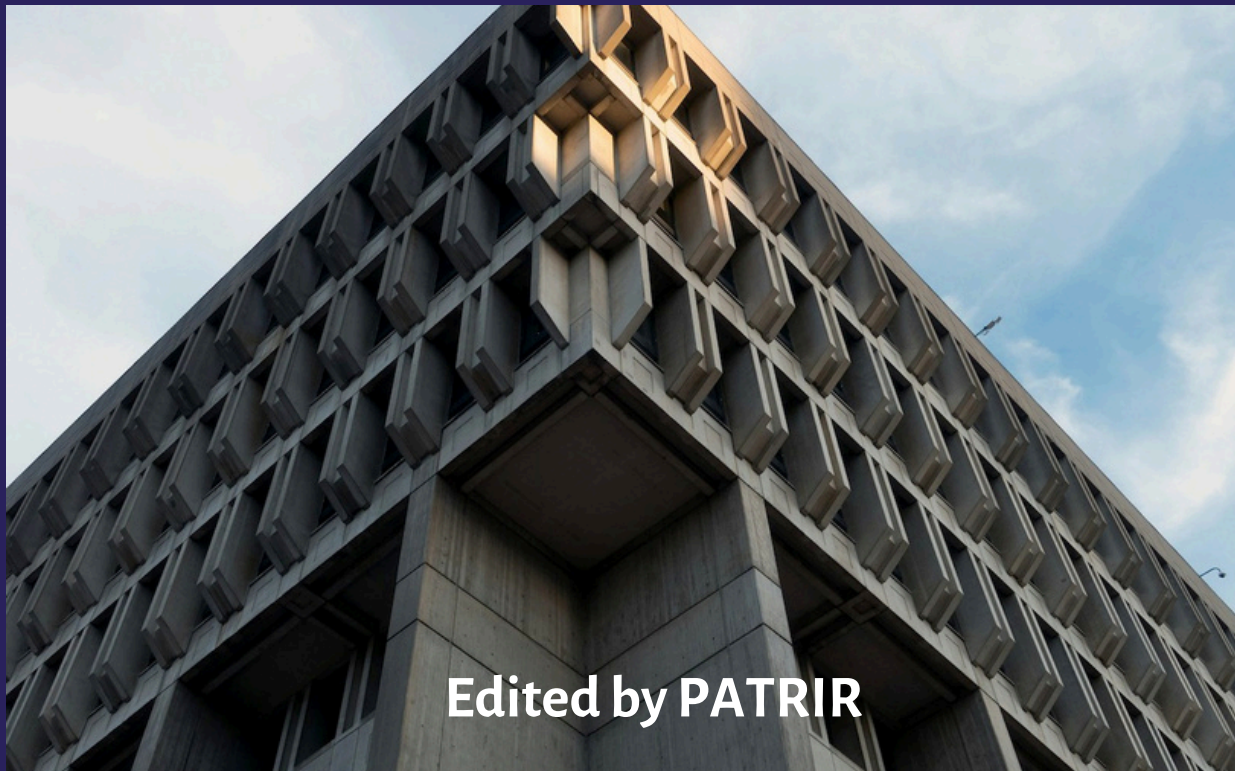


**SELECTIVE OUTRAGE, SELECTIVE LAW:
WHAT THE GAZA WAR REVEALS ABOUT
THE LIMITS OF EU RULE-OF-LAW
CREDIBILITY IN THE SECURITY PARADIGM**

POLICY BRIEF



Edited by PATRIR

Selective Outrage, Selective Law: What the Gaza War Reveals About the Limits of EU Rule-of-Law Credibility in the Security Paradigm

Abstract:

This policy brief examines how the recognition and governance of mass atrocities serve as a critical test of the European Union's rule-of-law credibility in the European Neighbourhood, particularly in relation to the ongoing war in Gaza. While atrocity prevention, genocide recognition, and cooperation with international justice mechanisms are integral to the EU's legal and political frameworks, their implementation is increasingly shaped by security exceptionalism and geopolitical selectivity. Drawing on recent conflicts and EU partnerships across the Neighbourhood, this brief demonstrates that inconsistent application of international humanitarian law and transitional-justice conditionality undermines the authority of EU rule-of-law engagement, fosters scepticism among partner societies, and enables authoritarian consolidation. The brief concludes that restoring credibility requires re-anchoring security cooperation within binding atrocity-law obligations, enforceable conditionality, and the protection of democratic dissensus

Commemorations and the Rule-of-Law

On July 11, 2025, European Commission's President Ursula von der Leyen marked the 30th commemoration of the Srebrenica genocide by explicitly reaffirming its classification as "genocide". She underscored the obligation to preserve the historical record of the murder of nearly 8300 Bosniak Serb forces in July 1995 and condemned the persistent denial and contestation of this crime in Bosnia Herzegovina and Serbia.¹ Such language reflects the European Union's established view that memory, prevention, and legal recognition of mass atrocities are fundamental for conditions for political alignment and a dimension of the European Union's external policy. In the Western Balkans, genocide recognition has functioned as a legal benchmark for democratic credibility and institutional convergence with the EU, despite ongoing internal divisions.²

Yet, nearly two years into the humanitarian crisis in Gaza, the legal framework for atrocity recognition is challenging the very foundations of the rule of law. Politically, the EU's political response to Gaza has remained cautious, fragmented³ and internally divided.⁴ In this sense, the disparity between EU's assertive stance on genocidal denial in the Western Balkans and its political restraint towards Gaza illustrates how exceptionalism frameworks, such as that of genocide, can generate political *dissensus*. Since November 2023, the legal classification of events in Gaza has provoked intense debate, reminiscent of the discussions surrounding Bosnia in the 1990s, but with a more complex engagement.⁵ This is the latest

¹ European Commission. 2025. "Statement by President von der Leyen on the 30th Anniversary of the Srebrenica Genocide." Press Corner, July 11, 2025. https://ec.europa.eu/commission/presscorner/detail/en/statement_25_1808

² "Hungary Breaks EU Front on Memorial Day for Srebrenica Genocide." *Eunews*, May 24, 2024. <https://www.eunews.it/en/2024/05/24/hungary-breaks-eu-front-on-memorial-day-for-srebrenica-genocide/>

³ European External Action Service (EEAS). 2025. "Remarks by High Representative / Vice-President Kaja Kallas at the EP Plenary Session for Topical Debate — 'Stopping the genocide in Gaza: time for EU sanctions!'" June 18, 2025. <https://www.eeas.europa.eu/eeas/remarks-high-representativevice-president-kaja-kallas-ep-plenary-session-topical-debate-rule-169-%E2%80%93-en>

⁴ Clingendael Spectator. 2025. "EU's Gaza War Response: A Tale of Contradiction and Division." *Clingendael Spectator*, 2025. <https://spectator.clingendael.org/en/publication/eus-gaza-war-response-tale-contradiction-and-division>

⁵ Lowy Institute. 2025. "Srebrenica at 30: Why This Turning Point for International Justice Still Matters." *The Interpreter* (Lowy Institute), July 2025. <https://www.lowyinstitute.org/the-interpreter/srebrenica-30-why-turning-point-international-justice-still-matters>

case to test the current genocide framework⁶, where the Holocaust remains the paradigmatic reference shaping international genocide law produced by post-war European and colonial power arrangements.⁷ It renders recognition as a necessarily juridical conclusion that only courts may determine, and only retroactively.⁸ As previously noted “The most common justification for not using the term is that there is a precise legal definition of the term, and only courts can decide if genocide has taken place and therefore individuals should be held accountable for the crime.”⁹ This approach has limited capacity to accommodate forms of mass violence that fall outside this narrow threshold, including cultural and structural dimensions of destruction. Such exceptionalism has been a cornerstone of security infrastructures.¹⁰

In 2024, the International Court of Justice recognised the “plausible risk” of irreparable harm to Palestinians, which triggered provisional measures of protection¹¹ Yet Gaza has remained a battlefield of legal interpretations over the limits of self-defense, intent, proportionality and the threshold between war crimes and genocide.¹² Such juridical dissensus is not confined to legal doctrine. It signals a deeper transformation in how the EU governs atrocity and legality politically, shifting from law-centred accountability toward security-centred exception. Whereas earlier decades relied on international law as the primary framework through which mass violence was politically stabilised and politically

⁶ Dirk Moses, *The Problems of Genocide: Permanent Security and the Language of Transgression*, Cambridge, Cambridge University Press, 2021

⁷ Pilar Eirene de Prada, “Genocides’ Legal Limitations: What the Srebrenica Massacre Can Teach Us About Gaza.” *The Conversation*, July 2025. <https://theconversation.com/genocides-legal-limitations-what-the-srebrenica-massacre-can-teach-us-about-gaza-261129>.

⁸ Smith, Karen E. 2024. “Avoiding an Emotions-Action Gap? The EU and Genocide Designations.” *Journal of European Integration* 46 (5): 615–634. <https://doi.org/10.1080/07036337.2024.2358871>

⁹ Ibid.

¹⁰ Renton, James. 2025. “Holocaust Memory and the Universal Sovereignty of the Liberal Democratic State.” *Journal of Genocide Research*, June, 1–23. doi:10.1080/14623528.2025.2517848.

¹¹ International Federation for Human Rights (FIDH). 2024. “Historic Decision by the ICJ: FIDH Welcomes the Recognition of a Plausible Risk of Genocide in Gaza.” FIDH Press Release, January 26, 2024. <https://www.fidh.org/en/region/north-africa-middle-east/israel-palestine/historic-decision-by-the-icj-fidh-welcomes-the-recognition-of-a>

¹² European External Action Service (EEAS). 2025. “Remarks by High Representative / Vice-President Kaja Kallas at the EP Plenary Session for Topical Debate — ‘Stopping the genocide in Gaza: time for EU sanctions!’” June 18, 2025. <https://www.eeas.europa.eu/eeas/remarks-high-representativevice-president-kaja-kallas-ep-plenary-session-topical-debate-rule-169-%E2%80%93-en>

processed, Gaza marks a turning point in which atrocity governance is increasingly subordinated to geopolitical security governance.

This shift directly intersects with a long-standing structural feature of the European Neighbourhood Policy: the normalisation of exceptionalism in security cooperation. Across the ENP, emergency laws, counter-terrorism statutes, and public order measures have repeatedly displaced judicial accountability and transitional justice. The EU's Gaza response now feeds directly into this institutional ecology. The debate over the legal conditions in Gaza actively undermines the authority of its rule-of-law conditionality, precisely in regions where law is already fragile and selectively enforced.

Across Europe, Gaza has made the social and political effects of this security rationality transparent. Mass demonstrations, university mobilisations and civil society campaigns have been met in several member states with heightened restrictions on freedom of expression and protest.¹³ These developments have exposed deep political fractures affecting minority communities and have accelerated the framing of dissent through the lens of extremism and public security.¹⁴ At the level of EU governance, foreign ministers agreed to review the EU-Israel Association Agreement under the human rights clause of Article 2.¹⁵ Yet, this has not been followed by a coordinated suspension of the Agreement, nor by an arms embargo or targeted sanctions. Under the European Neighbourhood Policy framework, comparable patterns of civil harm, judicial non-compliance and emergency law abuse would routinely trigger aid suspension or sanctions.¹⁶ The absence of such steps in the Gaza case does not reveal a profound normative dissonance into the EU's legal order.¹⁷

¹³ Adam Lantz, "Europe's Silence on Gaza." *The Law Lab* (Medium), September 15, 2025. <https://medium.com/the-law-lab/europes-silence-on-gaza-119c155f62d7>

¹⁴ United Nations. 2024. "Global Threats to Freedom of Expression Arising from the Conflict in Gaza – Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Irene Khan (A/79/319)." Note by the Secretary-General, 23 August 2024. <https://www.un.org/unispal/document/report-special-rapporteur-23aug24/>

¹⁵ Human Rights Watch. 2025. "Joint Statement on the EU-Israel Association Agreement Review." June 19, 2025. <https://www.hrw.org/news/2025/06/19/joint-statement-on-the-eu-israel-association-agreement-review>

¹⁶ Akgül-Açıkmeşe, Sinem, and Soli Özel. 2024. "EU Policy towards the Israel-Palestine Conflict: The Limitations of Mitigation Strategies." *The International Spectator* 59 (1): 59-78. <https://doi.org/10.1080/03932729.2024.2309664>.

¹⁷ Pace, Michelle. 2009. "Paradoxes and Contradictions in EU Democracy Promotion in the Mediterranean: The Limits of EU Normative Power." *Democratization* 16 (1): 39-58.

This policy brief examines how the Gaza war exposes the limits of the EU's rule-of-law policy under conditions of security exceptionalism in the European Neighbourhood. It argues that while international law and the legal framework for atrocity prevention remain relevant and robust, and are actively invoked by courts, NGOs, and part of the EU apparatus, they are increasingly decoupled from the EU's actual instruments of conditionality and enforcement. And this growing disjunction between legal universalism and political selectivity actively reinforces authoritarian legal techniques within the Neighbourhood by signalling that atrocity accountability itself is subject to geopolitical exception. In this sense, it challenges the EU's authority as a normative power and also destabilises the credibility of the EU's rule-of-law project across the Neighbourhood.

Abu Al-haj, A. (2025). The international criminal responsibility of a journalist for inciting the commission of war crimes and crimes against humanity: A case study on Ukraine and Palestine. <https://core.ac.uk/download/666011754.pdf>

Security Exceptionalism in the Neighbourhood and the Erosion of Rule-of-Law

Beginning in October 2023, Egypt assumed a central role as a regional mediator in the Gaza war, alongside Qatar and the United States, by hosting ceasefire negotiations and consistently referencing international humanitarian law.¹⁸ The government articulated security concerns as its primary motivation, citing the risk of jihadist resurgence in the Sinai and the potential domestic destabilisation resulting from a large-scale Palestinian influx. At the time, Egypt warned against any forced displacement of Palestinians into Sinai, framing such a scenario as a violation of the Egypt–Israel Peace Treaty.¹⁹ Arguably, political mobilisation and protest related to the Palestinian cause represent rare avenues for (dissenting) political expression and could be potentially problematic for the Sisi regime.²⁰ But the Egyptian regime operates in a lenient context. These security and sovereignty anxieties intersected directly with Egypt's relations with the EU, including the EU's nominal

¹⁸ International Crisis Group. *Egypt's Gaza Dilemmas*. Middle East & North Africa Report No. 91, 16 May 2024. <https://www.crisisgroup.org/middle-east-north-africa/north-africa/egypt-israelpalestine/b91-egypts-gaza-dilemmas>.

¹⁹ Middle East Monitor. "Egypt Warns: Israel Unilateral Opening of Rafah Crossing Breaches Peace Treaty." *Middle East Monitor*, December 5, 2025. <https://www.middleeastmonitor.com/20251205-egypt-warns-israel-unilateral-opening-of-rafah-crossing-breaches-peace-treaty/>

²⁰ Kurd, Dana El. 2022. "Gateway to Dissent: The Role of pro-Palestine Activism in Opposition to Authoritarianism." *Democratization* 29 (7): 1230–48. doi:10.1080/13510347.2022.2038567.

support for Egypt's National Strategy for Human Rights, a framework that has received minimal substantive enforcement by the EU through conditionality.²¹

In 2024, the EU elevated its relationship with Egypt to a Strategic and Comprehensive Partnership, explicitly linking cooperation in political, security, migration, and economic development domains to a shared commitment to the principles of the United Nations Charter, relevant multilateral agreements, and the EU-Egypt Association Agreement.²² Although the partnership's language reaffirmed a foundation of rule-of-law and human-rights critics have widely argued that the EU collaboration on migration management, security, and economic stabilisation remains largely disconnected from substantive enforcement of rule-of-law and human-rights standards.²³ The Gaza war occurred during a period of intensified EU-Egypt cooperation, reinforcing perceptions that geopolitical stability continues to outweigh accountability.

In Tunisia, the conflict in Gaza prompted large-scale street mobilisation, led in part by the UGTT trade-union confederation²⁴ and civil society actors calling for solidarity with Palestinians and condemning Israeli military operations. These demonstrations, however, occurred within the context of President Kais Saied's increasing authoritarian governance. Authorities employed emergency powers and counter-terrorism legislation to criminalise dissent, particularly where domestic grievances intersected with Gaza-related protests, thereby providing new justifications for repression under the pretext of public security.²⁵ EU-Tunisia relations, marked by close cooperation on migration control despite significant

²¹ Amnesty International. 2025. "EU/Egypt: Partnership Means Holding Each Other to Account for Human Rights Violations." *Amnesty International*, October 21, 2025. <https://www.amnesty.org/en/latest/news/2025/10/eu-egypt-partnership-means-holding-each-other-to-account-for-human-rights-violations/>

²² Mixed Migration Centre. 2025. "The EU-Egypt Partnership: Migration, Security and Human Rights." Mixed Migration Centre, October 2025. <https://mixedmigration.org/eu-egypt-partnership/>

²³ European Council on Refugees and Exiles (ECRE). 2025. "EU External Partners: Criticism over EU Transfer of € 1 Billion to Egypt for 'Credible Steps' on Democracy and Human Rights — New Cases of Migrant Abuses by the Libyan Authorities." *ECRE News*, January 16, 2025. <https://ecre.org/eu-external-partners-criticism-over-eu-transfer-of-e-1-billion-to-egypt-for-credible-steps-on-democracy-and-human-rights-%E2%80%95-new-cases-of-migrant-abuses-by-the-libyan-authorit/>.

²⁴ Free Palestine – The Cry of Tunisia's Next Hirak." *Eurozine*, November 7, 2024. https://www.eurozine.com/free-palestine-the-cry-of-tunisias-next-hirak/?utm_source=chatgpt.com

²⁵ "All Conspirators: How Tunisia Uses Arbitrary Detention to Crush Dissent." *Human Rights Watch*, April 16, 2025. <https://www.hrw.org/report/2025/04/16/all-conspirators/how-tunisia-uses-arbitrary-detention-crush-dissent>

judicial and constitutional regression, have reinforced the perception that security priorities are insulated from legal conditionality.

In the South Caucasus, the Gaza conflict has been integrated into evolving geopolitical and legal frameworks. On 21 June 2024, Armenia officially recognised the State of Palestine, explicitly connecting its decision to UN General Assembly resolutions advocating a ceasefire and supporting the two-state solution.²⁶ The action aligned Armenia with Global South diplomatic positions and echoed the ceasefire language adopted by several EU institutions, while also reflecting Armenia's own historical experiences of mass violence, displacement, and contested genocide recognition. In contrast, Azerbaijan maintained a cautious public stance, voicing concern for civilian suffering but simultaneously strengthening its strategic partnership with Israel,²⁷ particularly in the energy and defence sectors. Once again, security and economic cooperation have taken precedence over accountability, reflecting patterns long established in EU–Azerbaijan relations.

In Moldova, the Gaza war led to concrete regulatory repercussions. In 2024, Moldovan authorities suspended a labour-recruitment agreement that had facilitated the deployment of Moldovan construction workers to Israel, citing abusive working conditions and ambiguous legal protections during the conflict.²⁸ Although presented as a labour-rights measure, the suspension also reflected broader anxieties regarding legal responsibility, liability, and the exposure of migrant workers in a conflict zone.

Collectively, these cases illustrate that Gaza is now integral to the EU's Neighbourhood engagement. The conflict is structurally linked with migration governance, security cooperation, humanitarian access, labour regulation, and diplomatic alignment throughout the region. Simultaneously, the war has revealed how these domains are largely shielded from robust rule-of-law conditionality even in conditions of exceptional legal frameworks, such as the suspicion of genocide. This has resulted in a widening gap between

²⁶ Reuters. 2024. "Armenia Recognises Palestinian Statehood, Says Armenian Foreign Ministry." June 21, 2024. <https://www.reuters.com/world/armenia-recognises-palestinian-statehood-says-armenian-foreign-ministry-2024-06-21/>

²⁷ Arzu Geybullayeva, "Azerbaijan's Silence over Gaza Is Not Surprising." *Observatorio Balcanico Caucaso*, August 18, 2023. https://www.balcanicaucaso.org/en/cp_article/azerbajians-silence-over-gaza-is-not-surprising/

²⁸ "Moldova Gov Suspends Labor Deal with Israel, Citing Abuse of Construction Workers, Including Withholding Passports and Improper Recruitment." *Business & Human Rights Resource Centre*, June 25, 2024. <https://www.business-humanrights.org/en/latest-news/moldova-gov-suspends-labor-deal-with-israel-citing-abuse-of-construction-workers-incl-withholding-passports-and-improper-recruitment/>

the EU's stated commitment to international law and accountability and the prevailing security-first logic that shapes its concrete partnerships in the Neighbourhood.

More broadly, the Gaza crisis has reinforced the entrenchment of security exceptionalism within the rule of law governance, an indirect characteristic of the European Neighbourhood Policy (ENP). Throughout the region, political dissensus over mass violence, repression, and historical accountability is increasingly perceived as manifestations of asymmetric justice.²⁹ The EU's hesitant legal response has undermined the credibility of the EU's transitional-justice and rule-of-law conditionality frameworks. Authoritarian and hybrid regimes can exploit this erosion across the Neighbourhood to argue that international law is applied selectively and that accountability is determined by geopolitical interests rather than legal principles. Gaza now serves as the most prominent contemporary example supporting this claim, intensifying long-standing scepticism about the universality of EU legal norms and providing regimes with a powerful discursive resource to resist rule-of-law pressure.

Security-oriented cooperation under the ENP has already demonstrably hollowed out domestic rule-of-law systems. EU engagement that prioritises migration control, counter-terrorism, and energy security often operates without judicial scrutiny, human-rights conditionality, and parliamentary oversight.³⁰ Migration agreements with Turkey and Tunisia, stability-centred partnerships with Egypt, and energy cooperation with Azerbaijan illustrate this structural separation. These partnerships have conferred political recognition, financial resources, and operational legitimacy to partner governments while circumventing mechanisms of democratic accountability and legal oversight.

The cumulative impact has been an increase in public distrust in EU governance agendas, the radicalisation of public opinion, and the delegitimation of EU-backed judicial reform.³¹ This distrust is intensified by the stark contrast between a formal rule-of-law architecture, centred on courts, prosecutors, and anti-corruption bodies, which citizens are expected to trust, and a prevailing security-legal order in which emergency powers, surveillance, and executive discretion largely remain exempt from the same legal standards.

²⁹ Arab Monitor 2024

³⁰ Arab Monitor 2024

³¹ Carnegie Endowment for International Peace. 2025. "The EU's Dead-on-Arrival Pact for the Mediterranean." September 2025. <https://carnegieendowment.org/research/2025/09/the-eus-dead-on-arrival-pact-for-the-mediterranean?lang=en>

As repression intensifies under the security-focused legislation, human rights accountability is increasingly displaced into strategic litigation, documentation initiatives, and transnational judicial forums. While these efforts expand legal archives of abuse and preserve evidentiary records, they frequently lack effective enforcement against captured domestic institutions. Accountability is externalised to international courts and NGOs, where political leverage and coercive capacity are weakest.

Security exceptionalism in Practice: Atrocity Law and the Erosion of Conditionality

In the Western Balkans, the legal recognition of past atrocities, and particularly Srebrenica, which, to the dismay of survivors, was the only event classified as genocide during the Bosnian wars, has served as a formal pillar of EU rule of law and accession conditionality, grounded in Article 2 of TEU, which enshrines the rule of law as foundational to EU values and the Genocide Convention (1948).³² Acknowledgement of genocide, cooperation with the ICTY and compliance with international justice rulings have been treated as tests of democratic credibility and legal alignment with the European Union.³³ Transitional justice in this context has been embedded in the accession benchmarks, the Stabilisation and Association Agreements, and the annual rule-of-law monitoring framework.³⁴ Yet when the EU defers accountability in contexts where strategic interests are high, it weakens its own leverage on genocide prevention, transitional justice, and human rights enforcement precisely where domestic power asymmetries are most acute. The contrast between the rigid memory regime in the Western Balkans and the political restraints shown in other theatres of mass violence expose the fragility of the EU's claim to universal legal standards.

The EU's long-standing ambivalence toward recognition of the Armenian genocide in its relations with Turkey illustrates how atrocity law becomes subordinated to geopolitical cooperation.³⁵ Although several member states and the European Parliament have formally recognised the genocide as defined under the Genocide Convention, the EU as an institution

³² [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/433844/EXPO-DROI_ET\(2014\)433844_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/433844/EXPO-DROI_ET(2014)433844_EN.pdf)

³³ Balkan Insight. 2019. "Bosnia, Serbia Unlikely to Copy Belgium's Genocide Denial Law." April 17, 2019. <https://www.balkaninsight.com/2019/04/17/bosnia-serbia-unlikely-to-copy-belgiums-genocide-denial-law/>

³⁴ https://www.europarl.europa.eu/meetdocs/2014_2019/documents/dand/dv/40_eupolicy_frmwrk_suptrans_justice_/40_eupolicy_frmwrk_suptrans_justice_en.pdf

³⁵ EVN Report. 2020. "The European Record on Recognizing the Armenian Genocide." *EVN Report*, April 23, 2020. <https://evnreport.com/politics/the-european-record-on-recognizing-the-armenian-genocide/>

has historically limited itself to symbolic language and avoided binding legal or conditionality-based consequences within the framework of the EU-Turkey Association Agreement. This restraint has been justified by strategic considerations regarding migration and security.³⁶ The ongoing deferral of historical accountability has reinforced the Turkish state's position that genocide recognition is politically negotiable rather than legally grounded. Domestically, this has coincided with the systematic criminalisation of genocide recognition within Turkey under public order and national security law, as well as the continued persecution of journalists, academics and civil society actors addressing mass violence.³⁷

A similar dynamic is now visible in the Armenia-Azerbaijan context following the wars over Nagorno-Karabakh. Despite large-scale displacement, documented war crimes, and credible accusations of ethnic cleansing, EU engagement has prioritised stabilisation, energy security, and regional connectivity over robust accountability mechanisms.³⁸ The lack of a clear atrocity-recognition and justice agenda has reinforced perceptions that mass violence can be politically managed rather than legally confronted when strategic interests are at stake. In Armenia, unresolved security tensions and recurrent conflict have likewise been mobilised to justify restrictions on media freedom and civic space, even as security cooperation with European partners has intensified. These restrictions conflict with Armenia's commitments under the European Convention of Human Rights and the political criteria embedded in its CEPA with the EU. The rule of law has thus been progressively subordinated to a conflict-management paradigm, in which emergency logics take precedence over accountability for past and ongoing abuses.

This developments demonstrate that the recognition of atrocity, a discursive cornerstone of EU rule-of-law conditionality, has become inconsistent, negotiable, and increasingly subordinated to security and geopolitical priorities. The situation in Gaza has further highlighted this pattern by revealing how legal universality fractures under strategic pressure. The result is not merely inconsistency but a structural weakening of atrocity

³⁶ Soler i Lecha, Eduard. 2019. *EU-Turkey Relations: Mapping Landmines and Exploring Alternative Pathways*. FEPS Policy Paper, September 2019. https://www.feps-europe.eu/wp-content/uploads/downloads/publications/feps_eu_turkey_relations_soler.pdf

³⁷ "One Academic Sentenced to 2 Years, 1 Month in Prison." *Barış İçin Akademisyenler*, May 21, 2019. <https://barisicinakademisyenler.net/node/1217>

³⁸ Eurasianet. 2025. "The EU Rewards Azerbaijan Despite an Atrocious Rights Record." *Eurasianet*, March 4, 2025. <https://eurasianet.org/commentary-the-eu-rewards-azerbaijan-despite-an-atrocious-rights-record>

prevention, transitional justice, and the credibility of the EU's rule-of-law project in the wider European Neighbourhood.

Policy Recommendations

1. Binding “atrocities-law triggers” should be incorporated in all accession, association, and European Neighbourhood frameworks. This approach would transform obligations under the Genocide Convention, international humanitarian law, and the Rome Statute of the ICC into enforceable rule-of-law conditionality. Provisional measures by the ICJ, ICC investigations or warrants, and UN Commissions of Inquiry findings should automatically trigger a time-bound legal review by the Commission. This should be followed by a mandatory Council vote on corrective measures under the human rights clauses in Article 2, including suspension or targeted sanctions where necessary. These findings should serve as legally binding inputs to ENP and Association Agreement reviews, with concrete benchmarks on cooperation with investigators, witness protection, and non-criminalisation of atrocity reporting. This would replace political discretion with objective legal thresholds, restoring the credibility of EU atrocity prevention and rule-of-law conditionality.

2. A formal Graduated Enforcement Protocol for Article 2 TEU and the human rights clauses in Association and Partnership Agreements should be established through an interinstitutional agreement among the Commission, the Council, and the European Parliament. The protocol should specify objective legal triggers for action, including ICJ, ICC or UN findings or decisions on mass civilian harm, and systematic emergency-law abuse or ECHR derogations documented by relevant EU bodies. Upon activation of the trigger compliance review of the Commission should be automatic in a specific timeframe followed by the application of a graduated response scale and the publication of a legally reasoned justification for both activation and non-activation of measures.

3. Rule-of-law assistance should be separated from security exceptionalism. Judicial reform, anti-corruption, and human-rights programming should be institutionally protected from migration management, counter-terrorism, and defence cooperation. Emergency powers, counter-terror

legislation, and public-order regimes should be explicitly prohibited as functional baselines for EU security partnerships. Without such separation, EU legal assistance risks becoming structurally embedded within coercive governance that undermine its stated objectives.

4. Better tailor the ideational and ideological dimensions of contemporary anti-democratic trends. Introduce mandatory democracy-impact assessments for all security-related agreements particularly in migration, counter-terrorism, and border governance. These assessments should evaluate effects on judicial independence, civic space, opposition freedoms, surveillance expansion, and emergency-power normalisation, and their findings should be made public. To restore credibility through symmetry, the EU could establish a Universality Legality Index that measures the consistency of its application of international law and human rights standards across all external relations, including in relation to Member States. Such a mechanism would introduce an internal accountability dimension to external rule-of-law promotion and directly address accusations of legal selectivity.

5. End the structural separation between rights actors and security dialogues. Civil-society organisations, legal watchdogs, and transitional-justice actors must be formally embedded in security policy dialogues, including those on migration control and counter-terrorism. Legal and judicial-reform assistance should be institutionally insulated from cooperation with coercive state bodies that lack democratic oversight. The EU should systematically support actors who contest emergency governance, securitised repression, and atrocity denial.