THE NORMATIVE PUSH TOWARDS INCLUSION IN THE LEGAL AND ADMINISTRATIVE LANGUAGE WITHIN THE EU, ITS UNDERLYING PREMISES AND POTENTIAL HAZARDS

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Abstract

At the end of October 2021, the European Commissioner for Equality issued a highly controversial document with internal guidelines for all future communications, oral or written, of the European Commission. What triggered the public outcry and led to the withdrawal of these guidelines under the pretext they were a mere work in progress, was the use of hotly debated, contentious notions such as systemic racism, gender neutrality or preferred pronouns. This case is but one of the most recent examples of what we consider to be a normative push to change values and mentalities in the EU, by altering the language used in official communications and legislative drafting.

The present article explores the underlying premises of this normative push through soft and hard law instruments, in connection to the core values of the European Union, centered on the protection of human rights, and currently shaped by the sociopolitical developments coming from the USA. After a brief overview of these new ideological trends, in addition to the matter of the European Commissioner's guidelines, several cases illustrating the national response to these trends from individual Member States will be analyzed as well. The final section of the paper will highlight several potential risks in introducing such value-charged notions without public debate and public consensus, even if it is all done in the name of equality and inclusiveness.

Keywords: *The European Commission, soft law, legislation, human rights, equality, inclusion, gender-neutral language.*

1. Introductory considerations

"What's in a name? That which we call a rose
By any other name would smell as sweet."[1]

Or would it? Do names alter the substance of things so much, as to warrant their change, codified in law? The immortal words of Shakespeare may still speak to our hearts today, but they certainly do not to our legalistic minds.

A visible trend to use legal instruments to modify the established values and standards which regulate human behavior has been on the march in the EU, especially after the coming into force of the Lisbon Treaty and the EU Charta of Fundamental Rights in 2009. The avowed goals? To achieve a wider protection of human rights, by fostering inclusion and equality, particularly in areas which fall under the competences of the national jurisdictions, such as the regulation of same-sex marriages or civil partnerships, children and youth education and, related to this, the teaching of sex education in school, to name but a few.

The approach taken by the EU institutions to implement such goals involves a hefty use of "soft law" instruments, which, by their very nature, circumvent the public debate and consensus building, inherent to the concept of democratic decision-making. As we shall outline in this article, the complex legislative process within the EU and its interplay with the national sources of law is further complicated by the action of a fundamental EU principle: the principle of subsidiarity. This constitutes, in our opinion, both an underlying premise and an enabling feature of the EU legal system, which helps this normative push towards inclusion.

The above mentioned analysis of the underlying premises will also take into account the ideological factors that drive it, with reference to current gender theories, which hold that gender is a social construct, to Critical Race Theory, widespread in the USA today, which postulates that the Western world is inherently racist, and to the European culture of human rights (or, as some critics disparagingly say, the religion of human rights[2]), which dominates the public discourse within the EU.

The use of soft law to effect de facto legal changes in the EU has been analyzed by many a scholar, largely in relation to policies concerning business regulations, fiscal duties or environmental protection. Though challenging, the technical nature of these themes is unlikely to trigger massive public interest, unless they directly impact considerable sections of the population. Other issues, more overtly value-charged, such as immigration or the anti-Covid

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[1] Shakespeare, William, *Romeo and Juliet* (The New Cambridge Shakespeare), Cambridge University Press, 2003, p. 107.

[2] Tettenborn, Andrew, *The religion of human rights*, 14 December 2020, article written in connection to the UK government's Independent Human Rights Act Review, available online at: https://thecritic.co.uk/the-religion-of-human-rights/.

19 vaccination policies, have sparked of late the interest in the use of soft law by the EU Commission and other EU bodies. One recent example comes from the European Commissioner for Equality, who, in October 2021, issued what turned out to be highly controversial internal guidelines for all future communications, oral or written, of the European Commission. The document, hastily retracted as a mere work in progress, included direct references to contentious notions such as systemic racism, gender neutrality or preferred pronouns, as we will show in the section dedicated to its analysis.

These controversial measures by the EU public bodies have triggered what we deem to be an asymmetrical response at the national level, materialized in the use of hard law instruments. The legislation adopted by the national parliaments and the re-evaluation of the boundaries of national sovereignty were employed by some EU Member States (by Hungary or Poland, for instance), in an effort to counter ideological trends seen as an aggressive attack on the foundational values of their society.

These issues are outlined in a separate section, which precedes the final part of the paper, focused on the assessment of the potential risks which accompany the introduction of contested, value-charged normative standards, without public debate and public consensus, even if it is all done for a perceived (but not agreed upon) greater good.

2. *The formal enablers* - underlying legal premises for the normative push towards equity and inclusion

2.1. Is the EU soft law the root of all evil?

A serious answer to an admittedly flippant question depends mostly on the point of view of the enquirer and starts with the definition of what at present is not formally defined, namely what constitutes the EU soft law. The subsequent step is to ascertain what legal force it possesses in relation to the traditional hard law.

The widespread opinion in the academic doctrine is that the ***EU soft law*** instruments fall into a distinct category, namely the "complementary law" or "sources of law lacking (in principle, at least) legally binding force."[3] A non-exhaustive list of these instruments might include: recommendations, guidelines, preparatory instruments (Green Papers, White Papers), action programmes (or action plans, as they are frequently called), codes of conduct, communications (of various types, ranging from institutional to individual).[4] This bewildering diversity led some scholars to apply the familiar, positivist concepts of obligation and enforcement, in their efforts to delineate the EU soft law from the hard law, in spite of the marked "fluidity of the notion."[5] The success of this approach is, in our opinion, debatable, because of its failure to explain the legal effects of non-binding, mostly political instruments. The matter is further complicated by the jurisprudence of The European Court of Justice related to these complementary sources of law.

If a formal definition of the EU soft law is still absent, there are a number of working definitions which draw on the similarities with the international law. Perhaps the best known, albeit succinct, is the one put forth by Professor Snyder. It describes soft law instruments as "rules of conduct which, in principle, have no legally binding force but which nevertheless may have practical effects."[6] For the purpose of this article, we prefer the definition of soft law proposed by Professor Linda Senden, because it properly underlines the *animus* to produce legal results: "Rules of conduct that are laid down in instruments which have not been attributed legally binding force as such, but nevertheless may have certain (indirect) legal effects, **and that are aimed at and may produce practical effects.**"[7] *(emphasis added)*

Almost all scholars and legal practitioners agree on the disadvantages attached to the frequent use of such legal instruments by the EU bodies: the normative force of the law is subverted; the certainty of the law (a core principle of the EU legal framework, recognized as such since 1960s in its jurisprudence by the European Court of Justice) is equally undermined. The heterogeneous use of soft law instruments was repeatedly pointed out as yet another drawback - the reason why in some cases the Commission might use a communication and not a resolution, for instance, is anybody's good guess.[8] More importantly, there is the practical issue of enforcing soft law instruments, if a Member State chooses to oppose their intended political and legal consequences.

Though not having legally binding force according to art. 288 TFEU ("To exercise the Union's competences, the institutions shall adopt regulations, directives, decisions, recommendations and

[3] Dumitrașcu Augustina, *Dreptul Uniunii Europe I*, Universul Juridic Publishing House, Bucharest, 2021, p. 273 (*my translation)*.
[4] Senden, Linda, *Soft Law in European Community Law*, Hart Publishing, Oxford and Portland Oregon, 2004, pp. 124-137.
[5] Terpan, Fabien, *Soft Law in the European Union - The Changing Nature of EU Law*, European Law Journal, vol. 21, Issue 1, pp. 77-78, 2015; https://doi.org/10.1111/eulj.12090.
[6] Snyder, Francis, *The Effectiveness of European Community Law: Institutions, Processes, Tools and Techniques*, Modern Law Review 56, 1993, p. 32.
[7] Senden, Linda, *op. cit.*, p. 112.
[8] *Idem*, p. 116.

opinions"[9]), the soft law instruments are nevertheless regarded as producing legal effects ever since the seminal 1989 *Grimaldi* judgement.[10] As such, the impact of soft law on individual Member States should not to be underestimated, its legitimacy claims should be carefully assessed and, preferably, the specific use of various instruments should be regulated by hard law provisions.

2.2. A second underlying premise or legal enabler of the normative push towards inclusion is the action of the *subsidiarity principle* into the framework of ***EU hard law***. The subsidiarity principle, upon which the entire EU legal construction is built, is expressly mentioned in the art. 5 of the Treaty of the European Union (TEU), together with the principle of proportionality. It impacts the balance between the exclusive and the shared competences within the EU. "Though the European Union does not consider itself a federal state, because no Member State would, in fact, accept such a status at present"[11], the function of the subsidiarity principle in the EU is similar to that of a federal structure, guiding the way the allocation of competences between the central structure and the individual Member States works in practice.

The protection of human rights is enshrined both in the EU foundational documents and in the national legislation. This complicated legal architecture is further complicated by the European Convention of Human Rights (ECHR), to which all EU Member States are signatories. The importance of the ECHR for the subsequent development of the human rights protection in Europe cannot be overstated, neither is the range of technical legal issues raised by the later adoption of the European Charta of Human Rights. The established view in the legal doctrine holds that the Charta was not meant as a replica to the Convention, but "as a mean to enshrine in a single legal document, in a legislative *corpus*, accessible to all, ordinary citizens included, (...) the fundamental human rights previously guaranteed by the CJEU jurisprudence and/or the provisions of the primary and/or secondary EU law."[12] As noted in an in-depth examination of this subject, the effectiveness of the human rights protection in the EU "seems inevitably linked to a *multiple subsidiarity*"[13] and is ensured by a three-tiered structure of jurisdictions, involving the national courts, the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (the ECtHT). The same study points to the lack of precision of the terms *subsidiarity* and *effectiveness* as used in the various EU legal instruments, which leads to a *de facto* "transfer of the normative power from the authority which legitimately holds it towards the courts which interpret the legal instruments."[14] In our opinion, the profusion of legal documents protecting the human rights and the competing court jurisdictions have two major drawbacks: on one hand, the effect of confusing the citizens in their quest to obtain remedies through courts against human rights violations, and, on the other hand, the effect of diluting the legitimacy of the hard law instruments, by expanding their scope through binding judiciary interpretation, without the safeguards of public debate and political responsibility.

A close study focused on the complexities of the decision-making process within the European Union observed that the very legitimacy of this process stems from "the existence and the cumulated action of several levels of representation."[15] The growing body of binding court decisions peels away at the layered structure of this representation, and may lead - as it already happened in the case of Poland and Hungary, mentioned before - to a rift between the national legislative bodies and the EU institutions, exposing the shallow depth of the European consensus on several key EU policies.

The formal enablers to the current normative push to change the legal and administrative language within the EU receive their impetus from what we consider to be the informal, yet powerful enablers – the underlying ideological trends.

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[9] Art. 288 TFEU, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT;

[10] Case C-322/88 Grimaldi [1989] ECR I-4407, at (18) and (19): *"However, in order to give a comprehensive reply to the question asked by the national court, it must be stressed that the measures in question cannot therefore be regarded as having no legal effect. The national courts are bound to take recommendations into consideration in order to decide disputes submitted to them, in particular where they cast light on the interpretation of national measures adopted in order to implement them or where they are designed to supplement binding Community provisions.*"(emphasis added); https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:61988CJ0322&from=EN. For further analusis, see also Stefan, Oana, *European Union Soft Law: New Developments Concerning the Divide Between Legally Binding Force and Legal Effects*, The Modern Law Review, 75(5), pp. 879-893; doi:10.1111/j.1468-2230.2012.009.

[11] Dumitrașcu Augustina, Salomia, Oana-Mihaela, *Dreptul Uniunii Europene II*, Universul Juridic Publishing House, Bucharest, 2022, p. 19, *(my translation*).

[12] Salomia, Oana-Mihaela, *Instrumente juridice de protecție a drepturilor fundamentale la nivelul Uniunii Europene*, (*Legal instruments for the protection of the human rights at EU level*), C.H. Beck Publishing House, București, 2019, p. 59, *(my translation*).

[13] Achimescu, Carmen-Gina, *Principiul subsidiarității în domeniul protecției europene a drepturilor omului* (*The principle of subsidiarity in the European protection of human rights*), C.H. Beck Publishing House, Bucharest, 2015, p. 147, (*my translation*).

[14] *Ibidem.*

[15] Bantaș, Dragoș-Adrian, *The role of national parliaments in verifying the compliance with the principles of proportionality and subsidiarity*, CKS 2018 E-book, p. 410, http://cks.univnt.ro/download/cks_2018_articles%252F3_public_law%252FCKS_2018_public_law_006.pdf.

3. The informal enablers - ideological factors which drive the current normative push towards inclusion

It is a common place of the legal theory that the enactment of a particular legislation reflects, as a rule, the specificity of any given geographical and cultural space. In the US, for instance, the drive for equality and inclusion has always been characterised by a bottom-up approach. At its root lies the Civil Rights Movement started after the end of WWII, which eventually led to the adoption of the Civil Rights Act of 1964, outlawing any form of discrimination on the basis of race, sex, religion, colour, or national origin. The historical context is important, highlighting the struggle to end racial discrimination in the US.

The latest avatar of the movement for social justice brings together scholars and activists from all walks of life, united in their belief that traditional American policies and institutions, from courts of law and schools to business enterprises, suffer from a systemic racial bias, advancing the interests of white people to the expense of other racial groups.[16] Some proposals put forth by the supporters of this Critical Race Theory (CRT), in order to combat the pervasive discrimination against people of colour, require public policies centred on affirmative action, social programming to make people aware of their biases, racial or otherwise, and the introduction of CRT as a mandatory subject taught in school. The determined CRT activism sparked a likewise determined reaction from the American conservatives, who view the main tenets of the CRT as promoting, not fighting racial discrimination, and prompted several states to adopt anti-CRT legislation (Florida and Texas, for instance).

Equally divisive, but on a much larger scale, not limited to US states only, are the new spin-offs from the traditional gender studies, which explore the ways concepts like masculinity and femininity are defined, influenced by and reflected into the social context. The gender identity theory postulates that gender is a social construct rather than a biological reality, that it is a fluid state and it should be defined by a person's own choice and preferences. It is linked to the LGBT+ activists' efforts to achieve the mainstreaming of their sexual orientation and identity into the society, in all areas traditionally reserved for heterosexuals: marriage, adoptions, representation in popular culture etc.[17]

The gender identity and LGBT+ movement provoked a strong backlash from several American and European states, with deep-seated conservative beliefs, which passed restrictive legislation, often at odds with the assumed (though not necessarily debated or agreed upon) EU policies on diversity and inclusion. The next section will consider some of these instances of opposing ideologies at national and Union level.

In the EU, the protection of human rights has been regulated and implemented mostly in a top-down manner. The historical context is, again, illuminating: after the second world war, Europe has emerged with a fractured identity, split between the communist block and the democratic Western Europe. Its cultural integrity, too, was severely wounded, marred by the atrocities the Nazis perpetrated against the Jewish and other ethnic minorities. With the avowed goal to establish "a European federation indispensable to the preservation of peace"[18], a programmatic movement towards the reunification of Europe and the creation of a single supranational entity, protecting individual rights and freedoms, began with the Schuman Declaration in 1950, based on the proposal of the French foreign minister Robert Schuman. This proposal was acted upon, resulting in the adoption of the Europe Declaration (the Charter of the Community) in l951. The lengthy political process gradually led to the current legal architecture of the EU, with the protection of human rights at its heart, as stated in the art. 2 TEU: "*The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail*."[19] Art. 3 (2) TEU emphasises the importance of non-discrimination and the aims of the Union, stating that: *"It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child."*

It is beyond the scope of this article to trace the rich history of the non-discrimination principle in Europe. Our analysis is limited to the latest developments, as they might be discerned from recent documents issued by the EU institutions.

Equality, inclusion should not be controversial - it is so implied by the mission statement of the EU primary law and constantly affirmed by countless court decisions, at national and Union level. But the case of

[16] *Explainer: What 'critical race theory' means and why it's igniting debate*, by Gabriella Borter, September 22, 2021, online at: https://www.reuters.com/legal/government/what-critical-race-theory-means-why-its-igniting-debate-2021-09-21/ ; see also online resources of the University of Birmingham, at https://www.birmingham.ac.uk/research/crre/critical-race-theory/index.aspx.

[17] Morrow, Deana F., and Lori Messinger, eds. *Sexual Orientation and Gender Expression in Social Work Practice: Working with Gay, Lesbian, Bisexual, and Transgender People*, Columbia University Press, 2006, http://www.jstor.org/stable/10.7312/morr12728, pp. 6-7.

[18] https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en.

[19] TEU, https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&f;ormat=PDF.

the European Commission Guidelines for Inclusive Communication proves otherwise.

4. A case in point: The European Commission Guidelines for Inclusive Communication

The complex interplay between the formal and the informal enablers examined in the two previous sections can be clearly observed in the short-lived, but hotly debated case of the European Commission Guidelines for Inclusive Communication.

Released at the end of October 2021 by Helena Dalli, the EU Commissioner for Equality, the Guidelines were withdrawn after only a month of public scrutiny, or rather, public mutiny. The media, mostly, but not exclusively the right leaning outlets, had a field day, releasing dramatic titles such as: "EU accused of trying to cancel Christmas!"[20], "Pope compares EU to dictatorship for attempts to ban Christmas. Pope warns the EU not to take the 'path of ideological colonisation'"[21] etc.

What triggered the public outcry? If one seeks to be accurate, one might say *consistency*: *consistency of substance*, because the guidelines are in step with other documents released by the EU institutions, listing measures and actions to foster inclusion and equality; *consistency of form*, since the guidelines are not hard law, but a soft law instrument which, nevertheless, carries legal effects, as mentioned in Section 3 above. The aim of the Guidelines was to help "deliver inclusive communication at all times, thus ensuring that everyone is valued and recognised in all our material regardless of their gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation."[22] A tall order, if ever was one! The standards, concerning both the public and the private communications of the Commission, were designed to avoid "deep-rooted stereotypes and biases" affecting individual and collective behaviours. Listed below are some specific recommendations:

"When asking about gender, do not offer only male/female options, add 'other' and 'prefers not to say'. (...) Never address an audience as 'ladies and gentlemen' but use expressions such as 'Dear colleagues' (...) When addressing trans people, always respect self-identification."

The guidelines undertake without reservations the mission to impose onto all Commissioners, irrespective of their own beliefs, the LGBTIQ ideology, pushing for a top-down change of normative values regarding gender, family and religion. *"Avoid using language that devalues some*

relationships and only recognises the existence of traditional heterosexual families. Expressions such as 'partner', 'parents', 'relationship', 'in a relationship' are examples of LGBTIQ inclusive language."[23] The colourful media reports and the remarks coming from the Pope were prompted by the recommendations included in the "Cultures, lifestyles or beliefs" section: "*Avoid assuming that everyone is Christian. Not everyone celebrates the Christian holidays, and not all Christians celebrate them on the same dates. Be sensitive about the fact that people have different religious traditions and calendars."* Instead of saying *"Christmas time can be stressful*", the recommended form is "*Holiday time can be stressful.*"

As I mentioned before, the only major flaw one might find to these Guidelines is their consistency. The legal framework facilitating the adoption of such measures has long been put in place at EU and national level, without eliciting much attention or discontent.

For instance, the European Parliament homepage lists several key objectives of the EU in the area of protecting and advancing human rights. These objectives have been set forth in yet another soft law instrument, namely the ***EU Action Plan on Human Rights and Democracy 2020 – 2024***. This ambitious policy statement mentions in Section 1.1. (l) the fight to end discrimination against LGBTI (*I stands for Intersex*) persons, including "hate speech and hate crimes."[24]

Another (stronger) case in point:

After the conservative political forces in Poland and Hungary have adopted what was deemed - by the EU officials and by many NGOs – to be legislative measures discriminating against the LGBT+ persons, the European Parliament issued the resolution of 11 March 2021 on the ***Declaration of the EU as an LGBTIQ Freedom Zone.***[25] This Declaration lists at least 10 soft law instruments concerning LGBT+ rights (resolutions, guidelines, communications etc.), yet none of the few hard law sources mentioned applies

[20] *EU accused of trying to cancel Christmas! Advice on inclusive language dropped after criticism*, by Maïa de La Baume, 30 November 2021, online at: https://www.politico.eu/article/european-commission-cancel-christmas-inclusive-language-lgbtq/.

[21] *Pope compares EU to dictatorship for attempts to ban Christmas. Pope warns the EU not to take the 'path of ideological colonisation*, by Nick Squires, 6 December 2021, https://www.telegraph.co.uk/world-news/2021/12/06/pope-compares-eu-dictatorship-attempts-ban-christmas/.

[22] Archived Report, available at: https://archive.org/details/guidelines-for-Inclusive-communication-withdrawn/page/n5/mode/2up; p. 5.

[23] *Idem*, p. 13.

[24] https://www.consilium.europa.eu/media/46838/st12848-en20.pdf; see also https://www.europarl.europa.eu/factsheets/en/sheet/165/human-rights.

[25] https://www.europarl.europa.eu/doceo/document/TA-9-2021-0089_EN.html.

directly to LGBT+ rights, other than a handful of court decisions.

The normative push towards changing values and traditional institutions is not limited to the EU level, but is taking place at **the national level** as well. France changed its laws to reflect the legalisation of same-sex marriages: an amendment was passed to the national education act, changing the terms on the forms used for school enrolment, from "Mother" and "Father" to "Parent 1" and "Parent 2", to accommodate children coming from same sex-marriages[26]. The criticism of this change, stemming from the right side of the political spectrum, was without effect, since the amendment was passed in the National Assembly, through democratic process.

5. Conclusions

The growing importance of the EU soft law and its far-reaching consequences on the life of ordinary EU citizens have forced academics, various think tanks and advisory government bodies to begin in earnest its study and to put forward suggestions for the clarification of its status. For instance, the Meijers Committee, an advisory think tank of legal experts to the Dutch parliament and to various EU institutions has issued in 2018 a Note in which it warned about the flaws in the adoption procedure of the soft legal instruments, noticing that: "There are no guarantees that Member States are systematically involved in the adoption process. The same applies to the involvement of the European Parliament and national parliaments. Moreover, there is no consultation foreseen of interested parties."[27] The case of Poland and Hungary, countries who challenged with their domestic policies the official EU narrative on LGBT+ rights, illustrate the steep price tag attached to exercising the prerogatives of national sovereignty with disregard to such soft law instruments. The EU funds for various local projects were suspended, infringement proceedings against the two "erring" states were initiated, penalties applied etc.

As I attempted to show in this paper, the use of soft legal instruments by the EU is increasingly aimed at effecting legal change without the disadvantages of a lengthy and difficult process of popular consultation. In spite of their ambiguous, non-legally binding status, they do influence the way national states manage the expectations of their citizens and regulate their behaviour.

Therefore, it is necessary, in our opinion, an immediate clarification, codified in a primary legal document, of the status, the hierarchy and the potential means for judicial review of such instruments.

The failure to do so and the disregard of specific traditions, cultural and religious beliefs of the citizens from the more traditional EU Member States will only result in a backlash – legal or otherwise – against the very group of people the EU legislation is trying to protect. The top-down legislative approach taken by the EU institutions, to impose values, change behaviour norms and mainstream others, will be unlikely to engineer the desired social change. Many of the EU policy action plans are motivated by the urgency to act for the future. Perhaps in this case, a softer, less militant and more transparent approach to legislation, which respects the rich national diversity of the EU Member States, would work for the best.

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[26] " 'Mother' and 'Father' Replaced With 'Parent 1' and 'Parent 2' in French Schools Under Same-Sex Amendment", by Callum Paton, 2/15/19, online at: https://www.newsweek.com/mother-and-father-replaced-parent-1-and-parent-2-french-schools-under-same-1332748.

[27] https://www.commissie-meijers.nl/comment/note-on-the-use-of-soft-law-instruments-under-eu-law-in-particular-in-the-area-of-freedom-security-and-justice-and-its-impact-on-fundamental-rights-democracy-and-the-rule-of-law/ ; Note published on 9 April 2018.

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