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Making policies work

Sexual and reproductive health and rights:
OPPORTUNITIES IN EU EXTERNAL ACTION BEYOND 2020

GENDER

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Twenty-five years have passed since the International Conference on Population and Development that laid the foundation for sexual and reproductive health and rights (SRHR). In this paper, we review the place of SRHR in future EU policies, partnerships and funding, as the EU negotiates a post-Cotonou agreement with the African, Caribbean and Pacific Group of States (ACP) and the next long-term EU budget for 2021-2027 is on the table. Also, the new European leadership will take over, following European elections, amid growing tensions on how to safeguard Europe's standards on democracy and human rights, both internally and externally. Combined with a more interest-driven EU external action, this creates a challenging climate to build on the EU's track record on gender and SRHR in its external action.

Our analysis points to four key observations. First, the subtly crafted wording around SRHR will likely continue to be hard-fought in key EU external policy documents and the EU budget. As a result, during policy negotiations, this might require a smart balancing act between safeguarding the acquis on SRHR and accepting 'good enough' wording to ensure smart funding and targeted SRHR actions, in more complex and contested environments. Second, concerns have been raised by various actors, on how to protect the comprehensive nature of the SRHR agenda, including the sensitive rights-based dimension. Third, a systematic context analysis during the programming cycle will be required to produce results on the ground. Fourth, there are multiple drivers of change for SRHR and they need diversified forms of support to play their roles effectively.

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Acronyms

ACP	African, Caribbean and Pacific countries
AIDS	Acquired immunodeficiency syndrome
AU	African Union
CARMMA	Campaign to Accelerate the Reduction of Maternal Mortality in Africa
CONCORD	European confederation of Relief and Development NGOs
CPA	Cotonou Partnership Agreement
CSO	Civil society organisations
CSO- LA	Civil society and local authorities
CSP	Country Strategy Papers
DCI	Development Cooperation Instrument
DEVCO	Directorate-General for International Cooperation and Development (European Commission)
DEVE	Committee on Development and Cooperation
DG	Directorate-General (European Commission)
EAC	East African Community
ECDPM	European Centre for Development Policy Management
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EEAS	European External Action Service
EFI	External financing instruments
EIDHR	European Instrument for Democracy and Human Rights
ENI	European Neighbourhood Instrument
EP	European Parliament
EU	European Union
EUD	EU Delegations
FGM	Female Genital Mutilation
G-77	Group of 77
GAVI	Global Alliance Vaccine Initiative
GBV	Gender-based violence
GEWE	Gender Equality and Women's Empowerment
GFATM	Global Fund to Fight AIDS, Tuberculosis and Malaria
GPGC	Global Public Goods and Challenges
HAI	Humanitarian Aid Instrument
HIV	Human immunodeficiency virus
ICPD	International Conference on Population and Development
JAES	Joint EU-Africa Strategy

LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
MDG	Millennium Development Goals
MFF	Multiannual Financial Framework
MPoA	Maputo Plan of Action
NDICI	Neighbourhood, Development and International Cooperation Instrument
ODA	Official development assistance
PAGODA	Pillar Assessed Grant or Delegation Agreements
PEA	Political economy analysis
RBA	Rights-based approach
REC	Regional Economic Communities
RMNACH	Reproductive, maternal and newborn, adolescent and child health
SADC	Southern African Development Community
SDGs	Sustainable Development Goals
SOGIE	Sexual Orientation, Gender identity and Expression
SRH	Sexual and Reproductive Health
SRHR	Sexual and Reproductive Health and Rights
UN	United Nations
UNFPA	United Nations Population Fund
VAWG	Violence against women and girls

1. Introduction

Over the past two decades, the European Union (EU) has increasingly integrated gender equality as a fundamental value in its policy documents, partnership agreements, and support programmes both internally and externally. Within this broad gender policy framework, the EU has tried to promote a **multi-dimensional agenda for sexual and reproductive health and rights (SRHR) including both the 'human development' and 'rights' dimensions.** In fact, the EU has been lauded as "*one of the strongest supporters of SRHR overall, and family planning in particular*" (Countdown 2030 2019). The EU's profile has been defined by its leading role in negotiating the 2030 Agenda, as well as that of specific Member States' in championing SRHR policy progress. **EU attempts to foster SRHR in partner countries has been a challenging task**, as it touches on traditions, beliefs, norms and prevailing power relations. As the global landscape continues to shift, global funding and political support for SRHR continue to be impacted. The rise of conservatism and the reinstatement of an expanded Mexico City Policy by US President Trump's administration are both likely to have an impact. This is coupled with broader threats to multilateralism and shrinking spaces for civil society worldwide.

Within Europe, the rise of populism and a growing conservative voice has led to increased resistance in several Member States towards the inclusion of SRHR components in EU policy (particularly on abortion). This has created a widening divide between Member States, which could impact the EU's ability to position itself as a global leader on SRHR. Furthermore, the shift towards a more security and economic interest-driven EU external action may limit the scope for a bold stance on values linked to SRHR abroad. There are currently two ongoing policy processes, which provide a **test case** for the EU's external action approach towards SRHR beyond 2020: the negotiation of a **post-Cotonou agreement and the elaboration of a new Multiannual Financial Framework (MFF)** for the EU covering the period 2021-2027.[1]

This European Centre for Development Policy Management (ECDPM) discussion paper seeks to assess the **opportunities and risks involved in both these negotiations**. The first section unpacks the concept of SRHR, to sum up its various components and to stress the risk of reductionist implementation approaches, which could dilute the more sensitive (rights-based) aspects. Then, follows a brief overview of how SRHR issues are integrated in both EU and African policy documents and instruments. The third section examines the progress achieved in implementing this agenda, including by reviewing the experiences of a selected group of EU delegations (EUDs) operating in different country contexts. The fourth section focuses on the dynamics around SRHR in the unfolding negotiation of both post-Cotonou and the MFF. The paper concludes with four main findings for European and African policy-makers concerned with defending an ambitious SRHR agenda beyond 2020.

2. Sexual and Reproductive Health and Rights (SRHR): what are we talking about?

Understanding what SRHR entails requires initial reflection on its definition and historic background. According to the Guttmacher-Lancet Commission's comprehensive definition, SRHR is **an umbrella term for four distinct areas of interest: sexual rights, sexual health, reproductive rights and reproductive health** (Starrs et al. 2018).

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[1] For more information on the MFF, see: https://ecdpm.org/publications/investing-europe-global-role-must-have-guide-negotiations-multiannual-financial-framework-2021-2027/

Figure 1: Towards a comprehensive SRHR concept
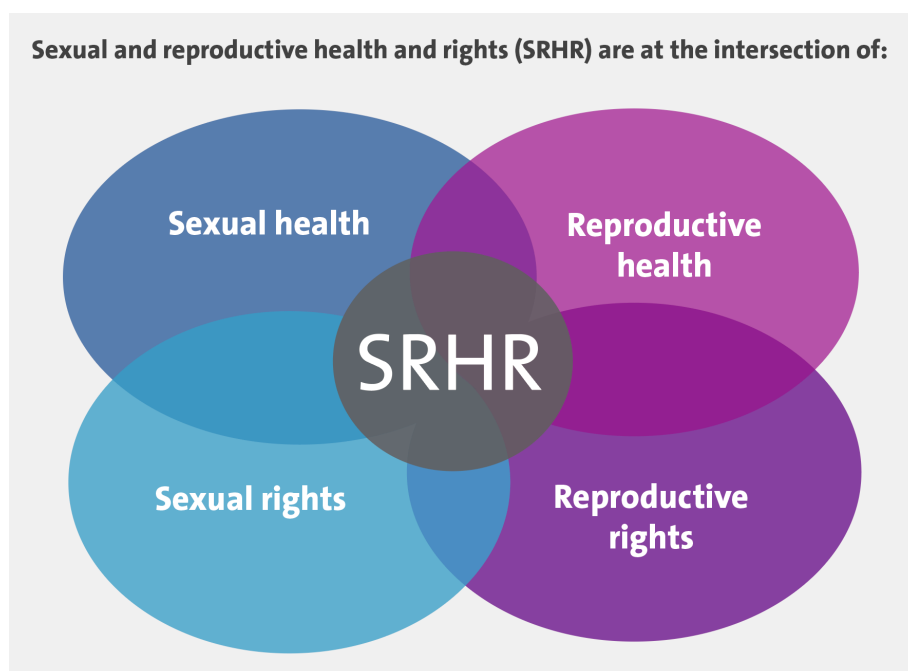
Source: ECDPM

As these four areas are interlinked and influence each other, they are referred to collectively as SRHR. However, each area may enjoy varying levels of political and social support depending on the context. **Therefore, deconstructing the concept of SRHR and referring to one (or several) of the four focus areas has been used as a strategy in political positioning** during negotiations and in the practice of SRHR across regions and countries. As a result, this has influenced both financial and political commitments (Starrs et al. 2018). For example, policy makers might focus on sexual and reproductive health (SRH) services, as opposed to addressing rights, such as abortion or LGBTI rights, as these may be perceived as more contentious.

Gender is linked to SRHR (with a focus on women and girls) based on the notion that any end to discrimination against women and girls, by targeted action to achieve gender equality and women's empowerment, will help them enjoy their sexual and reproductive rights. This was also underlined in a recent study on **the State of African Women**, which identified **four core rights areas**: gender-based violence, harmful practices, SRHR and HIV/AIDS (Eerderwijk et al. 2018).

However, creating a common language around SRHR has not been a straightforward endeavour. The Programme of Action following the **International Conference on Population and Development** (ICPD), held in Cairo in 1994, is seen as the first attempt. It **linked reproductive rights to human rights** under international law, shifting the focus from reducing fertility and curbing population growth to **empowering women and promoting individual choice** (Starrs et al. 2018). After the ICPD, the **Fourth World Conference on Women** (held in Beijing in 1995) confirmed the ICPD agreement and defined a number of women's rights, including the **right to control over and decide freely on matters related to their sexuality**. Subsequent review conferences have further strengthened the language on SRHR. Yet globally, **SRHR issues remain sensitive, especially regarding abortion.**

During the negotiation of the **Millennium Development Goals (MDGs) in** 2000**, the lack of agreement on language surrounding SRHR became particularly visible.** Despite the prudent formulation of the ICPD agreement and the Beijing Conference, negotiators for the MDGs **did not integrate SRHR,** as they were

concerned this could put the adoption of the Millennium Declaration at risk (Starrs et al. 2018). Hostility toward the inclusion of SRHR references stemmed largely from the US government under the Bush Administration and several developing country governments, particularly through the group of 77 (G-77). Notably, the G-77, which was split internally during the negotiations, opted for a consensus that would not offend its most conservative members (Crossette 2005). Only seven years later, **in 2007, a target was added to the MDG 5 that called for universal access to reproductive health**, with a focus on improving maternal health and reaching the unmet needs for family planning (Seims 2011).

More broadly, the MDGs lacked strong commitments to human rights, reflecting a rather narrow vision on human development and human rights. Hence, in the run-up to formulating a new international pact for beyond 2015, stakeholders pushed the governance and human rights dimensions of development to the forefront. As a result, **SRHR issues were included more extensively in the 2030 Agenda for Sustainable Development**, notably under sustainable development goals (SDGs) 3 on health and 5 on gender equality.

However, **the SDGs did not fully reflect all aspects of SRHR**, as recognised by the EU in its 2017 annual implementation report on the Gender Action Plan:

> *"The 2030 Agenda for Sustainable Development does not cover some critical elements of the gender and human rights agenda, such as non-discrimination based on sexual orientation and gender identity, access to safe abortion care, young people and adolescents' sexuality, diversity and intersectional inequalities. More broadly, international policy documents for the protection and advancement of SRHR, including at EU level, do not explicitly clarify the link between gender equality and the need of structural economic and governance reforms to fully protect and promote these rights by eradicating discriminations and inequalities"* (European Commission 2018a).

In May 2018, the **Guttmacher-Lancet Commission** [2] launched a report with a proposal for renewed commitment to SRHR and, in addition to the recognition of SRHR as an umbrella term for four key dimensions (as visible in figure 1), they proposed an **integrated definition for SRHR**:
"*Sexual and reproductive health is a state of physical, emotional, mental and social well-being in relation to all aspects of sexuality and reproduction, not merely the absence of disease, dysfunction or infirmity*" (Starrs et al. 2018).

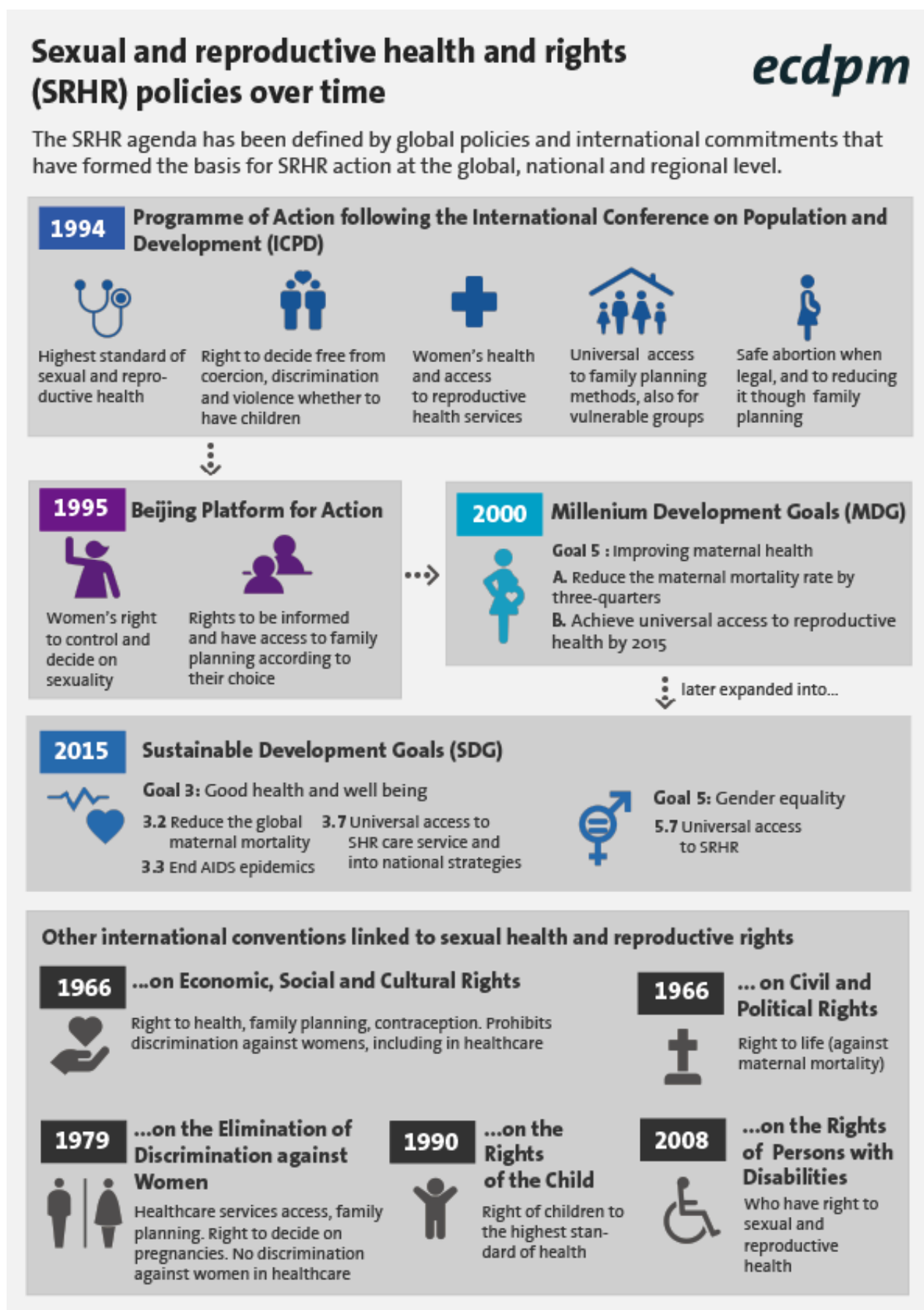The report provided a stronger **linkage to gender (in)equality** by noting that progress in SRHR entails addressing barriers in *"laws, policies, the economy and social norms and values"*, which prevent the realisation of sexual and reproductive rights (Starrs et al. 2018).

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[2] The Commission is composed of 16 experts from different regions with experience in a wide range of SRHR issues.

Figure 2: SRHR policies over time

Sexual and reproductive health and rights (SRHR) policies over time

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The SRHR agenda has been defined by global policies and international commitments that have formed the basis for SRHR action at the global, national and regional level.

1994 Programme of Action following the International Conference on Population and Development (ICPD)

Highest standard of sexual and reproductive health

Right to decide free from coercion, discrimination and violence whether to have children

Women's health and access to reproductive health services

Universal access to family planning methods, also for vulnerable groups

Safe abortion when legal, and to reducing it though family planning

1995 Beijing Platform for Action

Women's right to control and decide on sexuality

Rights to be informed and have access to family planning according to their choice

2000 Millenium Development Goals (MDG)

Goal 5 : Improving maternal health
A. Reduce the maternal mortality rate by three-quarters
B. Achieve universal access to reproductive health by 2015

later expanded into...

2015 Sustainable Development Goals (SDG)

Goal 3: Good health and well being
3.2 Reduce the global maternal mortality
3.3 End AIDS epidemics
3.7 Universal access to SHR care service and into national strategies

Goal 5: Gender equality
5.7 Universal access to SRHR

Other international conventions linked to sexual health and reproductive rights

1966 ...on Economic, Social and Cultural Rights

Right to health, family planning, contraception. Prohibits discrimination against womens, including in healthcare

1966 ... on Civil and Political Rights

Right to life (against maternal mortality)

1979 ...on the Elimination of Discrimination against Women

Healthcare services access, family planning. Right to decide on pregnancies. No discrimination against women in healthcare

1990 ...on the Rights of the Child

Right of children to the highest standard of health

2008 ...on the Rights of Persons with Disabilities

Who have right to sexual and reproductive health

3. European and African policy frameworks and instruments on SRHR

EU policies and instruments on SRHR

Various aspects of SRHR are embedded in different EU policy documents and commitments towards development, gender equality and human rights and they are implemented through various instruments:

✔ **2017 European Consensus on Development**
Building on the 2005 European Consensus on Development and the 2015 Council Conclusions on Gender and Development, the **new European Consensus on Development** (2017) explicitly takes into account the ICPD agenda, **reaffirms the EU's commitments to SRHR, and underlines the need for comprehensive information on sexual and reproductive health** (SRH).[3] It also reiterates the **EU's commitment to spend a minimum of 20% on social inclusion and human development from the EU's budget**. The European Consensus' text is based on negotiations between European Member States, the European Parliament and the European Commission. Despite how challenging it was to include SRHR in the Consensus, it has since formed the reference point for EU-agreed language on SRHR. Hence, moving away from this could lead to opening up negotiations on agreed language all over again. (European Commission 2017a)

✔ **2016 EU Gender Action Plan**
In 2016, the EU adopted the second **Gender Action Plan (GAP II), which** includes two thematic objectives aimed at including SRHR as an intrinsic aspect of gender equality and women's empowerment. Notably, dealing with access to relevant **health services** (sexual and reproductive health) and related **rights**.[4] Under GAP II, reporting on **SRHR became mandatory from 2016 onwards** (see details in section IV). This supports the EU's commitment to ensure **85% of newly funded programmes have gender equality as a "significant or principal objective".** Although it also contains a commitment to change the *"institutional culture"* of the EU to deliver on this agenda, it does not include specific details on what this means for advancing SRHR commitments as part of the EU's external action under the GAP II.

✔ **Regulations of EU external financing instruments**
Support for SRHR, including family planning, is also spelled out in the **regulations** of **various EU external financing instruments (EFIs)** of the current MFF (2014-2020). This is the case for the European Development Fund (EDF)[5], the Development Cooperation Instrument (DCI)[6], the European

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[3] "*The EU remains committed to the promotion, protection and fulfilment of all human rights and to the full and effective implementation of the Beijing Platform for Action and the Programme of Action of the International Conference on Population and Development (ICPD) and the outcomes of their review conferences and remains committed to sexual and reproductive health and rights (SRHR), in this context. Having that in mind, the EU reaffirms its commitment to the promotion, protection and fulfilment of the right of every individual to have full control over, and decide freely and responsibly on matters related to their sexuality and sexual and reproductive health, free from discrimination, coercion and violence. The EU further stresses the need for universal access to quality and affordable comprehensive sexual and reproductive health information, education, including comprehensive sexuality education, and health-care services.*"

[4] Thematic objective 10 seeks to ensure "*equal access to quality preventive, curative and rehabilitative physical and mental health care services for girls and women". Objective 11 reads as follows: "Promoted, protected and fulfilled right of every individual to have full control over, and decide freely and responsibly on matters related to their sexuality and sexual and reproductive health, free from discrimination, coercion and violence.*"

[5] Support is primarily foreseen under health-related objectives (e.g. the 2010 '*MDG initiative*', launched by the EU towards 10 ACP countries that were lagging behind on MDG commitments on affordable services in maternal health and sexual/reproductive health). The intra-ACP funds for 2014-2020 also target SRHR.

[6] Alongside the geographic programmes, the DCI has three other relevant budget lines: (i) the Global Public Goods and Challenges Programme (GPGC) focusing on providing SRH services, fostering gender equality and addressing issues such as child marriage, female genital mutilation (FGM) and gender-based violence (GBV); (ii) the funding line for Civil Society Organisations (CSOs) and Local Authorities that can be used for improving governance, gender,

Instrument for Democracy and Human Rights (EIDHR)[7] and the Humanitarian Aid Instrument (HAI)[8]. These EFIs will be explained in more detail in section three and specific language on these can be found in Annex 1.

✔ **Global initiatives**
Several global initiatives targeting various components of SRHR have been funded through European EFIs, such as the EDF and the DCI. They include the Global Alliance Vaccine Initiative (GAVI), the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM), the United Nations Population Fund (UNFPA) Supplies programme and the EU-UN Spotlight Initiative on gender-based violence (see box 1 hereunder).

Box 1: Combating gender-based violence through diversified regional responses - quid regional buy-in?

The **Spotlight Initiative is a multiannual EU-UN collaboration aimed at combatting violence against women and girls** (VAWG). Launched in 2017, in support of the Agenda 2030, it aims to improve gender equality and women's empowerment. Endowed with a contribution of EUR 500 million by the EU, it seeks to provide relevant support to dedicated national and regional programmes in Asia, Africa, Latin America, the Pacific and the Caribbean on a variety of topics related to violence against women and girls[9], building as much as possible on existing processes and actions. Institutional arrangements have been made to include relevant civil society organisations (CSOs), including youth representatives, in the governance of the Initiative (through National Civil Society Reference Groups).

The attempted effort to provide tailored regional programmes, did not go smoothly in the case of Africa, the African Union and its member states. The launch of the Spotlight Initiative's Regional Programme for Africa was planned during the most recent AU summit January 2019. But in a statement released on 31 of January, the AU Commission expressed its reservations on the initiative, possibly under pressure of AU member states, and noted that the language in the regional programme document for Africa was "not consistent with negotiated language on Sexual and Reproductive Health and Rights and Sexual Orientation, that has been negotiated in the key policy documents of the African Union". The Commission also noted that it "was not involved in the conceptualisation, design, and development of the Spotlight Initiative, of the project document titled Africa Reginal Programme document, within which there are multiple references to Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI)" (African Union Commission Communication 2019). Despite this communication, a European Commission fact sheet notes that joint activities with the African Union will be undertaking, with a focus on FGM and child marriage, under a programme worth EUR 250 million, to be implemented across Liberia, Malawi, Mali, Mozambique, Niger, Nigeria, Uganda and Zimbabwe (European Commission 2019).

This incident points to challenges to implement diversified regional responses towards tackling aspects of the SRHR agenda, even in the case of narrow objectives (such as combating sexual and gender-based violence). At the time of writing, it is not clear whether further exchanges have been held between the EU, the UN and the AU Commission and/or AU Member States on the Spotlight Initiative's regional programme.

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youth rights and HIV/AIDS; and (iii) The Pan-African Programme which funds a civil-society driven initiative to encourage national implementation of the Maputo Plan of Action on Universal Access to Comprehensive Sexual and Reproductive Health Services in Africa (see further below).

[7] The EIDHR can be used for supporting the rights of lesbian, gay, bisexual, transgender and intersex persons (LGBTI), women and girl's rights.

[8] SRHR falls under the €200 million annual budget line for humanitarian health programmes: primarily focusing on the provision of SRH services (e.g. reproductive health kits) and prevention and protection services for sexual violence and GBV.

[9] E.g. In Latin America, the programme focuses on ending femicide and in Argentina, El Salvador, Guatemala, Honduras and Mexico and on empowering regional networks. In Africa the aim is to eliminate sexual and gender-based violence, including harmful practices (in Liberia, Malawi, Mali Mozambique, Niger, Nigeria, Uganda and Zimbabwe). It will include a regional approach to scale up existing initiatives on fighting FGM and child marriage and joint activities with the AU.

African Union and regional policies on SRHR

The African Union (AU) has a comprehensive set of policies as regards gender equality and women's rights. These include notably the **Protocol to the African Charter on Human and Peoples' Rights** dedicated to the **Rights of Women in Afric**a (2003), and the **Solemn Declaration on Gender Equality in Africa** (2004). In addition, the **Agenda 2063** (2015), the AU's development agenda for the next 50 years was adopted by the African Union Heads of State and Government, at the 24th Summit of the African Union held in January 2015, in Addis Ababa, Ethiopia. The Agenda's sixth Aspiration is: "*An Africa, whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children*" (African Union Commission 2015).

Most recently in 2016, the AU adopted a revised **Maputo Plan of Action (MPoA): "Universal Access to Comprehensive Sexual and Reproductive Health Services in Africa"**. This plan follows on from the first Maputo Plan of Action 2007-2015 (2006) and is aligned with the strategic pillars of the African Union's Agenda 2063. While the MPoA is mainly focused on SRH services, it makes a direct link with gender equality and rights (see Box 2 below).

Box 2: The revised Maputo Plan of Action (MPoA) 2016-2030 (African Union Commission, 2016)

The MPoA spells out a rather comprehensive agenda with **ten strategic action areas:**

- Improving political commitment, leadership and good governance.
- Instituting health legislation and policies for improved access to Reproductive, maternal, newborn, adolescent and child health services (RMNACH).
- Increasing health financing and investments.
- Ensuring gender equality, women and girl's empowerment and respect of human rights.
- Improving SRHR information, education and communication.
- Investing in SRHR needs of adolescents, youth and other vulnerable and marginalised populations.
- Optimising the functioning of health systems and improving human resources by ensuring universal health coverage.
- Improving partnerships and multi-sectoral collaborations for RMNACH.
- Ensuring accountability and strengthening monitoring and evaluation, research and innovation.
- Increasing investments in health.

As with other Pan-African policies, the main challenge is to promote **domestication at the national level**, i.e. effective translation of the SRHR agenda into national legal frameworks and guarantees (e.g. for access to safe abortion), adequate government funding and institutions to ensure access to key services (including comprehensive sexuality education). The abovementioned report on the State of African Women provides an overview of the unequal progress achieved across the continent on the various dimensions of SRHR. It also identifies key gaps and contestations of women and girl's reproductive rights and SRH services (e.g. limited data availability, the lack of comprehensive legal frameworks with a rights-based orientation, the existence of explicit restrictions or parental consent to accessing contraception or SRH services, criminalisation and stigmatisation of same-sex relations, etc.).

The **African Regional Economic Communities** (RECs) are key actors who work in collaboration with the AU and development partners on SRHR and family planning issues, and play an important role in the domestication of the SRHR agenda at national level. Several of these RECs have adopted gender equality policies, which include elements of the SRHR agenda (for an overview, see Annex 2). Although the RECs launched interesting initiatives and institutional innovations, progress has been slow to materialise.

SRHR in the Joint Africa-EU Strategy and in the Cotonou Partnership Agreement with the ACP

The EU and AU jointly committed to promoting SRHR as part of the **Joint Africa-EU Strategy (JAES), which was** adopted at the Africa-EU summit in Lisbon in 2007. It states that "*Sexual and Reproductive Health and Rights (SRHR) will be promoted with the aim of achieving universal access to reproductive health by 2015 and to reduce newborn, infant and maternal morbidity and mortality, as set out by the International Conference on Population and Development (ICPD) and the Maputo Plan of Action, in the context of the Action Plans of this Joint Strategy"* (African Union & European Union 2007)*.* The language of this commitment is limited to universal access to health, and, in particular, maternal and newborn health. It does not mention youth sexuality, health or education. The text does refer to the ICPD and its Programme of Action.

In June 2017, the European institutions published a **communication on the revised Africa-EU Partnership** in which they recommitted to the empowerment of women and youth and to ensuring universal health coverage, including reproductive health care (European Commission 2017b). Yet, during the November 2017 EU-AU Summit, scant references were made to SRHR in the jointly negotiated text, for instance, sexual orientation, gender identity and expression (SOGIE) rights were not addressed.[10] Youth-led advocacy initiatives have however led to the growing prominence of youth in the EU-AU partnership, in high-level platforms and in national policy-formulating and implementing processes. This has been recognised as a way to create opportunities to address SRHR-related issues more extensively with and within this target group.

SRHR is also partly integrated in the Cotonou Partnership Agreement (CPA) between the EU and the African, Caribbean and Pacific Group of States (ACP). Signed in June 2000 for a 20-year period, it has been reviewed twice (in 2005 and 2010) (European Commission, 2014). Salient features of the current text include:

✔ Under the headings of social development, the CPA includes commitments regarding family planning, youth, population issues ("*in order to improve reproductive health, primary health care, family planning; and prevention of female genital mutilation"),* as well as the fight against HIV/AIDS (Art. 25). In the 2005 revision, the language of this latter part was changed to promoting the fight against HIV/AIDS so as to ensure *"the protection of sexual and reproductive health and rights of women".*

✔ Under the heading of gender, the signatories committed to *"encourage the adoption of specific positive measures in favour of women such as [...] access to basic social services, especially to education and training, health care and family planning"* (Art. 31).

✔ The 2010 revision remained restricted to HIV/AIDS rather than the broader spectrum of reproductive rights and health. However, a link was made with *"gender inequality, gender-based violence and abuse, as drivers of the HIV/AIDS pandemic"*.

✔ There are **no sexual orientation provisions** in the CPA. 'Non-discrimination' dialogues make no reference to sexual orientation, despite covering other areas such as gender and sex.

In addition to these formal CPA provisions with legal status, the ACP-EU partnership is implemented on the basis of the **co-management principle,** meaning that decisions on how to spend EU funding for ACP countries and regions is done jointly and requires the formal approval of ACP authorities. In practice, this often reduces the room for proposal of ambitious programmes that focus on the sexual and reproductive 'rights' components.[11]

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[10] Also, on gender equality the wording used systematically referred to "women and girls".

[11] The co-management condition is not the only reason why bold SRHR initiatives may not see the daylight. Evidence suggests that sometimes EU Delegations lack interest and pro-activity to tackle this agenda - despite the prevailing needs and opportunities in a given country.

EU external practices regarding Sexual and Reproductive Health and Rights (SRHR)

How are all these EU and African policy frameworks translated into practice in EU external action? **We will consider the four aspects** below to answer this question:

(i)   Level of political support for SRHR within the EU;

(ii)   Resources spent by the EU on various aspects of the SRHR agenda;

(iii)   Findings of evaluations regarding the implementation progress;

(iv)   Lessons learnt by (selected) EU delegations when addressing SRHR in different country contexts.

A high level of political support for SRHR, despite growing opposition

The growing focus on gender and SRHR in EU external action over the past two decades reflects evolutions within the Union. **Societal changes at the Member State level have gradually pushed gender priorities to the forefront and created space for addressing more sensitive SRHR questions** (including abortion, as witnessed in Ireland's 2018 referendum[12]). This, in turn, has facilitated the integration of these values in EU external action. Consequently, this may help to explain why Development and International Cooperation Commissioner Mimica embraced the gender/SRHR agenda as a key priority, which has been consistently pursued during the mandate of the current Commission (DG DEVCO 2019).

The available evidence confirms that a number of European countries, such as the Netherlands, Germany and Sweden, have *"traditionally been committed to"* and *"continue to be resolute in their focus"* on RMNACH, gender equality as well as SRHR (Donor Tracker 2017).[13] The political support for the SRHR agenda became evident in the response to the US Trump administration's reintroduction of the so-called 'Global Gag Rule' (or Mexico City Policy) in January 2017, which was met with public outcry from European politicians. Subsequent support towards conservative groups and the decrease in funding for SRHR led several EU Member States to launch the **She Decides initiative** as a countermeasure and to reinforce their support for women's empowerment and SRHR (see Box 3 below).

Another recent example of Member State support for the SRHR agenda was the **draft resolution by Germany** as a temporary member related to the **UN Security Council, resolution 2467** (2019), **on women, peace and security, sexual violence against women and girls in conflict**. Through this resolution, Germany attempted to strengthen SRHR provisions for victims of sexual violence in conflict. However, this was met with resistance from all three non-European permanent member states, who were against the establishment of a monitoring body (opposed by China and Russia) and against including language on sexual and reproductive health of victims of sexual violence (opposed by the US) (Security Council Rapport 2019). Despite Germany, along with the UK and France as permanent members, supporting the inclusion of language on family planning and access to women's health clinics, a watered-down version of the resolution, which omitted these aspects, was eventually adopted (Borger 2019).

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[12] See: Irish Times (2018). Ireland's abortion referendum result in five charts: The highest, the lowest, the most and the least of the Eighth Amendment referendum.

[13] The report notes that health ODA has stagnated compared to other development sectors. Due to the increasing prominence of health security within international politics, sectors such as infectious diseases control have seen strong growth. The sub-sector related to sexually transmitted disease control (including HIV/AIDS) has steadily lost funding both as a share of total health ODA and in absolute terms. Investments in reproductive, maternal, newborn and child health (RMNCH) increased incrementally and were largely protected from the changes affecting other health sub-sectors.

Box 3: The "She Decides" campaign and global movement

In 2017, the administration of **US President Trump reinstated, reinforced and expanded the Mexico City Policy**, also known as the 'Global Gag Rule', according to which foreign non-governmental organizations receiving US aid for global health are prohibited from performing legal abortion services or advocate for abortion policy reform (with the exception of incest, rape and engagement of the mother's health) (Trump, 2017).

In response, the former Dutch Minister for Foreign Trade and Development Cooperation, Liliane Ploumen, called for joint action against the Global Gag rule. A highly attended pledging conference, baptised She Decides, was hosted by The Netherlands, Belgium, Sweden and Denmark. The conference mobilised commitments for approximately $200 million. The **She Decides campaign** has since adopted a broader agenda on women's rights and has been transformed into a **global movement for women's and girl's right**s to which individuals and organisations can commit.

At the same time, experts point to the **growing influence of populist political parties in several EU Member States and within the EU institutions** (such as the European Parliament), as they push back on the EU's objectives for a progressive agenda on SRHR and gender. These parties have reportedly received support from international organisations and CSOs, which promote conservative agendas related to gender and sexual and reproductive rights, including the promotion of traditional gender norms and anti-abortion legislation.[14] As such, this could make it more difficult for the EU to uphold the language on SRHR that its Member States have agreed upon (European Parliament 2018a).

This will make it harder for the EU to have a sound basis on which to determine the future direction of its external engagements on SRHR. In addition, **internal tensions could jeopardise the EU's ability to ensure the current status of SRHR** in future EU policies, in the EU's negotiations on ongoing partnership agreements, and in securing future external funding.

EU external resources spent on SRHR

The GAP II requires the EU to report on how it addresses gender mainstreaming and SRHR. This has provided incentives to carry out more analyses on the resources spent on gender initiatives and on SRHR issues. However, **tracking funding directed towards SRHR is a complex endeavour.** Different institutional, academic and civil society actors use competing methodologies, which makes it difficult to compare commitments and disbursements. The methodology that the EU uses has inherent limitations in terms of the budget codes used, the possible amalgamation between gender and SRHR support, and the ability to capture expenditures related to specific SRHR concerns (e.g. comprehensive sexuality education) (Pitt et al. 2018).[15] The fact that SRHR issues might be indirectly funded in larger sector (budget) programmes, such as gender, complicates matters further. Although this approach might be beneficial in getting funding for SRHR during negotiations (by including more controversial issues under the broader gender umbrella), it makes it harder to track where money goes towards specific SRHR components.

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[14] To understand how these movements, operate and interlink see: Zacharenko, E. (2016). *Perspectives on anti-choice lobbying in Europe Study for policy makers on opposition to sexual and reproductive health and rights in Europe* and EPF (2018). *Restoring the natural order: the religious extremists' vision to mobilize European societies against human rights on sexuality and reproduction.* Brussels: EPF.

[15] The EU uses the Muskoka methodology to track RMNCH expenditures. Developed in 2010, following the G8 Muskoka summit, the Muskoka methodology makes use of OECD CRS data. A technical working group has envisaged to review and improve the methodology used to assess RMNCH in May 2018 (The Partnership for Maternal, Newborn and Child Health 2018).

Nevertheless, below we offer a non-exhaustive list of insights gained from the **2018 Annual Report on the implementation of the European Union's instruments for financing external actions in 2017** (European Commission 2019b) as well as from the **2017 Annual Implementation Report on the EU's GAP II** (particularly Annex 14):

✔ In 2016, the EU disbursed a total of EUR 12.35 billion for **Official Development Assistance (ODA)**, compared to EUR 13.10 billion in 2015, according to the 2019 European Commission Annual Report.

✔ EUR 133 million were spent on **population assistance**. African, Caribbean and Pacific (ACP) states received one third of this amount for population policies/ programmes and reproductive health under the EDF, according to the 2019 European Commission Annual Report.

✔ For the period 2014-2020, the EU's **support for the health sector** amounts to a commitment of EUR 2.6 billion. Of this amount, EUR 155 million (6% of the total amount for the health sector) are allocated to health initiatives, which aim to improve access to health services and sexual and reproductive health services (including through the Global Public Goods and Challenges Programme under the DCI). In this context, it should be noted that SRHR was not prioritised as a stand-alone issue in Country Strategy Papers (CSPs) and relatively few of them focused on health as a priority sector — thus also reducing the overall amount for SRHR at country level.

✔ For the **civil society and local authorities** (**CSO-LA) budget line**, the regional distribution of the projects and funding for the period 2007-2017 shows that most contracts related to health and SRHR were implemented in the ACP regions. Eight SRHR contracts were multi-region contracts. At least 50% of SRHR contracts awarded under the CSO-LA Programme between 2007 and 2017, which were concentrated in seven countries (Kenya, Sierra Leone, Zimbabwe, El Salvador, Ghana, Philippines and India). The figures show a sharp decline in recent years of resources allocated to health and SRHR through this financing instrument (see Annex 14 on the 2017 Annual Implementation Report on GAP II).

✔ Through the **European Instrument for Democracy and Human Rights** (EIDHR) for 2014-2017, seven programmes contributed to SRHR with a total budget of EUR 2 million (equal to 0.5% of total EIDHR budget). Interestingly, four of these programmes address sexuality education and information for young people and adolescent girls.

Moreover, EU institutions renewed their contributions for 2017-2019 to the **Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM)** with up to EUR 470 million, building on the EUR 242.1 million allocated in 2016 of which EUR 12.1 million went towards sexual and reproductive health and family planning (Countdown 2030 2019).

All in all, as evidenced in the 2017 Annual Implementation Report on GAP II, the **nature of funded programmes varies hugely**, making it hard to get a clear overview of where commitments are being disbursed.[16] **Improving the EU's tracking mechanisms specifically on SRHR, could greatly improve the EU's ability to see where specific funding to SRHR lands.**

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[16] This is for example the case with GAP objective 11, which seeks to ensure a rights-based approach to SRH (both in terms of access to services and choice). Indicator 11.1 (maternal mortality ratio) was chosen by 20 EU Delegations in programmes supporting UNFPA (Afghanistan, Somalia and South Sudan), the national health system at different levels (Burundi, Cambodia, DRC, Ethiopia, Guinea, Morocco and Senegal), the prevention and protection from obstetrical violence (Mexico), nomadic populations (Niger) or populations under humanitarian crisis (South Sudan and Syria). Indicator 11.4 (related to unmet demands for family planning) was chosen for programmes supporting the 'She Decides' campaign (Burkina Faso), access to reproductive, maternal and newborn, adolescent and child health (RMNACH) services for women (China and Egypt), and UNFPA programmes (Myanmar, Palestine and South Africa). Notably, indicator 11.5 (the % of young people receiving comprehensive sexuality education) was the most chosen indicator across all the regions.

What do policy evaluations tell us?

So far, **there has not been an independent EU evaluation dealing <u>specifically</u> with SRHR**, which is something that could be useful for monitoring current and future EU external action on SRHR.[17] Instead, existing needs for evaluation evidence can partially be met with the available material on how the EU deals with gender globally or with health policy and delivery systems (since SRHR used to be included under the latter and related units of the Directorate-General for International Cooperation and Development (DG DEVCO). SRHR has only recently been recognised as part of gender in the EU's external engagements and actions.

The first relevant strategic evaluation is the **2015 Evaluation of EU Support to Gender Equality and Women's Empowerment (GEWE) in Partner Countries**, which also looked at the track record of the first Gender Action Plan 2010-2015. The main conclusion was that the **EU was not delivering a strong institutional commitment on GEWE**. The evaluation identified **three main reasons for the less than optimal progress**: (i) lack of leadership, communication, incentives and institutional capacities to mainstream gender; (ii) limited success in introducing gender from country context analysis to programming, resulting in an inadequate identification of windows of opportunity and (iii) poor consistency in gender mainstreaming across sectors, European Commission (EC) funded programs, projects and policy dialogues.[18] However, the evaluation also noted that GEWE is increasingly addressed in dialogues concerning the private sector, justice sector, governance, budgeting or sectoral budget support programmes).

A second source of information is the **evaluation on the impact of the Cotonou Partnership Agreement**, conducted by a taskforce of the main units involved in its implementation set up by the European Commission. In the evaluation, the taskforce observed an **improved access to basic services** such as child and maternal health as well as in the fight against HIV/AIDS, among others. Other issues however, such as **population growth and family planning, were seen to have received insufficient attention**. (European Commission, 2016)

Additionally, the **Coherence Report**, an independent synthesis document reflected outcomes of evaluations conducted in 2017 on the various External Financing Instruments (EFIs) of the Multiannual Financial Framework (MFF) for the period 2014-2020 (European Commission 2017c). One of the main conclusions from the Coherence Report was that the **overall performance of the current set of EFIs in promoting EU values (including gender/SRHR) is mixed**. It warned that the **overall response capacity of the EU (across EFIs) may be at risk** as a result of four trends: (i) resistance from a growing number of countries to engage with the EU on the values agenda; (ii) the phenomenon of closing space for the autonomous action of civil society engaged in rights issues and women's rights in particular; (iii) the growing securitisation of EU external action and related concerns about migration[19] and (iv) the less than optimal capacity for joined-up action between the EU and EU Member States on the question of promoting values abroad.

This raises important questions for the future MFF and the programming of EU external assistance. According to the Coherence Report, the difficulties of mainstreaming values through geographic programmes

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[17] Until recently, SRHR in the EU context was mainly dealt with under 'health' and 'human development' (pushed forward by the DEVCO health unit). SRHR has been only recently recognised *as such* in EU external action and explicitly related to gender and human rights (now also involving the DEVCO gender unit).

[18] The evaluation identified health, education, water and sanitation, and rural development as the main sectors where gender is included in policy dialogue, i.e. social sectors which are traditionally associated with gender concerns

[19] With the politicisation of migration, there is a danger to see the discourse on SRHR/FP coming in through the 'wrong door' – with the assumption that family planning funding might have a positive impact on migration.

(i.e. national and regional envelopes) may force the EU to upgrade the status of dedicated thematic instruments (e.g. EIDHR, CSO-LA) and programmes (such as the GPGC).

4. Experiences and lessons learnt by selected EU Delegations in promoting SRHR

For the purpose of this paper, interviews were conducted with a number of EU Delegations — mainly based in Africa — with a view to capturing their experience with and lessons learnt from promoting SRHR in their respective country/regional contexts.[20] The following key pointers can globally be extracted from these talks:

1. *Increased uptake of the agenda on gender mainstreaming and diverse responses to SRHR.* Across the board, respondents noticed that **gender issues feature more prominently on the agenda of their respective EU Delegations**. This reflects the growing political and institutional pressures from EU headquarters (fuelled by a devoted Commissioner) and many Member States to mainstream gender and report on it (an obligation introduced in GAP II). Global programmes, such as the Spotlight initiative, also help foster uptake. Several delegations noted that gender is no longer confined to delegation focal points, but that it is a topic that is increasingly being picked up by colleagues working on specific sectors within delegations. This often requires targeted efforts to socialise gender internally within delegations.

   However, respondents also reported they often lack time and capacity to follow-up on the effective uptake by other units (particularly those involved in budget support) or to sensitise newcomers in delegations to include a gender perspective in their respective work.[21] While gender is increasingly mainstreamed in non-traditional policy areas (e.g. trade, agricultural development, climate change, resilience), **there is a risk of the focus being on low-hanging fruit rather than on the more contested aspects of SRHR**.

   Overall, the **delegations' approaches to the SRHR agenda varied considerably**. Some recognise they do not have *"a systematic and/or strategic approach towards SRHR"*. Instead, they try to integrate SRHR *"where possible"*, in a pragmatic manner. Other delegations preferred not to venture too far into this arena, as they fear backlash from their partner country or feel that EU leverage is too limited to get things moving. Still others admit the current efforts are too scattered and projectised, and that the time has come to be more ambitious, strategic and comprehensive in dealing with the many unmet SRHR needs and challenges in their partner country.

2. *Growing investment in context analysis as well as framing of relevant narratives.*
   The 2015 evaluation on GAP I was critical of the lack of knowledge of local, political and institutional conditions to foster SRHR (see above). The interviews with the selected sample of EU Delegations (EUDs) reflected general progress on this matter. EUDs reported that **resources are being spent to enhance their capacity** to understand the full scale of the gender and SRHR challenges in a given country and their interlinkages (through external studies, trainings, structured exchanges with domestic actors, etc.). In this, taking a **political economy analysis (PEA) approach** could build on the ongoing progress and momentum made by various EUDs. It may provide EUDs with a structured process to improve their understanding of the societal drivers and obstacles related to SRHR in their partner contexts (e.g. religion, culture, socio-economic issues).

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[20] These include: Egypt, Fiji, Kyrgyzstan, Macedonia, Madagascar, Mozambique, Tunisia, Uganda.
[21] An interviewee stressed that the lack of sensitivity to gender/SRHR is not confined to senior people. Younger staff as well (particularly from new member states) arriving in EUDs, may display limited interest / inclination to act on this agenda.

Furthermore, the EUDs consulted noted that they tend to refrain from using normative approaches to promoting SRHR. Instead, **they invest in scanning** the local environment and identifying the most relevant entry point for action. They also reported that they **choose interventions where there is a demand** from the government (e.g. family planning in Egypt, HIV/AIDS in Uganda), society at large or particular groups (e.g. local youth advocates). This allows them to build trust and develop collaborative arrangements with domestic actors (public and private) and it may also create space to (gradually) tackle more sensitive issues (e.g. ensuring non-discrimination in access to health services for homosexual HIV/AIDS patients). Finally, EUDs reported a growing awareness on the need to use the **right type of framing** and prudent **communication** when engaging on SRHR (so as to avoid fuelling opposition from the local politicians and public).

3. *Combining projects and structural / institutional approaches.*
   Most of the EUDs that were interviewed reported that there is a **drive towards adopting more comprehensive approaches** to addressing SRHR *"beyond funding isolated projects"*. According to respondents, this would require action at the EU level: (i) adopting a stronger political stance on the matter (where possible); (ii) upgrading the EU Human Rights Strategies to integrate SRHR as a key enabler for sustainable development; (iii) providing strategic support to specialised CSOs by using different financing instruments; (iv) making better use of budget support operations to foster SRHR or (v) promoting institutional reforms by partner governments that may over time help drive forward the SRHR agenda (such as the introduction of gender budgeting) and (vi) agreeing on a more results-oriented task division with other Member States and external actors, based on respective comparative advantages. On the other hand, EUDs had mixed reactions regarding the added value of the **rights-based approach to development**, as promoted in the European Consensus. Although they acknowledged its potential to act as a trigger for SRHR, they also recognised it would take time before the concept is properly internalised and used by EUDs.

4. *Limited political dialogue … yet opportunities for informal, multi-actor policy dialogue.*
   The consulted EUDs recognised the importance of using **political dialogue** to promote SRHR in close alliance with the involved Member States. Yet, they pointed out the difficulties in effectively engaging in a dialogue with partner governments on such matters. This is reportedly linked to the 'political transaction costs' that the EU may have to bear by raising sensitive SRHR issues. Moreover, they noted that political dialogue events tend to be infrequent and overly formal, and when they do take place there are many competing issues calling for attention. As a result of these constraints, the EUDs contacted for this study try to explore opportunities **for informal policy dialogues** on SRHR issues (e.g. in the context of budget support operations, a civil society support programme or a global initiative [22]). Experience suggests that such processes often provide more leeway to put (even controversial) SRHR questions on the table in a less confrontational setting, involving actors at a more managerial/operational level as well as civil society organisations.

5. *Strategic alliances with domestic actors.*
   Evaluations regarding donor support for human rights consistently insist on the **need to localise (as much as possible) the reform agenda** and related interventions. According to the underlying theory of change, progress will depend on the level of societal demand for and acceptance of new norms. This suggests the EU needs to invest in building relations, partnerships and alliances with progressive actors at the local level. The potential benefits are multiple: greater awareness of the local priority agenda regarding SRHR; increased knowledge of 'where the lines can move', in a given society at a

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[22] One EUD reported that the discontinuation of support to the health sector meant other ways had to be sought to foster dialogue on SRHR.

particular juncture in time; a stronger local 'voice' and capacity for collective action to push for effective change, etc. (European Commission, 2011).

The EUDs involved recognise the potential of such strategic alliances with a variety of domestic actors, built over a longer time, in improving the chances of a sustainable impact. Furthermore, EUDs are taking interesting steps to connect with the policy initiatives of domestic champions (e.g. ministries dealing with social affairs or gender) or provide support for the formulation and implementation of reform-oriented national strategies dealing with aspects of the SRHR agenda. Yet, the EUDs also acknowledge that **much remains to be done in this area**. Knowledge of 'who is who' in the broad and multi-dimensional arena of SRHR actors (encompassing both service delivery agents and advocacy organisations) is still fairly limited in most cases and confined to CSOs that are funded or a small group of 'usual suspects'. The growing trend toward delegating the implementation of EU support programmes to Member States or UN agencies[23] (through Pillar Assessed Grant or Delegation Agreements (PAGODAs)) further complicates the EUDs' task to engage directly with the various players.

6.   _Views on the future of SRHR work._
     Most EUD interviewees are convinced that SRHR will remain a key EU policy priority under the next Commission and EU leadership, and that it will continue to be included in future programming of the MFF and post-Cotonou negotiations. However, they also recognise the multiple sources of resistance, particularly on the rights components of the SRHR agenda. In addition, they expect opposition by conservative forces to grow, both in partner countries and within Europe. At the same time, they noted that societal demands for change may also get stronger in many partner countries, as women and young people become more vocal and governments realise that they must respond to pressing needs (e.g. for family planning, fighting against HIV/AIDS, etc.). They stressed that this **domestic basis for SRHR is key** and needs to be further nurtured by the EU, as it could contribute to transforming SRHR over time into a truly 'global public good'. In most EUDs' view, **context-specificity, gradualism and pragmatism are the key devices to move the agenda forward**. The staff interviewed largely agreed that if the EU and its Member States can ensure this agility in the future — in terms of strategy, intervention logic, funding modalities, expectations regarding impact — there will be space to continue promoting SRHR.

     Following this logic, the EUDs are relatively confident about future EU funding for SRHR. As the EU continues to mainstream gender and adopt more comprehensive approaches to SRHR, the geographic component of the EU's next budget (as explained in Box 5) may prove to be a strategic tool to push forward and integrated SRHR agenda. Whether or not this happens on the ground, depends on many other factors, particularly EU leadership, adequate incentives, EUDs' agency, as well as the availability of the right capacities and skills. Interviewees felt it was risky to focus only on mainstreaming approaches through geographic instruments. Rather than taking this approach, and placing all the eggs in one basket, most EUDs supported the continued existence of thematic lines (mainly to test out new initiatives or cater for governments' needs in case of major blockages).

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[23] Experiences vary in dealing with UN agencies. In some countries, this cooperation runs smoothly, both between EU and UN actors and among the latter. Another EUD reported fierce competition for leadership between UNFPA, UN-Women and UNDP, hampering effective delivery and jeopardising local ownership.

5. SRHR in the post-Cotonou negotiations and the new MFF (2021-2027)

The negotiations between the EU and the three ACP (Africa, Caribbean and Pacific) regional groups for a post-Cotonou/post-2020 agreement started in September 2018, in parallel with the process of elaborating a new EU Multiannual Financial Framework (MFF) for 2021-2027.

While continuity is a key driver in renewing major policy frameworks or determining the next general EU budget, some **tensions and risks may arise in both processes regarding the SRHR agenda**. The growing internal and external opposition to core SRHR issues prompts several questions. Where and how will SRHR feature in the post-Cotonou agreement after 2020? How real is the danger of having a dilution of the 'rights' component in the text of the new post-Cotonou deal? What place will the EU give SRHR in the revised set of European financing instruments and in the next MFF, in terms of the levels of dedicated resources?

SRHR in post-Cotonou: who will be in the driving seat on the African side?

The EU's negotiation mandate for a post-Cotonou agreement, approved in June 2018, provides solid and explicit commitments towards SRHR, in a proposed **foundation** for the successor agreement beyond 2020. This foundation is a set of common rules of the game, which is meant to underpin each of the envisaged regional agreements with the ACP (European Council, 2018). Under the heading 'Human Development and Dignity', the EU mandate reaffirms the implementation of the Beijing Platform for Action and the Programme of Action of the ICPD, as well as the outcomes of their review conferences. This puts **SRHR firmly in the normative framework of a future agreement and in a human rights context**.

For the EU:*"the Agreement will commit to the promotion, protection and fulfilment of the right of every individual to have full control over, and decide freely and responsibly on matters related to their sexuality and sexual and reproductive health, free from discrimination, coercion and violence."* The EU also expects the agreement to *"further stress the need for universal access to quality and affordable comprehensive sexual and reproductive health information, education, including comprehensive sexuality education, and health-care services"* (European Council, 2018). These commitments are repeated in the negotiation mandate for each of the three regional partnerships, including the envisioned EU-Africa partnership.

The EU's mandate reflects Member State positions taken from the latest agreed language on SRHR from the Consensus, and should be seen as language that was agreed upon at the time. During the discussions on the mandate above, it became clear that **conflicting views existed on how to deal with SRHR moving forward**. Several EU Member States (e.g. Poland and Hungary) expressed reservations regarding the proposed provisions (particularly regarding abortion). This puts the ability of the EU to continue to collectively agree on the previously agreed language at risk. In June 2018, the European Parliament (EP) voted on a report presented by its Committee on Development and Cooperation (DEVE). The Parliament approved the main aspects of the Commission's proposal, but made some recommendations, including that the chapter on human rights **explicitly mentions sexual and reproductive health and rights** (European Parliament, 2019a).

Box 4: Current state of EU-ACP negotiations

The actual negotiations with the ACP commenced in September 2018. Yet, the process was affected by a **major political contestation of the whole ACP-EU framework by the African Union**. In March 2018, the AU elaborated an African Common Position, calling for a new 'continent-to-continent' deal to be negotiated directly with the EU, outside the postcolonial ACP-EU framework. This, inevitably, led to confusion on how the post-Cotonou process should advance - particularly as the EU negotiating mandate seeks to deepen the regional partnership with Africa. The struggle for leadership between the 'ACP route' and the alternative 'AU-route' continued on the African side for months without achieving a clear consensus so far. At the time of finalising this report, the matter of African continental representation in the negotiations is not yet fully resolved (Medinilla and Bossuyt 2019).

This rather schizophrenic situation inevitably impinges upon the ongoing negotiation of the 'foundation' and related common rules of the game due for future cooperation. A first round of exchanges has been organised between EU and ACP representatives in Brussels. Under the future agreement, the common basis will be supplemented with specific, action-oriented regional pillars which will address regional needs. It is unclear at this stage how and with whom negotiations on the African regional pillars will be conducted and formally agreed upon. It also remains to be seen whether the AU will accept the 'rules of the game' that ACP-EU negotiators will concoct, including on human rights and SRHR (European Commission 2019c). Given the many uncertainties in the process, progress in the negotiations is slow, and parts of the agreed text remains provisional.

Civil society activists working on SRHR do not foresee major opposition from the ACP regions when these will negotiate the new post-Cotonou deal. In their view, the "*battle*" with the EU is more likely to be about major political, institutional and funding issues — rather than on content-related issues such as SRHR (of limited interest to core ACP clients and constituents). Furthermore, the ACP group is not perceived as a direct target of the most vocal anti-abortion countries and networks. **The question that remains to be answered is whether this will be different when the AU also gets involved in SRHR matters, in the context of the upcoming negotiation of the EU-Africa partnership.** While the AU Commission has previously pushed a relatively bold gender and SRHR agenda, it remains to be seen how much political support it will receive from African states for integrating stronger commitments into a new cooperation agreement. How the internal debates within the EU will unfold, depends on the composition of the next EP as well as on the effectiveness of the advocacy work undertaken by CSOs involved in the monitoring of SRHR issues.

Limited focus so far on SRHR in MFF proposals

Box 5: Current state of MFF negotiations

The negotiations for the next seven-year EU budget — the MFF 2021-202 7— are ongoing. To frame the negotiation of the new MFF, the European Commission proposed a major restructuring of its external financial architecture in order to make it simpler, more efficient and flexible as well as better aligned with EU interests and values. As part of the MFF package, the European Commission is in favour of a raise in the overall budget for EU external action by 13% in real terms. A key innovation is the proposed creation of a **Neighbourhood, Development and International Cooperation Instrument** (NDICI), endowed with a financial envelope of 89,2 billion Euro. Under this 'single' instrument, various existing EFIs (including the EDF) would be integrated and streamlined. The NDICI's **geographic component** — geared at working with partner countries and regions — would absorb 75% of the overall envelope. This is consistent with the European Commission's approach to reduce the weight of thematic lines.[24]

In a similar vein, **it will be important to see how the planned NDICI instrument will be governed in the future.** Three core EU institutions (i.e. the Council, the European Parliament and the European Commission) will seek to maintain/expand their influence over the instrument in the context of a Union that wants to move towards a more strategic, coherent and responsive external action. The right balance will need to be found between a more interest-driven and flexible instrument (with less ring-fencing and dedicated lines), on the one hand, and enhanced transparency and accountability on the other (allowing to assess whether the EU effectively pursues stated priorities, like on SRHR). This includes creating new mechanisms for strategic steering of the instrument — driven by the European External Action Service (EEAS) and in close dialogue with Member States.[25]

Much will also depend on how future EU resources will be programmed, particularly the geographic envelope for political cooperation with countries and regions (75% of the funds involved in the proposed NDICI). The EU will have to define its strategic priorities and identify how its ODA can best safeguard its interests, promote its values (including SRHR) and support the implementation of both the Lisbon Treaty commitments and the Agenda 2030. The **EEAS, Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) and DG DEVCO are currently devising** '**strategic framework documents'** that should inform the EU's international cooperation under the NDICI (with DEVCO and other DGs that seek to strengthen the external dimension of their work like DG HOME, DG CLIMA, etc.). At this 'upstream level', fundamental orientations will be defined — that also relate to the place of values and SRHR. On the other hand, DEVCO will have to step up its game to ensure policy coherence for development is not an afterthought in designing these documents.[26] The European civil society movement, represented by CONCORD (European confederation of Relief and Development NGOs), is aware of the challenges and is mobilising its members to advocate for **"smart programming"**. It calls for increased funding for thematic programmes and safeguarding measures in the programming to ensure *"sensitive issues"* are included in the geographic programmes. (CONCORD 2018).

As far as the timeline is concerned for the next MFF, overall political agreement by the Council and the new European Parliament is expected to be concluded by the end of 2019, yet even this could take longer. However, the thematic specifics and legal aspects of the new MFF may only be finalised by November or December 2020.

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[24] For more information on the MFF, see: Sherriff A. (2019). *Investing in Europe's global role: The must-have guide for the negotiations of the Multiannual Financial Framework 2021-2027*. Maastricht: ECDPM.

[25] For an overview of the governance challenges involved, see Jones, A. et al. (2018). *Governing a broad instrument for EU external action. The ins and outs of the institutional power struggles*. Briefing Note No 107. Maastricht: ECDPM.

[26] For an in-depth analysis of the upcoming changes in the programming of EU aid, see: Herrero et al. (2018). *How to spend Euro 89.2 billion: Early developments in international cooperation programming*. ECDPM, Discussion paper, No 235. Maastricht: ECDPM.

Although, previously agreed language on SRHR (such as in the Consensus) is included in the annexes of the European Commission's proposal on the NDICI, **the main text of the proposal, does not explicitly mention SRHR**. In terms of funding, allocations for gender equality and women's empowerment are **envisaged to be included in the proposed 20%** earmark for human development, under the thematic pillar of the NDICI.[27] CSOs advocating for separate ring-fencing for gender equality are opposed to this. Thematic funding for SRHR is expected to fall under the commitments for gender equality and women's empowerment. The exact allocations will be discussed during the next programming phase. Once the MFF proposal reaches this stage, there should also be more clarity on where SRHR funding will fall under the geographic pillar of the NDICI (European Commission, 2018b).

Throughout the process of developing the next MFF, CSOs have been vocal about a decrease in funding for SRHR under the next MFF for SRHR. Their main concerns are the decreasing support for SRHR, internally and externally, and the related phenomenon of 'closing spaces' for CSOs' autonomous action in partner countries (on governance and human rights, including women and girl's rights). Furthermore, they fear that when the SRHR is mainstreamed across the various NDICI pillars, it will lose status, weight and actual funding opportunities, as has happened in past EU development cooperation on other themes. Hence, CSOs have been advocating for earmarked funding for SRHR as an objective under specific budget items (e.g. health, education, youth empowerment, human rights, gender, etc.) or, preferably, as a separate budget line.[28] Although a separate SRHR budget line is an unlikely prospect, considering the envisaged flexibility of the NDICI.

More recently, the **European Parliament's (EP) resolution on the NDICI significantly strengthens the language on SRHR**. On 27 March 2019, the majority of the sitting EP proposed stronger commitments to SRHR, women's empowerment and gender equality, in their final resolution on the NDICI. The final report included the promotion of a rights-based approach (RBA) in development assistance towards SRHR, a call for EU support towards comprehensive SRH information and sexuality education, as well as research promotion for new and better SRH and family planning tools. (European Parliament 2019b)

The **EP's resolution was met with support from CSOs** that have been advocating for the integration of guarantees in the core text. This they deem is necessary to prevent the topic from falling behind or getting diluted into other gender-related objectives. They also argue it will send out a strong message to others on the EU's stand in support of SRHR as an equally important focus area - which goes beyond access and delivery of health services and includes comprehensive sexuality education, rights and empowerment objectives.

Still, the extent to which SRHR will make it through the negotiations on the NDICI and feature as a priority area — with or without dedicated funds — remains to be seen. **Although the EP's resolution has set the bar higher than the initial MFF proposal by the EC, it will ultimately depend on the Council's — and thus the Member States' — level of ambition and whether they will manage to agree on SRHR's position in the next MFF**. Following the negotiation phase of the future MFF, the programming process will determine the extent to which the EU will translate its commitments to SRHR into concrete funding. This will be a good test case on the EU's ability to promote its own values while respecting country ownership, particularly in partner countries with opposing views on SRHR. At this point, it should be noted that, while the inclusion or 'budgetisation' of the EDF in the NDICI would in principle not affect the overall allocation to sub-

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[27] References in the annex fall under headings on poverty eradication, fight against inequalities and human development; health and women and children.

[28] More specifically CSO's advocate for earmarking for SRHR, including family planning in accordance with the 2017 European Consensus, *"regardless of the format that will be chosen"* for the future EFIs (NDICI or other models) (Countdown 2030 Europe 2018a).

Saharan Africa[29], potential outcomes of the post-Cotonou negotiations could shift how funding is programmed and managed. For instance, changes in regional programming could lead to a stronger role of the AU/RECs. Changes in country programming (which forms the bulk of the funding), along with a possible revision of the co-management principle of Cotonou, could lead to gatekeeping by national government systems — going against the overall agreement — particularly when it comes to politically sensitive decision-making related to human rights, such as SRHR (Bossuyt et al. 2016).

6. Some concluding observations

2019 is a crucial year for both the negotiation of a post-Cotonou agreement and the next MFF. The European context is volatile. This is reflected in major uncertainties related to Brexit, as the UK is a major contributor to EU development aid and has been a strong supporter of reproductive health and family planning, and the election of a new EP and leadership for the EU institutions (Countdown 2030 Europe 2018b). There are also concerns on how to safeguard Europe's standards for democracy and human rights internally, at a time when populism is gaining more ground. Combined with a more-interest driven EU external action, this creates a rather challenging climate for those seeking to defend and build on the EU's achievements on gender and SRHR. The EU has so far been a global leader on SRHR: the She Decides Initiative was a clear sign of certain EU Member States' willingness to maintain and even increase support for SRHR, amid setbacks in other parts of the world. At the same time, conservative forces are getting stronger, both within Europe and abroad. **CSOs will have to be vigilant and the EU institutions and Member States' governments will have to hone their negotiation skills if they want to successfully push forward an ambitious EU agenda on SRHR beyond 2020**.

Four pointers can be drawn from the above analysis for future positioning and action:

1.   *The battle on wording will continue.* Both in the post-Cotonou and MFF negotiations, it will be crucial to **focus on the 'language' used**. This may require a delicate balancing act. On the one hand, there is a need to safeguard the 'acquis' regarding SRHR (based on major conferences on the topic or relevant policy documents of the EU, AU, ACP-EU, *etc*.). New language on SRHR might need to be considered in the post-Cotonou agreement (e.g. on relatively neglected dimensions) and in the NDICI Regulation (to avoid SRHR becoming too diluted in other gender objectives). On the other hand, this might imply accepting that having the best possible wording is not always possible or desirable (as it may provoke strong opposition). The challenge for EU policymakers and negotiators will be to preserve agreed language or wording that is 'good enough' to open doors and ensure smart funding for targeted actions on SRHR. **This also applies to global initiatives on SRHR,** such as in the case of the Spotlight Initiative (Box 1).

2.   *Inclusion of the sensitive SRHR dimensions.* Special attention by policymakers and negotiators will also be required to ensure that the **comprehensive nature** of SRHR is duly reflected in both the new post-Cotonou agreement and the MFF. The risk of neglecting more contentious issues (such as LGBTI and abortion) will continue to exist and possibly even grow. This will depend on how SRHR interventions are framed and presented in communication. Experiences from the EUDs indicate the need to adapt to particular country contexts. In some cases, pursuing SRHR commitments under broader, less controversial headings, such as health, might be beneficial. Gender may provide a further broadly accepted objective (both in the EU and in partner countries) under whose wings SRHR could

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[29] The NDICI's geographic component foresees that the Neighbourhood will get at least EUR 22 billion and sub-Saharan Africa Euro 32 billion.

be fostered. Still, this will require clear strategies to unpack the different dimensions of SRHR and ensure that they receive sufficient attention. Moreover, on the funding side, EU stakeholders should resist the temptation to focus mainly on the 'easier' SRHR issues in the future MFF/NDICI.

3. _Pragmatism at field level through smart programming and implementation._
From the above analysis, it is clear that **systematic context analyses, such as via political economy analysis approaches, are needed** to identify relevant ways to address SRHR issues in a given country and moment in time. The programming process could be used to clarify political choices on the place and weight the EU wants to give to SRHR. This can then be translated into **smart interventions**, e.g. choosing feasible entry points (e.g. youth empowerment), building on domestic alliances, participating in national coordination groups on health and gender, promoting cross-sectoral approaches in partner countries, investing in joint programming and mobilising different support modalities. Our analysis also suggests the importance of continued investment in **institutional changes within the EU(D)**, as called for in GAP II, to better mainstream gender and SRHR. Within the EU headquarters, this could also be done by further strengthening internal collaboration between the DEVCO units on health and gender.

4. _Holistic and flexible approaches to funding SRHR and supporting drivers of change._ External actors who want to meaningfully influence complex domestic processes of change on SRHR will need to adopt a **holistic approach, by including the four aspects of SRHR (sexual health, sexual rights, reproductive rights and reproductive health). They will also need to address health service delivery and the rights aspects of SRHR, and balance funding allocation accordingly. Moreover, EU funding mechanisms need to be flexible in order to adapt to the diverse needs of actors working on SRHR.** Indeed, experience suggests different categories of actors need different forms of support:

   ✔ **Service providers** linked to SRH can be funded through traditional modalities (such as budget or programme funding).

   ✔ **Civil society organisations** involved in SRHR advocacy and rights-based approaches face increasingly hostile environments. In order to be effective under such pressure, they need sustainable funding that does not involve excessively high transaction costs (in terms of bureaucracy and financial accountability). Providing this type of flexible support has proven quite challenging for the EU (despite clear policy frameworks and commitments). Many relevant advocacy actors in developing countries currently shy away from EU funding, as they fear bureaucratic overload and other problems.

   ✔ **Social movements** (of an informal, unstructured nature) are other key players in the domestic change processes around values and norms. The EU could explore ways and means to provide adapted forms of support to this category of 'drivers of change' as well. This, inevitably, implies abandoning traditional ways of funding – which could 'kill' the social nature of these movements. The EU could draw lessons from other areas where it has had to develop bottom-up modalities of engaging with informal and unstructured actors (e.g. human rights defenders or in the context of the 'European Endowment for Democracy').

It is clear that Europe's external action beyond 2020 will offer both challenges and opportunities for SRHR. Moving forward, these final observations may help actors within the EU reflect on the EU's positioning and future steps. Given the short window of time until the negotiations for key policy frameworks are finalised, careful consideration, close collaboration and decisive action will determine the place for SRHR in future EU policies, partnerships and funding.

ANNEX 1: References to SRHR under the 2014-2020 Financial Instruments

The following references are made to SRHR in the EUs financial instruments from 2014- 2020:

Under the 11th EDF 2014-2020:

- The 2014-2020 EU-ACP strategy highlights SRHR under health objectives (ACP & European Union 2015).
- The objective '*to strengthen the capacity of health systems in ACP countries to deliver basic universally available healthcare*' along with the goal of '*improving access to prevention, treatment, and care for reproductive health, and universal access to affordable contraceptives and commodities*' are highlighted under EU-ACP Multi-Country Cooperation on Health Strategy (DG DEVCO, nd).
- SRHR is acknowledged as a priority under the 11th intra-ACP strategy 2014-2020 (encompassed in outcome document 2nd meeting of ACP Health Ministers, adopted 26th November 2015).
- The MDG initiative (launched 2010 by the EU) focussing on ten ACP countries lagging behind on the MDGs, invested in developing and implementing national health policies to bolster health systems to improve access and uptake of maternal health service and access to quality and affordable SRH services and information (2007-2013 funding cycle of EUR 255.4 million).

Under the DCI (European Union 2014a):

- Basic social services aimed at education, health and social protection are aimed to be at least 20% of the funds.
- Action to improve access to SRH services and essential health commodities along with reducing the gap in unmet family planning and reproductive healthcare needs in developing countries, is included under the GPGC's human development component, in line with the 2014-2020 Multiannual Indicative programme.
- Under the DCI's thematic focus areas of gender equality, human rights and youth wellbeing, SRHR programmes have been funded mainly focusing on tackling child marriage, FGM and GBV. Under this, the EU funded UN initiatives for 2016-2019, including the UNFPA 'Global programme to address son preference in selected countries' (€4 million), the UNICEF 'Towards universal birth registration' programme (€4 million), the joint UNFPA and UNICEF programme to tackle FGM and end child marriage (respectively €11 million and €5 million).
- The thematic focus of the DCI on CSO-LA has been used to facilitate improvements on governance and development, gender perspective integration and mainstreaming of cross-cutting issues (e.g. democracy, good governance, human rights, youth's rights, indigenous peoples' rights, the rights of people with disabilities and tackling HIV/AIDS).

Under the EIDHR (European Union 2014b):

- Addresses the rights of LGBTI, women and girls' rights, rights of people with disabilities and minority rights, in international and regional instruments on political, civil, economic, social and cultural rights.

Under the HAI (European Parliament, 2018):

- Commission Services for European Humanitarian Aid and Civil Protection allocate an estimated fund of € 200 million to support humanitarian health programmes, which SRH, in accordance with Commission services for European Humanitarian Aid and Civil Protection's Health Policy. Between 2017-2019, DG Commission services for European Humanitarian Aid and Civil Protection is approximately providing €34 million to several UNFPA programmes on SRH and prevention and protection for sexual and gender-based violence.
- The HAI recalls unsafe abortion as one of the five leading causes of maternal mortality, along with the international legal basis for sexual and reproductive health rights and the rights of sexual violence victims and people in conflict.

ANNEX 2: Overview of regional policies regarding gender equality, women's rights and SRH/FP

West and Central Africa (UNFPA 2016):

- 14 West and Central countries are part of the Campaign to Accelerate the Reduction of Maternal Mortality in Africa (CARMMA) launched in 2009. CARMMA is a high-level advocacy and policy dialogue to raise awareness on maternal health issues, mobilise country level resources and efforts towards the elimination of preventable maternal death.

Economic Community of West African States (ECOWAS):

- ECOWAS adopted a 'Supplementary Act Relating to the Equality of Rights between Women and Men for Sustainable development in the ECOWAS region' (2015).
- Include, Regional Strategic Plans for five years to end obstetric fistula and spread over the region maternal health services, prevention treatment and social integration of survivors.

East African Community (EAC):

- In 2017, the EAC adopted a Sexual and Reproductive Health Rights Bill with a view to "*provide a legal framework for matters relating to sexual and reproductive health, to protect children, adolescents and young persons from sexual abuse and other forms of exploitation, to provide for assisted reproductive technology [...]*" (East African Community 2017).

Intergovernmental Authority on Development (IGAD) (IGAD & UNFPA, nd):

- IGAD works in partnership with UNFPA to promote universal access to comprehensive sexual and reproductive health service by 2015. Both agencies elaborated a regional database of reproductive health indicators to invest in reproductive health.

Southern African Development Community (SADC) (SAfAIDS 2017):

- In July 2017, the SADC Parliamentary Forum adopted the Mahé Declaration, to commit SADC member states to address the causes of HIV among women and young girls by reducing poverty and ensuring access to quality health services and information. In November 2017, SADC Ministers responsible for Health and HIV and AIDS adopted the SADC "Regional Strategy for HIV and AIDS Prevention, Treatment and Care and Sexual and Reproductive Health and Rights among Key Populations" (SADC 2018).

The Common Market for Eastern and Southern Africa (COMESA) (COMESA 2016):

- Takes measures to enact legislation that allow equitable access to affordable, acceptable and quality sexual and reproductive services.
- Strengthens the access to sexual and reproductive health and rights of women and girls.

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