

# **Current crisis of values in Poland and Hungary and how EU's weak toolbox to handle them undermines its legitimacy to purpose the values based on external policy**

**Prof. dr Adam Lazowski  
Westminster Law School,  
University of Westminster, London  
[a.lazowski@westminster.ac.uk](mailto:a.lazowski@westminster.ac.uk)**

# Part 1

**Do as I say, don't do as I do**

# EU values in external relations

- EU values heavily employed in external relations, in particular the pre-accession policy and ENP,
- Association Agreements frequently contain references to values, the rule of law etc.,
- Furthermore, many detailed requirements are also included in flanking documents/acts – see, *exempli gratia*, Association Agenda with Georgia (2017),
- EU values in pre-accession policy – a cornerstone,
- Negotiations: chapter 23,
- Pre-negotiations: so called priorities.

# Part 2

**Anything goes (?)**

# Rule of law challenges in the EU

- Challenges posed by accession of Bulgaria and Romania (CVM 2007),
- Hungary & Poland: political vandalism, legal nihilism and illiberal democracy,
- Current state of affairs undermines not only the European Union itself but it also challenges the EU's credibility *vis-à-vis* the outside World.

# Rule of law challenges in the EU

- Toolkit: judicial and political mechanism,
- Judicial: Infringement proceedings – Articles 258-260 TFEU,
- A legal orthodoxy: only at the disposal of the European Commission when a Member State breaches particular provisions of EU primary or secondary legislation - not provisions like Article 2 TEU,
- Article 7 TEU: an alternative?
- Fit for purpose?

# Rule of law challenges in the EU

- Most recent developments suggest that when the politics fails the Court of Justice will step in,
  - Case C-64/16 *Associação Sindical dos Juízes Portugueses v Tribunal de Contas*,
  - Pending case C-192/18 *Commission v. Poland*
  - Joined cases C-404/15 and C-659/15 *Pál Aranyosi and Robert Căldăraru v Generalstaatsanwaltschaft Bremen*,
  - Pending case C-216/18PPU – execution of EAW against C.
- Article 7 TEU – game over?