



# DEMOCRACY AND THE RULE OF LAW IN MEMBER COUNTRIES

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EUROPEAN UNION



SIMULACIÓN DE OTOÑO 2025



# 1. COMMITTEE DESCRIPTION

The European Union (EU) is a political and economic organization composed of 27 sovereign European countries that share a common commitment to the principles of democracy, the rule of law, human rights, and supranational governance. The main objective of this organization is to promote peace, stability, and the well-being of citizens of its member states. Additionally, the EU negotiates trade agreements, collaborates in humanitarian aid, and defends European values in multilateral forums. All these functions are carried out through institutions such as the European Parliament, the Council of the European Union, the European Commission, and the European Council, which work together to define policies, adopt laws, and oversee their implementation.

Its foundation dates back to the Maastricht Treaty in 1993, although its origins go back to 1951 with the European Coal and Steel Community, followed by the European Economic Community. The EU covers an approximate population of 448 million inhabitants and a territory of more than 4 million km<sup>2</sup>. Currently, the 27 Member States are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.

The history of the European Union (EU) is rooted in the aftermath of World War II, when the need for lasting peace and economic cooperation in Europe became urgent. In 1951, six countries—Germany, France, Italy, the Netherlands, Belgium, and Luxembourg—created the European Coal and Steel Community (ECSC) to jointly manage heavy industries and prevent future conflicts. This cooperation expanded in 1957 with the Treaty of Rome, establishing the European Economic Community (EEC) and the European Atomic Energy Community (Euratom), aiming to create a common market and foster economic integration.

The 1960s and 1970s saw further integration and enlargement. The Brussels Treaty of 1965 merged the executive bodies of the three communities, and in 1973, Denmark, Ireland, and the United Kingdom joined the EEC. The European Council was established in 1974 to set long-term political and economic strategies, and in 1979, the first direct elections to the European Parliament took place.

The Single European Act of 1986 deepened integration by expanding the common market's flexibility and setting the stage for further political union. But the most



important treaty was the Maastricht Treaty of 1992, because this treaty creates the European Union and introducing new areas of cooperation, including a common foreign and security policy and plans for a single currency. The euro was introduced in 1999 for electronic transactions and in 2002 as physical currency, eventually adopted by most member states. The EU continued to grow, with major enlargements in 2004 (ten new countries), 2007 (Bulgaria and Romania), and 2013 (Croatia). Institutional reforms followed, including the Treaties of Amsterdam (1997), Nice (2001), and Lisbon (2009), which streamlined decision-making and strengthened the EU's legal and political framework.

The 2010s brought new challenges, such as the eurozone debt crisis, the migration crisis, and the United Kingdom's decision to leave the EU ("Brexit"), which was finalized in 2020. The EU has also responded to global events, such as imposing sanctions on Russia after the annexation of Crimea and providing coordinated responses to the COVID-19 pandemic, including the Next Generation EU recovery package.

For this committee, we will based on the Council of the European Union, often referred to as the Council of Ministers. This is one of the key institutions of the European Union. It represents the governments of the 27 member states and plays a central role in the EU's legislative and decision-making processes. It is important to distinguish the Council of the European Union from the European Council, which is composed of heads of state or government and sets the overall political direction of the EU. The Council of the European Union, on the other hand, is the main body where national ministers meet to discuss, amend, and adopt legislation. The primary mission of the Council is to negotiate and adopt EU laws in collaboration with the European Parliament. While the European Commission holds the exclusive right to propose new legislation, the Council and Parliament must approve these proposals for them to become binding laws across the Union. In addition to its legislative role, the Council shares responsibility with the Parliament for adopting the EU's annual budget, ensuring that financial resources align with policy priorities.

Beyond legislation and budgeting, the Council is responsible for coordinating policies among member states in areas where cooperation is essential. This includes economic and fiscal policies, justice and home affairs, and foreign policy. The Council also has the power to conclude international agreements on behalf of the EU, representing the Union in negotiations with non-EU countries and international organizations. In coordination with the European Council and the



High Representative for Foreign Affairs, the Council helps shape the EU's external actions and diplomatic stance.

The Council's structure is unique in that it is composed of national ministers from each member state, with the specific ministers attending depending on the subject matter under discussion. For example, agriculture ministers meet to discuss agricultural policy, finance ministers handle economic matters, and foreign ministers address external relations. The Council meets in about ten different configurations, each focusing on a particular policy area, allowing for specialized and efficient decision-making.

Decision-making within the Council varies depending on the issue at hand. The most common method **is qualified majority voting (QMV), which requires approval from 55% of member states representing at least 65% of the EU's population.** However, for sensitive topics such as foreign policy, taxation, or treaty amendments, decisions require unanimity, meaning all member states must agree. Some procedural matters are decided by a simple majority. This flexible system balances efficiency with respect for national sovereignty.

The powers of the Council extend beyond legislation and policy coordination. It plays a vital role in the appointment of key EU officials, including members of the European Commission. The Council also oversees the implementation of EU policies and ensures that member states comply with their obligations under EU law. Through these functions, the Council acts as the voice of national governments within the EU framework, safeguarding their interests while contributing to the Union's collective goals.

## 2. TOPIC DESCRIPTION



One of the Council's most significant responsibilities is its involvement in the structured mechanisms designed to detect, address, and remedy threats to the rule of law. Among these, Article 7 of the Treaty on European Union stands out as the most emblematic and powerful tool which addresses "a serious and persistent breach" of EU values, including the rule of law. Article 7 has two stages: a preventive phase (Article 7(1)) to address clear risks of violations, and a sanctioning phase (Article 7(2) and (3)) that can lead to the suspension of certain rights of the member state, most notably the suspension of voting rights in the Council. This provision allows the Council to determine whether there is a clear risk of a serious breach, or an actual serious and persistent breach, of EU values by a member state. The process can ultimately lead to the suspension of certain membership rights, including voting rights in the Council itself. The Council's role in Article 7 procedures is both political and deliberative: it is responsible for conducting hearings, engaging in dialogue with the member state concerned, and making key decisions at each stage of the process. However, the effectiveness of Article 7 has been challenged by the requirement for unanimity among member states for the most severe sanctions, which has sometimes resulted in delays or blockages when political interests diverge.

Beyond Article 7, the Council is deeply involved in the EU's broader "rule of law toolbox." This includes annual rule of law dialogues, which are peer-to-peer reviews among ministers of the member states, providing an opportunity for open discussion, mutual learning, and early identification of emerging issues. These dialogues are preventive in nature, aiming to foster a culture of respect for the rule of law and to address concerns before they escalate into crises. The Council also works closely with other EU institutions, such as the European Commission—which monitors and reports on the rule of law situation in each member state—and the European Parliament, which can initiate procedures and maintain political pressure.

The Council's engagement is not limited to dialogue and peer review; it also plays a role in the enforcement of financial conditionality. The EU can withhold funding from member states that violate rule of law principles, especially when such breaches threaten the sound management of the EU budget. This financial mechanism adds a tangible dimension to the Council's oversight, linking the respect for fundamental values directly to the allocation of EU resources.

In addition, since 2020, the EU has employed the Rule of Law Conditionality Mechanism, which links respect for the rule of law to the disbursement of EU



funds. Under this mechanism, the Commission can propose suspending, reducing or apply financial corrections to member states when breaches of the rule of law affect or seriously risk affecting the sound management of the EU budget or the protection of the Union's financial interests. This tool has been used as a financial sanction against countries like Hungary and Poland, aiming to incentivize compliance through economic pressure.

Under this regulation, the European Commission can propose measures to the Council, which then decides by qualified majority whether to suspend funding to the member state in question. This financial conditionality is designed to ensure that EU funds are not misused or put at risk by systemic violations such as judicial interference, corruption, or other serious breaches undermining the rule of law. The mechanism links respect for fundamental EU values directly to the disbursement of EU funds, reinforcing that adherence to the rule of law is a prerequisite for receiving financial support from the Union.

## 3. THE CASE OF POLAND AND HUNGARY

The political status of EU member states is characterized by their commitment to democracy, pluralism, and the rule of law, although the depth and quality of democratic governance can vary. All EU countries are formally parliamentary or semi-presidential democracies, with regular elections, independent judiciaries, and constitutional guarantees of fundamental rights. However, recent years have seen challenges in some states, most notably Poland and Hungary, where concerns over judicial independence, media freedom, and the separation of powers have prompted the activation of EU mechanisms and, in Poland's case, the initiation of Article 7 proceedings.

In first place, the relationship between Poland and the legality of the rule of law within the European Union has evolved dramatically over the past decade, marked by a series of legislative changes, judicial crises, and escalating tensions between Warsaw and Brussels. The turning point came in October 2015, when the Law and Justice Party (PiS), a conservative and eurosceptic force, won a parliamentary majority. Almost immediately, the new government began reshaping Poland's judicial landscape. In December 2015, PiS used its majority to appoint five new judges to the Constitutional Tribunal, bypassing established procedures and refusing to recognize or publish judgments that challenged these appointments. This move triggered what is now known as the Polish constitutional crisis, as the government passed a series of laws to consolidate its influence over the Tribunal, despite rulings from the court itself declaring these changes unconstitutional. The European Union responded with concern, launching an unprecedented inquiry under its Rule of Law Framework in January 2016 to assess whether Poland was breaching EU democratic standards by undermining judicial independence and the separation of powers.

Throughout 2016 and the following years, the PiS government continued its overhaul of the judiciary. It merged the roles of justice minister and prosecutor-general, granting sweeping powers over prosecutors, and enacted legislation that allowed political control over the appointment and dismissal of judges. In 2017, further reforms targeted the Supreme Court and the National Council of the Judiciary, lowering the retirement age for judges and enabling the government to replace a significant portion of the judiciary.





These changes were widely condemned by the EU as threats to judicial independence and the rule of law. The European Commission responded by launching infringement procedures and, in December 2017, triggered Article 7 of the Treaty on European Union against Poland—the first time this mechanism was used against an EU member state. Article 7 is designed to address serious breaches of EU values, with the potential to suspend a member state’s voting rights in the Council.

The situation escalated with the introduction of the so-called “muzzle law,” which imposed disciplinary measures on judges who questioned the government’s reforms or sought to apply EU law. This law effectively legalized systemic violations of judicial independence, drawing further condemnation from both the EU and the Council of Europe. Poland became the first EU country to be simultaneously subject to Article 7 proceedings and special monitoring by the Council of Europe. Despite these pressures, the government continued to resist EU interventions, and the Constitutional Tribunal, now under government influence, issued rulings challenging the primacy of EU law over national legislation.

The deadlock persisted until a political shift in December 2023, when a new coalition government led by Donald Tusk took office. This government signaled a commitment to restoring the rule of law, engaging in expert consultations and stakeholder dialogues to reform the justice system. Progress has been slow, partly due to the continued presence of President Andrzej Duda, a PiS ally, who retains veto power over legislative changes. The European Union, for its part, maintained pressure on Poland through legal and financial mechanisms. In addition to ongoing infringement procedures, the EU linked the disbursement of EU funds to respect for the rule of law, using the Rule of Law Conditionality Mechanism.

In second Place, Hungary’s relationship with the legality of the rule of law has undergone a profound transformation since the end of communism in 1989, evolving from a model of democratic transition to a focal point of concern for the European Union and international observers. The trajectory of the rule of law in Hungary is marked by significant constitutional changes, legislative reforms, and a series of confrontations with EU institutions over the past decade.

Following the collapse of communist rule, Hungary embarked on a path of democratic reform, amending its 1949 constitution in 1989 to establish a multiparty system, an independent judiciary, and a state based on the rule of law. This period of liberalization culminated in Hungary’s accession to the European



Union in 2004, with the country broadly seen as a success story of post-communist democratization. However, a decisive shift occurred after the 2010 parliamentary elections, when Viktor Orbán's Fidesz party won a supermajority, enabling it to fundamentally reshape the country's legal and constitutional framework.

In 2011, the government adopted a new constitution, the Fundamental Law, which replaced the 1949 constitution and introduced sweeping changes to Hungary's political and judicial system. Critics argued that the process lacked transparency and public debate, and that the new constitution, along with a series of "cardinal laws" requiring a two-thirds parliamentary majority for future amendments, entrenched Fidesz's power and reduced checks and balances. Over the following years, the government passed numerous laws that increased executive control over the judiciary, the media, and independent institutions. The Constitutional Court's powers were curtailed, and judicial appointments became increasingly politicized, raising alarms about the erosion of judicial independence and the separation of powers.

The European Union responded with growing concern. In 2018, the European Parliament triggered Article 7 proceedings against Hungary, citing systemic threats to the rule of law, democracy, and fundamental rights. This unprecedented step reflected deep unease over the government's consolidation of power, restrictions on civil society, and attacks on academic freedom and minority rights. The EU also began to link the disbursement of cohesion and recovery funds to compliance with rule of law standards, freezing significant amounts of funding and setting a series of "milestones" that Hungary needed to meet to regain access to EU money.

In recent years, the Hungarian government has continued to pass controversial legislation. In December 2023, the "Protection of National Sovereignty Act" was enacted, establishing the Sovereignty Protection Office and amending constitutional and criminal law to restrict foreign influence in politics. Critics argue that the Act, along with the extension of the "state of danger" that allows rule by decree, further undermines democratic checks and balances and targets political opposition. In April 2025, further amendments to the Fundamental Law were rushed through parliament without public debate, restricting the rights of LGBT people, limiting freedom of assembly, and allowing the government to suspend citizenship of dual citizens. One of the most contentious amendments redefines gender strictly as a person's biological



sex assigned at birth. This constitutional definition effectively denies the existence and rights of transgender individuals, reinforcing Hungary's ban on legal gender recognition and deepening discrimination against the LGBTQ+ community. Critics argue that this measure is not about protecting children, as claimed by the government, but rather about stigmatizing and excluding transgender and intersex people from society.

Another major criticism concerns the elevation of "child protection" above almost all other constitutional rights, except the right to life. This amendment grants the government broad discretionary powers to curtail freedoms, notably the freedom of assembly. Linked to this is the constitutional basis for banning Pride-related events, which was legislated shortly before the amendment. The ban on Pride parades and similar assemblies violates fundamental rights to peaceful protest and expression, and is seen as a direct attack on the LGBTQ+ community and their supporters.

The amendments also allow the government to suspend the citizenship of dual nationals—specifically those holding citizenship outside the European Economic Area—for up to ten years if they are deemed a threat to public order or national security. This provision has been widely criticized as a tool for political intimidation and repression, targeting Hungarians with overseas ties and undermining their rights.

Despite some attempts at judicial reform—such as the May 2023 law aimed at addressing EU concerns about judicial independence—Hungary has not fully met the EU's requirements for unlocking frozen funds. The government's reforms have been criticized for failing to guarantee the independence of the Supreme Court (Kúria), the effective operation of the National Judicial Council, and the ability of judges to refer cases to the Court of Justice of the European Union. As a result, the EU continues to apply financial and political pressure, while the Article 7 procedure remains open, reflecting ongoing doubts about Hungary's commitment to the rule of law.



In addition to legal and political measures, the EU has also employed financial tools to enforce compliance. The European Commission withheld funds from Poland as part of its broader strategy to ensure respect for the rule of law, linking financial support to judicial reforms and governance standards. This approach reflects the EU's increasing willingness to use budgetary conditionality to protect its financial interests and democratic values.



In the Hungarian case, the European Union reacted with strong criticism and concern to Hungary's 2025 constitutional amendments targeting dual citizens. EU institutions and member states viewed the new provisions—which enable authorities to suspend the citizenship of dual nationals deemed a threat to public order, safety, or national security—as a blatant violation of EU law, fundamental rights, and international conventions. Legal experts and rights organizations warned that these amendments could be used to target journalists, activists, opposition politicians, and anyone the government considers undesirable, raising fears of political repression and discrimination.

The European Commission publicly condemned the amendments and indicated it would analyze the legal changes for compatibility with EU law, signaling a readiness to initiate new infringement proceedings if necessary. The Commission had already taken Hungary to the Court of Justice of the European Union (CJEU) over previous laws undermining democratic standards, and these latest changes prompted calls for immediate and robust action. Human Rights Watch and other advocacy groups urged the EU to accelerate Article 7 proceedings, which could ultimately lead to the suspension of Hungary's voting rights in the Council, and to stand in solidarity with those defending EU values in Hungary.

EU member states also expressed alarm, with several governments decrying the amendments as part of a broader authoritarian trend in Hungary that undermines democracy, the rule of law, and minority rights. The amendments were widely seen as moving Hungary further away from the democratic norms expected of EU members and as a challenge to the Union's ability to protect its foundational values.

The debate on the rule of law within the European Union has exposed significant divisions among the 27 member states, reflecting differing historical experiences, political cultures, and attitudes toward EU integration and sovereignty. As the EU faces ongoing challenges in Hungary and Poland, as well as emerging concerns in other countries, understanding how member states align into blocs is crucial for anticipating negotiations and outcomes within any committee addressing this issue.



### **a. Pro-Rule of Law/Integrationist Bloc**

This group is composed primarily of Western, Northern, and some Southern European countries that consistently advocate for strong EU action to defend the rule of law, judicial independence, and democratic standards. These states support the use of Article 7 procedures, financial conditionality, and robust monitoring mechanisms. They argue that breaches in one member state threaten the integrity of the entire Union, undermining mutual trust and the single market. Within this bloc, we find: Germany, France, BeNeLux, Ireland, Sweden, Denmark, Finland, Austria, Spain, Portugal, Italy and Slovenia. These countries generally have well-established democratic institutions and see the EU as a guarantor of rights and legal certainty. They are often at the forefront of initiatives to strengthen EU enforcement tools and are vocal in debates at the Council and Parliament.

### **b. Sovereigntist/Rule of Law Skeptic Bloc**

This bloc includes Hungary and, until recently, Poland, as well as several Central and Eastern European states that emphasize national sovereignty and resist what they perceive as EU interference in domestic affairs. They argue that the organization of judicial systems is a national competence and often frame EU rule of law mechanisms as politically motivated or as overreach. In addition to Hungary, this bloc may include: Slovakia, Bulgaria, Romania, Croatia, Czech Republic, Malta and Greece. These countries have, at times, expressed reservations about strict EU oversight, either due to their own domestic challenges or concerns about setting precedents that could later be used against them. While Poland's stance has shifted with its new government, some skepticism remains in the region, especially in Hungary, Slovakia, and Bulgaria.

### **c. Pragmatic/Bridge-Building Bloc**

A number of member states occupy a middle ground, often seeking compromise and gradual reforms rather than confrontation. These countries may support the rule of law in principle but advocate for dialogue, mediation, and incremental change to avoid deepening East-West divides or alienating key partners. This bloc typically includes: Estonia, Latvia, Lithuania, Cyprus, Croatia and Czech Republic. These states may shift positions depending on the political context, the specific issues at stake, and broader EU priorities. They can play a crucial role in brokering agreements and finding consensus, especially in situations where unanimity is required.

#### d. Southern European Variable Bloc

## 5. QARMAS

1. ¿How effective is Article 7 of the Treaty on European Union in addressing serious breaches of the rule of law by member states like Hungary and Poland?
2. To what extent has the Rule of Law Conditionality Mechanism succeeded in encouraging compliance with EU rule of law standards in Hungary and Poland?
3. What are the limitations of using financial conditionality when breaches of the rule of law do not directly threaten the EU budget?
4. How can the EU balance respect for national sovereignty and constitutional identity with the enforcement of common rule of law and democratic standards?
5. How can coordination between the European Commission, Council, Parliament, and Court of Justice be improved to better enforce rule of law compliance?
6. What risks do ongoing rule of law breaches in Hungary and Poland pose to EU unity and credibility?, and what other challenges could they pose to further european integration?
7. Should the EU expand conditionality mechanisms to cover a broader range of rule of law violations across all member states?
8. What role should the EU play in safeguarding democratic standards and human rights within its member states?
9. What additional preventive measures can the EU implement to detect and address early signs of rule of law backsliding?