

ENLARGEMENT AND RULE OF LAW LESSONS FROM THE PAST, REFORMS FOR THE FUTURE¹

Mirko Rosa

INTRODUCTION

After years of deadlock, enlargement is back on the agenda and the European Commission spoke about a ‘historical window of opportunity’ for candidate states to ‘strongly bind their future to the European Union’.² However, the process seems easier said than done. The issues to be tackled related to the completion of a new enlargement are manifold and cover disparate areas, including the budget, the single market, the Common Agricultural Policy, the institutional structure of the European Union (EU) and, above all, the rule of law. Although the topic has become more and more relevant in recent years due to an international context characterised by state capture processes both within and in the immediate neighbourhood of the EU, the methods used by the Union to control and protect the rule of law within its borders (post-accession instruments) and to promote reforms that improve the level of rule of law in the candidate countries (pre-accession instruments) are proving to be ineffective.

The purpose of this paper is to outline these procedures and methodologies, identify their main criticalities and analyse possible reforms and modifications to make them more effective. Furthermore, the aim is to emphasize how the rule of law became a more central issue in enlargement than in the past, highlighting how accession depends now not only on the performance of candidate states in this area but also on how the EU protects this fundamental value within its borders.

ABSTRACT

After years of stagnation, enlargement is back on the European Union agenda, but challenges persist both within candidate states and in the Union itself. This paper examines the evolving role of the rule of law in the European Union’s enlargement process, with a focus on both internal and external mechanisms aimed at ensuring adherence to this fundamental value. It concludes that, internally, reforming Article 7 of the Treaty on European Union and extending budgetary conditionality is essential for the Union to confidently cope with enlargements. Externally, providing a more coherent, firm, and credible political direction is the most crucial action to undertake.

Keywords: enlargement, rule of law, conditionality, reforms.

RESUMO

ALARGAMENTO E ESTADO DE DIREITO: LIÇÕES DO PASSADO, REFORMAS PARA O FUTURO

Após anos de estagnação, o alargamento está de novo na agenda da União Europeia, mas persistem desafios tanto nos Estados candidatos



como na própria União. Este artigo examina a evolução do papel do Estado de direito no processo de alargamento da União Europeia, com destaque para os mecanismos internos e externos destinados a garantir a adesão a este valor fundamental. Conclui-se defendendo que, a nível interno, a reforma do artigo 7.º do Tratado da União Europeia e a extensão da condicionalidade orçamental são essenciais para que a União Europeia possa gerir firmemente o alargamento, enquanto, a nível externo, se afigura essencial uma orientação política mais coerente, firme e credível.

Palavras-chave: alargamento, Estado de direito, condicionalidade, reformas.

The first section will provide a contextualization of the topic of the rule of law in the political and legal system of the EU, emphasizing its fundamental importance for the functioning of the Union and underscoring its connection with enlargement. Furthermore, it will be analysed how the mistakes committed during the 2004–7 widening and the current geopolitical context have elevated the rule of law to an even more crucial role than in previous rounds.

The second section will outline the ‘domestic’ instruments at the EU’s disposal to verify and protect the level of rule of law within its borders, highlighting how even these mechanisms – though seemingly only remotely related to enlargement – play crucial role in securing the consent of several Member States to a future widening. The four

main instruments for this purpose will be analysed, and some reform proposals will be presented regarding the two most incisive, namely, Article 7 of the Treaty on the European Union (TEU) and the budgetary conditionality.

Finally, the third and last section will investigate the ‘external’ instruments with which the EU seeks to promote the culture of the rule of law in the candidate countries. Considering the difficulties encountered by the latter in carrying out substantial reforms and increasing their level of rule of law, the accession methodology and pre-accession financial conditionality will be analysed to find out their main shortcomings.

BALANCING VALUES AND GEOPOLITICAL PRESSURES: THE ROLE OF THE RULE OF LAW IN EU ENLARGEMENT

TEU’s Article 2 enshrines the rule of law among the fundamental values that the EU and the Member States are bound to protect, uphold and promote. As such, it constitutes a core element of the EU’s political identity and self-understanding, shaping both its internal politics and external action. However, the rule of law also serves an operative function as a structural constitutional principle underpinning the entire EU legal order, a role that has been consistently affirmed by the Court of Justice of the European Union (CJEU).³ In particular, in *Les Verts* the Court famously described the (then) Community as ‘based on the rule of law, inasmuch as neither its Member States nor its institutions can avoid review of the conformity of their acts with [...] the EC Treaty’.⁴ In *Kadi*, the CJEU took this stance further by annulling an EU regulation implementing a United Nations Security Council Resolution, on the grounds that it violated fundamental rights, thus upholding the autonomy of the EU legal order and its commitment to judicial protection.⁵ These rulings highlight the centrality of the rule of law not only as a foundational value but also as a crucial legal principle necessary for the functioning

of the Union. To provide a practical example, this is especially evident in the area of freedom, security and justice, where the CJEU famously held in *Aranyosi and Căldăraru* that norms based on the principle of mutual trust such as the European Arrest Warrant (EAW) could be suspended in ‘exceptional circumstances’⁶ that include serious systemic breaches of the rule of law.⁷

Having clarified how this concept constitutes not only a political ideal but also a juridical foundation of the EU legal order, its relevance in the context of enlargement becomes more apparent. Other than being included among the prerequisites for accession by TEU’s Article 49, the rule of law is explicitly embedded in the first Copenhagen criterion – commonly referred to as the ‘political’ criterion. However, the dual nature previously discussed also manifests itself here, as the rule of law is implicitly included in the third Copenhagen criterion: the ability to assume the obligations of membership, namely the *acquis communautaire*. Indeed, as mentioned above, the *Les Verts* judgement laid the groundwork for understanding the *acquis* not merely as a set of norms to be transposed into national law, but as a coherent and autonomous legal order founded on constitutional principles – chief, among them, the rule of law.⁸ This interpretation highlights that the rule of law requirement is not merely a preliminary condition to be fulfilled before accession, but a continuous obligation intrinsic to the status of a Member State.⁹ Although this obligation had long been implicitly embedded within the EU’s legal framework, the CJEU made it explicit in *Repubblika*, where it articulated the so-called ‘principle of non-regression’¹⁰ according to which Member States, having freely committed to the values enshrined in TEU’s Article 2 upon accession, must refrain from adopting rules that would undermine those values thereafter.¹¹

The respect for the rule of law has always been a fundamental requirement and prerequisite for entering the EU, albeit enforced with varying rigour by the Union and its incumbent Member States. In fact, the main driver for the Union’s enlargement has historically been geopolitical concerns and strategic interests that, in some cases, overshadowed all other considerations.

THE MAIN DRIVER FOR THE UNION’S ENLARGEMENT HAS HISTORICALLY BEEN GEOPOLITICAL CONCERNS AND STRATEGIC INTERESTS THAT, IN SOME CASES, OVERSHADOWED ALL OTHER CONSIDERATIONS.

A significant example of this dynamic can be observed in the Eastern ‘big bang’ enlargement of 2004–7, which brought 12 new Member States¹² into the EU. This enlargement was spurred by the sudden collapse of the Soviet Union and the subsequent emergence of new, fragile, and unstable republics in Eastern Europe. The EU sought to stabilize and support these states in a reconstruction process grounded in the values of democracy and the rule of law. Such a process requires time, as it involves building not only institutions but also solid foundations of social capital to support them. Without such civic engagement, institutions risk becoming hollow structures: well-designed but incapable of upholding the principles they are designed to protect.

Yet, the EU felt it lacked this time. Eager to fill the political vacuum left by the Soviet Union and fearing potential autocratic regressions or renewed tensions and conflict, it adopted a policy of ‘enlargement at all costs’, an approach well illustrated by the events that preceded the widening. In fact, at the Luxembourg Council in 1997, only six countries¹³ were deemed ready to begin accession negotiation, but by the Helsinki Council in 1999, under the pressure of the escalating war in Kosovo, negotiations were extended to six additional countries¹⁴ which had been considered unprepared only two years earlier. Nevertheless, both groups, with the partial exceptions of Bulgaria and Romania, which required two additional years, completed the accession process simultaneously. The result – the largest enlargement in the Union’s history – was successful in achieving peace in the region and facilitating the transition of Eastern Bloc states into stable democracies and market economies, thereby giving birth to the concept of the EU’s ‘transformative power’. However, all that glitters is not gold. Indeed, states such as Poland, Hungary, Bulgaria and Romania joined the Union only to later reveal significant shortcomings – or even backsliding – in their democratic systems and levels of corruption.¹⁵

Nevertheless, the Continent was now secured and, from that point onward, with the notable exception of Croatia in 2013, the EU’s enlargement policy entered a phase of stagnation. The reasons behind this phenomenon, often referred to as ‘enlargement fatigue’, are diverse. On the one hand, the Eastern Enlargement was unfairly blamed for having jeopardized the EU’s internal cohesion and was seen as a contributing factor to the failure of the European Constitution project in 2005.¹⁶ On the other hand, as in the words of former Commission President Juncker, the EU shifted the focus ‘to digest [...] and consolidate what has been achieved’,¹⁷ while also addressing the multiple crises that followed enlargement, including the 2008 financial downturn, the 2015 migrant crisis, the rule of law crisis, Brexit and Covid-19 pandemic. As a result, the EU chose to prioritize internal issues over further enlargement, particularly since new candidates were perceived as not only economically weak but, more importantly, institutionally fragile.

A significant shift occurred in February 2022, when Russia’s invasion of Ukraine reawakened fears for security and the threat of war, concerns that had seemed to belong to a bygone era, largely outside of the realm of possibilities in contemporary Europe. Over the past three years, the EU has rediscovered its historically primary driver for enlargement: a ‘geostrategic investment in peace, stability and prosperity’.¹⁸ After two decades of stagnation, the density of enlargement-related events in the past three years – including Ukraine, Moldova and Bosnia and Herzegovina beginning negotiations and Georgia attaining candidate status – might suggest a return to the EU’s previous policy of ‘enlargement at all costs’. Yet, despite these formal advancements, the EU and the Member States appear substantively unwilling to overlook significant issues, especially in areas such as democracy, the rule of law, and the fundamental values protected by TEU’s Article 2. However, finding the right balance between a strict application of the

accession criteria, the limited time dictated by geopolitical pressures, and the need to maintain coherence remains a formidable challenge.

STRENGTHENING THE RULE OF LAW FRAMEWORK: INTERNAL REFORMS AND MECHANISMS FOR AN ENLARGING EU

It could be argued that analysing the tools available to the EU to protect the rule of law within its borders is something only tangentially related to enlargement, especially considering that the imperative for internal reforms – broadly understood and not limited to the rule of law – had already become pressing well before the renewed enthusiasm for enlargement triggered by the Russian invasion of Ukraine. Indeed, the crises faced by the EU over the past two decades have highlighted the limitations of a Union constrained by insufficient competencies and decision-making processes that often fall short of ensuring adequate readiness and efficacy. However, as noted by the Commission itself, ‘while reforms were necessary before, with enlargement they become indispensable’¹⁹ and this necessity can be understood through both technical and political considerations.

From a technical perspective, the EU must adjust its institutional and procedural framework to the accession of new members, a process referred to as ‘absorption capacity’, considered by many to be the fourth Copenhagen criterion. This requires a reassessment of key aspects of EU functioning, including, among others, the composition of the Commission and the sectors in which unanimity remains the rule in the European Union Council (hereinafter ‘Council’). Moreover, challenges already encountered during past crises – such as limited EU competencies or insufficient budgetary resources in certain areas – would be significantly exacerbated by the accession of additional Member States. This is particularly true in relation to the rule of law.

The political dimension further underscores the need for reform. Pursuant to TEU’s Article 49, the process of enlargement demands unanimous approval from all Member States. This consent is frequently conditioned upon the completion of internal reforms within the EU, demands that – for what concerns the rule of law – have gained prominence in response to recent challenges to democratic principles and state capture processes within the Union. At the same time, differing priorities among Member States regarding the pace and scope of enlargement often result in tensions, with some advocating for deeper integration as a prerequisite for enlargement, while others resist such reforms and favour a more expedient accession process²⁰. A closer look at the preceding rounds of enlargement reveals that such political dynamics are not new; rather, enlargement has consistently been a process of balancing competing interests and achieving compromise since each round in the past has been accompanied

ENLARGEMENT HAS CONSISTENTLY BEEN A
PROCESS OF BALANCING COMPETING INTERESTS
AND ACHIEVING COMPROMISE.

– either immediately or shortly thereafter – by significant internal reforms that extended well beyond adjustments to Member State representation within EU institutions.

Coming now specifically to the rule of law, in the following paragraphs an overview of the mechanisms available to the EU for monitoring, protecting and enforcing the rule of law at the domestic (post-accession) level is provided.

The first mechanism entails a dialogue framework between the European Commission and the state accused of breaching the rule of law principle, aimed at addressing potential threats before they escalate into full-fledged legal disputes. Introduced by the Commission in 2014, this process also includes an annual monitoring conducted for each Member State: the Rule of Law Report. Should critical concerns arise, the Commission can issue recommendations that must be complied with to avoid more serious measures. This mechanism was designed as a preventive tool to complement the more formal legal procedures available under the EU Treaties, it lacks binding force and depends heavily on the goodwill of Member States to implement the recommendations, which limits its effectiveness in addressing serious or persistent breaches. However, the mechanism represents a step forward in fostering transparency and accountability and is not meant to be a real enforcing instrument.

TEU's Article 7 represents the second mechanism and is meant more generally to sanction violations of the values protected by TEU's Article 2. In brief, the procedure works as follows. Article 7(1) states that, upon the motivated proposal of at least one-third of the Member States, the European Parliament, or the European Commission, a 'clear risk of a serious breach' can be determined. The decision is adopted by the Council with a qualified majority of four-fifths, following approval by the European Parliament. Before proceeding with the formal determination, the interested Member State must be heard, and the Council has the possibility of making recommendations. According to Article 7(2), if the initial risk materializes into a 'serious and persistent breach' of fundamental values, the European Council can formalize this determination on the proposal of at least one-third of the Member States or the Commission. However, this decision requires unanimity in the European Council and must be approved by the European Parliament. Even at this stage, the Member State has the right to present observations before the decision is adopted. Article 7(3) concerns sanctions; once a 'serious and persistent breach' has been established, the Council can adopt corrective measures against the Member State in question. These measures may include the suspension of specific rights derived from the application of the Treaties, including the right to vote in the Council. However, when making such a decision, the Council must consider the potential consequences of these measures on the rights and obligations of the individuals and legal entities involved. Finally, the Council can modify or revoke the measures adopted if the situation in the Member State concerned evolves, in this case, decisions are made by qualified majority voting (QMV).

TEU's Article 7 has been formally triggered on two occasions: in 2017 against Poland by the European Commission,²¹ and in 2018 against Hungary by the European Parliament.²² In both cases, however, the procedures have stalled for years, failing even to determine the 'clear risk of a serious breach' of EU values in the first stage. This paralysis is due to several factors, the most pressing of which is the political infeasibility of reaching unanimity in the European Council or even the required four-fifths majority in the Council – largely due to mutual support between the two concerned Member States and, more broadly, within the Visegrád Group.²³ Furthermore, neither the Council nor the European Council is under any legal obligation to act once the procedure has been triggered, while the CJEU lacks jurisdiction over the substance of TEU's Article 7, being limited to procedural oversight, as clarified by the Luxembourg judges themselves in *Poland v. Parliament and Council*.²⁴ Finally, the effect of the 'name and shame' seems to be strongly reduced in a historical moment marked by populism and a growing detachment from the values of liberal democracy.²⁵ While the rule of law crisis in Poland has de-escalated following the 2023 elections – leading the Commission to withdraw its request – the procedure against Hungary remains ongoing but entirely stalled. In practice, TEU's Article 7 has proven politically unworkable and procedurally ineffective, prompting the Commission and the CJEU to develop alternative mechanisms to address to systemic rule of law backsliding.

A pioneering role in this development was played by two preliminary rulings of the CJEU: the *Associação Sindical dos Juízes Portugueses (ASJP)*²⁶ and *A.K.*²⁷ In the former, the Court held that TEU's Article 19 'gives concrete expression to the value of the rule of law stated in Article 2 TEU', thereby granting that value binding and justiciable force, and extending its applicability to any national body that may rule on questions concerning the interpretation or application of EU law.²⁸ The *A.K.* ruling further elaborated on this reasoning by setting out specific and detailed criteria to assess judicial independence, thus providing concrete legal standards for such evaluations and assigning national courts a central oversight role. These landmark decisions emerged within a broader legal and political evolution that led to the development of both vertical and horizontal sanctioning mechanisms as alternatives – or complements – to TEU's Article due to its inefficacy.

In the aforementioned CJEU case – *Aranyosi and Căldăraru*²⁹ – allowing the suspension of horizontal cooperation mechanisms based on mutual trust – such as the EAW – the Court has developed a two-step test that enables a Member State to adopt countermeasures. The first step, a general assessment, requires the identification of systemic or generalized deficiencies that compromise judicial independence or the protection of fundamental rights. The second step, an individual assessment, requires determining whether there is a real risk of a rights violation in the specific case at hand. In *LM*³⁰, the CJEU preserved the structure of the test but applied it to a context of widespread and systemic rule of law violations – specifically in Poland – rather than to situational concerns. This marked a turning point, as it paved the way for the test's potential exten-

sion beyond the EAW to the mutual recognition instruments in the AFSJ. It also reinforced the role of preliminary ruling as a crucial tool of vertical cooperation between national courts and the CJEU, empowering national judges – and, indirectly, EU citizens – to judicially oversee the rule of law.³¹

Moreover, infringement proceedings have emerged as a key vertical enforcement tool against Poland and Hungary at the height of the rule of law crisis. The ASJP³² ruling opened the door to relying on Article 19 TEU to sanction breaches of judicial independence, which led to multiple infringement actions and condemnations against Poland.³³ These efforts were supported by the CJEU's use of interim measures to prevent irreparable damage and protect the application of EU law pending final judgment. In this context, the CJEU further expanded its authority to safeguard the EU legal system, not only using Article 19 TEU to protect judicial independence but also leveraging Article 49 of the Treaty on the Functioning of the European Union (TFEU) to sanction Hungary for violations related to academic freedom. This marked a significant precedent in addressing systemic violations of fundamental rights, demonstrating the Court's proactive approach to defending the rule of law.

Finally, budgetary conditionality is the most recently implemented mechanism through Regulation 2020/2092,³⁴ which aims at 'protecting the Union budget in the case of breaches of the principles of the rule of law in the Member States', as stated in Article 1. In the Commission's original proposal, Regulation 2020/2092 was intended to have a broader scope and function as a general rule of law conditionality mechanism, allowing for the suspension or reduction of loans, grants, and payments from the EU in response to the rule of law violations. However, the Council, particularly considering the legal basis chosen,³⁵ scaled back this ambition by requiring a sufficiently direct link between the breach of the rule of law and the sound financial management of the Union budget.³⁶ This narrower interpretation was later vindicated in legal challenges brought by Hungary and Poland, which argued that Regulation 2020/2092 relied on an improper legal basis and effectively duplicated the procedure under Article 7 TEU. In its judgements,³⁷ the CJEU upheld the Regulation, emphasizing that its limited scope applies exclusively to violations of the rule of law that directly affect the EU budget, thereby avoiding overlap with Article 7 TEU procedure.³⁸ The mechanism has since been

WHILE REGULATION 2020/2092 OPERATES WITHIN A CONSTRAINED LEGAL FRAMEWORK, ITS PRACTICAL IMPACT ON FINANCIAL CONDITIONALITY CAN BE SIGNIFICANT WHEN APPLIED EFFECTIVELY.

actively enforced against Hungary and, as of December 2024, the Commission confirmed that Budapest would not regain access to €13 billion in European funds frozen due to persistent rule of law violations, namely judicial independence, corruption, and public procurement irregularities. This case demonstrates that, while Regulation 2020/2092 operates within a constrained legal framework, its practical impact on financial conditionality can be significant when applied effectively.

As the two most significant and powerful instruments at the EU's disposal, the key proposals for amending Article 7 TEU and budgetary conditionality will now be examined, through a comparison of two documents. The first consists of the 'Proposals of the European Parliament for the amendment of the Treaties'³⁹ (hereinafter 'EP Proposals'). Adopted in November 2023, this document emerged as a follow-up to the issues raised during the Conference on the Future of Europe. It calls for comprehensive Treaty reforms and envisions a progressive transformation of the EU into a parliamentary democracy with federalist characteristics, advocating for enhanced powers for the European Parliament, the evolution of the Commission into an executive body, and the reconfiguration of the Council into an upper chamber. The second document presents a different perspective. Entitled *Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century*⁴⁰ (hereinafter 'Franco-German Report'), it was published in September 2023 by a consortium of 12 independent experts, known as the 'Group of Twelve', appointed by the French and German governments. This report outlines a hybrid vision that balances the federalist approach of the EP Proposals with a more intergovernmental perspective, reflecting a reluctance to further transfer sovereignty to the EU level.

Starting with TEU's Article 7, the EP Proposals suggest replacing the current requirement of four-fifths of Council members with a QMV system to determine the 'clear risk of a serious breach'. Furthermore, in line with the recommendations of the Franco-German Report, it advocates for introducing a six-month time limit for the Council to issue recommendations after receiving a reasoned proposal. However, significant differences emerge between the two proposals regarding the evaluation of a 'serious and persistent breach' under TEU's Article 7(2). While the Franco-German Report proposes reducing the required majority in the European Council from unanimity to four-fifths, the EP Proposals suggest removing the European Council from this stage entirely, redistributing roles among the Council (acting by QMV), the European Parliament (acting by a majority of its members), or the European Commission. Under this framework, one of these institutions would be empowered to bring a case before the CJEU for a final ruling. Both proposals, however, agree on establishing a six-month timeframe for institutional action at this stage. Regarding the sanctioning mechanism outlined in TEU's Article 7(3), the EP Proposals provide that, following a favourable CJEU judgement confirming a violation of the rule of law, the Council would have six months to impose sanctions by QMV. These sanctions could include measures such as the suspension of budgetary commitments and payments or stripping the Member State of the right to hold the Presidency of the Council, in addition to the existing suspension of voting rights. Conversely, the Franco-German Report suggests introducing an automatic sanctioning mechanism, which would be triggered if the Council failed to act within five years, with further measures added after ten years. However, this automatic mechanism has been criticized for unduly limiting the Council's authority, raising doubts about its feasibility and the possibility of gaining any Member State's consent to such an approach.⁴¹

Turning to Regulation 2020/2092 and the broader concept of budgetary conditionality, the Franco-German Report proposes expanding its scope to cover not only the rule of law but also all values enshrined in TEU's Article 2, reflecting the Commission's original vision. However, as previously mentioned, such an extension would not be feasible under the regulation's current legal basis and, according to the Franco-German Report, it would necessitate a shift to Article 352. This proposal presents two significant challenges. Firstly, there is a risk that citizens, small and medium-sized enterprises, and other legitimate beneficiaries of EU funds could suffer not only as a result of their state's rule of law violations, but also from the ensuing sanctions and the withdrawal or reduction of essential funding. To address this concern, the Franco-German Report suggests granting the Commission the power to reallocate funds directly from the offending state to legitimate beneficiaries. However, this solution would require substantial administrative and bureaucratic resources and could ultimately undermine the effectiveness of the mechanism as a tool for safeguarding the rule of law. Secondly, under EU law, it is not possible to adopt secondary legislation that overlaps with provisions of primary law, therefore, simply changing the legal basis of Regulation 2020/2092 would be insufficient to bypass the sufficiently direct link with the protection of the Union budget. The only viable solution would be to amend TEU's Article 7, adding a new paragraph authorizing the Council and the European Parliament, under the Ordinary Legislative Procedure, to adopt regulations aimed at safeguarding the Union's fundamental values.⁴²

BETWEEN HASTE, CREDIBILITY, AND RULE OF LAW: THE DELICATE BALANCE IN THE EU ACCESSION FRAMEWORK

The EU accession process, grounded in the criteria established at the Copenhagen Summit, aims to integrate democratic states with robust systems that safeguard and uphold the fundamental values of the rule of law. This objective becomes even more significant in light of the limitations discussed above concerning post-accession mechanisms and, consequently, underscores the particularly crucial role played by pre-accession instruments.

Unfortunately, nearly all current EU candidate states face persistent challenges related to the rule of law, including state capture, restrictions on media freedom, constraints on civil society, populism, the personalization of politics, and threats to judicial independence. For instance, the six Western Balkans enlargement countries,⁴³ long awaiting EU accession, illustrate the limited effectiveness of the EU's approaches to promote the rule of law. In fact, Freedom House's *Nations in Transit* report classifies all six countries as 'Transitional or Hybrid Regimes', with conditions either stagnating or deteriorating since 2020. Similarly, the World Justice Project's *Rule of Law Index* indicates no substantial improvements over the same period.

Speaking about indicators, the EU's Rule of Law Report has now been extended to include candidate countries. The most recent report, released in July 2024, features

dedicated chapters for some enlargement countries – Albania, North Macedonia, Montenegro, and Serbia – with other candidate countries that, according to the Commission, will be included in future reports as they advance in their accession processes. As said before, the report is not a tool to enforce and influence, but primarily an instrument to increase transparency and facilitate the monitoring of progress and setbacks; however, the inclusion of enlargement countries can be beneficial, as it fosters early alignment with EU standards and increases political accountability in the pre-accession phase.

The primary mechanism through which the EU exerts its influence over candidate states promotes its core values, supports structural reforms, and fosters integration is the enlargement process itself. In 2020, the methodology for enlargement was reformed to revitalize the process and restore credibility by organizing negotiations around the cluster of so-called ‘fundamentals’. This group of negotiating chapters encompasses areas deemed indispensable by the EU and hierarchically more important than others. Progress in the fundamentals cluster dictates the overall pace of negotiations, with these chapters being opened first and closed last, thereby allowing cases of backsliding or stagnation in these areas to be identified by the Commission, which can then suspend or halt the negotiations.

Among the fundamentals, two chapters are of paramount importance. Chapter 23, on ‘Judiciary and fundamental rights’, focuses on institutional structures and the core values of democracy and the rule of law, including judicial independence, anti-corruption measures, and the protection of fundamental rights. Chapter 24, on ‘Justice, freedom, and security’, addresses the rule of law from a practical and operational perspective, preparing candidate states for integration into the Schengen Area by requiring capable public administrations to implement EU norms on border control, visa management, asylum procedures, judicial and police cooperation, and the fight against organized crime and terrorism. The preeminent importance of chapters 23 and 24 is also underscored by the presence of interim benchmarks – preconditions defined at the start of negotiations that must be fulfilled before closing benchmarks can be set.

However, this fundamentals-based methodology faces significant challenges. Measuring the rule of law is inherently difficult due to its multidimensional nature and the lack of universally accepted, objective indicators. This issue is further compounded by the difficulty of distinguishing between systemic and isolated violations, as well as detecting hidden phenomena like corruption and judicial manipulation. As a result, the EU often ends up promoting superficial reforms that fail to translate into meaningful, structural changes.⁴⁴ For instance, a candidate state may establish an agency to contrast organized crime but fail to provide it with adequate funding or staff, thereby rendering it ineffective in practice, while nonetheless securing the EU’s approval.

IN 2020, THE METHODOLOGY FOR ENLARGEMENT WAS REFORMED TO REVITALIZE THE PROCESS AND RESTORE CREDIBILITY BY ORGANIZING NEGOTIATIONS AROUND THE CLUSTER OF SO-CALLED ‘FUNDAMENTALS’.

Budgetary conditionality serves as another critical tool for promoting the rule of law since candidate countries heavily rely on the EU's support to undertake politically and economically costly reforms. The Union's financial and technical assistance is primarily channeled through the Instrument for Pre-Accession Assistance (hereinafter 'IPA'), first introduced in 2007 and now in its third iteration: IPA III (2021–27), with a budget of €14.2 billion. IPA III, restructured into thematic windows to align with the fundamentals-based methodology, supports initiatives such as the training of judges and anti-corruption officials, financial assistance for independent bodies, and supports authorities combating organized crime. More specifically, 15% of the total funds are earmarked for investments under Window 1, entitled 'Rule of law, fundamental rights, and democracy'.

The receipt of IPA funds is conditional on progress in the fundamentals cluster. However, as noted earlier, difficulties in objectively measuring improvements and the prevalence of superficial reforms complicate enforcement efforts. Moreover, the length of the process required to distribute and implement funds tied to rule of law reforms often means that, by the time initiatives become operational, they may no longer align with the candidate country's evolving needs. A problem further exacerbated by the short duration of political cycles in the candidate states, which tends to reduce interest in long-term incentives.⁴⁵

To address these shortcomings, the 2024 New Growth Plan for the Western Balkans introduces stricter conditionality, requiring biannual disbursements tied to progress and the completion of a reform agenda agreed upon in advance between the EU and each candidate state. Despite its importance, the IPA suffers from quantitative limitations, with a budget amounting to only 0.78% of the EU's 2021–27 budget – a decrease from IPA II (2014–20), which accounted for 1.08%.⁴⁶ However, with instruments such as the New Growth Plan for the Western Balkans and the Ukraine Facility, the EU has sought to address this gap by allocating additional funds – an effort primarily aimed at countering foreign influences, particularly from Russia, the Gulf States, and China. These countries heavily invest in candidate countries without imposing any form of conditionality, thereby creating asymmetric relationships that align recipient states with their geopolitical interests.⁴⁷

Moreover, both budgetary conditionality and the fundamentals-based accession process are undermined by the EU's weakened leverage – defined as its ability to compel candidate states to undertake necessary reforms. This erosion of influence stems from the

BOTH BUDGETARY CONDITIONALITY AND THE FUNDAMENTALS-BASED ACCESSION PROCESS ARE UNDERMINED BY THE EU'S WEAKENED LEVERAGE.

absence of clear accession timelines and ongoing debates over alternative integration methods,⁴⁸ such as the 'differentiated integration' model proposed in the Franco-German Report. The latter is perceived by candidate countries as a means to relegate

them to a second-tier membership, with reduced payouts, slower economic growth, and diminished international influence.

Finally, the EU's credibility is further undermined by internal inconsistencies.⁴⁹ For instance, Hungary, which continues to slide towards authoritarianism, paradoxically held the rotating presidency of the Council from July to December 2024. Similarly, the EU's treatment of candidate states often contradicts its merit-based, fundamentals-grounded rhetoric, as demonstrated by Bosnia and Herzegovina which achieved candidate status in 2022 despite meeting only 2 of the 14 key priorities outlined by the EU in 2019 and making limited progress on negotiating chapters. This approach not only undermines the EU's credibility among other candidates but also perpetuates stagnation within Bosnia. On the one hand, some ethnic political groups exploit these formal achievements without committing to substantive reforms;⁵⁰ on the other hand, Republika Srpska, led by President Milorad Dodik, continues to curtail fundamental freedoms, openly supports Putin's actions in Ukraine, directly contradicting EU foreign policy, and pursues a separatist agenda threatening Bosnia's territorial integrity. Last but not least, bilateral disputes between candidate states and EU Member States also affect the credibility and objectivity of the EU accession process⁵¹ as exemplified by Greece's threat to block Albania's negotiations during the – now solved – Fredi Beleri dispute, completely unrelated to enlargement negotiations.

CONCLUSION

Having overcome the so-called 'enlargement fatigue', the EU is now determined to complete an effort that, in the case of some Western Balkans countries such as Montenegro, has been ongoing since 2008. While the primary driver of enlargement remains consistent – geopolitical considerations and the pursuit of security and international stability – the EU appears to be approaching this issue in a markedly different way compared to the past, particularly concerning the rule of law. Today, the latter is central not only to accession negotiations, through a new, more rigorous and demanding methodology that prioritizes the 'fundamentals' as the metronome of the accession process, but also in the EU's internal debate regarding the reforms needed to prepare the Union for absorbing a new enlargement.

Starting with the latter, recent developments concerning the state of democracy and the rule of law in Poland and Hungary have exposed significant weaknesses in the EU's existing mechanisms for monitoring and preventing backsliding within its own Member States. These mechanisms have proven to be insufficient, overly complex, susceptible to cross-vetoes, and far too politicized to be effective. It is therefore essential to strengthen these instruments before admitting fragile or transitioning states into the Union, to prevent further divisions and instability within the EU. Both the EP Proposals and the Franco-German Report, despite ideological differences, converge on the view that TEU's Article 7 and the budgetary conditionality introduced by Regulation 2020/2092 provide the foundation for reinforcing the EU's rule of law framework. Concerning TEU's Article 7, it is imperative to remove the unanimity requirement in the Council and introduce a time limit for its action, along with potentially automatic sanctioning

mechanisms. Without such reforms, TEU's Article 7 risks remaining an ineffective rule of law safeguard, incapable of having meaningful consequences. In terms of budgetary conditionality, while it has proven effective, its scope should be broadened to include the protection of all values enshrined in TEU's Article 2. However, this would require an amendment to TEU's Article 7, necessitating considerable political effort.

On the 'external' side of enlargement, the poor performance of the Western Balkans in terms of the rule of law in recent years, combined with the inadequacies of the post-accession rule of law protection mechanisms, highlights the need for the EU to enhance its tools for promoting reforms in its neighbourhood. While technical challenges remain – such as the difficulty in objectively assessing the state of the rule of law, which has led the EU to occasionally endorse façade reforms and apply budgetary conditionality unevenly – the central issue lies in the diminishing leverage of the EU. The EU's credibility and coherence are at an all-time low, partly due to the absence of clearly defined timelines, the lingering traces of an 'enlargement at all costs' mentality, and the EU's struggle to present itself as a credible interlocutor when demanding high standards of rule of law from candidate countries while being incapable of preventing the authoritarian turn of Hungary. In substance, if the reforms within the EU are largely technical in nature and concern how to better use existing instruments, a more significant political effort is required externally to chart a coherent and consistent policy direction. 

Reception date: 15 January 2025 | Approval date: 28 May 2025

Mirko Rosa Independent researcher with a BA in International Relations from the University of Bologna and a MA in European Studies from Sapienza University of Rome (2024). Gained experience at the international law firm De Berti

Jacchia Franchini Forlani (Brussels). From September 2025, he will pursue an MA at the College of Europe, Tirana campus.

> mirkorosa@hotmail.com | ORCID: <https://orcid.org/0009-0003-3090-0886>

ENDNOTES

¹ A previous version of this paper was published in Portuguese in the journal *Relações Internacionais*, No. 86, June 2025.

² EUROPEAN COMMISSION – 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023. Communication on EU Enlargement Policy'. COM(2023) 690 final. Brussels, 8 November 2023. Available at: https://eur-lex.europa.eu/resource.html?uri=cellar:5d77752b-7eee-11ee-9 9ba-01aa75ed71a1.0022.02/DOC_1&format=PDF.

³ PECH, Laurent – "A Union founded on the rule of law": meaning and reality of the rule of law as a constitutional principle of EU law'. In *European Constitutional Law Review*. Vol. 6, 2010, pp. 359–96.

⁴ COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 23 April 1986, *Parti écologiste 'Les Verts' v European Parliament*, Case C-294/83, EU:C:1986:166.

⁵ COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 3 September 2008, *Kadi and Al Barakaat International Foundation v*

Council and Commission, Joined cases C-402/05 P and C-415/05 P, EU:C:2008:461.

⁶ COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 5 April 2016, *Aranyosi and Căldăraru*, Joined cases C-404/15 and C-659/15 PPU, EU:C:2016:198.

⁷ Further discussion on the relation between mutual trust and the rule of law will be provided in the following section.

⁸ PECH, Laurent – "A Union founded on the rule of law...".

- 9 BÖTTNER, Robert; SCHRÖDER, Nic – 'Article 7 TUE as "nuclear option"? An analysis of its potential and its shortcomings'. In BÖTTNER, Robert; BLANKE, Hermann-Josef, eds. – *The Rule of Law under Threat*. Cheltenham: Edward Elgar Publishing, 2024, pp. 219–38.
- 10 COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 20 April 2021, *Republika*, Case C-896/19, EU:C:2021:311.
- 11 DI STASI, Angela; FESTA, Angela – 'Breaches of the rule of law in the EU: what implications for the principle of mutual trust in the area of freedom, security and justice?'. In RUSSO, Teresa; ORIOLLO, Anna; DALIA, Gaspare, eds. – *Solidarity and Rule of Law: The New Dimension of EU Security*. In *European Union and its Neighbours in a Globalized World*. Cham: Springer, 2023, vol. 9, pp. 153–72.
- 12 In 2004: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. In 2007: Bulgaria and Romania.
- 13 Cyprus, the Czech Republic, Estonia, Hungary, Poland, and Slovenia.
- 14 Bulgaria, Latvia, Lithuania, Malta, Romania, and Slovakia.
- 15 MIŠČEVIĆ, Tanja; MOJMIĆ, Mrak – 'The EU accession process: Western Balkans vs EU-10'. In *Croatian Political Science Review*. Vol. 54, No. 4, 2017, pp. 185–204.
- 16 O'BRENNAN, John – 'On the slow train to nowhere? The European Union, "enlargement fatigue" and the Western Balkans'. In *European Foreign Affairs Review*. Vol. 19, No. 2, 2014, pp. 221–42.
- 17 JUNCER, Jean-Claude – *A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change. Political Guidelines for the Next European Commission*. Opening Statement in the European Parliament Plenary Session. Strasbourg, 15 July 2014.
- 18 COUNCIL OF THE EUROPEAN UNION – 'Conclusions of the Council on enlargement'. Conclusions of the Council no. 1670/23. 12 December 2023.
- 19 EUROPEAN COMMISSION – 'Communication from the Commission to the European Parliament, the European Council and the Council on pre-enlargement reforms and policy reviews'. COM(2024) 146 final. Brussels. 20 March 2024.
- 20 KAEDING, Michael; POLLAK, Johannes; SCHMIDT, Paul, eds. – *Enlargement and the Future of Europe: Views from the Capitals*. Cham: Springer, 2024.
- 21 EUROPEAN COMMISSION – 'Reasoned Proposal in Accordance with Article 7(1) of the Treaty on European Union Regarding the Rule of Law in Poland'. COM(2017) 835 final. Brussels. 20 December 2017.
- 22 EUROPEAN PARLIAMENT – Resolution of 12 September 2018 on a proposal calling the Council to determine, pursuant to Article 7(1) of the Treaty on the European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded. JO C 433/66. 23 December 2019.
- 23 BÖTTNER, Robert; SCHRÖDER, Nic – 'Article 7 TUE as "nuclear option"...'.
- 24 COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 16 February 2022, *Hungary v Parliament and Council*, Case C-157/21, EU:C:2022:98.
- 25 LEUFFEN, Dirk, et al. – 'Rhetorical action in a liberal international order in crisis: theorising EU and NATO enlargements post-2022'. In *Journal of European Public Policy*. 2024, pp. 1–46.
- 26 COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 27 February 2018, *Associação Sindical dos Juizes Portugueses v Tribunal de Contas*, Case C-64/16, EU:C:2018:117.
- 27 COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 19 November 2019, *A.K. and o. (Independence of the Disciplinary Chamber of the Supreme Court)*, Joined cases C-585/18, C-624/18 and C-625/18, EU:C:2019:982.
- 28 KRAJEWSKI, Michał – 'Associação Sindical dos Juizes Portugueses: The Court of Justice and Athena's Dilemma'. In *European Papers*. Vol. 3, No. 1, 2018, pp. 395–407.
- 29 COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 5 April 2016....
- 30 COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 27 March 2018, *LM*, Case C-216/18 PPU, EU:C:2018:586.
- 31 VON BOGDANDY, Armin, et al. – 'A potential constitutional moment for the European rule of law: the importance of red lines'. In VON BOGDANDY, Armin, et al., eds. – *Defending Checks and Balances in EU Member States: Taking Stock of Europe's Actions*. Berlin: Springer, 2021, pp. 385–401.
- 32 COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 27 February 2018....
- 33 COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 24 June 2019, *Commission v Republic of Poland (Independence of the Supreme Court)*, Case C-619/18, EU:C:2019:531; Judgment of 5 November 2019, *Commission v Republic of Poland (Independence of the ordinary Polish courts)*, Case C-192/18, EU:C:2019:924; Judgment of 15 July 2021, *Commission v Republic of Poland (Disciplinary regime applicable to judges)*, Case C-791/19, EU:C:2021:596; Judgment of 5 June 2023, *Commission v Republic of Poland (Independence and private life of judges)*, Case C-204/21, EU:C:2023:442.
- 34 EUROPEAN UNION – Regulation 2020/2092 of the European Parliament and the Council, of 16 December 2021, on a general regime of conditionality for the protection of the Union budget. JO L 433 I/1. 22 December 2020.
- 35 Namely, Article 322(1)(a) of the TFEU which allows the EU to adopt 'financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting auditing accounts'.
- 36 STAUDINGER, ISABEL – 'The rise and fall of rule of law conditionality'. In *European Papers*. Vol. 7, No. 2, 2022, pp. 721–37.
- 37 COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 16 February 2022, *Republic of Poland v Parliament and Council*, Case C-156/21, EU:C:2022:97; Judgment of 16 February 2022, *Poland v Parliament and Council*....
- 38 STAUDINGER, ISABEL – 'The rise and fall of rule of law conditionality'.
- 39 EUROPEAN PARLIAMENT – Resolution of 22 November 2023 on proposals of the European Parliament for the amendment of the Treaties. JO C/2024/4216. 24 July 2024.
- 40 COSTA, Olivier, et al. – *Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century*. Report of the Franco-German working group on EU Institutional reform. MEAE, September 2023. Accessed: 5 January 2023. Available at: <https://www.politico.eu/wp-content/uploads/2023/09/19/Paper-EU-reform.pdf>.
- 41 CLOOS, Jim – 'A critical look at the report of the Franco-German Working Group on EU institutional reform'. Accessed: 5 January 2023. Available at: <https://tepsa.eu/analysis/a-critical-look-at-the-report-of-the-franco-german-working-group-on-eu-institutional-reform/>.
- 42 *Ibidem*.
- 43 Namely Albania, Bosnia and Herzegovina, Kosovo (potential candidate), North Macedonia, Montenegro, and Serbia.
- 44 KARJALAINEN, Tynne – 'EU enlargement in wartime Europe: three dimensions and scenarios'. In *Contemporary Social Science*. Vol. 18, No. 5, 2023, pp. 637–56.
- 45 BRASSEUR, Charles; PACHTA, Vera; GRIGOLO, Chiara – 'Towards an enlarged Union: upholding the rule of law'. Policy Paper No. 30. International Institute for Democracy and Electoral Assistance, 2024.
- 46 BARTLETT, Will; BONOMI, Matteo; UVALIC, Milica – 'The economic and investment plan for the Western Balkans: assessing the possible economic, social and environmental impact of the proposed Flagship projects'. Brussels: European Parliament, 2022.
- 47 VASCOTTO, Angelica – 'External influences in the Western Balkans: where are we at?'. Brussels: Foundation for European Progressive Studies/Karl-Renner-Institut/Centro Studi di Politica Internazionale 2021.
- 48 SCHIMMELFENNIG, Frank; SEDELMEIER, Ulrich – 'The europeanization of Eastern Europe: the external incentives model revisited'. In *Journal of European Public Policy*. Vol. 27, No. 6, 2019, pp. 814–33.
- 49 *Ibidem*.
- 50 D'URSO, Dario; VETRINI, Lada – *Bosnia-Herzegovina: How to Build a Viable Road to EU Membership*. Rome: Centro Studi di Politica Internazionale, 2023.
- 51 BASHESKA, Elena – 'EU enlargement in disregard of the rule of law: a way forward following the unsuccessful dispute settlement between Croatia and Slovenia and the name change of Macedonia'. In *Hague Journal of the Rule of Law*. Vol. 14, 2022, pp. 221–56.

PRIMARY SOURCES

EUROPEAN COMMISSION – 'Reasoned Proposal in Accordance with Article 7(1) of the Treaty on European Union Regarding the Rule of Law in Poland'. COM(2017) 835 final. Brussels. 20 December 2017.

EUROPEAN COMMISSION – 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023. Communication on EU Enlargement Policy'. COM(2023) 690 final. Brussels. 8 November 2023. Available at: https://eur-lex.europa.eu/resource.html?uri=cellar:5d77752b-7eee-11ee-9 9ba- 01aa7 5ed71a1.0 0 2 2.0 2 /DOC_1&format=PDF.

EUROPEAN COMMISSION – 'Communication from the Commission to the European Parliament, the European Council and the Council on pre-enlargement reforms and policy reviews'. COM(2024) 146 final. Brussels. 20 March 2024.

EUROPEAN PARLIAMENT – Resolution of 12 September 2018 on a proposal calling the Council to determine, pursuant to Article 7(1) of the Treaty on the European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded. JO C 433/66. 23 December 2019.

EUROPEAN PARLIAMENT – Resolution of 22 November 2023 on proposals of the European Parliament for the amendment of the Treaties. JO C/2024/4216. 24 July 2024.

EUROPEAN UNION – Regulation 2020/2092 of the European Parliament and the Council, of 16 December 2021, on a general regime of conditionality for the protection of the Union budget. JO L 433 I/1. 22 December 2020.

COUNCIL OF THE EUROPEAN UNION – 'Conclusions of the Council on enlargement'. Conclusions of the Council no. 1670/23. 12 December 2023.

COSTA, Olivier; SCHWARZER, Daniela; BERES, Pervenche; GRESSANI, Gilles; MARTI, Gaëlle; MAYER, Franz; NGUYEN, Thu; VON ONDARZA, Nicolai; RUSSACK, Sophia; TEKIN, Funda; VALLÉE, Shahin; VERGER, Christine – *Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century*. Report of the Franco-German working group on EU Institutional reform. MEAE, September 2023. Accessed: 5 January 2023. Available at: <https://www.politico.eu/wp-content/uploads/2023/09/19/Paper-EU-reform.pdf>.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 23 April 1986, *Parti écologiste 'Les Verts' v European Parliament*, Case C-294/83, EU:C:1986:166.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 3 September 2008, *Kadi and Al Barakat International Foundation*

v Council and Commission, Joined cases C-402/05 P and C-415/05 P, EU:C:2008:461.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 5 April 2016, *Aranyosi and Căldăraru*, Joined cases C-404/15 and C-659/15 PPU, EU:C:2016:198.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 27 February 2018, *Associação Sindical dos Juizes Portugueses v Tribunal de Contas*, Case C-64/16, EU:C:2018:117.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 27 March 2018, *LM*, Case C-216/18 PPU, EU:C:2018:586.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 24 June 2019, *Commission v Republic of Poland (Independence of the Supreme Court)*, Case C-619/18, EU:C:2019:531.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 5 November 2019, *Commission v Republic of Poland (Independence of the ordinary Polish courts)*, Case C-192/18, EU:C:2019:924.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 19 November 2019, *A.K. and o. (Independence of the Disciplinary Chamber of the Supreme Court)*, Joined cases C-585/18, C-624/18 and C-625/18, EU:C:2019:982.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 20 April 2021, *Repubblika*, Case C-896/19, EU:C:2021:311.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 15 July 2021, *Commission v Republic of Poland (Disciplinary regime applicable to judges)*, Case C-791/19, EU:C:2021:596.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 16 February 2022, *Hungary v Parliament and Council*, Case C-156/21, EU:C:2022:97.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 16 February 2022, *Republic of Poland v Parliament and Council*, Case C-157/21, EU:C:2022:98.

COURT OF JUSTICE OF THE EUROPEAN UNION – Judgment of 5 June 2023, *Commission v Republic of Poland (Independence and private life of judges)*, Case C-204/21, EU:C:2023:442.

JUNCKER, Jean-Claude – *A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change. Political Guidelines for the Next European Commission*. Opening Statement in the European Parliament Plenary Session. Strasbourg. 15 July 2014.

SECONDARY SOURCES

BARTLETT, Will; BONOMI, Matteo; UVALIC, Milica – 'The economic and investment

plan for the Western Balkans: assessing the possible economic, social and environmental impact of the proposed Flagship projects'. Brussels: European Parliament, 2022.

BASHESKA, Elena – 'EU enlargement in disregard of the rule of law: a way forward following the unsuccessful dispute settlement between Croatia and Slovenia and the name change of Macedonia'. In *Hague Journal of the Rule of Law*. Vol. 14, 2022, pp. 221–56.

BÖTTNER, Robert; SCHRÖDER, Nic – 'Article 7 TUE as "nuclear option"? An analysis of its potential and its shortcomings'. In BÖTTNER, Robert; BLANKE, Hermann-Josef, eds. – *The Rule of Law under Threat*. Cheltenham: Edward Elgar Publishing, 2024, pp. 219–38.

BRASSEUR, Charles; PACHTA, Vera; GRIGOLO, Chiara – 'Towards an enlarged Union: upholding the rule of law'. Policy Paper No. 30. International Institute for Democracy and Electoral Assistance, 2024.

CLOOS, Jim – 'A critical look at the report of the Franco-German Working Group on EU institutional reform'. Accessed: 5 January 2023. Available at: <https://tepsa.eu/analysis/a-critical-look-at-the-report-of-the-franco-german-working-group-on-eu-institutional-reform/>.

D'URSO, Dario; VETRINI, Lada – *Bosnia-Herzegovina: How to Build a Viable Road to EU Membership*. Rome: Centro Studi di Politica Internazionale, 2023.

DI STASI, Angela; FESTA, Angela – 'Breaches of the rule of law in the EU: what implications for the principle of mutual trust in the area of freedom, security and justice?'. In RUSSO, Teresa; ORIOLO, Anna; DALIA, Gaspare, eds. – *Solidarity and Rule of Law: The New Dimension of EU Security*. In *European Union and its Neighbours in a Globalized World*. Cham: Springer, 2023, vol. 9, pp. 153–72.

KAEDING, Michael; POLLAK, Johannes; SCHMIDT, Paul, eds. – *Enlargement and the Future of Europe: Views from the Capitals*. Cham: Springer, 2024.

KARJALAINEN, Tynne – 'EU enlargement in wartime Europe: three dimensions and scenarios'. In *Contemporary Social Science*. Vol. 18, No. 5, 2023, pp. 637–56.

KRAJEWSKI, Michał – 'Associação Sindical dos Juizes Portugueses: The Court of Justice and Athena's Dilemma'. In *European Papers*. Vol. 3, No. 1, 2018, pp. 395–407.

LEUFFEN, Dirk; DIMITROVA, Antoaneta L.; SEDELMEIER, Ulrich; LAVENEX, Sandra; RISSE, Thomas; SCHIMMELFENNIG, Frank – 'Rhetorical action in a liberal international order in crisis: theorising EU and NATO enlargements post-2022'. In *Journal of European Public Policy*. 2024, pp. 1–46.

MIŠČEVIĆ, Tanja; MOJMIR, Mrak – 'The EU accession process: Western Balkans vs EU-10'. In *Croatian Political Science Review*. Vol. 54, No. 4, 2017, pp. 185–204. DOI: <https://doi.org/10.54648/eerr2014011>.

O'BRENNAN, John – 'On the slow train to nowhere? The European Union, "enlargement fatigue" and the Western Balkans'. In *European Foreign Affairs Review*. Vol. 19, No. 2, 2014, pp. 221–42. DOI: <https://doi.org/10.54648/eerr2014011>.

PECH, Laurent – "'A Union founded on the rule of law": meaning and reality of the rule of law as a constitutional principle of EU law'. In *European Constitutional Law Review*. Vol. 6, 2010, pp. 359–96.

SCHIMMELFENNIG, Frank; SEDELMEIER, Ulrich – 'The europeanization of Eastern Europe: the external incentives model revisited'. In *Journal of European Public Policy*. Vol. 27, No. 6, 2019, pp. 814–33.

STAUDINGER, Isabel – 'The rise and fall of rule of law conditionality'. In *European Papers*. Vol. 7, No. 2, 2022, pp. 721–37.

VASCOTTO, Angelica – "'External influences in the Western Balkans: where are we at?'. Brussels: Foundation for European Progressive Studies/Karl-Renner-Institut/Centro Studi di Politica Internazionale 2021.

VON BOGDANDY, Armin; BOGDANOWICZ, Piotr; CANOR, Iris; RUGGE, Giacomo – 'A

potential constitutional moment for the European rule of law: the importance of red lines'. In VON BOGDANDY, Armin; BOGDANOWICZ, Piotr; CANOR, Iris; GRABENWARTER, Christoph; TABOROWSKI, Maciej; SCHMIDT, Matthias, eds. – *Defending Checks and Balances in EU Member States: Taking Stock of Europe's Actions*. Berlin: Springer, 2021, pp. 385–401.