where the EU will indicate that it cannot be held accountable for MS failures to comply with human rights standards, potentially leading to frustration in the discussion.

Another structural asymmetry refers to the socio-economic differences between both regions. Any assessment of human rights in LAC is inseparable from the region's economic and social inequalities. While income inequality has fallen in the last decades, the region is still the most unequal worldwide. This distinct Latin American combination of democratic governments and relatively progressive social and economic rights, on the one hand, and high levels of inequality, on the other, means that large social groups hardly enjoy the rights granted to them by national constitutions and international instruments. It also means that LAC countries are at the receiving end of development cooperation and are subject to human rights conditionalities, which tends to create a unidirectional flow, from Europe to LAC, of approaches to human rights and practices to protect them. Many of the human rights challenges in the region are not about codifying protection mechanisms, even though they might still be necessary, but about ensuring the enjoyment of rights that are already established in legal and political frameworks. Any attempt to establish a more balanced bi-regional relationship between the EU and LAC needs to take the socio-economic asymmetries into account, as inequalities can hinder access to rights.

Finally, a fourth structural challenge is linked to potential differences in approaches to human rights between Europe and LAC and how different generations of human rights are prioritised in the bi-regional relationship. In LAC, there has been an "expansion of the human rights agenda with the inclusion of third-generation rights, namely cultural and environmental rights" (Grugel & Fontana, 2019, p. 709). The region has given growing importance to collective rights, most notably of indigenous groups, which are also linked to environmental sustainability. In some cases, such as in Andean countries, these rights have been incorporated into constitutional and domestic legal frameworks. At the regional level, the IASHR has seen an expansion of the scope of human rights and of a focus on distinctive Latin American elements, such as 'dignified life' expanded the Convention's scope with its case law. A distinctive example is the right to a 'dignified life' ('vida digna' in Spanish), which looks at the quality of life and creates the obligation that states generate minimum living conditions compatible with the dignity of the person. This Latin American focus on collective rights and rights associated with the environment is complementary, but also distinct from the traditional liberal approach to human rights that are closely linked to the EU external action and its own integration history. These differences in approach constitute a challenge to the extent to which they lead to different prioritisations in the bi-regional human rights agenda, but also potentially contradicting standards and way to assess successful protection of human rights. Third generation human rights, for example, are enjoyed collectively and are not primarily about the protection of individuals (Grugel & Fontana, 2019, p. 723). This is a particular challenge for the way in which human rights conditionalities and clauses are assessed and operationalised in development cooperation and trade agreements.

5. FINAL REMARKS

The EU's promotion of human rights is a reflection of Europe's own experience of integration and cooperation, but also relates to a more pragmatic understanding that the "Union's security is best assured through a world composed of states which respect human rights." (King, 2011, p. 79). In its relations with LAC, the Union promotes human rights in various policy areas and through different channels. Most notably, human rights conditionalities and protection mechanisms are embedded in the two major areas of EU-LAC cooperation: development and trade. In addition, the EU also makes use of diplomatic initiatives such as human rights dialogues and meetings with regional and subregional organisations.

While the EU's promotion of human rights towards LAC is impacted by short- and medium-term issues such as political instability, humanitarian crises, or security concerns, it is also shaped by the more structural challenges of the bi-regional relationship. These challenges refer to the fragmentation of LAC regionalism; the growing strategic competition of external powers with alternative modes of interaction for LAC; the institutional and socio-economic asymmetries between both regions; and finally, the differences in approach to human rights, from individual to more collective rights.

These challenges, however, also lead to opportunities for constant renewal of the EU's commitment to the promotion of human rights, and for enhanced and effective protection. In particular, the Union can offer a model of human rights promotion that works towards the empowerment of civil society through financing and technical assistance, but also through the establishment of mutually beneficial partnerships that are anchored on the longstanding transnational relations amongst non-governmental groups. Furthermore, it should pay special attention to the support and protection of human rights defenders across LAC, who face situations of violent conflict, violence, and growing illiberalism. Therefore, the EU should work both with governments – and their regional organisations – as well as with civil society interlocutors in its quest for a better protection of human rights.

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9. DISCUSSING THE MAIN CHALLENGES FOR HUMAN RIGHTS IN LATIN AMERICA AND THE CARIBBEAN AND THE EUROPEAN UNION

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CEJIL: Center for Justice and International Law
CFREU: Charter of Fundamental Rights of the European Union
COVID-19: Coronavirus Disease 2019
EC: European Commission
ECHR: European Convention on Human Rights
EEC: European Economic Community
EMU: Economic and Monetary Union
EP: European Parliament
EU: European Union
GDP: Gross Domestic Product
HR: Human Rights
IACHR: Inter-American Commission on Human Rights
IMF: International Monetary Fund
LAC: Latin America and the Caribbean
LGBTI: Lesbian, Gay, Bisexual, Transgender and Intersex
MERCOSUR: Southern Common Market
NGOs: Non-governmental organisations
OAS: Organization of American States
SGP: Stability and Growth Pact
UDHR: Universal Declaration of Human Rights

1. INTRODUCTION

The Universal Declaration of Human Rights (UDHR) in 1948 aimed at globalising human rights (HR) should have no borders. Every human being should be entitled to freedom and equality in dignity and rights, which should be at the core of any democracy, and guaranteed by the rule of law. Many countries in Europe, Latin America, and the Caribbean declared to be committed to the Charter, although the bipolarity caused by the Cold War soon unveiled the realism of international relations, compromising the building of truly multicultural societies. With the end of the Cold War, Fukuyama's "end of history"

was after all just the beginning of a new era of dissidence and segregation. The globalised economy was expected to foster development and income rise, but this was not equally delivered. The 2008 great recession, the global migration increase, and climate change have been unveiling inequalities as a trigger point to a retreat on HR and multiculturalism. And the Coronavirus pandemic (COVID-19) may even worsen this scenario.

Both Latin America and the Caribbean (LAC) and the European Union (EU) have been affected by these critical events, that endangered HR, and have attempted some responses. This chapter discusses how current global challenges have impacted HR and multiculturalism in EU and LAC, and tries to address the following questions: what have the EU and LAC governments been doing to address social tensions and humanitarian crises endangering HR? What can be done? What can EU-LAC cooperation do to put HR and multiculturalism in the multilateral agenda? Have their internal problems negatively affected cooperation in this field?

To answer these questions, our study is based in a qualitative analysis of literature and primary sources, with assessment of political responses circumscribed from 2009 to 2021. The chapter is organised in three parts: the first one provides the state of play in terms of HR in both regions, the second part explores the challenges they have faced in the last decade, towards the occurrence of some global trends in economy, migration, and public health, and assesses undertaken responses; and the third part discusses what can be done, at the level of each region and through cooperation, offering recommendations for future policy improvement.

2. THE STATE OF PLAY IN HUMAN RIGHTS IN THE EU AND LAC

The introductory part of this chapter discusses the state of play in HR in Europe and Latin America and the Caribbean, introducing the institutional and legal enforcement procedures in the domain in both regions.

2.1 Latin America and the Caribbean

The development of HR in Latin America and the Caribbean has been challenging a historical legacy of colonialism, the genocide of the indigenous population, the failure of neoliberal policies, and dictatorial and military regimes. In the 1940s and 1950s authoritarian but democratic politicians governed most countries in the Americas. In the 1970s and 1980s military dictatorships governed most of the region, including dictatorial regimes in Paraguay (1954-1989), Uruguay (1973-1984), Brazil (1964-1985), Argentina (1976-1983), Bolivia (1971-1978 and 1980-1981) and Peru (1968-1980) (Brito 2006). Central America also had dictatorial regimes. Forced disappearance, domination of public opinion, torture, arbitrary detention were some examples of massive systematic human rights violations that took place in this period (Méndez and Mariezcurrena 2000).

The Americas created the Organization of American States (OAS) at a Conference in Bogotá in 1948 following the promulgation of the Universal Declaration of Human Rights in

the same year. The OAS Charter and the American Convention on Human Rights[34] form the two fundamental legal bases for the protection of HR in the Americas, establishing the rights that are guaranteed to citizens from States who ratified the Convention (Harrington 2009). OAS uses the primary precepts of its Charter and the American Declaration of Human Rights and Duties (Ramos 2015).

With the re-democratisation processes in Latin America, one of the main priorities of the OAS included defending HR, with agencies providing the denunciation and resolution of HR violations in individual cases and monitoring the general HR situation of its Member States. The OAS has the following key agencies and systems focused on the defence of HR: Inter-American Commission on Human Rights (1959), American Convention on Human Rights (1969)[35], Inter-American Court of Human Rights (1979). The Inter-American Court of Human Rights, created in 1979 in San José, Costa Rica, and its Inter-American Human Rights Protection System represent the main international institution for the advancement of HR within the internal scope of its members and the prevention of setbacks in the rights protection system in LAC (Ceia 2013). The Court processes individual petitions by private actors – mainly victims – and can make recommendations to a litigant's State so that the enjoyment of rights is protected, indicating that victims do not rely only on the State[36] (Harrington 2009). These processes impact on guaranteeing HR in LAC, for they strengthen a transnational justice network that enables individuals, whose access to justice is blocked in their home country, to seek justice abroad.

The new constitutions[37] or their recent amendments which incorporated HR treaties into law also help us explain the state's progress in terms of HR in LAC. Full texts of treaties have been ratified by countries as constitutional texts, sometimes prevailing over acts of Congress (Mendez and Mariezcurrena 2000) as States undertook reforms to ensure political and electoral liberalism.

As previously stated, military regimes were responsible for systematic HR violations in Latin America and the Caribbean in the past, and more recently the respect for HR has deteriorated when militarised forces have become involved in law enforcement in the region. In countries such as Colombia, Mexico, Brazil, and El Salvador militaries have performed domestic law enforcement assignments, sometimes violating constitutional restrictions. In this regard, HR non-governmental organisations (NGOs) have promoted legal enforcement of HR against authoritarian regimes in LAC, documenting cases such as extrajudicial killings by military death squads. In Colombia, approximately 800 soldiers were convicted, and 16 generals were investigated between 2002 and 2008[38].

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34. The American Convention on Human Rights. Available from: http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm, accessed 31 Jan. 2022.
35. The American Convention on Human Rights established the rights that are guaranteed to citizens from States who ratified the convention (Harrington, 2009).
36. The Inter-American Convention against Torture, the Inter-American Convention on Forced Disappearances, the Convention on the Prevention of Violence against Women, and the Protocol of San Salvador are important human rights instruments of the OAS (Ceia, 2013).
37. These constitutions established Economic, Social, and Cultural Rights (ESCR) and guaranteed collective rights.
38. Human Rights Watch. Available from: https://www.hrw.org/report/2015/06/24/their-watch/evidence-senior-army-officers-responsibility-false-positive-killings, accessed 22 Fev. 2022.

Many HR NGOs in LAC have focused on protesting and documenting HR violations since the 1970s, preserving records that can be used to hold perpetrators accountable, and accurate evidence of violations to international HR groups. NGOs act as demanders of governments in the region, challenging the domain of political representation and distrustful governments. NGOs face the challenges of becoming autonomous partners of the state and engaging in a more transparent relationship with the political system and social movements (Sorj and Martucceli 2008). Beyond NGOs, it is important to point out that social movements of specific populations like indigenous groups, women and afro-descendant people have been key in articulating the defence of HR in LAC, bringing specific demands to individual and collective rights. Regional organisations such as the Centre for Justice and International Law (CEJIL[39]) have also strengthened legal enforcement of HR in LAC by using the international HR law and the bodies of the Inter-American Human Rights System to represent the victims of HR abuses across the Americas.

The Southern Common Market (MERCOSUR[40]), a regional integration process established by the signing of the Treaty of Asunción by Argentina, Brazil, Paraguay and Uruguay in 1991, has focused on generating business and investment opportunities and has been founding agreements for migration, culture and social matters. MERCOSUR Member States have accepted the competence of the Inter-American Court of Human Rights and are signatories of the American Convention of Human Rights but started to develop a system of HR governance transfer, only 15 years after its creation. MERCOSUR has a normative framework and instruments concerning first, second, and third-generation HR, including economic rights, education rights, free access to justice, rights of women and collective rights of the environment and cultural heritage (Hoffman 2015). However, in MERCOSUR power is centralised by the presidents of the Member States, and challenges such as the absence of effective civil society participation and tensions among powerful members slow down the regional integration of the bloc and consequently its cooperation with other institutions such as the European Union (Caichiolo 2017).

The second section of this chapter discusses internal and global challenges faced by LAC and European States that affect the development of HR in both regions. In LAC, social inequality, poverty, adoption of compensatory social policies in place of income distribution and social inclusion, threats, and abuse of state authority, are some of the main challenges that persist.

2.2 The EU

Besides the UDHR, the extremism of the Second World War led to the creation of a specific international law instrument for Europe, the European Convention on Human Rights (ECHR), which came into force in 1953, under the auspices of the Council of Europe, which

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39. CEJIL was founded at a meeting held in Caracas by a group of prominent Latin American human rights defenders, and from 2006 to 2007, CEJIL and its co-petitioners litigated and supervised the implementation of more than 250 cases before the Inter-American Commission and before the Court (CEJIL, 2010). Available from: https://cejil.org/pt-br/, accessed 25 Feb. 2022
40. Mercado Común del Sur, in Spanish. Venezuela and Bolivia subsequently joined MERCOSUR. See: https://www.mercosur.int/en/about-mercosur/operations/, accessed 26 Feb. 2022.

also created the European Court of Human Rights that rules over the alleged violations of the Convention. Although HR were part of the imaginary of European unity, European integration started by the market, with the Treaty of Rome creating the European Economic Community (EEC). Yet, the following measures to start integrating economies awakened concerns about the breaching of individual rights protected at the national level, leading the European Court of Justice to sustain that fundamental rights were "enshrined in the general principals of Community law" (Williams 2015, 252). This tried to appease national courts' worries that the EEC legislation could infringe fundamental rights (FR) enshrined in national constitutions, but it didn't recognise competence to the EEC to enact legislation on the realm of HR. In 1975, a report of the European Commission (hereinafter Commission or EC) displays the idea of creating a list of rights which would be the base for the EU, and in 1977, European Parliament (EP), the Council, and the Commission issued a Joint Declaration on Fundamental Rights, proclaiming the importance of protecting FR (EP, EC and Council 1977). Other symbolic acts were the Declaration of Fundamental Rights of the European Parliament (EP 1989), and the Community Charter of Fundamental Social Rights, in 1989 (EC 1989).

The European Single Act gives the first step to institutionalise HR in primary law, setting that the goal of the Community is "to promote democracy on the basis of FR recognised in the constitutions and laws in the Member States, and in international organisations and conventions". Yet, this does not mean any legal substantial advancements in the EEC competencies. The Treaty of Maastricht goes further and commits the EU to comply with FR (Article F, Common Provisions), and the Treaty of Amsterdam represents a significant move, stipulating the compliance with FR as a condition for membership to the EU while introducing the possibility of sanctioning an infringing Member State. It charges the Council with the competence to approve the suspension of voting and other rights of a Member State in case it is found to be breaching FR (Article 7, TEU).

In 2000, the adoption of the Charter of Fundamental Rights of the European Union (hereinafter the Charter of CFREU), in the European Council of Nice, is a milestone. Although the political tensions around the document impeded to go beyond a symbolic political proclamation without legal binding status, it still is the first list of principles attached to the Union, with the innovative characteristic of compilating in the same list civic, social, and political rights. The Treaty of Lisbon makes the significant move, by providing the Charter with legal binding value (article 6, Treaty on EU), and amending the Treaty on European Union (TEU), reading that the EU (Article 2) "is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for HR, including the rights of persons belonging to minorities." Article 3 adds that the Union's aim is to promote peace, its values, and the well-being of its peoples and that it shall offer its citizens an area of freedom, security, and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration, and the prevention and combating of crime. The CJEU is the guardian of the Charter. Moreover, the TL also makes the provision for the EU to adhere to the ECHR (Article 6).

The Charter does not apply to all situations in the EU. The "constitutional" status of the FR envisioned by the Treaty of Lisbon means that the enshrined rights cannot be violated either as the result of a direct or indirect action of the EU, meaning that the national transposition of European legal acts still applies to the Charter (Silveira 2017). Hence, it bounds either the EU, considering its institutions and bodies, or its Member States to its principals, as the jurisprudence of the CJEU further stated. Furthermore, it applies only when legislation is involved, which includes the law-making process and respective implementation, covering Member States only when implementing legal acts (EC 2011). Besides some ambiguity, the Union is now committed to the promotion of HR, which somehow suggests a more positive role, although the binding value does not imply new competencies for the EU. Still, it has reinforced practical procedures to ensure, for example, that the proposed legislation is in conformity with it. But one thing is avoiding breaching the HR and another one is ensuring their respect through policy competence (Williams 2015, 253).

So, if on one side, the EU has the duty of meeting HR principles, considering its constitutive parts – the Member States - on the other, it only has a soft power of guaranteeing their compliance. It is a fact that EU institutions can enforce compliance with HR, for example by approving legislation in the realm of their competencies. The Commission, as a promoter of the respect for the Charter, has shown legal initiatives, like anti-trafficking, new rules on equal treatment, promotions of the rights of the child, minimum standards of rights recognised to crime victims, beyond the external action of the EU (Williams 2015, 263).

One year after the EU was operating based on a legally binding bill of rights, many challenges were still ahead. In its annual report, the Fundamental Rights Agency (FRA 2010, 12-22) highlighted Roma discrimination in France - with national policies of repatriation to Romania and Bulgaria in apparent conflict with the EU free movement rule - and called attention to this minority, disproportionally affected by social exclusion, unemployment, poverty, bad housing, low levels of education and poor health standards (EC 2011, 10). In the realm of migration and border controls, problems were also reported. Greece was facing unprecedented pressure of asylum seekers, challenging its ability to comply with HR, but this concern is general in the EU, as Member States registered difficulties to fulfil the EU asylum acquis. Furthermore, unlawful detention and inhuman treatments of detained foreigners or illegal immigrants for return processes and concerns about the procedures in border controls regarding data protection rights were also a problem. Discriminations based on sex, religion, disability, sexual orientation, or age remained a problem, and racism kept being an issue in access to employment, healthcare, housing, and education. Racially motivated crimes happened on a daily basis on European soil (FRA 2010). The situation at the time was far from being fully compliant with HR, and how will it be with the EU facing multiple crises in the following years?

3. CHALLENGES FOR THE DEVELOPMENT OF HUMAN RIGHTS FACED BY LATIN AMERICA AND THE CARIBBEAN AND THE EU

This section analyses the EU and LAC government's responses to address social tensions and humanitarian crises endangering HR, and questions if delivered policies, and other solutions have been sufficient to move forward compliance with HR.

3.1 Latin America and the Caribbean

This sub-section discusses challenges for the development of HR in Latin America and the Caribbean, including the COVID-19 pandemic and migration as global challenges, and what governments have been doing to address these challenges. It also draws attention to a qualitative analysis of literature and primary sources, mainly the Inter-American Commission on Human Rights (IACHR) report[41] published in 2020, which presents an overview of the HR situation in 32 countries of the region.

As previously mentioned, most Latin American countries went through successive cycles of authoritarianism and re-democratisation and the transition from military and military-dominated regimes to democracy in the 1990s looked forward to the establishment of the rule of law and the protection of HR, but authoritarian practices continued, accompanied by a military legacy, "self-amnesty, pseudo-amnesty and real amnesty" (Méndez and Mariezcurrena 2000: 3), and criminal violence.

 The failure on this front has led to the public demand for 'mano dura' (hard policing) with 'hyper punitive' criminal justice practices and a crackdown on crime and petty criminals. Hard policing has challenged HR defenders as it can be a justification for arbitrary police violence in the region, including social cleansing and summary executions led by state actors which violate rights to fight crime successfully (Neild 2001). In Brazil and Jamaica, for instance, shoot-to-kill policies are linked to a lack of political will, together with implicit public support (Uildriks 2009). Police acts protect elites from the poor and can act with extreme brutality due to a sense that abuses of power will be tolerated because of lack of accountability (Hussain 2009).

The Inter-American Commission on Human Rights' report[43] pointed out the excessive use of police and military forces concerning citizen security in demonstrations and social protests, which resulted in deaths, injuries, and arbitrary detentions in LAC. A high number of HR defenders and social leaders were murdered in the region, and many were criminalized and harassed. In Colombia, more than 250 social leaders and HR defenders have been murdered and 75 massacres have taken place since the beginning of 2020 , and the situation worsened throughout the processes of implementation of the Peace Agreement.

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41. IAHCR Annual Report 2020. Available from: http://www.oas.org/en/iachr/docs/annual/2020/FB/Default. html#p=369, accessed 31 Jan. 2022.
42. Ibid.
43. Indepaz. Available from: http://indepaz.org.co/category/conflicto-y-paz/ (accessed 1 February 2022).

Despite re-democratisation of 1985 in Brazil, criminality and insecurity have endangered HR. In 2000, there were 46,000 homicides in the country (ISER 2002). In 2020, Brazilians faced enormous losses to COVID-19 and a 4% increase in violent deaths. There were 50,033 victims of violent deaths[44], including intentional homicides (78% of the victims killed with firearms robbery, bodily injury followed by death, femicide and deaths resulting from police intervention[45]). Confinement policies implemented during the pandemic led to higher levels of violence against women in the region[46]. IACHR's report also noted a high level of violence against Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons due to their sexual orientation, gender expression and/or identity or sexual characteristics.

Regarding criminal justice reform, prison conditions and prison reform are major challenges for the development of HR in the region, as there is a constant growth in offences punishable by prison and length of prison terms. Excessive pretrial detention is particularly challenging as between 70 to 90% of inmates are being held pending trial in Latin American prisons although they have never been convicted of a crime, contributing to overcrowding and violence in the prisons (Hafetz 2002). To tackle this issue, criminal justice systems have been facing significant reforms in countries such as Chile, Venezuela, and Bolivia, incorporating changes that impose time constraints on investigations, reflecting a shift from an inquisitorial system of justice to an adversarial one. Reform has been initiated by the government in Chile, Colombia, and Peru, while civil society has pressured police and judicial reform in Argentina, Brazil and Mexico. In Haiti and Guatemala, reforms have been mainly driven by international actors (Uildriks 2009). About the feasibility of these reforms, mistrust and corruption are key issues in a context of a clientelist relationship between state actors and citizens (Uildriks 2009).

Concerning the global challenge of migration, the violation of HR by the States, organised crime, by political, sanitary, economic and environmental crises in countries such as Venezuela, Haiti and Mexico have led to a migrant crisis in the region. The intense flow of immigrants – voluntary and forced – from these countries to Brazil, Chile, and the United States of America[47], have separated children from their parents, exposing them to sexual exploitation and trafficking while adults face unemployment, poverty, and social stigma. Regarding rights of persons in human mobility, IACHR's 2020 report[48] flagged immigration detention practices, a decrease in resettlement actions for refugees and acts of xenophobia among other issues.

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44. On the other hand, Belize had a 25% decrease in homicides in the context of the COVID-19 pandemic in 2020. In Argentina, there was significant progress on legal initiatives on gender issues and the implementation of policies for the inclusion of indigenous peoples, Afro-descendent communities, and persons with disabilities. There was also progress on issues of justice, truth, and memory. IAHCR Annual Report 2020. Available from: http://www.oas.org/en/iachr/docs/annual/2020/FB/Default.html#p=36 (accessed 31 January 2022).
45. Folha de S. Paulo. Available from: https://www1.folha.uol.com.br/internacional/en/brazil/2021/07/homicides-increase-in-brazil-after-2-years-of-decline.shtml (accessed 20 January 2022).
46. In Argentina, femicides also increased during the first eight months of 2020. IAHCR Annual Report 2020. Available from: http://www.oas.org/en/iachr/docs/annual/2020/FB/Default.html#p=369, (accessed 31 January 2022).
47. Estadão. Available from: https://educacao.estadao.com.br/blogs/estadao-na-escola/2021/10/01/crise-migratoria-nos-eua-motiva-discussoes-sobre-america-latina/ (accessed 28 January 2022).
48. IAHCR Annual Report 2020. Available from: http://www.oas.org/en/iachr/docs/annual/2020/FB/Default.html#p=369 (accessed 31 January 2022).

Lack of guarantees in terms of HR institutions, challenges for judicial independence, domestic violence against women – particularly during confinement measures – violence against children and adolescents, including organ trafficking in Bolivia, racism against indigenous peoples, participation of high-level authorities of the executive branch of the State in protests demanding the return of the dictatorial period in Brazil and threats to freedom of expression[49] are only some of the recent challenges for the development of HR in LAC[50].

The COVID-19 pandemic has provoked an economic, humanitarian, health and environmental crisis and consequently the possibility of new forms of reorganisation of social and economic relations, challenging us to comprehend and place HR in this situation, considering the aggravated violence in the context of LAC against HR defenders, journalists and social minorities, as previously mentioned in this section.

3.2 The EU

The repercussions of the 2008 financial crisis in the Eurozone, leading to high rates of unemployment and social exclusion, the high demand of asylum seekers since 2015, with thousands of deaths in the sea, and the recent Pandemic crisis, raised serious challenges in terms of HR for the EU. In this section, based on literature and primary sources issued by the EU (considering its institutions and agencies) and NGOs, we aim to analyse responses the EU was able to provide to those crises in terms of HR. In the analysis we consider only the direct action of the EU, and not of the Member States, regarding compliance with the CFREU. Although national political systems are also an important level of HR guarantee, our focus is assessing the political performance of the supranational European level.

Eurozone sovereign debt crisis emerging in 2010 demanded from the EU action to correct national public deficits endangering the stability of the single currency and liquidity in the European banking system. This unleashed the most serious economic crisis since the beginning of the European integration. The responses the EU provided in the framework of the Economic and Monetary Union (EMU), particularly the Stability and Growth Pact (SGP) rules, had severe economic and social repercussions. The bailout programmes approved by the Troika, implied a conditionality agreed upon memorandum of understanding with some Eurozone members (Greece, Ireland, Portugal, Spain and Cyprus) (Parker and Tsarouhas 2018; Hodson 2017; Stockhammer 2016: 2), and triggered austerity policies with a huge financial contention for national governments, leading to raise taxes and cut public expenditure. Long-term social and economic impacts were expected (Hudson 2016: 119; Vlachos and Bitzenis 1-3). Social exclusion grew and unemployment rates soared, reaching 12% in the Eurozone in 2013, 17% in Portugal and 27% in Spain. Among the youngsters, it

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49. In Brazil, President Jair Bolsonaro verbally aggressed and threatened journalists, especially women journalists, encouraging the president's supporters to pursuit physical attacks against journalists. IAHCR Annual Report 2020. Available from: http://www.oas.org/en/iachr/docs/annual/2020/FB/Default.html#p=369 (accessed 31 January. 2022).
50. Ibid.

reached 56% in Spain and 62% in Greece (Eurostat 2013). In the most affected countries, the long-term unemployment rate quadrupled between 2008 and 2012 (Oxfam, 2013).

From 2010 to 2014, total public spending was cut by 40% of GDP in Ireland, while social security budgets saw decreases of over 5% in Portugal, Greece, Latvia, and Romania. Limits were strengthened to the eligibility for benefits of the unemployed and disabled in Portugal, Ireland, and the UK. Spending on health in Europe reached its first drop in decades, with Ireland and Greece exceeding six per cent of cuts (Oxfam, 2013). Oxfam reports, for example, that in Lisbon, clients of pharmacies, mainly women and elderly people, "did not complete their whole prescription due to rising costs" (Oxfam 2013, 9). Raising taxes, like the VAT, produced a regressive effect, with the poorest being the most affected. This has resulted in the growth of working households leaving in poverty and together with the dismantling of social protection systems, mechanisms to combat inequality were weakened, therefore increasing inequality, with the already most deprived being the most affected, like disabled, women, unemployed and low-skilled people (Oxfam, 2013).

The Nobel Laureate Joseph Stiglitz warned Europe was at risk of doing serious and permanent damage to the continent's long-cherished social model (Oxfam 2013), and even IMF, one of the Troika institutions, recognised later the exaggeration of the deflationary policy (Elliott, Inman and Schmidt 2013). It goes without saying that social rights are embedded in the CFREU in the guarantee of the right for the dignity of life, but they are explicitly in article 34, recognising "everyone residing and moving legally within the EU, entitled to social security benefits", as well as the right to benefit from "health care" (art. 35°) and from "access to services of general economic interest" (art. 36°). The Fundamental Rights Agency which normally avoids political comments warned that there was the risk that the rapid reduction of deficits implicating the abrupt cuts in social security expenditure would affect adversely social protection (Williams 2015, 267).

To address the economic and social impact of the financial crisis, the Commission launched in 2009 the European Economic Recovery Plan, amounting to €200bln, 1,5% of the EU GDP, using the European budget, and approved, between 2012 and 2014, a series of administrative and financial instruments to respond to the social emergency context, like the Almunia Package, the Social Investment Package, the Youth Employment Initiative, the Fund for European Aid for the Most Deprived, and the European Fund for Strategic Investment, some of them integrated into the Multiannual Financial Framework (Valadas and Sebastião 2019). This tried to help Member States relieve the social impact of austerity, but it did not act structurally in economic and social policy. The same applies to the European Pillar of Social Rights, approved in 2017, compiling a list of social principles and rights, but with a statute of a political proclamation only, without bounding the EU to approve social policies like European unemployment schemes, minimum wages, or labour protection mechanisms (Valadas and Sebastião 2019). Although financial funds may have attenuated negative social consequences, they did not solve the structural problem at its origins.

With the outbreak of the migration crisis in 2015, the EU revealed incapable of answering to the demands of asylum seekers and managing the Schengen Area to guarantee the fruition of freedom and justice. From the 1.3 million asylum applications the EU received in 2015

and 2016, a huge increase when compared with 2014 (about 627 million) (Eurostat 2019), only 700 thousand were submitted to Germany, 121 to Italy, 100 to France, and 50 to Greece.

Although the EU has a range of regulations and directives to govern asylum (the Common European Asylum System - CEAS), it fails to respond to situations of a mass influx of migrants. The rule of the Dublin Regulation sets a general criterion for defining the responsible state for granting asylum, as the entrance state of the asylum seeker, but this turned insurmountable in moments of the great influx of migrants, with Italy and Greece, the Mediterranean entrance doors of Europe, unable to respond to the asylum applications. Therefore, uncontrolled secondary routes occurred in the Schengen Area to the northern countries, with improvised camps, such as the "Calais Jungle", exposing fragile migrants to human trafficking, sexual abuses, and other crimes. Germany received about 48,8% of the applications, followed by Italy and Sweden (Zaun 2018: 50).

The two relocations schemes approved by the Council of the EU in 2015, setting a quota redistribution for all the Member States, as an emergency solution to relieve pressure on Italy and Greece was not enough, as migrants kept arriving at the shores of Europe. Besides, it triggered huge political tensions, with the Visegrad States[51] denying receiving their quota of migrants, comparing the refugees with a Muslim invasion (Tharoor 2015). To correct structural inefficiencies of the CEAS, the Commission proposed a legal mechanism for emergency situations, predicting to provide it with supranational competence to relocate migrants to all Member States, based on a quota system. But it was not approved, clashing with a group of countries resistant to transfer sovereignty in those sensitive issues, like granting asylum and borders management. Recently, the von der Leyen Commission launched a new legal package, proposing a solidarity mechanism, based on voluntarism (EC 2020), that although may provide junctural solutions is far from solving the structural problem of variable geometry of asylum management in Europe.

Towards the unsuccessful legal attempts, the EU has issued remediating measures, like the creation of hotspots in Greece and Italy, and funds to help Member States hosting refugees. Nevertheless, hotspots have been reported as an exposition of people to revictimization, human trafficking, and related crimes (Bigo 2014). Moreover, the Union has externalised responses, incorporating migration controls measures in its external action, for example through the creation of the Partnership Framework for Migration, deepening cooperation with main origin and transit third countries (Sebastião 2019: 10). But this has raised criticism and concerns about HR fulfilment, as in the case of the EU-Libya partnership to control the Mediterranean route, with the UN reporting unimaginable horrors faced by migrants and refugees with Libyan authorities (Scherrer 2019). The same happens with the 2016 EU-Turkey deal, for returning migrants arriving in Greece after crossing Turkish territory (Fotaky 2019). By externalising asylum policies, the EU risks breaching the CFREU and international conventions, given the fact that some third countries fall short of the criteria for being a safe country for an asylum seeker.

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51. Poland, Hungary, Check Republic and Slovakia.

Pandemic public health control raised unprecedented challenges to HR in the EU. The declared states of emergency or special legislation adopted by Member States to contain the spread of the virus, imposed constraints in several HR, like the freedom of movement (nationally and within the EU), of assembly, the right to private and family life. As the situation improved, restrictions were gradually lifted or eased, but with the following waves of the pandemic, they were reinstated (FRA 2021: 12-16). EP recalled that even in a state of emergency, FR and the rule of law must prevail and such limitations should be proportionally taken and temporary (EP 2020). Access to health care was compromised on an equal basis, as situations of de-prioritisation based on age and medical triage happen on the same ground, and treatment for severe health conditions but not urgent were postponed, such as cancer. Inequalities in access to health care worsened, affecting people in institutions, with disabilities, Roma, refugees, immigrants, or homeless, as well as in education, with the implementation of distance learning (FRA 2021, 17-18). Furthermore, lockdowns affected mostly those with low-skilled, low-income, and precarious jobs, aggravating the gap between rich and poor. Unemployment rose generally in the EU, more seriously in some countries and sectors of the economy, like tourism, arts, and entertainment.

EU governments addressed this with social security extraordinary measures, like lay-off and temporary suspension of payments of private credit and other household expenses, and the EU approved an unprecedented financial package, the "Next Generation EU", a €750 billion recovery plan, comprehending grants and loans for the Member States. Furthermore, a temporary suspension of the SGP criteria was approved and the ECB issued the Pandemic Emergency Purchase Programme to face falling inflation (Sebastião 2021: 255). However, these responses were crucial to avoid deeper economic and social damage, Covid-19 has long-term impacts and accelerated existing trends of growing inequalities (British Academy 2021).

4. WHAT CAN BE DONE TO IMPROVE THE DEVELOPMENT OF HUMAN RIGHTS IN EUROPE AND IN LATIN AMERICA AND THE CARIBBEAN

Based on the previously made analysis, the third part of this chapter has a predictive perspective, discussing what can be done to tackle the main challenges for the development of HR in Europe and in LAC, reflecting on what both regions can do to improve internal compliance with HR, and to foster cooperation to promote HR and put them in the multilateral agenda as a priority issue.

In many countries of LAC, governments have not been effective in protecting HR nor facing some of the challenges for the development of these rights. NGOs and various civil society organisations were created to defend HR and as a response to political repression, fighting for the rights of imprisoned citizens, of children who live in the streets and are victimised by crime and by neglect, landless peasants, indigenous and non-indigenous populations displaced because of conflict over land, and women. These organisations have influenced HR and indigenous rights agendas and promoted laws and standards to eliminate all forms of individual discrimination.

Concerning the EU, despite FR being at the level of primary law, it does not mean that the Union became an effective actor of HR. Two main limiting causes are identified: first, the binding legal value of the Charter does not translate into supranational competence for enforcement and promotion of HR; and second, as a polity based on shared sovereignty, the EU has different levels of political competencies. Some of them may be conflicting with HR in particular junctures, and others may not be sufficient, or dependent on difficult policy-making procedures, to address HR constraints.

For example, the EC is simultaneously a guardian of the Charter, and, within the framework of EMU governance, an executor of the SGP criteria. During the Eurozone sovereign debt crisis, as one of the members of the Troika, it was involved in the conception of austerity policy, like the imposition of the limit of 6% of the GDP for the public spending with the health system in Greece (Williams 2015, 266). On the other side, to address the social side-effects of the crisis, the EU could have approved some measures of social policy, as this is a domain of shared competence with the Member States. Nevertheless, the unanimity rule for decision-making turns it difficult to approve social legislation. On the opposite, a single currency is an exclusive competence of the EU, and the derived SGP has a kind of constitutional status in the EMU governance, legally bounding Member States. This is the evidence of the historical imposition of the market in the institutional path of European integration, which is prone to create conflicting interests in some junctures (Williams 2015: 268).

Concerning the migration crisis, the lack of an effective system of quota shares of asylum seekers between all the Member States is a cause of perpetuation of HR breaching. The EU has a shared competence in the domain of asylum policy, whereas the qualified majority needed to approve legal acts was not achieved until today, to change the paradigm of national sovereignty in this domain. Regarding the Covid-19, despite the ground-breaking response of the EU, the estimated long-term impacts of the pandemic and the deepening of pre-existent inequalities might require a comprehensive approach.

What can the EU internally do to overcome vulnerabilities in HR compliance? In the use of the competencies enshrined in the treaties, it can launch a truly supranational social policy as complementary to the national social security systems and create an effective asylum system for mass influxes of migrants, with a temporary relocation scheme of asylum seekers for all Member States, to allow an effective and timely response to arrivals in Europe. With this, externalisation of measures could be kept for the essential. Concerning pandemic, although the Next Generation EU represents the first step for a supranational regulation of the European market, acting over transnational businesses and environmental issues, this can be enhanced. European regulation can be applied to other areas trying to mitigate growing inequalities through the de-regulated market, while generating more revenues for the European budget, to support social policies and more investment in asylum support internally.

Reflecting on possible cooperation between the EU and the LAC to foster those issues, first, EU-LAC summits could be reactivated on an annual basis, placing HR in the bilateral agenda. Furthermore, NGOs of both regions can push the discussion of HR and multiculturalism on the multilateral agenda of the EU and foster solutions for the LAC to improve HR.

Considering common challenges for the development of HR in LAC and the EU such as international migration, MERCOSUR's normative framework and standards for the protection of the rights of migrant children and several legislative good practices concerning asylum and refugee laws (Freier and Gauci 2020) could benefit of the EU legal instruments of international migration and vice-versa. According to the former Director of UNHCR's Bureau for the Americas, "Latin America displays the best laws and the most generosity for refugees in the world" (Ercolano 2008). In 2009, MERCOSUR created the Instituto de Políticas Públicas en Derechos Humanos (IPPDH)[52] "with the aim of providing technical cooperation and assistance in the formulation, design, implementation and articulation of public policies on human rights" to its members. One of the working focus of the institute is the respect for children's HR, for example migrant children. Exchanges of legal practices between both regions could result in mutual legal improvement and HR enforcement in this specific issue.

Regional and bi-regional level programmes of the EU can contribute to the development of HR in LAC as they can improve institutional capacities in the public policy design and management cycle in LAC, generating incentives for change and favouring the exchange of knowledge of significant experiences and mutual learning between the regions. Programmes such as EUROsociAL+, EL PacCTO and EUROCLIMA+4 have "been promoting new partnerships between the EU and Latin America through knowledge exchange tools, peer learning, public technical cooperation and policy dialogue, working with public administrations, institutional networks and supporting regional, subregional and bi-regional forums" (Rollón and Altrogge 2019 apud Altrogge 2021). These programmes can promote policy dialogues, foster adherence to joint policies and foster trust between people and institutions.

However, the recent reduction in budget allocation for the Latin America and the Caribbean region in the EU's 2021-2027 financial framework can be a challenge, clashing with its commitment to build partnerships based on shared values in the 2030 Agenda for Sustainable Development (Altrogge 2021). This decrease in recent years is due to changing priorities in the EU, namely the internal challenge of asylum management, as seen above, but the fiscal competence derived from the instrument Next Generation EU approved in 2020, can be of inspiration to increase the European budget revenues in the future, to release money to those kinds of programmes. Furthermore, these predicted fiscal instruments at the supranational level can also be of inspiration for Mercosur or LAC countries cooperation to create transnational market regulation, while addressing common problems, like climate change and multinational businesses monopolies, and finance a common fund with HR aim.

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52. Institute of Public Policies on Human Rights, in English.

5. CONCLUSION

Based on the presentation of the state of play in HR in the EU and LAC, this chapter analysed the responses provided by both regions to global challenges for HR, such as the 2008 great recession, the migration increase, and the pandemic, and discussed whether they were sufficient, proposing prescriptive measures for both regions internally and through cooperation to foster HR compliance. In LAC, the role of the Inter-American Court of Human Rights and its Inter-American Human Rights Protection System is highlighted in providing legal enforcement of HR in the region, and NGOs, following re-democratization processes. In the EU, the binding value provided to the CFREU was determinant for having a legal document to enforce HR.

Although those processes were a significant step, as they institutionalized regional HR bills, we conclude that both regions still face legal and practical challenges to comply with HR. In LAC, the permanence of structural violence, poverty and extreme poverty, hard policing, poor criminal justice practices and prison conditions, authoritarian practices, domestic violence against women, threats to freedom of expression, criminality, among other problems are observed. These HR threats are aggravated by migration increase and the COVID-19 pandemic. In Europe, although structural threats to HR are not so severe, the recent crises have been testing the EU's institutional and political capacity to meet the letter of the law. Although some measures have mitigated HR breaches, they fall short of being effective policies to fight structural causes of infringement.

Despite this scenario, we conclude that both regions have the potential for mutual learning and capitalization of positive background policies and recent political measures to address crises. Each region can benefit from each other's good practices considering their expertise to improve internal compliance with HR, as well as push the discussion of HR and multiculturalism on their multilateral agendas. LAC, internal problems such as social inequalities, militarised governments, political repression, and organized crime have negatively affected cooperation with Europe in the HR, as well as MERCOSUR's internal challenges and loss of political ground under the administration of the Brazilian president Jair Bolsonaro. Both MERCOSUR and the EU should and have the potential for a stronger role in building HR policies and in promoting multilateral cooperation in this area.

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