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A value-based EU Values crisis?
Between enforcement tools and political narratives

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Abstract:

Throughout the European project, the Institutions have sought a narrative to justify their actions and the existence of a community that would stand strong yet accommodate Europe's diversity. This led to the codification of the Values of the European Union in the Treaty of Lisbon.

Since then, the EU has been at the centre of a succession of crises that have greatly impacted its legitimacy. The progressive highlighting of the Union's weaknesses, combined with the lack of safeguards of the EU Values, supposed foundational principles of EU law, despite escalating attacks, has led to a 'Value Crisis'.

This thesis aims to understand this phenomenon through a multidisciplinary approach, combining a socio-legal analysis of enforcement mechanisms with EU Studies theory of 'usages of Europe'. Furthermore, it aims at applying the observation of academia to cases of potential breaches of EU Values of three countries with vastly different systems (Hungary, the Netherlands and Italy), by observing how the issue was tackled both at the national and EU-level, and how the broad concept of European values has been mobilised in each instance. The final objective is to determine how politics and the law affect one another on this issue and how they interconnect.

Table of Contents

Contents

Table of Contents.....	
1. Introduction.....	1
1.1. Problematisation.....	1
1.2. Aim, research question and hypothesis.....	2
2. Theoretical framework and methodology.....	4
2.1. State of the Art.....	4
2.1.1. Safeguards and enforcement of the EU values.....	4
2.1.2. European <i>raison d'être</i> and value-based narratives.....	6
2.2. Research Gap & Scientific Contribution.....	7
2.3. Theoretical framework.....	8
2.3.1. Socio-legal studies & Constitutional Pluralism.....	8
2.3.2. Usage of Europe.....	9
2.4. Chosen approach, methodology and data collection.....	10
2.5. Key concepts & considerations.....	11
2.5.1. The Values of the European Union.....	11
2.5.2. Political mobilisation.....	12
3. EU Values & Legal mobilisation.....	13
3.1. Enforcing and safeguarding the EU Values – A theory.....	13
3.1.1. Article 7 TEU.....	13
3.1.2. Infringement procedure.....	15
3.1.3. Rule of Law Toolbox.....	17
3.1.4. Rule of law conditionality mechanism.....	18
3.2. Enforcing and safeguarding the EU Values – A reality.....	18
3.2.1. Enforcement tools as inadequate.....	18

3.2.2.	Enforcement tools as underused.....	20
3.2.3.	Enforcement tools as misused.....	21
3.2.4.	The growing influence of the Court	23
3.3.	The state of enforcement. Concluding Enforcement	24
4.	EU Values & Political narratives	26
4.1.	An ever-evolving construction of a European Narrative.....	27
4.2.	Hurdles of the value-based narrative.....	33
4.2.1.	Current obstacles to the construction of a coherent value narrative	33
4.2.2.	The values in the context of crisis challenges.....	35
4.3.	The EU’s mobilisation of values.....	40
4.3.1.	European Commission and the State of the Union	40
4.3.2.	EU values and External Relations.....	41
4.3.3.	The silence of the European Parliament.....	41
4.4.	Politics as a roadblock for enforcement	42
5.	Comparison of state cases	44
5.1.	Country selection	44
5.2.	Framing the cases.....	46
5.3.	Methodology and indicators	46
5.4.	Analysis	47
5.4.1.	Hungary	47
5.4.2.	The Netherlands	57
5.4.3.	Italy.....	60
5.5.	Observations and conclusions.....	64
6.	Discussion	67
6.1.	Assessing the results	67
6.2.	Avenues for future research.....	68
7.	Conclusion.....	69

8. Bibliography.....70

1. Introduction

In recent years, debates about the development of the European Union (EU) have focused on a new kind of dilemma: the question of values. While the idea of European Values becomes increasingly widespread, its meaning remains highly obscure and flexible from all sides of the EU's bubble. From the Treaties and their very clear definition—seemingly fundamental principles of the Union—to the Institutions pushing for a sense of community and union, and political actors using them to weaken the very system they originate from, the interpretation and mobilisation of the concept vary greatly.

The Values have emerged progressively. Budding from the desire to find a common identity for Europe, to a way to explain supranational cooperation and the emergence of regional rights. From a desire to differ from others to a will to unite with old rivals. From old traditions to the embrace of vibrant diversity. EU Values have undergone as many changes as the EU they represent. However, they seem to have struck a wall lately.

For nearly as long as they have made their way into European debates, the EU has gone through a succession of crises which have led to major political shifts and a rumoured institutional weakening. All over, cracks have started to appear in the foundation of European states, and democratic principles are weakening all across. The EU, once a symbol of unity, has for the first time lost a member. More and more, it is perceived not as an enabler of growth, but as an identitarian hindrance. This has led many to believe that in addition to a rule of law crisis, the EU is going through a crisis of its Values.

1.1. Problematisation

As populist forces grab the electorate all across the Union, threats to the traditional democratic principles of the Union have heightened. The EU is, however, not a new construct, and it is not the first time it has gone through crises in its history. Throughout the years, the European project has dramatically evolved and developed many tools to protect its order, with some especially designed with the rule of law issues in mind. So, how come reports of its failure have never been more present? What prevents these long thought mechanisms from operating as intended?

The concept of shared values among the States that comprise the Union is not a new idea. Yet, the codification of the values as we know them today only happened with the Lisbon Treaty.

However, one cannot but notice that when values are mobilised by political forces or the Union itself, this can take a very different meaning from what is in the Treaties. If the values are supposed to be the founding principles on which the EU's construction relies, how can there be so many interpretations of it? Equally, as EU scholars and Civil Society Organisations (CSOs) seem to have been ringing the alarm bells for years, how come the situation is worsening? What is preventing the EU from protecting its *raison d'être*, and what it claims to be fighting so hard for, as the essence of what it means to be European?

1.2. Aim, research question and hypothesis

Departing from these observations, this thesis aims to understand how this apparent fracture between the EU's claimed commitments and the way they have played out came to be. In that regard, it seeks to examine how the values, as narratives, might have impacted the sanctity of the Values, the legal principle. In a way, it aims at understanding how the political mobilisation of the Values as a narrative influences their enforcement and *vice versa*.

To that end, this thesis will try to answer the following question:

“To what extent did the reported failure of enforcement mechanisms on the Values lead to the Value crisis, and how have legal and political mobilisation of the Values as legal principles and narrative contributed to it?”

Additionally, to help with framing the subsequent analytical parts, this thesis will rely on the following three interrogations:

- What have been the shortcomings of the current Values enforcement framework, and where do they come from?
- How has the EU used the Values as a narrative framing, and how have other actors reacted to it, especially in the case of the recent successive crises?
- How do value speeches and the EU Values serve to frame national initiatives and what is done, at national and EU level, when the law seemingly breaches the principles highlighted in Article 2 TEU?

From these questions and the first phases of the research, this thesis advances the following rival hypotheses:

- The emergence of the Value crisis stems from the EU's selectivity in the usage of its enforcement mechanisms and the arbitrary and inconsistent mobilisation of the Values as a narrative. Or;
- The emergence of the Values crisis finds its origins in the EU's inability to accommodate the variety and dynamism of its various entities and thus betray the key reason for the Values' existence, which is to create cohesion.

2. Theoretical framework and methodology

2.1. State of the Art

2.1.1. Safeguards and enforcement of the EU values

The fragility of the legal safeguards when it comes to issues related to values has been vastly explored. Essentially authors are divided into two schools of thought on the matter: those believing that the panel of tools is insufficient and that the development of new tools is necessary to achieve better protection, and those who think that the tools are operational as is but that the rather sits with the uses of the tools and the will of the actors supposed to activate them.

On the former, Armin von Bogdandy and Luke Dimitrios Spieker have developed an extensive assortment of avenues for improvement, reforms and the development of new tools and provisions. Their reasoning rests on three core ideas. First, the values of Article 2 TEU lack in justiciability. As no cases have been fully prosecuted by the Court of Justice of the European Union. In their conception, the values should be read as the constitutional core of the EU legal order. They argue that the Court has had a history of interpreting the treaties as a sort of ‘constitutional charter’; from this realisation, the values could become the central key to this interpretation. This could also take the form of new coherence tools at the disposal of the Court, for instance, through systemic recognition of breaches or systemic interpretation¹. This could also be executed from a more bottom-up approach, by not giving the CJEU more power for interpretation of law based on Article 2 TEU, but by extending the tools and duties of national orders. This could take the shape of a duty of referral when the values are at stake, among other possibilities². In another theoretical approach to the question of talking the protection of the values through the CJEU, von Bogdandy has developed the idea of a ‘reverse Solange’ which would allow the national courts, in cases of systemic violation of EU law, to launch a sort of augmented preliminary reference for the Court of Justice of the EU to intervene on the lawfulness of national actions directly.

¹ Luke Dimitrios Spieker, *EU Values Before the Court of Justice: Foundations, Potential, Risks* (Oxford University Press, Incorporated 2023).

² Armin von Bogdandy and Luke Dimitrios Spieker, ‘Countering the Judicial Silencing of Critics: Article 2 TEU Values, Reverse Solange, and the Responsibilities of National Judges’ (2019) 15 *European Constitutional Law Review* 391.

Second, they argue that the values should be expanded on and have a deeper reach. For instance, we could incorporate freedom of speech into Article 2 TEU or by modifying the mention of ‘values common to the member states’ by something closer to ‘on which the member states are founded’, which would expand their constitutional power³.

And finally, calls have been made for the creation of new bodies, such as a special “Systemic Deficit Committee” in place of the Rule of Law Framework⁴ or the creation of a Copenhagen Commission to answer to the Copenhagen dilemma⁵.

On the other side, while not necessarily opposed to the modifications as proposed by their peers, some scholars, led by Kim Lane Scheppele, Laurent Pech and Dimitry Kochenov, have argued that before the creation of new tools, we should seek to use the ones at our disposal more effectively, if not at all. They say that most of the tools introduced in recent years have failed to protect the values, and that before risking creating new, inoperative ones, which would put yet another strain on the system, the EU should try to use existing tools in innovative ways. Their criticism can be classified into three categories: inadequate tools, underused tools and misused tools.

On inadequacy, they argue that Article 7 TEU is entirely inoperable as the constraints to fully realise the procedure are simply out of reach in a system as diverse and dynamic as the Union. More than an issue of requirements, the political aspects of its activation, coupled with the narrative of “nuclear option” have entirely stripped the tool of its biting power⁶. Yet, this issue of inadequacy is not limited to the values’ original guardian, as infringement proceedings through Article 258 TFEU, the primary mechanism to enforce EU law at the national level, is not designed to tackle systemic attacks, as it is a lengthy process, based on cooperation and dialogue before anything else⁷.

³ *ibid.*

⁴ Armin von Bogdandy, Carlino Antpöhler and Michael Ioannidis, ‘Protecting EU Values - Reverse Solange and the Rule of Law Framework’ (Social Science Research Network, 23 March 2016) <<https://papers.ssrn.com/abstract=2771311>> accessed 12 July 2025.

⁵ Dimitry Kochenov, ‘1: The Acquis and Its Principles: The Enforcement of the “Law” versus the Enforcement of “Values” in the European Union’, *The enforcement of EU law and values: ensuring member states’ compliance* (First edition, Oxford University Press 2017).

⁶ Dimitry Vladimirovich Kochenov, ‘On Barks, Bites, and Promises’ in Uladzislau Belavusau and Aleksandra Gliszczynska-Grabias (eds), *Constitutionalism under Stress* (Oxford University Press 2020) <<https://doi.org/10.1093/oso/9780198864738.003.0010>> accessed 5 July 2025.

⁷ Kim Lane Scheppele, Dimitry Vladimirovich Kochenov and Barbara Grabowska-Moroz, ‘EU Values Are Law, after All: Enforcing EU Values through Systemic Infringement Actions by the European Commission and the Member States of the European Union’ (2020) 39 *Yearbook of European Law* 3.

On underused tools, they further highlight the issues with the infringement proceedings in the current framework, by highlighting how little commitment has been demonstrated by the member states, which have so far refrained from using their power under 259 TFEU to call on an infringement procedure against another state. They also highlight how little consideration has been given to interim measures, which are crucial to tackle dramatic cases of breaches, to prevent them from having irreparable damage⁸.

Regarding misused tools, they argue that the Union should consider alternative approaches to address issues related to the values, using the same tools. For instance, they argue for a case of systemic infringement based on Article 2 TEU. Here, the idea would not be to analyse one faulty law at a time, but to reverse the problem by making the violated EU provision the centre of the case. This means that infringement procedures could be used against a country on systemic violation of the EU values, and target all the national laws that infringe on the principles. They also point out that, given the potential for damages in a given society, these issues should be expedited, or at the very least prioritised⁹.

Finally, they argue that what makes this new approaches imperative in the current system is that the mechanisms and the values themselves are in the middle of a hostile takeover by populist forces that the current system seems unable to prevent, as dialogue and cooperation do not work on actors who do not abide by the rules¹⁰.

2.1.2. European *raison d'être* and value-based narratives

From the point of view of EU studies, the values and their interpretation have also received extensive attention. While not as easily defined as a simple treaty article, the outcome of this research field has birthed two echoing axes. On the one hand, the values which create a sense of community, and on the other hand, the values which serve as a narrative to justify action.

On the values as identity, scholars such as Oriane Calligaro, François Foret, and Wim Weymans have traced the history and evolution of the concept. According to them, the value aspect of the European project could be perceived right from the start, in a Christian conservative manner. However, with enlargements, the need to justify the creation of a

⁸ Laurent Pech and Dimitry Kochenov, 'Strengthening the Rule of Law Within the European Union: Diagnoses, Recommendations, and What to Avoid'.

⁹ *ibid.*

¹⁰ Laurent Pech and Kim Lane Scheppele, 'Illiberalism Within: Rule of Law Backsliding in the EU' (2017) 19 Cambridge Yearbook of European Legal Studies 3; Dimitry Kochenov, 'Mistaking Supremacy for the Rule of Law in Difficult Times: On Some EU's Urgent Values Problems' (Social Science Research Network, 19 May 2025) <<https://papers.ssrn.com/abstract=5260118>> accessed 1 June 2025.

community became urgent, leading to the search for a European identity, culture, and/or heritage. After the fall of the USSR, the enemy against which these values were originally formulated had to be reinvented, resulting in a cosmopolitanisation of the concept. Yet, through their constant expansion and reinvention, the values have also been weaponised, framing Europe against others, and internally, against those claiming to be the 'true representatives of European Values'. In a sense, the values have reverted to their original meaning, only now, the EU's system itself appears to be the victim of this identitarian and symbolic construction¹¹.

Echoing the dimension of identity and symbolism, the values have also been used throughout the project to justify measures taken both at the European and national levels. Here, scholars mostly rely on the identity concerns mentioned above, but add that the values can be further deployed to steer public opinion, justify action and serve as a distraction. Stemming mainly from the multiple crises affecting the Union, this emphasis on the narrative aspect has demonstrated that the values are highly susceptible to falling into the hands of populist actors and being redirected against the European Union. The literature highlights that the EU's usage of such narratives has been rather bland, and fails to tackle the much more vehement populist critiques, as they struggle to find the balance between a too strict and too broad interpretation¹².

2.2. Research Gap & Scientific Contribution

Building upon the state of academia summarised above, this research aims at filling the gap between the criticism of the legal scholars arguing for a better usage of the tools at the Union's disposal and the EU studies scholars and their analysis based on symbolism, identitarian question and value-based narrative. Here, the objective would not be to establish a third way, but rather to see if both theories align and interact. Moreover, this paper aims to find new analytical paths based on some aspects highlighted from both sides. On the one hand, legal

¹¹ Wim Weymans, 'A Critical History of the Use of "European Values"' in Regina Polak and Patrick Rohs (eds), *Values – Politics – Religion: The European Values Study: In-depth Analysis – Interdisciplinary Perspectives – Future Prospects* (Springer International Publishing 2023) <https://doi.org/10.1007/978-3-031-31364-6_3> accessed 1 March 2025; Oriane Calligaro, *Negotiating Europe: EU Promotion of Europeanness since the 1950s* (Palgrave Macmillan 2013); François Foret and Jana Vargovčíková (eds), *Value Politics in the European Union: From Market to Culture and Back* (Routledge, Taylor & Francis Group 2021).

¹² Weymans (n 11); François Foret and Oriane Calligaro (eds), *European Values: Challenges and Opportunities for EU Governance* (1st edn, Routledge 2018) <<https://www.taylorfrancis.com/books/9781351037419>> accessed 7 April 2025; Anna Kyriazi, 'Framing the EU Polity: How Commission Presidents Address Crises and Shape the Union' (2025) 0 *Journal of European Integration* 1; Ramona Coman and Cécile Leconte, 'Contesting EU Authority in the Name of European Identity: The New Clothes of the Sovereignty Discourse in Central Europe' (2019) 41 *Journal of European Integration* 855.

academics have argued that the reason for the failure of the general EU enforcement mechanism is their inability to adapt to value-related issues, whereas tailored solutions fail to confront actors who do not play by the rules of the game, such as populists. On the other hand, from an EU studies perspective, some of the values' weaknesses stem from the Union's failure to adapt its narrative in response to events, to recognise its accountability, or to develop a sufficiently precise yet dynamic and flexible approach to account for the Union's particularities. This paper thus aims to compare those claims with practical cases to see if they hold up.

2.3. Theoretical framework

To conduct this interdisciplinary studies, this paper will mainly rely on a combination of a socio-legal framework, drawing on literature from constitutional pluralist scholars to understand the mechanisms behind the values, the way they shape states and policies and how other aspects of society, such as political forces, might influences either hinder or propel them.

2.3.1. Socio-legal studies & Constitutional Pluralism.

Socio-legal studies stem from the idea that laws and doctrines do not exist entirely by themselves, but rather are the product of the society in which they emerge. Unlike other theories, which mainly analyse the laws as they were written, socio-legal studies incorporate aspects of everyday life to determine how these laws are put into action and how society shapes them¹³. This is particularly interesting in the case of the EU values, as their supposed role is precisely to shape the Union and its states. Values are central to the narratives of the supranational system, to enact and enforce laws.

Furthermore, although it will not be central, this thesis will rely on production from Constitutional Pluralism theorists. While relatively recent, it has become central in academia to analyse the effects of EU treaties or law and their interaction with the national realm. Stemming from the observation of interactions between the supranational and national levels, it aims at filling the gap created by the EU's supranational system, which the classic hierarchy of legal

¹³ Lisa Webley, 'The Why and How to of Conducting a Socio-Legal Empirical Research Project', *Routledge Handbook of Socio-Legal Theory and Methods* (1st edn, Routledge 2019) <<https://www.taylorfrancis.com/books/9780429952821/chapters/10.4324/9780429952814-4>> accessed 12 July 2025; Naomi Creutzfeldt, Marc Mason and Kirsten McConnachie, *Routledge Handbook of Socio-Legal Theory and Methods* (Naomi Creutzfeldt, Marc Mason and Kirsten McConnachie eds, 1st edn, Routledge 2019) <<https://www.taylorfrancis.com/books/9780429952821>> accessed 12 July 2025.

orders frame of analysis fails to grasp¹⁴. It argues that the “supremacy of EU laws” is not always the end of the story and that, in a system like the EU, multiple constitutional understandings of a given law can coexist without subordination to one another¹⁵.

2.3.2. Usage of Europe

Complementary to these approaches, this paper will rely on theories stemming from the paradigm of the “Usage of Europe” (UoE), which branches out of Europeanisation theories as they criticise the failure of the traditional framework to take into account the interaction between institutions and individuals, between political actors and common folk. The theory, developed by Sophie Jacquot and Cornelia Woll, argues that, as the EU shapes the lives of its citizens, individual actors equally influence the Union’s evolution through their usages of the EU’s tools and mechanisms. Stemming from a more sociological perspective, they coin the term “usage” as the “practices and political interactions which adjust and redefine themselves by seizing the European Union as a set of opportunities, be they institutional, ideological, political or organisational¹⁶. Consequently, the authors developed a typology of usage based on the function that a given actor occupies in the system and what they make out of it. They identify three:

- 1) “Cognitive usage”, for clarification and persuasion.
- 2) “Strategic usage”, which is the classic politically motivated usage for a given objective.
- 3) “Legitimation usage”, a hybrid of the two previous ones, that uses Europe to justify a decision.

Usages are motivated through three “logics”. One of influence, one of positioning and one of justification. These usages are to be situated in material or immaterial elements, the former referring to the EU and its various tools, laws, mechanisms... and the latter to more discursive and subjective elements¹⁷.

Table 1: Variation of usage in practice¹⁸.

Usage type	Elements used	Political work - Motivation	Actor
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¹⁴ Neil Walker, ‘The Idea of Constitutional Pluralism’ (2002) 65 *The Modern Law Review* 317.
¹⁵ Natália Racková, ‘Constitutional Pluralism in Times of the Rule of Law Crisis: Susceptible to Abuse?’ [2025] *European Law Blog* <<https://www.europeanlawblog.eu/pub/st2hcwbnv/release/1>> accessed 9 June 2025.
¹⁶ Sophie Jacquot and Cornelia Woll, ‘Usage of European Integration - Europeanisation from a Sociological Perspective’ (2003) 7 *EIoP European Integration Online Papers* 1.
¹⁷ *ibid*; Cornelia Woll and Sophie Jacquot, ‘Using Europe: Strategic Action in Multi-Level Politics’ (2010) 8 *Comparative European Politics* 110.
¹⁸ Jacquot and Woll (n 16); Woll and Jacquot (n 17).

COGNITIVE	Immaterial: <ul style="list-style-type: none"> • Ideas • Expertise 	<ul style="list-style-type: none"> • Argumentation • Problem building • Action framing 	<ul style="list-style-type: none"> • Political entrepreneurs • Advocacy coalitions • Public policy networks • Experts • Epistemic communities
STRATEGIC	Material: <ul style="list-style-type: none"> • Institutions • Legal resources • Budgetary resources • Political resources Instruments	Resource mobilisation	<ul style="list-style-type: none"> • Bureaucratic actors • Decision-makers
LEGITIMATION	Rather immaterial: <ul style="list-style-type: none"> • Public sphere • Discourses 	<ul style="list-style-type: none"> • Justification • Deliberation 	<ul style="list-style-type: none"> • Politicians • Lobbyists • Special interest groups

This theory is particularly adapted to the study of the EU’s values as it allows for the analysis of narratives and actions from all actors, at all levels, in their particularities, which is highly necessary when dealing with notions as illusive, which are far reaching and lack a common understanding and exact framing.

2.4. Chosen approach, methodology and data collection

Per socio-legal studies and UoE studies, this thesis will rely on doctrinal references, especially from the European Union’s legal system. It will also heavily rely on the production of academia and on interventions from actors of all kinds (Civil Society, media outlets, think tanks,...) as a way to understand the society’s point of view and influence on the events observed. Additionally, the qualitative study will be accompanied by a case study on three countries with very different characteristics, to evaluate trends across the Union, from a multiplicity of other factors. The various sources will be mobilised together, as this research postulates that the interaction between law and society is central for the proper understanding of the dynamics at play.

As for temporality, this thesis will adopt a hybrid stance. While it will mostly rely on sources from around 2008 onwards, as this corresponds to both the introduction of the Values as we

know them today in the Treaties and as the beginning of the succession of crises suspected to have played a significant role in the current situation, it will not refrain from using sources dating as far back as the beginning of the European project, in the 1950s, as the analysis seems to demonstrate a strong influence on the current debate from the historical construction of the EU Values as a concept.

Finally, as per the case study, the chosen countries are Hungary, the Netherlands, and Italy, as they each represent dramatically different sides of the EU's cosmopolitan system, from conservatism to progressivism, on economic indicators, democratic indicators, or even geographically.

2.5. Key concepts & considerations

2.5.1. The Values of the European Union

Although the conceptualisation of the Values is part of this paper's inquiry, their general, on-paper understanding goes as follows: it is understood as EU values or values of the EU, the principles enshrined in Article 2 TEU.

*Article 2 TEU: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail".*¹⁹

However, this conception might be central to the issue at hand, as many believe the framing of Article 2 TEU as values to be faulty. As treaty provisions, it might be more accurate to consider them principles of law²⁰. This can sometimes create confusion about the provision itself. For instance, the rule of law is already enshrined as a principle in the Charter of Fundamental Rights of the European Union. As the Charter and the TEU are both elements of primary law, this seems to create a sort of contradiction²¹. With that in mind, this thesis will in some cases use the term 'principles' instead of 'Values' indistinctly.

¹⁹ Publications Office of the European Union, *Consolidated Version of the Treaty on European Union* art 2 <<https://op.europa.eu/en/publication-detail/-/publication/a41bf59d-146a-11f0-b1a3-01aa75ed71a1/language-en>> accessed 9 June 2025.

²⁰ Kochenov, 'The Acquis and Its Principles: The Enforcement of the "Law" versus the Enforcement of "Values" in the European Union' (n 5).

²¹ *ibid.*

Coincidentally, “values” more political, narrative-based point of view will be understood as a set of narratives and rhetoric serving to justify action and create a coherent narrative²², or desirable ideals, but rather as principles of EU law, of binding nature²³.

Finally, when examining the Values in the Union, it is essential to note that the various aspects of these values are not given equal weight within institutions or scholarly debates. If there seems to be a sort of salience hierarchy between the values²⁴, one trumps them all: the rule of law. This is, however, not very surprising as the rule of law can be considered as the foundation for the EU’s system as well as an expected core component of the member States’ own systems. Furthermore, the rule of law is the principle that allows for the other principles to be kept in check in the first place, as there is no guarantee for the respect of principles without a properly functioning justice system. This position seems to be shared by the Institutions themselves, as the various tools created and the courts’ developments surrounding the protection of the values of the Union in recent years have mostly revolved around this aspect, and have been gaining weight in the political discourses of the Institutions, both on internal and external affairs²⁵.

2.5.2. Political mobilisation

On political mobilisation, this thesis will understand mobilisation as the articulation of the concept in any way, be it in identity narratives, discourses, and reactions from political actors, as a way to analyse all of the elements required to determine the type of usage as per UoE theory.

²² Pierre Schlag, ‘Values’ [1994] *Yale Journal of Law & the Humanities* <<https://scholar.law.colorado.edu/faculty-articles/774>>.

²³ Kochenov, ‘The Acquis and Its Principles: The Enforcement of the “Law” versus the Enforcement of “Values” in the European Union’ (n 5).

²⁴ Oriane Calligaro and others, ‘Values in the EU Policies and Discourse. A First Assessment’ (2016) 3 *Les Cahiers du Cevipol* 5.

²⁵ *ibid.*

3. EU Values & Legal mobilisation

To properly examine what has hindered the effective safeguarding of the Values, this section will be divided into two parts. The first part will focus on the main tools developed to protect Article 2 TEU, which is essential to understanding where their potential weaknesses might originate. The second part will build on these theoretical considerations to highlight procedural shortcomings and other obstacles at play, which prevent the full activation or use of these specific legal provisions. The need for this division arises from the fact that, as this analysis will demonstrate, while some obstacles to the EU Values' full realisation come from the way the legal instruments are framed, other factors are far from legal theory and must therefore be analysed through a different perspective.

3.1. Enforcing and safeguarding the EU Values – A theory

Enforcement is vital when dealing with Values, as the areas they cover can be system-changing. As expected, a wide range of mechanisms and safeguards has been established to prevent European forces from attacking or disregarding them. To understand what these mechanisms are, the following subsection will examine the main tools in the EU's arsenal and, in some cases, identify their apparent shortcomings.

3.1.1. Article 7 TEU

Article 7 is the primary mechanism supposed to safeguard the Values. When fully articulated, it allows the rights of a member State to be temporarily suspended. Only invoked twice in the history of the Union, against Poland and Hungary, none of the attempts have, as of yet, reached the third and final stage of the procedure.

The procedure of Article 7 is split into two arms and three sub-mechanisms: the preventive arm with Article 7(1) TEU and the sanctioning arm with Article 7(2) and 7(3) TEU.

Article 7(1): "On a reasoned proposal by one third of the Member States, by the European Parliament or by the European Commission, the Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2. Before making such a determination, the Council shall

*hear the Member State in question and may address recommendations to it, acting in accordance with the same procedure*²⁶.

The requirements to simply assess a risk of breach are already quite high, involving a back-and-forth between institutions and a final vote of 4/5 of the voting members to take action. This creates some constraints due to the dynamic nature of the EU's system, and political forces have been criticised as major obstacles to the full realisation of the Article.²⁷ However, this is only the initial phase of the mechanism, and the difficulty of triggering increases exponentially.

*Article 7(2): "The European Council, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the consent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of the values referred to in Article 2, after inviting the Member State in question to submit its observations"*²⁸.

For the second phase, recognising a breach to be activated requires a unanimous vote at the Council level. This is nearly impossible in such a large assembly, especially on a sensitive topic, particularly when two countries are under scrutiny simultaneously, as it is in the states' best interests to protect each other. Additionally, states might fear diplomatic retaliation or spillover effects on the market due to the significance of the decision.²⁹

Finally, there is the sanction phase, often referred to as the 'nuclear option'³⁰.

*Article 7(3): "Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of the Treaties to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons"*³¹.

²⁶ European Union's Member States, *Consolidated Version of the Treaty on European Union* art 7(1).

²⁷ R Daniel Kelemen, 'The European Union's Authoritarian Equilibrium' (2020) 27 *Journal of European Public Policy* 481.

²⁸ European Union's Member States *Consolidated Version of the Treaty on European Union* (n 26) art 7(2).

²⁹ Leonard Besselink, 'The Bite, the Bark, and the Howl: Article 7 TEU and the Rule of Law Initiatives' in András Jakab and Dimitry Kochenov (eds), *The Enforcement of EU Law and Values: Ensuring Member States' Compliance* (Oxford University Press 2017) <<https://doi.org/10.1093/acprof:oso/9780198746560.003.0009>> accessed 22 June 2025.

³⁰ Laurent Pech, 'Article 7 TEU: From "Nuclear Option" to "Sisyphian Procedure"?' in Uladzislau Belavusau and Aleksandra Gliszczynska-Grabias (eds), *Constitutionalism under Stress* (Oxford University Press 2020) <<https://doi.org/10.1093/oso/9780198864738.003.0011>> accessed 22 June 2025.

³¹ European Union's Member States *Consolidated Version of the Treaty on European Union* (n 26) art 7(3).

This is, on paper, a potent and restrictive measure as it can suspend all rights, including voting rights, of the representatives of the sanctioned State, without removing the duties of that State. Although it ‘only’ requires a qualified majority, it has often been seen as unachievable because it still needs the second step, and thus unanimity, and the aforementioned reluctance of states.

All in all, this paints a picture of a tool that is “all bark and no bite”³², that upholds the ideal of a Union standing the grounds of democracy and rule of law with strong tool, nuclear even, but that has in reality no opportunity to mobilise said tools and that is too vulnerable to political forces and coalition dynamics to effectively use it in the first place, letting the Values deprived of what is supposed to be their primary guardian.

3.1.2. Infringement procedure

Infringement procedures are the EU’s main instrument to ensure that member states comply with EU law. Specifically, they are used when a state fails to transpose EU directives into their legal system or does so incorrectly, or when a state’s law breaches existing EU laws. They find their codification in Articles 258-260 of the Treaty on the Functioning of the European Union (TFEU). However, subsequent EU mechanisms have extended the scope of the procedure. Generally, it is considered that there are four phases to such procedures.

First, the “Initial Phase” in a state’s potential non-compliance is detected, either by the European Commission itself or through a registered complaint.

Second, although it is not mandatory, the Commission can use the “EU pilot”, a tool developed specifically to reduce the use of the heavier infringement procedure that will follow. It allows for the Commission to establish an informal dialogue with a state that’s breaching the law. Generally, it is used in cases where it is believed that the compliance issue is of minor concern and where swift adaptation from the state is expected. In general, the dialogue’s phases proceed as follow:

- 1) The Commission contacts the infringing state on the issue, and gives 10 weeks for said states to reply.
- 2) The Commission, given 10 weeks, takes notice of the reply and determines if it is satisfactory.
- 3) Occasionally, additional exchanges might happen with the objective of resolving the issue within nine months

³² Besselink (n 29).

- 4) When the state is not cooperating or provides unsatisfactory replies, the Commission proceeds with the more formal procedure.

All of these time frames are equally informal; they are the general rule of thumb in EU pilot dialogues³³.

The formal procedure begins with a “pre-litigation phase” in which the Commission sends the state a “letter of formal notice”, which specifies a fixed deadline, usually two months, for the state to respond regarding a possible breach of EU law. If it is not satisfactory, the Commission, based on Article 258 TFEU, issue a “reasoned opinion”, which is a formal demand of compliance from the Institutions, containing detailed explanations as to why EU law has been breached and gives a deadline for the state to comply, usually of two months. If the state does not comply after the deadline, the Commission can refer the case to the Court of Justice of the European Union (CJEU)³⁴.

However, this is not the only way an infringement procedure can be initiated. Under Article 259 TFEU, a state can bring another before the court if it believes that the latter is infringing EU law. To do so, it must refer the matter to the Commission, which will then issue a reasoned opinion after hearing both parties. The Commission has three months to issue this opinion, although it is not mandated for the referral to the Court³⁵.

In cases where the Court has indeed found a violation and the state still refuses to comply, the Commission can launch a new procedure under Article 260 TFEU, which repeats the steps of the letter of formal notice and of the reasoned opinion before the referral to the Court. This time, however, the Commission communicates the amount of the sanction it considers appropriate for this type of breach. The Court will then reevaluate the compliance of the state with EU law and determine the applicable penalties if it rules against it. Article 260 TFEU also allows for this penalty to be imposed as early as in the procedure under Article 258 TFEU when the Commission deems it necessary. The Court also has the option to decide on the necessity of a sanction itself³⁶.

³³ RECLAIM, ‘Freedom of Information Request #Infringements’ (20 November 2024) <https://e038c6a4-24a2-4083-adc4-424355961a5a.usrfiles.com/ugd/e038c6_92befbae17684e5db95f44eb7fed4f0c.pdf> accessed 3 May 2025.

³⁴ *ibid*; European Commission, ‘Infringement Procedure’ (15 July 2022) <https://commission.europa.eu/law/application-eu-law/implementing-eu-law/infringement-procedure_en> accessed 9 June 2025.

³⁵ Consolidated version of the Treaty on the Functioning of the European Union 2007 (European Union) art 259.

³⁶ *ibid* 260.

Another aspect relevant to infringement proceedings in cases similar to breaches of EU Values is a request for interim measures, through Article 279 TFEU. The Court may grant them on a case-by-case basis when necessary. These measures essentially allow for the suspension of the national legislation under review until the final judgment. They are mainly employed in situations where waiting for the final ruling could cause irreversible damage³⁷.

3.1.3. Rule of Law Toolbox

After observing the ongoing failures of the two mechanisms intended to prevent member States from backsliding, the Commission decided that developing more suitable tools to address such a crisis was necessary³⁸. This led to the creation of the “rule of law toolbox”, which includes the mechanisms mentioned earlier but also introduces a range of ‘prevention and promotion’ tools such as the European Semester, the EU justice scoreboard, or the annual rule of law report, among others. Yet, neither the old nor the new tools have succeeded in reducing backsliding democracies; in fact, quite the opposite. It almost seems as if the more the EU develops tools, the worse the situation becomes gets³⁹.

This thesis chooses not to elaborate on the tools of the new ‘rule of law toolbox’ but instead to demonstrate how the ongoing creation of mechanisms by the Union appears unable to address its democratic deficit crisis.

To understand why these tools have failed so far, Sonja Priebus explains that there are two schools of thought in compliance studies: the managerial approach and the enforcement approach. Management is when noncompliance is seen as involuntary, whereas enforcement is when the breach is voluntary⁴⁰. She argues that in its pursuit of new tools, the Commission adopted a managerial approach to an issue that should have required enforcement, as repeated breaches of fundamental values cannot be made involuntarily. In other words, the Commission’s chosen approach to democratic backsliding has been based on discussion, yet it seems a “misguided assumption that a discursive approach with would-be autocrats can work”⁴¹.

³⁷ *ibid* 279; Pech and Kochenov (n 8).

³⁸ José Manuel Durão Barroso, ‘The EU and the Rule of Law – What Next?’ (12 September 2012); Viviane Reding, ‘The EU and the Rule of Law – What Next?’ (4 September 2013).

³⁹ Sonja Priebus, ‘The Commission’s Approach to Rule of Law Backsliding: Managing Instead of Enforcing Democratic Values?’ (2022) 60 *JCMS: Journal of Common Market Studies* 1684.

⁴⁰ Sonja Priebus, ‘The Commission’s Approach to Rule of Law Backsliding: Managing Instead of Enforcing Democratic Values?’ (2022) 60 *JCMS: Journal of Common Market Studies* 1684.

⁴¹ Pech and Kochenov (n 8).

3.1.4. Rule of law conditionality mechanism

The rule of law conditionality mechanism is the latest creation of the European Union aimed at preventing democratic backsliding. Introduced in 2020 alongside the development of Next Generation Europe (NextGenEU), the tool is relatively straightforward: from this funding onwards, if a State does not uphold the principle of the rule of law, it will not receive its designated sum. In the case of NextGenEU, the funding is divided into three payment instances. The mechanisms will freeze the state's assets for two years. If, by the end of those two years, the Country has not taken the necessary measures to lift the mechanism's effects, the funds will be lost for good⁴².

3.2. Enforcing and safeguarding the EU Values – A reality

While the previous subsection has described the core mechanisms, inner workings and immediate shortcomings stemming from the EU's codification, this part will observe what other factors have contributed to the weakening of those same tools. To illustrate all the varying degrees that may explain how this 'Value crisis' came to be, a distinction will be established between sources of enforcement shortcomings, based on the literature. The categories will be as follows: enforcement tools as inadequate, as underused and as misused. Finally, the section will also analyse how some parts of the Union might have found new ways to prevent further weakening of the Values framework, through the example of the European Court of Justice.

3.2.1. Enforcement tools as inadequate

The critique of the inadequacy of the EU's mobilisation of its tools is mostly related to the two main components of values enforcement: Article 7 TEU and infringement procedures.

On Article 7

On Article 7, there exists ample literature on the tool's ineffectiveness, which is perhaps best demonstrated through the Hungarian question. Hungary's democratic backsliding has been documented thoroughly since the first changes in 2010⁴³. Despite those early accounts and warnings, the mechanism was not triggered against Hungary until 2018. The first of many reasons for this apparent paradox comes from the Article itself. As was highlighted in the

⁴² Zselyke Csaky, 'Freezing EU Funds: An Effective Tool to Enforce the Rule of Law?'

⁴³ Miklós Bánkúti, Gábor Halmai and Kim Lane Scheppelle, 'Hungary's Illiberal Turn: Disabling the Constitution' (2012) 23 *Journal of Democracy* 138.

theoretical part of this section, the restriction in terms of mobilisation of actors, length of process, and potential institutional setbacks is extensive. Yet, the issues weighing the procedure are not limited to the Articles. As hinted at, political dynamics play a crucial role with Article 7, not only between countries, on the Council's side, but also in the European Parliament.

Building upon what has been said on the reluctance from states, the aspect of fear of a spillover effect stems from the EU's system itself. The one aspect that has always prevailed in all of the European project's debates is the market and its development, which often trumps all else. As this pursuit of the market has led to the elimination of all barriers and pushed for extreme market cooperation between States, a deeply political and confrontational tool such as this one, which will have consequences on the whole system, market included, appears in total contradiction with the EU's nature⁴⁴.

As for the Parliament, this critique stems from observations that, despite Hungary showing signs of democratic backsliding way before Poland, the trigger of Article 7 against it only came a year later. When looking at previous votes from the European Parliament, however, we see that Members of the European Parliament had already tried seven times to activate the procedure, but failed to do so as they could not gather a majority of votes. This most likely stems from Orban's (at the time) affiliation with the EP's biggest political group: the European People's Party (EPP)⁴⁵. This issue will be expanded upon in the following sections, looking at the mobilisation of values in the political realm.

On infringement procedures

In the case of infringement procedures, despite being on paper one of the simplest ways to defend the Values, they have only been used as grounds to bring an infringement procedure once, in C-769/22 against Hungary, which this section will develop further down the line.

One major issue when discussing the enforcement of the Values in front of the Court is that Article 2 has never been at the centre of a closed case. Thus, the EU Institutions have often hesitated to bring a case of infringement based on the Values, fearing that the case might be dismissed. In cases where offenders are willing to breach the values over and over again, the

⁴⁴ Kochenov, 'On Barks, Bites, and Promises' (n 6).

⁴⁵ Etienne Hanelt, 'Getting Article 7 Done: Coalition-Building against Hungary in the European Parliament' 0 Journal of European Integration 1.

usual length of procedures under Article 258 TFEU and the way the Commission handles them makes it simply inadequate. However, as will be explained below, this does not mean that infringement procedures should be discarded; rather, it indicates they have not been used correctly.

3.2.2. Enforcement tools as underused

While the previous sections argued that infringement procedures were inadequate, this is not the full picture. The inadequacy of infringement procedures mainly stems from how they are used. However, there are other pathways that EU actors can pursue to realise their full potential. One such pathway is through the underused Article 259 TFEU, which permits member states to initiate infringement proceedings against one another. This reveals a lack of commitment from the member states, which might reflect the criticism made of Article 7 TEU and the reluctance of states to face retaliation. Nonetheless, since the values are supposed to be what the community shares and what unites the states and citizens, one might expect more concrete actions from governments on this matter.⁴⁶ This ‘biting intergovernmentalism’ idea tackles issues from classic infringement cases. It helps other states bypass the ‘competence-creep’ criticism of the Commission, as it could not be used against its actions. Also, since the Commission controls prosecution in infringements, this would let other actors regain some power and improve case monitoring development⁴⁷.

However, this is not the only way to improve the usage of infringement proceedings. As shown through the explanation of the process, infringement procedures are quite lengthy. When infringement procedures are brought before the Court, they take an average of 40 months to receive a ruling. During this period, as the EU values are considered a fundamental pillar of European society, a law infringing on them can cause irreversible damage. Therefore, the EU could, in cases where the Values of Article 2 TEU or even just the principle of the rule of law are at risk, decide to use expedited or accelerated procedures.⁴⁸ Based on the usual infringement procedure steps described in the previous subsection, one element is often overlooked: how the Commission has framed the procedure arbitrarily. In time, the recourse to EU pilot dialogues has become central, yet, in cases where countries are unwilling to cooperate in the first place,

⁴⁶ Pech and Kochenov (n 8).

⁴⁷ Kochenov, ‘The Acquis and Its Principles: The Enforcement of the “Law” versus the Enforcement of “Values” in the European Union’ (n 5).

⁴⁸ Petra Bård and Anna Śledzińska-Simon, ‘Rule of Law Infringement Procedures: A Proposal to Extend the EU’s Rule of Law Toolbox. CEPS Paper on Liberty and Security in Europe, No. 2019-09, May 2019’ <<https://www.ceps.eu/ceps-publications/rule-of-law-infringement-procedures/>> accessed 13 July 2025.

instead of accelerating the process, they slow it down. Then, most of the deadlines are customary, but the Commission has the power to shorten them. For instance, it could give infringing states a single month instead of two to reply to either the letter of formal notice or the reasoned opinion⁴⁹. It has done it in the past, in a Hungarian case, but this seems to prove one of the criticisms that keeps reappearing: the EU is only willing to deploy its full arsenal when the market is what is at stake⁵⁰.

One last improvement that could be achieved on infringement proceedings in the case of the EU Values is the recourse to interim measures under Article 279 TFEU. Very rarely triggered, this provision could solve the time-based issue of infringement of the Values in an even greater way than accelerated procedure. In cases where it simply is impossible to wait for a ruling, and since accelerated procedure will take months in any case, an interim measure and its ability to freeze the national provision would prevent the hurdle of irreparable damages⁵¹.

3.2.3. Enforcement tools as misused

Finally, academics have argued that the EU has often lacked creativity and ambition when deploying enforcement mechanisms. They argue that some of the tools at the disposal of the Institutions could be mobilised in novel ways, with no adjustments, or minor ones in the worst cases. They also point out that in many cases, this lack of ambition has led the EU to miss a number of opportunities that could have helped develop a robust framework of protection of the EU Values, but ended up causing further harm as they were cast aside.

Systemic infringements

Perhaps the most academically developed solution to the issue of safeguarding Values is the institutionalisation of systemic infringement. Their arguments are quite straightforward: instead of initiating infringement procedures based on the violation of specific national laws, the Institutions, through Articles 258 or 259 TFEU, could initiate infringement procedures against patterns of violation. For example, in cases where a country repeatedly undermines an aspect of the Values despite numerous reprimands, or when a country enacts a variety of laws attacking

⁴⁹ Matteo Bonelli, 'Infringement Actions 2.0: How to Protect EU Values before the Court of Justice' (2022) 18 *European Constitutional Law Review* 30.

⁵⁰ 'European Commission Launches Accelerated Infringement Proceedings against Hungary - European Commission' <https://ec.europa.eu/economy_finance/articles/governance/2012-01-18-hungary_en.htm> accessed 13 July 2025.

⁵¹ Bonelli (n 49).

the values from all angles, the Institutions could initiate a systemic infringement. Thus, it would not be a matter of a law infringing several provisions of EU law, but rather a provision of EU law being infringed upon by multiple national laws.⁵².

Missed opportunities

Scholars have also highlighted a number of missed opportunities from the Institutions' side, which could have helped cement real protection mechanisms for the Values. One such case was the infringement against Hungary on the retirement age of judges⁵³. The new Constitution changed the retirement age of judges from 70 years old to 62 years old, which instantaneously emptied a large part of Hungary's judiciary. Instead of bringing the infringement case based on a violation of the rule of law and as a direct attack against the judiciary, the Commission framed the procedure under non-discrimination principles based on age. While the Commission was able to slightly raise the retirement age, it did nothing for the professionals who had lost their seats and the resulting weakened state of the judiciary in Hungary⁵⁴.

Rule of law conditionality mechanism

The example of the conditionality mechanism differs from the ones above as it is not a case of the EU failing to achieve the full potential of existing tools, but instead of the EU jeopardising the effectiveness of a potent enforcement mechanism.

The first country to face the mechanism was Hungary. It was concluded that the government had accumulated too many breaches of the rule of law principles in recent years. As a result, it was barred from accessing its €6.3 billion of funding until necessary improvements were made.⁵⁵. At the time of the freeze, in December 2022, EU scholars and civil society were quite optimistic. In front of them was a tool that, despite receiving criticism for circumventing Article 7⁵⁶ (which has been refuted by the CJEU in case C-156/21⁵⁷ and C-157/21⁵⁸), seemed to finally leave this managerial approach to noncompliance in order to embrace a tool that is not a

⁵² Kochenov, 'The Acquis and Its Principles: The Enforcement of the "Law" versus the Enforcement of "Values" in the European Union' (n 5).

⁵³ *ibid.*

⁵⁴ Gábor Halmai, 'Coping Strategies of the Hungarian Constitutional Court since 2010' [2022] *Verfassungsblog* <<https://verfassungsblog.de/coping-strategies-of-the-hungarian-constitutional-court-since-2010/>> accessed 11 July 2025.

⁵⁵ Csaky (n 42).

⁵⁶ Ondrej Blažo, 'Protection of Rule of Law While Protecting Rule of Law: Who Guards the Guardian?' (2022) 2 *Slovak Yearbook of European Union Law* 51.

⁵⁷ *Hungary v European Parliament and Council of the European Union* [2022] ECJ Case C-156/21.

⁵⁸ *Republic of Poland v European Parliament and Council of the European Union* [2022] ECJ Case C-157/21.

sanction *per se*, as fundings are not lost, but rather frozen, but that would have real consequences for the targeted State⁵⁹.

However, on 13th December 2023, a year after the procedure started, the freeze of the first payment increment got lifted, and the same optimistic actors felt deceived⁶⁰. The Commission commanded Hungary on its efforts to restore the rule of law in the Country, justifying the lift, one day after Hungary had passed one of its most repressive laws ever, allowing it to spy and defame not only its citizens but critics all around the globe through their newly established Sovereignty Protection Office⁶¹. This was seen as yet another failure to protect democracies in the EU. The decision faced criticism not only from outside the Institution but also led the European Parliament to take the Commission to court after the announcement.⁶² While some funds destined for Hungary are still frozen, this came as a significant blow to the credibility of the tool⁶³. Furthermore, as it is credibly rumoured that the freeze was in reality retracted with the condition that Hungary would refrain from using its veto rights on granting aid to Ukraine, it showed that the EU can fall victim to autocrats and that the tools developed by the Union to refrain their excesses are easily blocked by the power of the state's rights⁶⁴.

3.2.4. The growing influence of the Court

First and foremost, the Court has often sided with the Institution when evaluating the legality of the previously mentioned tools. Be it on the Article 7 procedures (as was the case in C-

⁵⁹ 'The New Conditionality Mechanism for the Protection of the EU Budget: Does the CJEU Judgement Give the All-Clear?' (*Elcano Royal Institute*) <<https://www.realinstitutoelcano.org/en/analyses/the-new-conditionality-mechanism-for-the-protection-of-the-eu-budget-does-the-cjeu-judgement-give-the-all-clear/>> accessed 22 June 2025; Vlad Makszimov, 'Commission to Trigger Mechanism That Could See Hungary Lose EU Funds' (*Euractiv*, 5 April 2022) <<https://www.euractiv.com/section/politics/news/commission-to-trigger-mechanism-that-could-see-hungary-lose-eu-funds/>> accessed 22 June 2025.

⁶⁰ Jorge Liboreiro, 'Hungary Gets €10 Billion in Frozen EU Funds amid Orbán's Threats' (*euronews*, 13 December 2023) <<https://www.euronews.com/my-europe/2023/12/13/brussels-releases-10-billion-in-frozen-eu-funds-for-hungary-amid-orbans-threats>> accessed 2 March 2025.

⁶¹ RECLAIM, 'Legal Opinion: Hungary's 2023 Sovereign Defense Authority Law' <https://www.reclaiming.eu/_files/ugd/e038c6_8aefa65d66a44d9f883a1f873d3af09d.pdf?index=true> accessed 22 June 2025.

⁶² Jakob Hanke Vela and Claudia Chiappa, 'Brussels vs. Brussels: EU Parliament to Sue Commission over Hungary Cash' (*POLITICO*, 12 March 2024) <<https://www.politico.eu/article/parliament-sues-commission-over-unfreezing-of-hungary-funds/>> accessed 22 June 2025.

⁶³ Csaky (n 42).

⁶⁴ Xhoi Zajmi, 'Hungary's Frozen Cohesion Funds Testing EU's Rule of Law Conditionality' (*Euractiv*, 23 May 2025) <<https://www.euractiv.com/section/economy-jobs/news/hungarys-frozen-cohesion-funds-testing-eus-rule-of-law-conditionality/>> accessed 22 June 2025.

619/18⁶⁵) or the conditionality mechanism, the Court has often allowed for the procedure to be pursued (see section 4.2.4. on conditionality mechanisms).

Even before Article 2 was recognised as a legal basis on which cases could be brought, the Court has often acted in favour of the protection of the Values. One of the most obvious examples of this practice is the Court's general position on cases brought under Article 19(1) TEU regarding judicial independence. In C-64/16⁶⁶ and C-619/18⁶⁷, the Court expressly held that for national courts to “ensure effective legal protection in the fields covered by Union law” said national Courts had to take into account the Values in Article 2.

In other instances, the Court has upheld the Values through language and principles, rather than citing them alone. Such was the case in C-808/18⁶⁸ on the so-called Hungarian “Stop-Soros” laws. Here, even if the values are not mentioned, it states that third country nationals must “be returned in a humane manner and with full respect for his or her fundamental rights and dignity”⁶⁹, words that are directly taken from the Values.

Now, for the first time, Article 2 has been directly invoked as reason of a breach for the first time in C-769/22 against Hungary. While the judgement is still pending and we thus do not know if the Court will recognise the direct justiciability of Article 2, it is to be noted that the Advocate General Tamara Čapeta has expressed a positive stance on the issue in her recent opinion⁷⁰, allowing for some more recognition of the Values as a core component of EU laws.

3.3. The state of enforcement. Concluding Enforcement

All in all, the enforcement and protection of the values have been deceptive, to say the least. The primary tool meant to safeguard them is inoperative. On infringement procedures, which seem to be central to the protection of these values, they are either inadequate or underused. Other tools are either too weak or have been weakened by the institutions themselves. The dynamics of the market seem to always prevail, and by the time cases are judged, damages are often irreparable. Yet, one observation remains more crucial: the values do not appear to be protected because of the institutions' unwillingness to fully mobilise them, whether due to states

⁶⁵ *European Commission v Republic of Poland* [2019] ECJ Case C-619/18.

⁶⁶ *Associação Sindical dos Juizes Portugueses v Tribunal de Contas* [2018] ECJ Case C-64/16.

⁶⁷ *European Commission v Republic of Poland* (n 65).

⁶⁸ *European Commission v Hungary* [2020] ECJ Case C-808/18.

⁶⁹ *ibid* 248.

⁷⁰ *Opinion of Advocate General Čapeta delivered on 5 June 2025* (ECJ).

not engaging, or representatives of the state favouring their own interests. In other words, the reason why the framework supposed to protect the values is inoperable is above all political.

4. EU Values & Political narratives

Tracing back to the issue of language in the legal section of this thesis, the idea of coining Art. 2 TEU as the “Values” of the EU, rather than the “principles,” has more to do with politics and narratives. Here, the general understanding of values as “ideas guiding actions”⁷¹ takes on its whole meaning, the EU has often relied on the values to justify not only its actions but also its existence⁷². Yet, when observing the political mobilisation of values, one cannot stop at their Treaty definition, as values also refer to other aspects, such as identity building, cohesion building, or serving as symbols.

From the 1950s and the Schuman declaration’s mention of ‘solidarity’, ‘world peace’ and of unity⁷³ to the introduction of the concept of ‘European Identity’ in the 1970s⁷⁴ value-based discourses have always been present in the Union as a way to justify action or the creation of the supranational entity that we know today⁷⁵. Sometimes referred to as a “European Heritage” or a “European way of life” or even “European citizenship”, this allusion to a set of shared values across the Union has evolved with the EU’s construction. Yet, in recent years, especially since the onset of the multi-crisis period that has shaken the Union, there has been a growing usage and politicisation of the term⁷⁶. One could even argue that, in addition to the democratic deficit issue, the Union is now facing a ‘crisis of values’⁷⁷.

To observe this political mobilisation of the concept of values, this section will first provide a critical history of the concept’s evolution within the European Union. This paper will examine the challenges in developing a coherent, value-based narrative in the Union, focusing on the interplay between crises and values. Subsequently, it will offer an overview of how values have been articulated from different sides of the EU’s system. Finally, a paragraph will address how

⁷¹ Sebastián Moreno Barreneche, ‘Values: A Core Component in the Discursive Construction of Europe and the EU’ (2023) 33 *Social Semiotics* 683.

⁷² Pieter de Wilde, ‘Peace, Prosperity and Protection: Narratives of Integration and the “Justification Jungle” of Europe’s Public Spheres’ (2023) 61 *JCMS: Journal of Common Market Studies* 1194.

⁷³ Directorate-General for Communication, *The Schuman Declaration of 9 May 1950* (Publications Office of the European Union 2015) <<https://data.europa.eu/doi/10.2775/065>> accessed 9 June 2025.

⁷⁴ Wim Weymans, ‘A Critical History of the Use of “European Values” in Regina Polak and Patrick Rohs (eds), *Values – Politics – Religion: The European Values Study: In-depth Analysis – Interdisciplinary Perspectives – Future Prospects* (Springer International Publishing 2023) <https://doi.org/10.1007/978-3-031-31364-6_3> accessed 6 July 2025.

⁷⁵ Martin Nettesheim, ‘The “Values of the Union”: Building Legitimacy, Unification, Federalisation’ (Social Science Research Network, 24 April 2024) <<https://papers.ssrn.com/abstract=4805865>> accessed 5 July 2025.

⁷⁶ Oriane Calligaro, ‘European Identity between Culture and Values: From European Heritage to “Our European Way of Life”’, *Value Politics in the European Union* (Routledge 2021).

⁷⁷ Elżbieta M Goździak, Izabella Main and Brigitte Suter, *Europe and the Refugee Response: A Crisis of Values?* (1st edn, Routledge 2020) <<https://www.taylorfrancis.com/books/9780429279317>> accessed 5 July 2025.

the findings of this section influence the proper functioning of the legal tools described in the previous section.

4.1. An ever-evolving construction of a European Narrative

Just as the EU has grown, morphed and evolved, so has the usage of “values” in its narrative. In his “Critical History of the Use of ‘European Values’”, Wim Weymans argues for four distinct periods of values and motivations: from the origins to the 70s, from the 70s to the 90s, from the 90s to the Lisbon Treaty and nowadays⁷⁸.

First, what is now referred to as the values appeared in the context of the Cold War as a way to cement Western Christian-conservative values against Eastern communism. At the very beginning of the European project, following the Second World War, as State leaders prepared the Treaty of Paris, no explicit mention of what is now found in Article 2 TEU can be observed. Yet, due to the founding countries’ involvement with the Council of Europe and the drafting of the European Convention on Human Rights, which emphasises attention to human rights and the rule of law, these ideas were still reflected in the project. Nonetheless, a significant difference persists: in the post-war context, values were not understood as characteristics inherent to the European Countries, but rather as aspects that “originated in Europe”⁷⁹.

Coincidentally, values were thus not considered as internal to European countries, but rather as a more general idea that could be exported. This is all the more relevant when considering that most European countries still had their colonies at the time. The European values of the time were thus very much aligned with the idea of “civilisational values”⁸⁰. The importance of the colonial question also gives perspective to the notion of European Human Rights, as these rights were not to be applied in the same manner to people living in the colonies⁸¹.

All of this stems from the fact that both the creation of the ECHR and of the European Community were made in the same context, by the same political actors, heavily swayed by Christian Democratic forces. Thus, they created a tool to reflect the values of liberalism (against communism), heavily relying on the notions of the ‘dignity of the human person’ (a core

⁷⁸ Weymans (n 11).

⁷⁹ *ibid* 100.

⁸⁰ *ibid*.

⁸¹ Marco Duranti, *The Conservative Human Rights Revolution: European Identity, Transnational Politics, and the Origins of the European Convention* (Oxford University Press 2017) 209.

Christian conservative principle), which led to the mention of democracy, the rule of law and human rights⁸² in opposition to what would be generally framed as ‘social rights’⁸³.

In a way, in trying to create a narrative of European integration, it also created a first kind of European disintegration, separating Western Christian Europe from Communist Eastern Europe⁸⁴.

Nevertheless, the first-hand construction of a value-based narrative by the European Communities did not occur until the 1970s, with the emergence of the ‘European Identity’ and the first enlargements. In this period, the term ‘European Values’ was still far from being the main denomination as it did not match the challenges of the time. What the EU wanted to create here was a sense of belonging, a narrative to justify the budding European integration project, and the creation of a sentiment of “Europeanness”⁸⁵.

This effort took shape in the “Declaration on European Identity” of 1973, in which the nine member States of the time defined the components of the “European identity [...] with the dynamic nature of the Community in mind [...] in the light of the progress made in the construction of a United Europe”⁸⁶. In the first article of the declaration, the nine States declare that they share an “attitude to life [...] to build a society which measures up to the need of the individual [...] defend the principles of representative democracy, of the rule of law, of social justice [...] and of respect for human rights”⁸⁷. The states thus invoked the core components of the values as we know them today in full, for the first time, as a fundamental principle of what constitutes the European Identity.

This need for a unifying narrative arose as the soon-to-be EU was facing three intertwined challenges in the 70s. Until then, Europe’s actions had benefited from a permissive consensus⁸⁸, based on the market’s production and the relatively close community. However, with the two oil shocks, the enlargement, and the first direct election of the European Parliament, the first signs of a democratic deficit began to emerge⁸⁹. Throughout the integration process, the primary

⁸² Samuel Moyn, *Christian Human Rights* (University of Pennsylvania Press 2015); Duranti (n 81).

⁸³ Weymans (n 11) 100.

⁸⁴ Duranti (n 81) 212.

⁸⁵ Calligaro, *Negotiating Europe* (n 11); Weymans (n 11).

⁸⁶ Office for official publications of the European Communities, ‘Declaration on European Identity’ <https://www.cvce.eu/obj/declaration_on_european_identity_copenhagen_14_december_1973-en-02798dc9-9c69-4b7d-b2c9-f03a8db7da32.html>.

⁸⁷ *ibid.*

⁸⁸ Achim Hurrelmann, ‘European Democracy, the “Permissive Consensus” and the Collapse of the EU Constitution’ (2007) 13 *European Law Journal* 343.

⁸⁹ Antoine Vauchez, *Democratizing Europe* (Palgrave Pivot 2016).

objective of the Community has been to foster economic growth and development of its market. Which they had so far succeeded in, thus justifying their actions through the outcomes of the process. Yet this approach has many vulnerabilities, especially that public support might suffer dramatic shifts if the outputs were to diminish⁹⁰, which was the case in the 70s. Europe thus made a change to incorporate input legitimacy, with direct elections and symbolic legitimacy, with the creation of the European Identity⁹¹.

This effort to bring Europe closer to its people benefited from a second wind in the 80s with the arrival of Jacques Delors at the head of the Commission, who launched a direct answer to the growing concerns of the people: the concept of “social Europe”⁹². Supposed to be Europe’s way of giving back to the citizens directly, like national welfare state systems, the social side of Europe’s agenda never really took off, despite Delors reinforcing his claims for the creation of a European Social Model, as the idea was too controversial between the states⁹³. Coincidentally, the Cold War would soon come to an end and ex-communist countries, now turning towards Europe, would oppose these elements after decades under heavy market regulation⁹⁴.

This symbolic narrative thus encountered several issues. Back then, and still today, when people discuss their identity, they rarely cite “European” as their first affiliation. This is because there is already a strong national or regional identity, rooted in culture, that often outweighs Europe’s built-from-scratch identity⁹⁵.

As for social Europe and the creation of a “European Social Model”, despite early victories, it soon became apparent that this project would fail to meet its promises. First, just as each state has a national identity, it also has a social model. Creating an umbrella one would thus potentially significantly jeopardise the existing labour dynamics in each of the states, with varying effects⁹⁶.

⁹⁰ Catherine E De Vries, ‘How Foundational Narratives Shape European Union Politics’ (2023) 61 *JCMS: Journal of Common Market Studies* 867.

⁹¹ Weymans (n 11); Calligaro, *Negotiating Europe* (n 11); Foret and Calligaro (n 12).

⁹² Weymans (n 11).

⁹³ Amandine Crespy, *The European Social Question: Tackling Key Controversies* (Agenda Publishing 2022) <<https://www.jstor.org/stable/j.ctv25tnx09>> accessed 8 February 2025; Christoph Hermann, ‘Crisis, Structural Reform and the Dismantling of the European Social Model(s)’ (2017) 38 *Economic and Industrial Democracy* 51.

⁹⁴ Weymans (n 11); Hermann (n 93).

⁹⁵ Kalypso Nicolaïdis and Janie Pélabay, ‘One Union, One Story? In Praise of Europe’s Narrative Diversity’ in David Phinnemore and Alex Warleigh-Lack (eds), *Reflections on European Integration* (Palgrave Macmillan UK 2009) <http://link.springer.com/10.1057/9780230232839_10> accessed 5 July 2025; Weymans (n 11).

⁹⁶ Fritz W Scharpf, ‘The European Social Model’ (2002) 40 *JCMS: Journal of Common Market Studies* 645; Hermann (n 93).

The 90s also coincide with the emergence of the term “values” as a central aspect of the Union’s discursive landscape. With the end of the Cold War, the values that had been constructed based on conservatism and anti-communism now needed to be reinvented, especially if an Eastern enlargement were to occur one day. The mention of values was thus perfect for the mission. Being plural, it corrected the issue of the previous period, which had attempted to formulate a single identity and social model⁹⁷. Since many references had been made in the past to construct a European identity distinct from Eastern Europe, values could also serve as a bridge for reconciliation. Now, Eastern countries were not the enemies anymore, but would rather be “returning to Europe”⁹⁸.

This period marks a normative shift in the values that first emerged with the Maastricht Treaty and the establishment of the European Union. In the treaty, the Union introduces the first version of Article 6 TEU, stating that:

“1. The Union shall respect the national identities of its Member States, whose systems of government are founded on the principles of democracy.”⁹⁹

“2. The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law”¹⁰⁰.

The Maastricht Treaty also introduced the concept of European Citizenship. The idea was to procure the citizen a set of rights and duties, different from those stemming from the Charter, that would inherently be the fruit of the European Integration process. It thus heavily revolved around the Freedoms¹⁰¹, which is not a surprise considering that the Maastricht Treaty was a sort of concretisation of the European project's promises to turn the economic partnership area into a fully integrated Union, transforming the economic principles of the four freedoms into fundamental rights¹⁰². Among these rights were also political ones, such as the right to vote in

⁹⁷ Weymans (n 11).

⁹⁸ Calligaro, ‘European Identity between Culture and Values’ (n 76).

⁹⁹ Official Journal of the European Communities, *Treaty on the European Union* art F(1) <https://www.cvce.eu/content/publication/2002/4/9/2c2f2b85-14bb-4488-9ded-13f3cd04de05/publishable_en.pdf> accessed 9 July 2025.

¹⁰⁰ *ibid* F(2).

¹⁰¹ Marie-José Garot, ‘European Citizenship: 15 Years After the Maastricht Treaty’ (Social Science Research Network, 26 October 2006) <<https://papers.ssrn.com/abstract=1023549>> accessed 9 July 2025.

¹⁰² Andrea Sandell, ‘From the EEC to the EU: The Four Economic Freedoms as Fundamental Rights’ <https://www.academia.edu/12011836/From_the_EEC_to_the_EU_The_Four_Economic_Freedoms_as_Fundamental_Rights> accessed 9 July 2025.

local elections wherever a European Citizen currently resides in the Union's territory, in an effort to further tackle the issue of democratic deficit¹⁰³.

The new Article on the respect of fundamental rights, although it still does not enshrine the values as we know them today, introduces the principles of democracy and the Union's commitment to human rights in a treaty. This was then upheld in 1993, in the establishment of the Copenhagen criteria, which are the requirements that candidate countries must meet to join the EU. Candidates are now formally required, among other elements, to have "achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities"¹⁰⁴. The ultimate step before the values' complete codification was the Charter of Fundamental Rights of the European Union, in which the values are stated in the preamble¹⁰⁵. Their first mention in a document of equal significance to a Treaty. These criteria were first applied in the case of the fourth enlargement phase¹⁰⁶, which welcomed Austria, Finland, and Sweden as members of the Union.

This normative construction continued in the early 2000s. While the fifth enlargement phase had just occurred¹⁰⁷, the now 25 states made efforts towards the construction of a European Constitution. Their joint efforts produced the Treaty establishing a Constitution for Europe, which had been signed but was later withdrawn after a referendum in France and the Netherlands opposed the project¹⁰⁸.

Despite the failure of the constitutional project, its Article 2 on "The Union's values" made its way, untouched, into the amended Treaty on the European Union through the Lisbon Treaty. This is therefore Article 2 TEU as we know it today. With this formulation, the EU also created distance from the ideologically rooted conceptions of the past that defined what were considered EU values. Also, as previously mentioned, the values resolve the issues of a

¹⁰³ Garot (n 101).

¹⁰⁴ European Council, 'Relations with the Countries of Central and Eastern Europe', *The Bulletin of the European Communities* 6 (1993) <https://www.europarl.europa.eu/enlargement/ec/cop_en.htm> accessed 9 July 2025.

¹⁰⁵ Charter of Fundamental Rights of the European Union 2000 (2000/C364/01).

¹⁰⁶ Greece's accession in 1981 is the second enlargement phase. The third happened in 1986 with Spain and Portugal. The fourth phase came in 1995 with Austria, Finland and Sweden.

¹⁰⁷ In 2004, 10 countries joined the Union: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia.

¹⁰⁸ 'The Failure of the Eu's Constitutional Project: A Cultural Discrepancy', in Kaarlo Tuori, *Constitutionalism: New Challenges* (Brill | Nijhoff 2008) <https://brill.com/view/book/9789047423515/Bej.9789004163485.i-164_007.xml> accessed 9 July 2025.

European identity and other rigidly framed concepts as it entails an idea of plurality and as their wording is kept vague, if not minimalistic¹⁰⁹.

Right as the Treaty of Lisbon entered into force, the EU entered what is now referred to as a period of successive crises¹¹⁰. In this complicated context, the values seem to be haunted by their past. Indeed, the debate on the values seems to have made a comeback in conservatism. Populist leaders in Hungary and Poland have used the values against Brussels by tracing their meaning to their origins. They argue that the Union has betrayed its values, especially conservative Christian ones, which makes them the last pillar of defence of the true European values. Generally, those leaders have perceived the cosmopolitan turn on the values' meaning as a threat¹¹¹. Coincidentally, populist leaders are not alone in this conservative turn back. In 2019, von der Leyen introduced her plans for a vice-presidency of the European Commission on “Protecting our European way of life”, with competences over social rights and culture, but also on security and migration. After receiving backlash, the title was modified into “Promoting our European way of life”. Building upon that change, von der Leyen has framed this new concern as both rooted in democratic principles as stated in Article 2 TEU, but also as peace of mind and security. Critics have argued that this framing allows for takeover by populist parties, as a way to reconcile both their conservative value agenda and the EU values. Studies on the European Parliament have demonstrated that the concept has mostly been linked to ‘terrorism, migration and asylum’¹¹². Other forms of content on this new narrative stem from the fact that it has established an entirely new portfolio, which treads on the competences of other EU Commissioners¹¹³.

¹⁰⁹ Weymans (n 11).

¹¹⁰ 1) The financial crisis & the eurozone crisis from 2008 to 2010. 2) The Migration Crisis in 2015. 3) Brexit from 2016 to 2020. 4) The COVID-19 pandemic from 2020 to 2022. 5) The Russian invasion of Ukraine, which started in 2022 and is still ongoing, and the resulting energy crisis. 6) The Rule of Law backsliding crisis that accompanied all the aforementioned ones and is still ongoing.

¹¹¹ Weymans (n 11) 112.

¹¹² Francois Foret and Noemi Trino, ‘The “European Way of Life”, a New Narrative for the EU? Institutions’ vs Citizens’ View.’ (2023) 24 *European Politics & Society* 336.

¹¹³ Emmanuel Berretta, ‘«Mode de vie européen»: Ursula von der Leyen persiste et signe’ (*Le Point*, 16 September 2019) <https://www.lepoint.fr/politique/mode-de-vie-europeen-ursula-von-der-leyen-persiste-et-signe-16-09-2019-2335968_20.php> accessed 12 July 2025.

4.2. Hurdles of the value-based narrative

4.2.1. Current obstacles to the construction of a coherent value narrative

First, despite a regained universality and a less antagonistic approach to the EU's external ties, they remain a marker of division through their elasticity, allowing for oriented interpretation depending on who mobilises them, offering the argument of 'us versus them' on a silver platter to conservative forces¹¹⁴. For instance, in the Netherlands, populist forces have used their country's progressivism as a way to marginalise migrants further, portraying their foreign values as a threat to Dutch achievements¹¹⁵.

Second, because of the codification of the values as accession criteria, a form of resentment emerged in Central and Eastern Europe against the founding countries, which often push for the rapid adoption of the EU values in countries which did not benefit from the whole European Integration process¹¹⁶. In essence, Western countries are demanding too much from others, as they are expected to transform as much as some countries did in the space of decades in just a few years¹¹⁷. While often omitting the historical specificities of the countries¹¹⁸

Third, as the values have now drifted from their original roots in Christianity and conservative tradition, national conservative forces, especially in Central and Eastern Europe, have increasingly presented themselves as the true representatives of the European values, as they were first intended. In a way, they perceive the secularisation of the values as a sort of betrayal of what "being European" truly means¹¹⁹. This chiasm between Western Europe on the one side and Central and Eastern Europe is further strengthened by the fact that, despite sharing a Christian heritage, they differ in the forms of Christianity that they have received, between Catholic, Protestant and Orthodox and in which forms of governance their heritage flourished, between ex-communist countries and traditionally liberal states. Studies seem to suggest that in recent years, societies with a Western Catholic/Protestant heritage seem to favour 'emancipative

¹¹⁴ Weymans (n 11); Moyn (n 82).

¹¹⁵ Maurizio Ambrosini, 'The Populist Far Right Paradox: The Identification of the Enemy and Its Exceptions in the Immigration Policies of the Meloni Government in Italy' (2025) 13 *Comparative Migration Studies* 17.

¹¹⁶ Weymans (n 11).

¹¹⁷ Heather Grabbe, *The EU's Transformative Power* (Palgrave Macmillan UK 2006) <<http://link.springer.com/10.1057/9780230510302>> accessed 10 July 2025.

¹¹⁸ Tomáš Valášek, 'Why Can't the EU's West and East Work as One?'

¹¹⁹ Coman and Leconte (n 12).

values'¹²⁰ whereas the other side tends to favour traditional values¹²¹ and these cultural divergences seem to be growing¹²².

Fourth, despite the growing usage of the concept of a “community of shared values” by the European Union, the issue of value identification persists. The values, as codified in Article 2 TEU, are vague and lack sufficient elements to construct a comprehensive European narrative, leading some thinkers to demand more explicit definitions of EU values. However, this argument is contested. The EU is characterised by its diversity and the dynamism of the states within it. A too strict definition of EU values would risk further separating citizens from the European project through notions with which they do not necessarily identify at any given point in time. In a sense, just like the Union they represent, the values suffer from a democratic deficit. Their conception is limited by their inability to be debated in current times, as the two clashing sides of their interpretation are too strict on their definition and too opposed. On the one side, the eurocrats who argue for the values as the identity of European societies and citizens, and on the other, the populists who perceive it as a threat to national values and heritage¹²³. This acceptance of a debate, which would thus also acknowledge the existence of disagreements on the exact implications of European values, could rely on the common ground that, no matter how divergent the conceptions of participating actors may be, they still share an interest in developing a comprehensive understanding of the concept¹²⁴.

Fifth, even if the Union were to embrace its diversity, as some scholars have argued, the issue of framing diversity remains. As values have evolved and changes have occurred, the meaning of diversity has shifted equally. Values could, for instance, refer to diversity in languages, in national culture or ethnic backgrounds¹²⁵. This led to a sort of “management of diversity” instead of support. For instance, with the introduction of intercultural dialogue, the objective is not the development of a common European cultural heritage, but rather a way to debate European culture in a universal approach, based on shared values¹²⁶.

¹²⁰ Like gender equality, openness towards LGBTQ individuals, etc.

¹²¹ Rejection of individualism, family first approach, sanctity of marriage, etc.

¹²² Plamen Akaliyski, Christian Welzel and Josef Hien, ‘A Community of Shared Values? Dimensions and Dynamics of Cultural Integration in the European Union’ (2022) 44 *Journal of European Integration* 569; Plamen Akaliyski and Christian Welzel, ‘Clashing Values: Supranational Identities, Geopolitical Rivalry and Europe’s Growing Cultural Divide’ (2020) 51 *Journal of Cross-Cultural Psychology* 740.

¹²³ Weymans (n 11).

¹²⁴ Nicolaïdis and Pélabay (n 95).

¹²⁵ As a result of colonisation and of migratory flows.

¹²⁶ Calligaro, *Negotiating Europe* (n 11); Oriane Calligaro, ‘From ‘European Cultural Heritage’ to ‘cultural Diversity’?: The Changing Core Values of European Cultural Policy’ (2014) 45 *Politique européenne* 60.

Finally, even when fully embraced, the diversity aspect still creates conflict. One example that might not be immediately considered is symbolism. When the Euro was adopted, the EU needed to print banknotes, but how do we create notes that are, on the one-side, sufficiently nationally rooted to foster a sense of respect of one's identity while, on the other side, making them European enough to create a sentiment of belonging to a bigger community¹²⁷? This example highlights that even in the most minute area, the creation of symbolism for unification and convergence from a citizens panel as diverse as the EU is especially tricky.

4.2.2. The values in the context of crisis challenges

In addition to the hurdles posed by the concept of values itself, mentioned above, each of the crises brought its share of contention. In the case of the 'Eurozone crisis'¹²⁸, it became the embodiment of the dissonance between the Union's new narrative as displayed in Article 2 TEU against its focus on output legitimacy and the overall primacy of the market above all interests. Indeed, the EU's response to the crisis was one of severe constraints: the 'Troika'. In its 2014 report on the functioning of the Troika, the European Trade Union Confederation (ETUC) highlighted several issues related to the policy, which directly targeted EU values and principles. First, they highlighted the disproportionate effects of the provision on the workers' side. They argued that the policy led to the dismantling of social protection systems, as deregulatory efforts gutted wage bargaining and led to a global disregard for the Social Dialogue, a core mechanism of EU governance in the social realm. They also highlighted that in some countries, the policy backfired quite dramatically, with Portugal, for instance, losing 800,000 jobs in five years, accompanied by a growing public deficit. Similar effects were observed in Greece and Cyprus. Finally, the ETUC's report also highlights dramatic consequences for the principle of democracy and the stability of states, with public opinion on their governments and even democracy itself plummeting in Southern states¹²⁹. By pushing for a policy that jeopardises the balance of democratic control, as in through elected officials, in democratic institutions, the EU faces a risk of self-defeat, fostering euroscepticism¹³⁰.

¹²⁷ Calligaro, *Negotiating Europe* (n 11).

¹²⁸ Here, the mention of "Eurozone crisis" refers to both the financial crisis and the eurozone crisis as their implications were similar.

¹²⁹ European Trade Union Confederation, 'The Functioning of the Troika: A Report from the ETUC' (2014) <https://www.etuc.org/sites/default/files/press-release/files/the_functioning_of_the_troika_finaledit2.pdf> accessed 9 July 2025.

¹³⁰ Ben Crum, 'Saving the Euro at the Cost of Democracy?' (2013) 51 *JCMS: Journal of Common Market Studies* 614.

Ultimately, by going for the marginalisation of debtor countries, the Troika reopened the issue of identitarian cleavages, allowing for the strengthening of populist movements¹³¹.

Stemming from the ‘us versus them’ rhetoric, the ‘migration crisis’ made it clear that the European values were not to be applied in an equal manner between EU citizens and outsiders, both in the case of asylum seekers and migrants¹³². A clear demonstration of this dichotomy can be found in a speech from Macron during which he stated that there is a “need for borders that protect and values that unite. [...] I believe in a Europe that protects both its values and its borders”¹³³. The adverse effects on the values are perhaps best demonstrated through the 2016 EU-Turkey deal, which allowed for the decentralisation of the reception process outside of the EU’s border. Actors across the Union criticised it as a blatant breach of the principles of respect for human dignity and human rights, as these elements were absent from the deal¹³⁴. Additionally, the crisis revealed the erosion of cosmopolitan principles such as solidarity, burden sharing or hospitality in favour of exclusionary logics of securitisation, externalisation of burden, nationalism and differentiated rights application¹³⁵. Regarding burden sharing, while some member states were no longer able to cope with the refugee influx, notably the Mediterranean States, other countries did their part by accepting a significant number of refugees, such as Sweden, other simply chose to barricade themselves and thus leave the countries doing their parts to fend for themselves¹³⁶. Finally, this Europe-first, then nation-first approach contributed to the return of the values in their conservative dimension, with a return of Christian values in countries such as Poland and Hungary¹³⁷. This push for a border not only external to the Union but also internally led to the definition of a so-called “fortress Europe,” a

¹³¹ Turkuler Isiksel, ‘Square Peg, Round Hole: Why the EU Can’t Fix Identity Politics’ in Benjamin Martill and Uta Staiger (eds), *Brexit and Beyond* (UCL Press 2018) <<https://www.jstor.org/stable/j.ctt20krxf8.32>> accessed 9 July 2025.

¹³² Jos Philips, ‘Human Rights and the EU’s Responsibilities Towards Refugees’, *Cosmopolitan Norms and European Values* (Routledge 2023); Martin Deleixhe, ‘The European Union’s Refugee Policies: Cosmopolitan and/or Democratic?’, *Cosmopolitan Norms and European Values* (Routledge 2023).

¹³³ Emmanuel Macron, ‘For European Renewal’ (4 March 2019) <<https://www.elysee.fr/en/emmanuel-macron/2019/03/04/for-european-renewal>> accessed 9 July 2025.

¹³⁴ Catherine Woollard, ‘Has the Mediterranean Refugee Crisis Undermined European Values?’ (2018) <<https://www.iemed.org/publication/has-the-mediterranean-refugee-crisis-undermined-european-values/?lang=fr>> accessed 5 July 2025.

¹³⁵ Deleixhe (n 132); Matthias Hoesch, ‘The European Refugee Crisis: What Is It a Crisis Of?’, *Cosmopolitan Norms and European Values* (Routledge 2023).

¹³⁶ Marie Göbel and Andreas Niederberger, *Cosmopolitan Norms and European Values: Ethical Perspectives on Europe’s Refugee Policy* (1st edn, Routledge 2023) <<https://www.taylorfrancis.com/books/9781003245278>> accessed 6 July 2025; Natalie Koppenhöfer, ‘From Syria to Ukraine: Unpacking Europe’s Refugee Reception Divide – WMO’ (16 November 2023) <<https://worldmediation.org/from-syria-to-ukraine-unpacking-europes-refugee-reception-divide/>> accessed 10 July 2025.

¹³⁷ Witold Klaus, ‘Between Closing Borders to Refugees and Welcoming Ukrainian Workers: Polish Migration Law at the Crossroads’, *Europe and the Refugee Response* (Routledge 2020); Weymans (n 11).

retrenchment of nations, that goes against the very principles of European integration¹³⁸, further eroding the principle of the rule of law in those countries¹³⁹.

On Brexit, this event came as a crisis for the mobilisation of European values as it essentially equated to the admission of a failure of the European identity built on shared values. It equates to a “brutal denial” of the assumption that economic integration would create a spillover effect on values and identities, pushing them towards the supranational level¹⁴⁰. This denial of the EU’s narrative is twofold as it equally highlights the fragile grounds of the EU’s cultural identity and over-reliance on output legitimacy in the face of national identities, especially when moved by populist actors¹⁴¹. Brexit made it evident that the Union lacked horizontal legitimacy, involved and informed citizens debating it¹⁴², as the Brexit process was built upon lies that the people were not equipped to decipher¹⁴³. This led some thinkers to argue that instead of pushing for an ever deeper integration leading to European identity, the Union should, as is the case in its motto, embrace its plurality and recognise its dynamism and potential reversibility¹⁴⁴.

Coincidentally, Brexit and its aftermath can also be portrayed as a case of a crisis strengthening the values and the Union. First, it can be argued that, in some ways, the 27 remaining states grew closer after the announcement of Brexit. For instance, after the Bratislava Summit, the 27 published the Bratislava declaration, a roadmap for their common future, in which they, as early as the second paragraph, present themselves in opposition to the “one country has decided to leave”¹⁴⁵. Second, if the completion of Brexit was initially celebrated as a victory or as a departure from the Union’s shackles, the ensuing economic consequences, catalysed by the COVID-19 pandemic, quickly changed the tide. In 2022, the Tony Blair Institute for Global Change found that 59% of British citizens believed the UK’s economy had worsened, while 14% perceived improvements. Likewise, 58% of voters were in favour of making the Union a

¹³⁸ Lena Englund, ‘Fortress Europe vs. Open Borders’ in Lena Englund (ed), *Storying Contemporary Migration: Representation, Aspirations, Advocacy* (Springer Nature Switzerland 2024) <https://doi.org/10.1007/978-3-031-62003-4_5> accessed 6 July 2025.

¹³⁹ Woollard (n 134).

¹⁴⁰ Foret and Vargovčíková (n 11) 5.

¹⁴¹ Foret and Vargovčíková (n 11); Isiksel (n 131).

¹⁴² Kalypso Nicolaïdis, ‘Sustainable Integration in a Democratic Polity: A New (or Not so New) Ambition for the EU after Brexit’ in Benjamin Martill and Uta Staiger (eds), *Brexit and Beyond* (UCL Press 2018) <<https://www.jstor.org/stable/j.ctt20krxf8.29>> accessed 9 July 2025.

¹⁴³ Iain Overton, ‘The Brexit Lies That Literally Made Us All Poorer’ (*Byline Times*, 17 January 2023) <<https://bylinetimes.com/2023/01/17/the-brexit-lies-that-literally-made-us-all-poorer/>> accessed 9 July 2025.

¹⁴⁴ Nicolaïdis (n 142).

¹⁴⁵ European Council, ‘The Bratislava Declaration and Roadmap’ (2016) <<https://www.consilium.europa.eu/media/21250/160916-bratislava-declaration-and-roadmapen16.pdf>> accessed 9 July 2025.

constructive partner¹⁴⁶. A year later, another report of the same institute indicated, for the first time, a majority of regrets on the ‘leave’ vote, while highlighting the overall poor performance of the UK’s economy, especially compared to the EU in the aftermath of the pandemic¹⁴⁷. One last study from early 2025 shows that the overall sentiment of improvement only concerns the areas of COVID vaccination and the “control own affairs”. In contrast, every single observed indicator is perceived as worse. This last study also showed that 57% of voters would now vote to rejoin the EU¹⁴⁸. These studies would thus suggest a reversal of the British public toward the EU and what it embodies, thus fortifying the Union’s narrative and outputs.

With the COVID-19 pandemic, the effects were more varied. On the one side, it can be considered a total attack on the EU values and principles. Populist leaders tended to ‘cut corners’, leading to further discrimination against already marginalised communities. Additionally, by invoking a state of emergency¹⁴⁹, some governments were able to achieve some power grabs, dismantling the core components of democracy in their state¹⁵⁰. These declarations were supported in a report by the European Fundamental Rights Agency that also highlights the significant impact of COVID on the marginalised communities, but further insists on the effect on vulnerable populations such as children, the elderly, persons with disabilities, the homeless and vulnerable populations such as the Roma community¹⁵¹. They also found that some states did impose heavily restrictive measures even without invoking the state of emergency¹⁵². On the other side, it is worth noting that the EU managed to resist the degradation of some of its principles during the crisis, and that the aftermath can be perceived as a unifying factor with a positive influence on the values towards a closer Union. Learning from the mistakes of the past, less economic austerity was placed on the member states, allowing for more flexible solution-

¹⁴⁶ Anton Spisak, ‘Moving On: How the British Public Views Brexit and What It Wants From the Future Relationship With the European Union’ (*Tony Blair Institute for Global Change*, 18 October 2022).

¹⁴⁷ Anton Spisak and Christos Tsoukalis, ‘Moving Forward: The Path to a Better Post-Brexit Relationship Between the UK and the EU’ (*Tony Blair Institute for Global Change*) <https://assets.ctfassets.net/75ila1cntaeh/3i63TrXWJSM1qMKnOsoALz/6fb9c5c1a8cf12355c37c6663deefbda/Tony_Blair_Institute__Moving_Forward__A_Better_Post-Brexit_Relationship__June_2023.pdf> accessed 9 July 2025.

¹⁴⁸ John Curtis, ‘Five Years On: Why Have Public Attitudes to Brexit Changed?’ (*UK in a changing Europe*, 31 January 2025) <<https://ukandeu.ac.uk/five-years-on-why-have-public-attitudes-to-brexit-changed/>> accessed 9 July 2025.

¹⁴⁹ 14 EU member states took emergency measures during the pandemic: Bulgaria, Croatia, France, Germany, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovenia, and Slovakia.

¹⁵⁰ Dunja Mijatović, ‘HUMAN RIGHTS TALK: Covid-19 and Human Rights – Lessons Learned from the Pandemic’ <<https://rm.coe.int/human-rights-rights-talk-covid-19-and-human-rights-lessons-learned-fro/1680a0a7c3>> accessed 10 July 2025.

¹⁵¹ Europäische Union (ed), *The Coronavirus Pandemic and Fundamental Rights: A Year in Review* (Publications Office of the European Union, 2021 2021).

¹⁵² For example, Belgium tried to restrict the right to protest. However, its Council of State rejected the measure.

building at the state level. Furthermore, the Commission took on a proactive role as the coordinator of efforts between the State, allowing for the safeguarding of the four freedoms. Finally, the introduction of the Resilience and Recovery Facility, and more broadly, NextGenEU, represents the most significant investment by the Union in its member states. This can be seen as a considerable effort towards unity. NextGenEU also introduces a conditionality mechanism that respects the rule of law as a requirement for benefiting from the funds, thereby protecting the EU's values at the same time¹⁵³.

After the Russian invasion of Ukraine, the values and the overall attitude of the Union towards them were once again under the spotlight of criticism. Whereas in 2015, asylum seekers were essentially left to drown in a battle of distribution between the states¹⁵⁴, those same states were now ready to use every tool at their disposal to help and protect Ukrainian refugees. Notably, the EU used the Temporary Protection Directive for the first time since its adoption in 2001. This further widened the gap in the 'Europeans against the rest of the non-Western world' sentiment. This can be further highlighted in the way Ukrainian refugees were authorised entry in Poland and Hungary immediately, whereas non-Ukrainians residing in Ukraine were not permitted the same¹⁵⁵. As the crisis is still ongoing, it is hard to determine the long-lasting impact this crisis will have on the values and principles. However, the display of differential treatment between refugees has once again highlighted the issue of applying rights in a differentiated manner, depending on who they are destined to. In a way, as Ukraine is part of Europe, the continent, it echoes the rhetoric of the 'us Europeans against the others'. The Ukrainian crisis also highlighted the fragility of some EU enforcement tools, such as the rule of law conditionality mechanisms, as Hungary was able to receive its funding despite limited improvements in terms of its democratic backsliding in exchange for its non-opposition to further aid to Ukraine¹⁵⁶.

¹⁵³ Jonatan Echebarria Fernández, 'A Critical Analysis on the European Union's Measures to Overcome the Economic Impact of the COVID-19 Pandemic' (2021) 2020 5 *European Papers - A Journal on Law and Integration* 1399.

¹⁵⁴ Koppenhöfer (n 136).

¹⁵⁵ Mark Rice-Oxley, 'Poland Has Worked a Refugee Miracle. But How Much Longer Can It Last?' *The Guardian* (6 April 2022) <<https://www.theguardian.com/global-development/2022/apr/06/poland-has-worked-a-refugee-miracle-but-how-much-longer-can-it-last>> accessed 10 July 2025.

¹⁵⁶ Zajmi (n 64).

4.3. The EU's mobilisation of values

4.3.1. European Commission and the State of the Union

The first realm of value mobilisation within the EU institutions originates from the European Commission itself. Since the 2008 crisis, the Commission has increasingly and explicitly incorporated values into its communication strategies. The most prominent example of this phenomenon can be seen in the State of the European Union (SoEU) speeches, the annual address delivered by the President of the European Commission to the European Parliament, summarising the achievements of the past year while outlining the priorities for the year ahead. Thus, it provides an ideal opportunity for the Commission to address upcoming challenges and present their reasoning through a narrative. Overall, SoEU speeches, particularly those of Presidents Juncker and Barroso, have emphasised the idea of the Union as more than merely a market, but as a community founded on shared values. These values are invoked in various ways depending on the objective; they can foster a sense of responsibility, unity, or serve as a demonstration of the EU's necessity. However, they do so in a somewhat inconsistent manner, especially during crises such as the rule of law issues or Brexit¹⁵⁷ and the Russian invasion are framed in terms of direct attacks on values, using them more explicitly. Consequently, they are less focused on internal challenges. For example, regarding the migration crisis, the Commission did not state that it was a complex issue involving some states but a challenge for all. Although this might appear as an acknowledgement of systemic issues, the SoEU speeches tend to minimising the role of systemic weaknesses and do not address what might have caused the crisis initially. The importance of the crisis is thus understated; they are presented as common occurrences, and the EU's role in their emergence is made to seem as insignificant as possible. Even worse, in some crises, values are employed to deflect responsibility from the Union. In the case of the rule of law crisis, the Commission has cited principles of unity and cooperation to justify its inaction. Overall, crises do not seem to be overused or exaggerated in the speeches, but the way values are employed reveals a lack of accountability from the Union and a lack of commitment to some issues. The narrative tends to use values either to justify maintaining the status quo or to shift blame, rather than addressing specific systemic problems issues¹⁵⁸.

¹⁵⁷ Although Brexit is never presented as a crisis from fear of losing the grip on aspects of unity.

¹⁵⁸ Kyriazi (n 12).

4.3.2. EU values and External Relations

In addition to being part of the accession criteria, EU values have been central in EU bilateral agreements, leading Ian Manners to define it as a normative power that has global influence through a value-based narrative influencing others, in opposition to a hard (military) or soft (economic) power¹⁵⁹. In recent years, all trade agreements of the EU have included an aspect of the values, if not the values as a whole. Yet, whenever the EU disputes one of its trade agreements, it rarely seems to be based on these human rights conditionalities or other value aspects. Most of the time, the economic incentive is above the rest. In the rare cases in which values are used as arguments, people have pointed out displays of selectivity and a lack of consistency. On the Human Rights Clause, most of the activations were in relation to political unrest. Yet, nearly no activation has been achieved based on the violations of individuals' rights. This leads to consistency issues as it makes it seem like areas such as the rights of minorities are perceived as human rights within the EU, but not necessarily, or not as primarily in external relations, leading to a loss of credibility in the EU's action and narrative¹⁶⁰. To the EU's credit, recent years seem to display a greater assertive stance from the Union on trade rules; however, here too, human rights and value-based conditionality are never at the forefront and are only ever invoked whenever the market's interest aligns¹⁶¹.

4.3.3. The silence of the European Parliament

If there is one forum where the mobilisation of values would be expected, it is the European Parliament. Yet, when attacks on the EU's values happen, although some MEPs do voice their concerns, little has been achieved by the political groups. The most obvious case of this phenomenon is perhaps Hungary and Fidesz. When Orbán's party took power in 2010, the signs of rule of law backsliding were immediately present. Yet, the vote for the activation of the Article 7 TEU procedure took a total of 8 years. One of the reasons that could explain this is party politics. Fidesz was a member of the European People's Party (EPP), the biggest group in the Parliament. Although the party supported measures against Poland, they, until 2017,

¹⁵⁹ Ian Manners, 'Normative Power Europe: A Contradiction in Terms?' (2002) 40 *JCMS: Journal of Common Market Studies* 235.

¹⁶⁰ Anne-Carlijn Prickartz and Isabel Staudinger, 'Policy vs practice: The use, implementation and enforcement of human rights clauses in the European Union's international trade agreements' (2019) 3 *Europe and the World: A law review* <<https://journals.uclpress.co.uk/ewlr/article/pubid/EWLR-3-2/>> accessed 12 July 2025.

¹⁶¹ María J García, 'Implementation of EU Trade Agreements Under an Assertive, Open, and Sustainable Trade Policy' (2023) 11 *Politics and Governance* 212.

continuously opposed such measures against Hungary, creating a real fracture in the safeguard mechanisms of the values¹⁶². Meanwhile, between 2011 and 2017, up to seven resolutions were introduced against Hungary by coalitions of the parties from the left to the centre. Yet, despite representing a majority, they still failed to gather said majority when it came to voting actively against Hungary¹⁶³. Furthermore, this phenomenon is not limited to the rule of law, as during the migration crisis, the EPP also played a role in enabling Orban's repressive policies¹⁶⁴.

4.4. Politics as a roadblock for enforcement

As this thesis has already touched on, political dynamics often act as roadblocks against enforcement rather than as enablers of protection, from the troubled commitment of member states to their unwillingness to activate the infringement procedure, to the dynamics of Article 7 activations, the parliament's prioritisation of party politics, and the unrivalled supremacy of the internal market above all else.

Apart from specific cases of states directly targeting the Union, the issue here does not seem to indicate that politics are grounds for the diminished power of values; instead, politics are more likely to be either enablers of attacks or hindrances to safeguard mechanisms.

For instance, the procedure under Article 7 TEU can be nearly entirely attributed to a failure of political forces. After all, the mechanism's major weaknesses stem from the member states' unwillingness to develop a stronger tool in the first place, either by fearing it would bite them back or by a naïve belief in a perfect, unshakable Union. Furthermore, it suffers from a framing issue, as the nickname 'nuclear option' has been more detrimental by highlighting its inherent shortcomings rather than its deterrent effect. Calling the whole process nuclear is misleading, as 7(1) TEU is essentially a preventive measure. On the contrary, 7(2) and 7(3) TEU, the 'sanctioning arm', are much more akin to a nuclear solution. Yet, their activation constraint, rendering the provisions nearly unusable, makes them appear toothless rather than nuclear¹⁶⁵,

¹⁶² Lise Esther Herman, Julian Hoerner and Joseph Lacey, 'Why Does the European Right Accommodate Backsliding States? An Analysis of 24 European People's Party Votes (2011–2019)' (2021) 13 *European Political Science Review* 169.

¹⁶³ Hanelt (n 45).

¹⁶⁴ Kim Lane Scheppele and R Daniel Kelemen, 'Defending Democracy in EU Member States: Beyond Article 7 TEU' in Francesca Bignami (ed) (1st edn, Cambridge University Press 2020) <https://www.cambridge.org/core/product/identifier/9781108755641%23CN-bp-15/type/book_part> accessed 2 March 2025.

¹⁶⁵ Pech (n 30); Kim Lane Scheppele and Laurent Pech, 'Is Article 7 Really the EU's "Nuclear Option"?' [2018] *Verfassungsblog* <<https://verfassungsblog.de/is-article-7-really-the-eus-nuclear-option/>> accessed 3 July 2025.

which is an ironic reminder of the mutually assured destruction doctrine of the Cold War, which explains why, despite both sides racing for supremacy in nuclear armament, their deployment was never an option. Finally, politics prevented the activation of Article 7(1) and of Article 7(2). For the first paragraph, the unwillingness of all three major institutions to trigger the mechanisms on Hungary has had a significant, lasting impact on Hungarian society. All three institutions have a way to activate the mechanism, yet it took eight years to do so, with the European Parliament. As for the second, the main reason for the impossibility of activation also stems from the political game, as even if a country were to be successfully singled out, the unanimity of the vote is still unlikely, as those countries would fear future retaliation or losing diplomatic standing by portraying themselves as ‘disregarding unity’.

This political blockade carries on into infringement proceedings as member states have proven unwilling to trigger Article 259 TFEU to bring member states breaching the values before the Court. This displays a lack of commitment to the principles, which are supposed to be foundational elements of European Union member states. This renders one entire arm of value safeguards completely inoperable.

Finally, no matter which safeguard is discussed, it remains that the EU’s first *raison d’être* is the market. Given this dynamic, it seems extremely unlikely to witness full commitment, from any of the EU actors, to the enforcement of mechanisms and sanctioning tools which will most probably have repercussions on the market, especially in the case of Article 7 TEU¹⁶⁶.

¹⁶⁶ Kochenov, ‘On Barks, Bites, and Promises’ (n 6).

5. Comparison of state cases

With the previous chapters delineating the contours of the value question, this new section will proceed with the second aspect of the original question: how do value speeches and the EU Values serve to frame national initiatives and what is done, at national and EU level, when the law seemingly breaches the principles highlighted in Article 2 TEU?

As mentioned previously, this thesis does not presume the ability to observe all potential aspects of the question for all member states. Here, the objective is to observe whether distinct trends emerge in various countries based on their unique attributes and contexts. However, stemming from the research achieved in the previous section, this thesis departs from the observation that, in academia, focus seems directed towards the ‘bad eggs’ among the States. In order to have an effective complete picture of the mechanism, this thesis postulates that observations should not be limited to countries which are known to be offenders, but to any state supposed to abide by EU laws. With these considerations in mind, this case study will be limited to observations in three countries only, on two general issues.

When achieving the analysis, specific attention will be given to the following elements:

- Are there discrepancies between the observed states in terms of;
 - EU tools mobilisation;
 - The distinction between value-based speech and the mobilisation of EU values.
- If so, what political context led to these differences?

5.1. Country selection

On the selection of countries, the analysis will concentrate on 1) Hungary, 2) The Netherlands and 3) Italy. These countries were selected based on various criteria. First, they have sufficient data and information available for in-depth analysis. Second, they have faced issues in recent times related to the value question. Third, they represent different geographical regions of the Union, with distinct characteristics in their systems, allowing for diverse observations. These characteristics are as follows:

- 1) Hungary has been at the centre of criticism on the rule of law and democratic backsliding. It is also currently the only country against which an infringement procedure has been brought based on a breach of the EU values under Article 2 TEU. Geographically, Hungary sits at the very border of the Union, on the Eastern side,

making it a prime representative of Eastern Europe. Hungary also had the fourth lowest GDP/capita in the whole Union, sitting at 78% of the Union's average¹⁶⁷ making its economy extremely reliant on funding, such as that of the EU. Finally, Hungary was attributed a score of 6.51 in the 2024 democracy index, making it a flawed democracy bordering on the threshold for the 'hybrid regime' category¹⁶⁸, the fourth lowest score in the Union¹⁶⁹.

- 2) The Netherlands has a tradition and reputation of being a frontrunner in matters of democratic principles and the promotion of rights. For instance, it consistently ranks among the first third of ILGA's "Rainbow Map" rankings, with a score of 63,82% in 2025, well above the EU's 51,13% average¹⁷⁰. As a founding member, the country has a long history of interactions with the European Union. Although it is generally considered one of the Western states, the Netherlands serves as the bridge between Western and Northern Europe, both geographically and ideologically, by sharing a few mechanisms in their systems, such as the models of flexicurity, shared with Denmark¹⁷¹. Its GDO/capita in 2024 sat at 136% of the Union's average, the third highest among the states. Coincidentally, the country received a democracy score of 9 in 2024, the fifth highest in the Union, positioning it comfortably in the 'full democracy' category.
- 3) Italy sits at the crossroads between the two others for many reasons and is thus a nice counterbalance. Despite being a founding member like the Netherlands, its position *vis-à-vis* European Integration and the EU values has fluctuated. For instance, it sits two places above Hungary in the bottom third of ILGA's rankings, not even reaching half of the EU's average¹⁷². Yet, Georgia Meloni, the right-wing, populist prime minister of

¹⁶⁷ Eurostat, 'GDP per Capita, Consumption per Capita and Price Level Indices' (2024) <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=GDP_per_capita,_consumption_per_capita_and_price_level_indices> accessed 10 July 2025.

¹⁶⁸ Full democracies are situated between 10 and 8 points. Flawed democracies, systems in which fair representation still exists but the foundation of democratic principles suffers from structural weaknesses, are awarded a score of 8 to 6. Hybrid regimes are characterised by the combination of democratic principles with autocratic tendencies, as would be the case with rigged elections. They are attributed a score of 6 to 4.

¹⁶⁹ Economist Intelligence Unit, 'Democracy Index 2024' (2024) <https://image.b.economist.com/lib/fe8d13727c61047f7c/m/1/609fbc8d-4724-440d-b827-2c7b7300353d.pdf?utm_campaign=MA00001514&utm_medium=email-owned&utm_source=eiu-marketing-cloud&RefID=&utm_term=20250710&utm_id=2078580&sfmc_id=00QWT00000TH2OS2A1&utm_content=Democracy+Index+2024&id_mc=285764321> accessed 10 July 2025.

¹⁷⁰ ILGA -Europe, 'Netherlands - Rainbow Map' (2025) <<https://rainbowmap.ilga-europe.org/countries/netherlands/>> accessed 10 July 2025.

¹⁷¹ Sonja Bekker and Mikkel Mailand, 'The European Flexicurity Concept and the Dutch and Danish Flexicurity Models: How Have They Managed the Great Recession?' (2019) 53 *Social Policy & Administration* 142.

¹⁷² ILGA -Europe, 'Italy - Rainbow Map' (2025) <<https://rainbowmap.ilga-europe.org/countries/italy/>> accessed 10 July 2025.

Italy, has upheld reasonably strong ties with the EU institutions and leaders¹⁷³. As a founding member, Italy is the first country from Southern Europe to join the Project. It is surrounded by the Mediterranean Sea, making it a central actor in issues specific to that area. Italy's GDP/capita in 2024 sat at 98% of the EU's average in 12th place¹⁷⁴, and its democracy score was a 7,58, making it a 'flawed democracy'¹⁷⁵ just like Hungary, but closer to the 'full democracy' side¹⁷⁶. These elements highlight the appropriateness of Italy as a middle ground between the other two selected countries.

5.2. Framing the cases

For this case study to enable a fair comparison, observed cases must be clearly defined. Although all aspects of the values are, in reality, interconnected, when examining potential breaches of their principles, even if all attributes might be affected, there is often a specific one that draws more attention and is presented more clearly as the subject of the violation. Thus, this thesis proposes a threefold consideration. First, issues related to respect for human rights and human dignity, including observed cases of migration and asylum. Second, issues related to the protection of deliberative spaces, whether it be the protection of media freedom or civil society. Finally, issues related to the independence and functioning of the judiciary are crucial, as nothing can be safeguarded without an effective justice system.

5.3. Methodology and indicators

This case study aims to examine, in situations where states appear to breach the EU's values, how narratives are employed to either defend or discredit the observed legislation, and, when relevant, how enforcement mechanisms are activated at both the national and EU levels. First, each issue will be briefly outlined by providing a history of events that may have violated the principles outlined in Article 2 TEU.

Second, an account of the mobilisation or lack thereof of legal tools to counteract the problematic aspects will be given, both from the national level and from the EU level.

¹⁷³ Mattia Ferraresi, 'Is Meloni the Leader Europe Needs?' (*Project Syndicate*, 1 May 2025) <<https://www.project-syndicate.org/commentary/giorgia-meloni-unlikely-eu-leader-for-the-trump-era-by-mattia-ferraresi-2025-05>> accessed 10 July 2025.

¹⁷⁴ Eurostat (n 167).

¹⁷⁵ Economist Intelligence Unit (n 169).

¹⁷⁶ I have calculated the EU average to be 7,92. However, despite being close to said average, Italy is ranked 19th out of 27.

Third, the analysis will observe political mobilisation on the issue, both in terms of how each matters were framed, in their usages of narratives and values and what reactions these have triggered, both at the national and EU level.

Finally, a comparison of results, through the lens of the Usage of Europea theory framing and indicators, will be put forward, to see how narratives and national actions interact.

In order to best reflect the countries' situations and debates, this section will rely primarily on sources from civil society, media outlets and official institutional communication channels.

5.4. Analysis

5.4.1. Hungary

Respect of human rights and human dignity

In 2015, at the start of the migration crisis, Hungary experienced a high influx of asylum seekers. These individuals primarily used Hungary as a transit country into the European Union. Having successfully politicised this phenomenon, Hungary declared a state of emergency and began passing repressive measures laws¹⁷⁷. With the ongoing influx, Hungary first erected a fence along its borders with Serbia, while setting up transit zones, sort of large detention grounds, through which asylum seekers would be required to pass and lodge their applications¹⁷⁸. Then, the government introduced an additional regulation that limited asylum requests to those lodged in the transit zones, which were only located at Serbia's border. This rendered all other means of seeking protection in Hungary obsolete and implied that all non-nationals or non-EU citizen on their territory were immediately in an illegal position¹⁷⁹. The sanction could involve a potential prison sentence and a ban on re-entry. These measures resulted in 3,000 individuals appearing before Hungarian Courts between September 2015 and December 2016. In 2017, this effective ban across the entire territory changed its form, with amendments to Hungarian law allowing for the pushback of refugees to Serbia without the launch of an asylum process or deportation procedure¹⁸⁰. Hungary further restricted access to transit zones by gradually lowering the number of people allowed inside, reducing it to one (1)

¹⁷⁷ Helena Segarra, 'Dismantling the Reception of Asylum Seekers: Hungary's Illiberal Asylum Policies and EU Responses' (2024) 40 East European Politics 43.

¹⁷⁸ Felix Bender, 'Abolishing Asylum and Violating the Human Rights of Refugees. Why Is It Tolerated?: The Case of Hungary in the EU', *Europe and the Refugee Response* (Routledge 2020).

¹⁷⁹ European Database of Asylum Law, 'The End of the Right to Asylum in Hungary?'

¹⁸⁰ Bender (n 178).

per working day per zone in 2018¹⁸¹. This caused thousands of seekers to remain stranded in areas near the zones on Hungarian territory, with limited resources, while the Hungarian government prevented the intervention of international organisations seeking to help the refugees, as they still remained within Hungarian borders and could therefore be denied access it¹⁸². The Hungarian legislative package also included a list of ‘safe third countries’ where an asylum seeker could have filed an application ‘risk-free’. The Hungarian law stated that if an asylum seeker had passed through one of these countries, their claim for Hungarian protection was inadmissible. One such country listed in 2015 was Serbia. Unless the individuals could prove that Serbia posed a threat to their security, which they only had three days to gather evidence for, all applications were considered inadmissible, as they would all have had to go through Serbia¹⁸³.

Another wave of legislation emerged in 2018, starting with the ‘Stop-Soros’ package, which deterred civil society from assisting asylum seekers due to the risk of severe penalties, such as imprisonment for individuals. This imposed a significant obstacle to aid efforts, including providing resources, legal advice, and monitoring potential violations rights¹⁸⁴. Then, Hungarian authorities amended the rule on safe third countries, replacing it with a more restrictive one: only refugees arriving directly from a State where they face persecution would have their application accepted. This meant that unless a refugee could prove they had been in danger in every country they passed through, their request for protection would be denied¹⁸⁵.

Finally, after a judgment declaring the unlawfulness of transit zones, Hungary amended its law in 2020 by removing the requirement to pass through transit zones to apply for asylum and replacing it with the mandatory initiation of the procedure at a Hungarian embassy, effectively removing all possibilities to apply for international protection from Hungarian soil¹⁸⁶.

¹⁸¹ Hungarian Helsinki Committee, ‘Systemic Violations Of Asylum-Seekers’ Human Rights In Hungary Continues. Statement by the Hungarian Helsinki Committee to the OSCE HDIM 2019’ (2018) <https://www.osce.org/files/f/documents/1/d/434198_0.pdf> accessed 10 July 2025.

¹⁸² Bender (n 178).

¹⁸³ Hungarian Helsinki Committee, ‘Building a Legal Fence – Changes to Hungarian Asylum Law Jeopardise Access to Protection in Hungary’ (7 August 2015) <<https://helsinki.hu/wp-content/uploads/HHC-HU-asylum-law-amendment-2015-August-info-note.pdf>> accessed 10 July 2025.

¹⁸⁴ Hungarian Helsinki Committee, ‘Hungarian Government Marks World Refugee Day by Passing Law to Jail Helpers’ (*Hungarian Helsinki Committee*, 20 June 2018) <<https://helsinki.hu/en/hungarian-government-marks-world-refugee-day-by-passing-law-to-jail-helpers/>> accessed 10 July 2025.

¹⁸⁵ Bender (n 178).

¹⁸⁶ Pekka Pohjankoski, ‘Bolstering Federal Execution of EU Law: Case C-123/22 Commission v. Hungary (Reception of Applicants for International Protection II)’ (2025) 32 *Maastricht Journal of European and Comparative Law* 89.

On the legal aspects, these issues faced little resistance from the Hungarian judicial system, even receiving support from the Constitutional Court, for the reason that will be observed later in this analysis. However, at the European level, they were swiftly met by measures from the European Commission. In total, the Commission has launched six infringement procedures against Hungary on the asylum issue¹⁸⁷.

- INFR(2015)0432, whose procedure started on 23rd September 2015 with the Commission's letter of formal notice regarding the transposition of the Asylum Procedures Directive. The process continued on 9th June 2021, when the Commission issued its reasoned opinion, nearly six years later. The procedure was then dropped on 9th September 2022¹⁸⁸.
- INFR(2015)2201, which was launched on 10th December 2015. Equally related to the Asylum Procedure Directive, but also to the Return and the Directive on reception conditions, this instance was referred to the Court by the Commission on 19th July 2018¹⁸⁹. The Court found that Hungary had indeed breached its obligations towards EU laws on 17th December 2020¹⁹⁰. Hungary refused to comply with the judgment, which led the Commission to issue a letter of formal notice once again, but this time under Article 260 TFEU in early June 2021. Hungary was referred to the Court once again in November of the same year¹⁹¹. On the 14th April 2024, the Court upheld its judgement, imposing on Hungary the payment of a lump sum of 200 million euros as well as daily penalties of 900.000 euros per day on procedural violations and 100.000€ euros per day on return-related breaches¹⁹². According to the Commission's database, the infringement case is still ongoing.
- INFR(2018)2247, which had the ambition of continuing the work of the previous ones, this time specifically targeting transit zones, while addressing the challenges imposed by the 'Stop-Soros' package, was introduced on the same day as the first referral to the Court on the issue, 19th July 2018. The case was referred to the Court on 25th July 2019.

¹⁸⁷ Although Civil Society often states there were five, the Commission's database accounts for six.

¹⁸⁸ European Commission, 'European Commission at Work - Infringements' <https://ec.europa.eu/implementing-eu-law/search-infringement-decisions/?lang_code=EN&typeOfSearch=&langCode=EN> accessed 10 July 2025.

¹⁸⁹ *ibid.*

¹⁹⁰ *European Commission v Hungary* (n 68).

¹⁹¹ European Commission (n 188).

¹⁹² *European Commission v Hungary* [2024] ECJ Case C-123/22.

The court found that Hungary was in breach of its obligations¹⁹³. The case was closed on 7th May 2025¹⁹⁴.

- INFR(2019)2184, launched on 9th June 2021 on the same issues as the first one. It was ultimately closed on the same day, 9th September 2022¹⁹⁵.
- INFR(2019)2193, launched on 25th July 2019, on issues closely tied with the third one and ultimately closed on 9th February 2022¹⁹⁶.
- INFR(2020)2310, which is still ongoing, was launched on 30th October 2020 after the amendments made by the Hungarian authorities, requiring a seeker of protection to establish contact with a Hungarian embassy. The case was referred to the court on 15th July 2021. The Court found that Hungary was in breach of its obligations towards EU law¹⁹⁷. The Commission has since issued a letter of formal notice under Article 260 TFEU on 24th April 2024¹⁹⁸.

The issue has also been used as one of the reasons for the European Parliament to initiate the Article 7(1) TEU procedure against Hungary in 2018¹⁹⁹.

On political mobilisation, Hungary has argued that in implementing these values, they are the true defender of Europe's interests. For instance, when criticised by Angela Merkel about their lack of solidarity, Orban responded that the Hungarian measures were, in fact, good examples of solidarity, as the armed Hungarian guards at the border were preventing thousands of migrants from reaching Germany each day. He implied that this was the reason for Germany's successful reception efforts²⁰⁰. Furthermore, Orban, in line with what had been said in this paper on the challenges posed to values by crises, held that what was really at stakes here was “whether we can preserve our culture, our Christian culture, our Hungarian culture and how we live – our way of life.... [he does not] want Hungary to become an immigrant country”²⁰¹. To further justify this positioning and gather public support, the Hungarian government started

¹⁹³ *European Commission v Hungary* [2021] ECJ Case C-821/19.

¹⁹⁴ European Commission (n 188).

¹⁹⁵ *ibid.*

¹⁹⁶ *ibid.*

¹⁹⁷ *European Commission v Hungary* [2023] ECJ Case C-823/21.

¹⁹⁸ European Commission (n 188).

¹⁹⁹ ‘Texts Adopted - The Situation in Hungary - Wednesday, 12 September 2018’ <https://www.europarl.europa.eu/doceo/document/TA-8-2018-0340_EN.html> accessed 10 July 2025.

²⁰⁰ Stefan J Bos, ‘Germany and Hungary Leaders Clash over Migration - Vatican News’ (*Vatican News*, 6 July 2018) <<https://www.vaticannews.va/en/world/news/2018-07/germany-hungary-clash-migration.html>> accessed 10 July 2025.

²⁰¹ Bender (n 178).

massive campaigns that upheld this idea of migrants as enemies of Hungarian society. They, for instance, distributed posters to locals on the issue of migration and the dangers of terrorism²⁰².

While such blatant disregard for EU law and principles would have been expected to meet fierce opposition from other political forces in Europe, this was not necessarily the case. Orbán's party was still a member of the European People's Party (EPP) group in the EP when it all started, and minor criticism was heard. That is, at least until a change of rhetoric in 2018, when suddenly the actions of Hungary were revolting and justified the mobilisation of Article 7(1) TEU²⁰³.

Deliberative spaces

There have been numerous instances of attacks on civil spaces and media freedom in Hungary; for the sake of concision, this analysis will focus on three major cases. LexNGO, 'Stop-Soros package, and a brief mention of the SPO, as this specific issue could warrant a whole thesis in itself.

In 2017, Hungary passed a law, nicknamed LexNGO, regarding the transparency of NGOs' funding and foreign influence. It makes it so that any "associations and foundations, with the exception of sport and religious associations, and those not considered civil society organisations (e.g. political parties)" who receive more than the 7.2 million Forint²⁰⁴ from foreign sources each year²⁰⁵. Those concerned must register with the relevant authority as 'receiving foreign funding'. These will have to submit a large quantity of data to the government for publication on a public platform. Organisations must also give an annual report of the funding they have received, including the amount of the donation and the personal information of the donor. Failure to abide will result in the termination of the association's status as well as heavy fines. This has been criticised as an obvious breach of fundamental rights and principles such as freedom of association, of expression, and the right to privacy.²⁰⁶ After a decision from the Court of Justice of the European Union, the law was amended in 2021. In the new text, any CSOs, with the same exceptions as previously, that receive more than 20 million Forints²⁰⁷, may be subjected to audits in front of the State Audit Office. The law defines CSOs as "capable

²⁰² *ibid.*

²⁰³ Schepele and Kelemen (n 164).

²⁰⁴ The equivalent at the time of 24.000 euros.

²⁰⁵ Hungarian Helsinki Committee, 'Analysis of the Bill on Foreign Funded Organisations (Lex NGO)' (*Hungarian Helsinki Committee*, 12 April 2017) 2 <<https://helsinki.hu/en/analysis-of-the-bill-on-foreign-funded-organisations-lexngo/>> accessed 11 July 2025.

²⁰⁶ Hungarian Helsinki Committee, 'Analysis of the Bill on Foreign Funded Organisations (Lex NGO)' (n 205).

²⁰⁷ The equivalent of 53.000 euros in 2022.

of influencing public life”, without any stricter definition, making any organisation a potential target²⁰⁸.

Following this first frontal attack on civil society, Hungary passed the ‘Soros-Package’ in 2018, which was discussed in the section above. The impact of these legal provisions is not limited to an attack on the rights of asylum seekers. They are also a deterrent to democratic principles as a whole, such as the right to turn to a court, but most importantly, they serve as a deterrent for the proper conduct of the actions of CSOs, preventing them from operating as intended²⁰⁹.

Finally, in 2023, Hungary introduced the Sovereignty Protection Act, which established the creation of the Sovereignty Protection Office (SPO). It can be considered one of the most damaging legislation ever passed by a member state against the principles of democracy. The SPO can launch investigative procedures against all individuals who might carry out activities “in the interests of another State [...] foreign organ or organisation and natural person” or “whose activity funded with supports from abroad may exert influence on the outcome of elections” or “perform or support activities aimed at influencing the will of voters”²¹⁰. The office has access to all data it deems necessary to conduct its investigation, including private and confidential data such as criminal records, health history or even banking details. It can also request information from a person’s employer. By not defining any of the terms central to the law, the scope of the office’s investigative reach is nearly unlimited. There is also no mention of territory, temporality, or quantity, allowing for the collection of as much data as possible on anyone, anywhere, for as long as the office sees fit. While the office lacks enforcement powers, it can forward incriminating findings to relevant authorities. The SPO’s findings can be published in their reports, which are public. The office cherry-picks what it wants to include in said reports and has the ability to publish any and all information gathered, including highly personal information. The law also does not provide any sort of remedies for people targeted by these investigative measures. The office also has the power to launch new investigations on third parties once deemed ‘related’ to their ongoing investigations. The SPO’s president is chosen by the President of Hungary, on recommendations of the Prime Minister, and their mandate can be terminated at any time if it is considered that they do not fulfil their mission anymore. The reports have already targeted reporters from CNN or the New York Times,

²⁰⁸ Hungarian Helsinki Committee, ‘LexNGO2021 – A Look into Hungary’s Second Anti-NGO Law on Its First Anniversary’ <https://helsinki.hu/en/wp-content/uploads/sites/2/2022/05/HHC_LexNGO2021_info_note.pdf> accessed 11 July 2025.

²⁰⁹ Hungarian Helsinki Committee, ‘Hungarian Government Marks World Refugee Day by Passing Law to Jail Helpers’ (n 184).

²¹⁰ RECLAIM, ‘Legal Opinion: Hungary’s 2023 Sovereign Defense Authority Law’ (n 61) 6.

Transparency International, Orban’s main opponent Péter Magyar and MEPs from the opposition on votes against Hungarian interests²¹¹. In recent months, Hungary has attempted to amend its laws to enable the Office to identify organisations as threats and impose sanctions on EU grants and foreign funding, as little as five euros, if they are not authorised by the government first²¹². The law has a significant chilling effect on Hungarian society as a whole, as no Hungarian person will want to associate with any entity external to Hungary, nor with any organisation susceptible to being targeted both within and outside the state.

On the legal aspects, just as before, the Hungarian legal system has opposed little contestation. Worse, the Hungarian Constitutional Court, seized by Transparency International, rejected the complaint²¹³. At the European level, however, all of these cases have led to infringement proceedings.

- INFR(2017)2110, on LexNGO, is an ongoing infringement case launched on 13th July 2017. The case was referred to the court on 7th December 2017. The Court found, on 18th June 2020, that Hungary had indeed failed its obligations under EU law, notably on freedom of association and the right to privacy²¹⁴. The Commission highlighted in November 2018 that this case was one of six ongoing “value-related infringement proceedings” at the time of the Article 7(1) TEU procedure’s activation²¹⁵. The commission introduced a letter of formal notice under Article 260 TFEU on 18th February 2021²¹⁶.
- INFR(2018)2247, on the Stop-Soros package, which was discussed in the analysis on asylum in Hungary.

²¹¹ RECLAIM, ‘Legal Opinion: Hungary’s 2023 Sovereign Defense Authority Law’ (n 61).

²¹² Nicholas Aiossa, ‘Hungary’s New Bill Threatens to End Civil Society and Empower the Government to Persecute with Impunity’ (*Transparency International EU*, 19 May 2025) <<https://transparency.eu/hungarys-new-bill-threatens-to-end-civil-society-and-empower-the-government-to-persecute-with-impunity/>> accessed 11 July 2025.

²¹³ Transparency International, ‘The Constitutional Court Gives the Green Light to State Arbitrariness - TI Hungary Continues the Case against the Sovereignty Protection Office in Strasbourg’ (*Transparency International Hungary*, 19 December 2024) <<https://transparency.hu/en/news/constitutional-courts-decision-on-spo/>> accessed 11 July 2025.

²¹⁴ *Case C-78/18 European Commission v Hungary* [2020] ECJ Case C-78/18.

²¹⁵ Petra Bárd, Joelle Grogan and Laurent Pech, ‘Defending the Open Society against Its Enemies’ [2020] *Verfassungsblog* <<https://verfassungsblog.de/defending-the-open-society-against-its-enemies/>> accessed 11 July 2025.

²¹⁶ European Commission (n 188).

- INFR(2024)2001, on the SPO is an ongoing case which debuted on 7th February 2024 on the grounds of violations of the fundamental freedoms and the Charter. The case was referred to the Court on 3rd October 2024²¹⁷. It is now the pending C-829/24 case.

Hungarian violations of deliberative spaces were also at the centre of the Parliament's decision to launch the Article 7(1) TEU procedure, especially on the grounds of freedom of expression, association, and the right to privacy²¹⁸.

On political mobilisation, in all of these cases, Hungary has used the language of values and fearmongering to justify its actions. For instance, LexNGO, before passing the law and claiming once again that this was a justified measure against a threat to national security²¹⁹, Hungarian authorities organised a national consultation campaign to gather public support. However, the questions given to the public were already oriented. For instance, question four out of six went as follows:

“More and more foreign-supported organisations operate in Hungary with the aim of meddling in the internal affairs of our country in an opaque manner. Their operations could jeopardise our independence. What do you think Hungary should do? (a) Require them to register, revealing the objectives of their activities and the country or organisation instructing them. (b) Allow them to continue their risky activities unsupervised”²²⁰.

Moreover, when the Court ruled against Hungary on the topic, the government introduced a new, very similar legislation.

As for the SPO, the bill is built on both the language of EU values and the traditional Hungarian rhetoric. While it is based on the usual narrative of ‘foreign enemies’ and of ‘threat to sovereignty’, it also claims to be for fairer elections, as in not tinted by foreign intervention, for the sake of transparency, or even to combat disinformation²²¹.

Outside of Hungary, reactions have followed suit. If, just like before, condemnation from the EPP and the rest of the EP was not instantaneous, most of the EU actors have now condemned

²¹⁷ *ibid.*

²¹⁸ ‘Texts Adopted - The Situation in Hungary - Wednesday, 12 September 2018’ (n 199).

²¹⁹ Petra Bárd, ‘The Hungarian “Lex NGO” before the CJEU: Calling an Abuse of State Power by Its Name’ [2020] *Verfassungsblog* <<https://verfassungsblog.de/the-hungarian-lex-ngo-before-the-cjeu-calling-an-abuse-of-state-power-by-its-name/>> accessed 11 July 2025.

²²⁰ Hungarian Helsinki Committee, ‘Analysis of the Bill on Foreign Funded Organisations (Lex NGO)’ (n 205).

²²¹ RECLAIM, ‘Legal Opinion: Hungary’s 2023 Sovereign Defense Authority Law’ (n 61).

Hungary's actions. On the SPO, 14 EU member states, the EP and Norway have joined the lawsuit on the SPO²²², in one of the largest displays of support for an infringement case. When questioned on the amended SPO, the Commission stated that it would not “hesitate to take the necessary action if this draft is adopted”²²³.

Institutional safeguards

On institutional safeguards and the independence of the judiciary, three issues will be observed in the Hungarian case. First, the Constitutional Court reform of 2010, the case on forced retirement of judges and the adjustments for the rule of law conditionality mechanisms.

In the previous sections of this analysis, little action was reported from Hungarian Courts. This is because of the reforms that were undertaken in 2010, when the Fidesz party first seized power in Hungary. Before that, the Hungarian Constitutional Court (HCC) had a reputation of ‘activist’. However, the Court went from 11 to 15 appointed judges, vacancies that the ruling government filled in. Equally, the 2010 amendments to the Constitution also excluded the review of financial laws and abolished popular actions, both limiting the reach and accessibility of the court. While the old composition of the Court remained a majority, despite the new appointees and two vacancies filled, the publication of the new Hungarian Constitution in April 2011 brought another change: the retirement age for ordinary court judges was reduced from 70 to 62 years old. By the time the HHC could review the law, the affected judges had already been removed from office. The law was eventually amended to comply with judicial decisions, but little is known about what transpired for the judges who lost their place. Still, the Court annulled a large quantity of bills passed by the Hungarian Government, until February 2013, when Fidesz had reached eight appointees, thus obtaining a majority in the Court. Another blow to the Court's power was that previously annulled laws had found their way into the new constitution, making them out of reach for the judges²²⁴.

In 2023, Hungary adopted Act X of 2023 to receive the funding for its Recovery and Resilience Plan. The bill strengthened the Hungarian judiciary in some key aspects. It gave the National Judicial Council more budgetary autonomy and gave them the power of binding opinions on the appointment of judges, improved transparency overall, made stricter rules for the

²²² RECLAIM, ‘Historic EU Rally against Orbán’s Crackdown on Civil Society’ <https://55ed8d3c-c2a4-4bd9-a066-eda67d261bad.usrfiles.com/ugd/55ed8d_cfd7c9c57dc04f41a81d7b1cd33dc25e.pdf> accessed 11 July 2025.

²²³ Sandor Szoros, ‘EU Commission Demands Hungary Withdraws Its Draft Transparency Law’ (*euronews*, 15:05:20 +02:00) <<https://www.euronews.com/my-europe/2025/05/24/confrontation-ahead-eu-commission-demands-that-hungary-withdraws-draft-transparency-law>> accessed 11 July 2025.

²²⁴ Halmai (n 54).

appointment of the presidency of the Supreme Court, removed obstructions placed to prevent courts from making preliminary references to the CJEU and limited the executive's power to challenge judicial decisions in front of the HCC through constitutional complaints²²⁵. If this was first welcomed by the EU and CSOs, attacks on the judiciary resumed less than a year later by reasserting the executive's control over the judiciary by expanding the mandate of the Ministry of Justice, giving them access to decisions and thus allowing for emergency decrees to counter their actions. It also breaches the non-regression principle²²⁶.

On the legal dimension, the reaction of Hungarian courts has, to some extent, already been discussed in this section. From the European level, the question of institutional safeguards resulted in a mobilisation of three different tools.

First, the Commission launched an infringement procedure on the issue of the age of retirement of judges. INFR(2012)2012 was launched on 17th January 2012, on the issue of age-based discrimination. The case was referred to the Court on 25th April 2012. On 6th November 2012, the Court found that Hungary had indeed breached its obligations²²⁷. The infringement case was later closed on 20th November 2013, as the Commission was satisfied with the new legal provisions, containing a gradual lowering threshold on the age of retirement of judges and other legal professionals concerned, despite Hungary's failure to reinstate the judges²²⁸. This helped enforce the decision of the HCC.

Second, the EP cited "the independence of the judiciary and of other institutions and the rights of judges" as one of the reasons for the initiation of the Article 7(1) TEU procedure²²⁹.

Finally, the reform of 2023 was a direct result of the rule of law conditionality mechanism. However, as the Commission accepted the reform as satisfactory, it failed to take into account

²²⁵ Hungarian Helsinki Committee, 'Assessment of Act X of 2023 on the Amendment of Certain Laws on Justice Related to the Hungarian Recovery and Resilience Plan in Light of the Super Milestones Set out in the Annex to the Council Implementing Decision on the Approval of the Assessment of the Recovery and Resilience Plan for Hungary' (22 May 2023) <https://helsinki.hu/wp-content/uploads/2023/05/Assessment_of_the_Judicial_Reform_052023.pdf> accessed 11 July 2025.

²²⁶ Hungarian Helsinki Committee, 'A Sauron's Eye in the Hungarian Justice System' (31 May 2024) <https://helsinki.hu/wp-content/uploads/2024/05/A_Saurons_eye_in_the_Hungarian_Justice_System_20240531.pdf> accessed 11 July 2025.

²²⁷ *European Commission v Hungary* [2012] ECJ Case C-286/12.

²²⁸ European Commission (n 188).

²²⁹ 'Texts Adopted - The Situation in Hungary - Wednesday, 12 September 2018' (n 199).

the lack of a mechanism to prevent rollbacks and further backsliding in the future²³⁰, which happened around a year later.

On political mobilisation, here the rhetoric of Hungary is a bit more subdued. Essentially, by muzzling the HCC, Hungary was able to harness its symbolic power, enabling its actions. Such was the case when the HCC ruled in Orban's favour on the issues related to migration, and more specifically on the 'Stop-Soros' package²³¹. On the judicial reforms, despite appearing as an alignment with EU obligations, Hungary needed less than a year to find a new attack angle.

When the unfreezing was announced, a lot of EU actors were displeased, which led to the EP launching an infringement case against the Commission on 25th March 2024. The Case C-225/24 is still pending²³². While the Commission has reaffirmed its position, some MEPs, such as Moritz Körner from Renew Europe, have stated that "Ursula von der Leyen sold off the rule of law in the EU in December"²³³.

5.4.2. The Netherlands

Respect of human rights and human dignity

Compared to Hungary, there is very little to say about the Netherlands when it comes to issues akin to a violation of EU values, at least until the 2023 elections. Since the beginning of the crisis, the country has faced the same problems of processing speed and detention capacity as the other member states. Rare were the issues that made it out into broader debates. One of the only instances of such cases was when Doctors without Borders in the asylum centre Ter Apel was entirely overwhelmed by the demands and was unable to accommodate refugees with the usual necessities, resulting in 700 individuals sleeping outside²³⁴. Furthermore, the country has only faced a few issues, with only incorrect transposition of the Seasonal Workers Directive and the Blue Card Directive. However, trends might change soon as the new government is

²³⁰ Hungarian Helsinki Committee, 'Assessment of Act X of 2023 on the Amendment of Certain Laws on Justice Related to the Hungarian Recovery and Resilience Plan' (n 225).

²³¹ Halmai (n 54).

²³² Action brought on 25 March 2024 – Parliament v Commission 2024.

²³³ Renew Europe, 'Hungary: EP Takes EC to Court over Frozen EU Funds' (*Renew Europe*, 18 January 2024) <<https://www.reneweuropesgroup.eu/news/2024-01-18/hungary-ep-takes-ec-to-court-over-frozen-eu-funds>> accessed 11 July 2025.

²³⁴ Doctors Without Borders, 'Netherlands: MSF Provides Medical Care to Stranded Asylum Seekers' (22 August 2022) <<https://www.doctorswithoutborders.org/latest/netherlands-msf-provides-medical-care-stranded-asylum-seekers>> accessed 11 July 2025.

working on a new framework for asylum, which would establish a distinction between asylum seekers applying for protection on grounds of persecution and those fleeing wars²³⁵.

On the legal side of things, Dutch courts have been highly active, sometimes too active, creating backlogs. For instance, right after the Doctors Without Borders event, Dutch courts required the government to improve its reception centres²³⁶. Civil society easily uses strategic litigation to protect the rights of asylum seekers as well. The Council of the State has used preliminary rulings to verify the legality of its laws and procedures as well²³⁷.

Only two infringement procedures have been initiated against the country: INFR(2023)2134, filed on 20th December 2024, concerning the incorrect transposition of the Seasonal Workers Directive, and INFR(2024)0102, which was opened on 24th January 2024. Both are still ongoing but have not progressed beyond the formal notice stage²³⁸.

Regarding political aspects, there have been hardly any comments at the European level, as the Netherlands is not seen as a concern on this issue. At the national level, despite Geert Wilders's call for "The harshest asylum regime ever," other forces have consistently obstructed the project, even within his coalition, which led to its collapse²³⁹.

Deliberative spaces

As for deliberative spaces, the Netherlands ranked 3rd out of 180 countries in the 2025 RSF Press Freedom Index. This is not to say that the situation in the country is absolute perfection, but very little in the sense of potential breaches of EU values. RSF still highlights two issues: the increasing attacks on the media by populist forces and the threats posed by organised crime²⁴⁰. Recent reports have demonstrated that similar tendencies were happening with CSOs and human rights defenders, especially violence in protests by police or by using surveillance systems for protester recognition. However, the report notes that the government

²³⁵ European Council on Refugees and Exiles (ECRE), 'Netherlands: Government Announces "Strictest Asylum Policy Ever" and Requests Opt-Out from EU Migration Pact — Government Announces End to State-Funded Housing for Rejected Asylum Applicants — Demonstration Against Self-Declared "Asylum Crisis" — Emergency Shelter Required After Asylum Centre Exceeds Capacity' (27 September 2024) <<https://ecre.org/netherlands-government-announces-strictest-asylum-policy-ever-and-requests-opt-out-from-eu-migration-pact-%e2%80%95-government-announces-end-to-state-funded-housing-for-rejected-asy/>> accessed 11 July 2025.

²³⁶ Courthouse News Service, 'Dutch Court Orders Government to Improve Migrant Centers' (6 October 2022) <<https://www.courthousenews.com/dutch-court-orders-government-to-improve-migrant-centers/>> accessed 11 July 2025.

²³⁷ *Staatssecretaris van Justitie en Veiligheid v X* [2025] ECJ Case C-662/23.

²³⁸ European Commission (n 188).

²³⁹ Anne Cokelaere, Ali Walker and Pieter Haeck, 'Dutch Government Collapses after Geert Wilders' Far-Right Party Quits' (*Politico*, 3 June 2025) <<https://www.politico.eu/article/geert-wilders-dutch-government-collapse/>> accessed 11 July 2025.

²⁴⁰ Reporters Sans Frontières, 'RSF Press Freedom Index' <<https://rsf.org/en/index>> accessed 11 July 2025.

has plans to introduce a bill on foreign funding and transparency, which echoes what was done in Hungary²⁴¹.

On legal considerations, from the national point of view, there has been no report of massive failure of the judiciary when seeking remedies for attacks on deliberative spaces. CSOs are also successful in bringing cases against their government on international obligations²⁴². Equally, there has been no mobilisation of enforcement tools at the European level.

On political mobilisation, it should be noted that the usual populist rhetoric of instrumentalisation of values can be seen in the Country, and intimidation by officials has been documented²⁴³; little is happening in the country that could equate to the use and abuse of the values, at least not in a magnitude sufficiently grand to garner the EU's attention. No mobilisation from EU actors is to be found.

Institutional safeguards

Until the 2023 elections, there was a consensus on the robustness of the Dutch legal system through a culture of constitutional consensus. The only critique that seemed more prominent was the issue of backlog. However, with the arrival of Geert Wilders, the system is at risk of failure in matters of the rule of law, as there are few protection mechanisms in place to prevent a crackdown on the judiciary, or rather, most existing ones are relatively informal in nature. This is especially concerning as the Dutch court has the power to review Parliamentary acts to determine their compliance with human rights obligations, especially those of the ECHR²⁴⁴.

On the legal side of the question, nothing has happened at any level, as the robustness of the model is yet to be broken, which might happen sooner or later after the dissolution of the

²⁴¹ European Network of National Human Rights Institutions, 'State of the Rule of Law in Europe' (European Network of National Human Rights Institutions 2025).

²⁴² Amnesty International, 'Netherlands: NGOs Seek Justice for Rights Violations under EU-Türkiye Deal' (*Amnesty International*, 6 March 2025) <<https://www.amnesty.eu/news/netherlands-ngos-seek-justice-for-rights-violations-under-eu-turkiye-deal/>> accessed 11 July 2025.

²⁴³ Civil Liberties Union for Europe, 'Liberties Rule of Law Report 2024 - Netherlands' (2024) <https://www.nhc.nl/assets/uploads/2024/03/NETHERLANDS_Liberties_RuleOfLaw_Report_2024.pdf> accessed 10 July 2025.

²⁴⁴ Niels Graaf, 'Dutch Rule of Law Alert' [2023] *Verfassungsblog* <<https://verfassungsblog.de/dutch-rule-of-law-alert/>> accessed 11 July 2025.

Dutch government. It is worth noting that Dutch judges have called for more transparency and for keeping the ministries out of appointment mechanisms²⁴⁵.

On political mobilisation, there is not much to say either, as, again, nothing has been apparent to a breach so far. The only notable aspect is that the Dutch Judicial Council has released their reports, highlighting that judges are being used as scapegoats by politicians whenever their policies are challenged. These accusations seem to mostly emanate from right-wing populist actors²⁴⁶.

5.4.3. Italy

Respect of human rights and human dignity

Italy has a rather unique place in the asylum question game. As a Mediterranean country, their geographic positioning makes them a very desirable crossing point into the European Union. After the massive influx of the 2015 migration crisis and the burden placed upon the country, the Italian government has enacted a few laws which have been at the centre of controversies. However, two specific issues have garnered more interest from the public than others: Italy's bilateral agreements and the issue of rescue at sea.

On bilateral agreements, the controversies first started when, in 2017, Italy signed a contract with Libya. Contrary to the EU-Turkey deal, here, the objective was not to send asylum seekers to Libya, but to equip the Libyan authorities with equipment and funding for them to prevent asylum seekers and migrants from reaching the European Continent. In Libya, reports have highlighted atrocious detention conditions, with torture and other forms of human rights abuse rampant²⁴⁷. Despite that, and a provision in the agreement that stipulates the need for the respect of Human Rights, Italy has renewed the deal several times²⁴⁸.

This reliance on bilateral agreements led Italy to partner with Albania in 2023. This time, per the agreement, Italy built a migrant detention centre in Albania, which would hold up to 36.000 people awaiting the processing of their asylum applications in Italy. The agreement encountered

²⁴⁵ Robin Pascoe, 'Keep Ministers out of Legal Appointments, Dutch Judges Say' (*DutchNews.nl*, 11 January 2025) <<https://www.dutchnews.nl/2025/01/keep-ministers-out-of-legal-appointments-dutch-judges-say/>> accessed 11 July 2025.

²⁴⁶ Hanneke Sanou, 'Judges Are Used as Scapegoats to Undermine Rule of Law' (*DutchNews.nl*, 8 May 2025) <<https://www.dutchnews.nl/2025/05/judges-are-used-as-scapegoats-to-undermine-rule-of-law/>> accessed 11 July 2025.

²⁴⁷ Amnesty International, 'A Year after Italy-Libya Migration Deal, Time to Release Thousands Trapped in Misery' (*Amnesty International*, 1 February 2018) <<https://www.amnesty.org/en/latest/news/2018/02/a-year-after-italy-libya-migration-deal-time-to-release-thousands-trapped-in-misery/>> accessed 12 July 2025.

²⁴⁸ Ambrosini (n 115).

setbacks and very few asylum seekers were sent to Albania at first, but in May 2025, the Italian Senate greenlit the reformed law, with the only modification being that these centres were no longer detention centres but “hosting and repatriation centre”²⁴⁹.

Another issue that went under media spotlight was Italy’s own plans for rescue at sea. On 2nd January 2023, Italy passed a law that changed the conditions for rescue missions at sea. The new rules require NGOs and other potential rescuers to limit their rescue missions to just one. This means that if two boats need help, Italian rescuers can only assist one. Additionally, between each mission, they must return to the port which is considered their base of operation, and this can be hundreds of kilometres away. If a rescue mission disobeys this Italian rule, the boat would be immobilised²⁵⁰.

From the legal side, both of these issues have attracted the attention of Italian courts. Although the Libyan case flew under the judiciary’s radar, the Albanian case was a different story. The court has blocked the deportation of migrants in the centres and has requested that the CJEU rule on the legality of the procedure²⁵¹, which the Advocate General of the Court deemed that, under the current framework, the deportation would not be lawful²⁵², which led to the amendment of the law.

For the restrictions on rescue missions, Italian courts have not waited for Italy to pass the whole law to react to cases of abuse. For instance, on 6th February 2023, the court of Catania, in Sicily, lifted the ban on the rescue boat Humanity 1, which Italian authorities stopped after preventing rescued people from descending from the boat, using EU case-law in their justification²⁵³.

From the political side of things, the Italian government has always upheld the necessity for its actions. They have invoked issues of migrant overflow. Equally, Italy shifted the debate by hammering their position of actors against traffickers, of fearing weaponised migration, or through their repetitive framing of a country under invasion by “hordes of African or Arab

²⁴⁹ ‘Italy: Senate Gives Final Approval to Albania Asylum Deal Reform’ (*InfoMigrants*, 22 May 2025) <<https://www.infomigrants.net/en/post/64710/italy-senate-gives-final-approval-to-albania-asylum-deal-reform>> accessed 12 July 2025.

²⁵⁰ ‘Italy’s Anti-Rescue Decree Risks Increasing Deaths at Sea | Human Rights Watch’ (9 January 2023) <<https://www.hrw.org/news/2023/01/09/italys-anti-rescue-decree-risks-increasing-deaths-sea>> accessed 12 July 2025.

²⁵¹ ‘Is Italy’s Model for Offshoring Migrants Doomed to Fail? – DW – 11/15/2024’ (*dw.com*) <<https://www.dw.com/en/is-italys-model-for-offshoring-migrants-doomed-to-fail/a-70797546>> accessed 12 July 2025.

²⁵² European Court of Justice, ‘PRESS RELEASE No 49/25’.

²⁵³ julianetzlaff, ‘Court Rules in Favor of Survivors on Humanity 1 - Decree of November 2022 Unlawful’ (*SOS HUMANITY*, 13 February 2023) <<https://sos-humanity.org/en/press/humanity-1-decree-of-november-2022-unlawful/>> accessed 12 July 2025.

immigrants”²⁵⁴. On the EU’s side, few reactions have been heard, and that might have a relatively simple explanation, especially in the case of Libya: the EU has a similar agreement and has partnered with Italy²⁵⁵. In the Albanian case, Ursula von der Leyen praised the Italian government as an example of “out-of-the-box thinking”²⁵⁶.

Deliberative spaces

Continuing on the previous section, the Italian law on rescue missions was also a significant blow to deliberative spaces in Italy. As it imposed grave consequences in case of defiance, as well as an additional burden on NGO workers. This stems from another part of the law, which burdens rescuers with the duty to collect data from the rescued asylum seekers, including the intent of asylum, and to share this collected information with the authorities.

In 2025, Italy accelerated its crackdown on the right to protest and freedom of speech. On the former, the senate approved on 4th June a “citizen security law” to punish acts of civil disobedience. Among other things, it creates new crimes for injuries to police officers, the occupation of spaces, would expand on prison sentences, or allow for the imprisonment of mothers of children of one year or less, which is normally not possible in other cases²⁵⁷. On the latter, a law is currently being discussed that would allow for the ban from practising the profession of journalism for those convicted in defamation cases²⁵⁸.

On the legal aspect of the question, it is too early to determine what will happen. The case on rescue mission is the only one that has received attention from Italian Courts so far, as the other two instances were recently introduced or are still being discussed. Nonetheless, it has to be highlighted that the law on defamation is a direct answer to a constitutional court ruling

²⁵⁴ Ambrosini (n 115).

²⁵⁵ ‘EU-Libya: EU’s Migration Cooperation with Libya Is “Morally Bankrupt” and Amounts to Complicity in Violations’ (*Amnesty International*, 8 July 2025) <<https://www.amnesty.org/en/latest/press-release/2025/07/eus-migration-cooperation-with-libya-morally-bankrupt/>> accessed 12 July 2025.

²⁵⁶ Arturo Varvelli Ziccardi Angela, ‘Why the EU Should Pay Attention to Italy’s and Albania’s Migration Gamble’ (*ECFR*, 9 January 2025) <<https://ecfr.eu/article/why-the-eu-should-pay-attention-to-italy-and-albanias-migration-gamble/>> accessed 13 July 2025.

²⁵⁷ Soraya Melguizo, ‘Meloni Approves a “gag Law” to Limit Peaceful Protests.’ (*Ara in English*, 4 June 2025) <https://en.ara.cat/international/meloni-approves-gag-law-to-limit-peaceful-protests_1_5401850.html> accessed 13 July 2025; ‘Italy: Draconian New Law Criminalizing Peaceful Protest While Expanding Police Powers Must Be Rejected’ (*Amnesty International*, 31 May 2025) <<https://www.amnesty.org/en/latest/news/2025/05/italy-draconian-new-law-criminalizing-peaceful-protest-while-expanding-police-powers-must-be-rejected/>> accessed 13 July 2025; Samara Baboolal | JURIST Staff and GB, ‘Italy Senate Passes Controversial Security Bill into Law’ (5 June 2025) <<https://www.jurist.org/news/2025/06/italy-senate-passes-controversial-security-bill-into-law/>> accessed 13 July 2025.

²⁵⁸ ‘Italy Must Drop Disproportionate Ban on Working as Journalist from Proposed Defamation Law Reform | RSF’ (12 April 2024) <<https://rsf.org/en/italy-must-drop-disproportionate-ban-working-journalist-proposed-defamation-law-reform>> accessed 13 July 2025.

on the previous framework that called for the abolition of prior prison sentence provisions. Courts are thus expected to stand firm on those issues in the near future²⁵⁹. As for measures taken by the European Institutions, the only thing that has been the placement of media freedom under scrutiny in the Rule of Law Report²⁶⁰.

As for political narratives and mobilisation, Italy has mostly framed these provisions in terms of security and protection of citizens and people at risk. At the European level, no significant reaction has been heard.

Institutional safeguards

In Italy, arguments for judicial reforms have been debated for over a decade. If the first cracks in Italy's rule of law appeared in the previous legislature, notably with repeated attacks by then-Interior Minister Matteo Salvini, attacks on the judiciary have only become more concrete with Giorgia Meloni's government²⁶¹. In 2023, the first reform, inspired by former Prime Minister Berlusconi, removed the crime of abuse of office and made collecting evidence, notably through wiretapping, much harder. As the law continued to be debated and Italian courts gradually began to oppose the government's abuses, the government expanded the scope of the judicial reform. The latest versions include, for instance, modifications to the structure of the Superior Council of the Judiciary, Italy's current highest authority in the judiciary, or changes to the career path, splitting magistrates from judges²⁶².

On legal aspects, although Italian Courts have not yet been able to use institutional routes to contest the reforms, strikes and pushbacks have been immediate²⁶³. On the EU side, this is another element that justified putting Italy under surveillance in the Rule of Law Report²⁶⁴.

On political mobilisation, the Italian government argues that the reform is necessary as a way to uphold public demands of efficiency and to uphold impartiality and accountability of

²⁵⁹ *ibid.*

²⁶⁰ 'Rule of Law in Italy Under EU Scrutiny | Human Rights Watch' (22 May 2025) <<https://www.hrw.org/news/2025/05/22/rule-law-italy-under-eu-scrutiny>> accessed 13 July 2025.

²⁶¹ Angela Giuffrida and Lorenzo Tondo, 'Italy's Far-Right Interior Minister, Matteo Salvini, Escalates Attack on Judges' *The Guardian* (6 June 2019) <<https://www.theguardian.com/world/2019/jun/06/salvini-steps-up-attacks-on-italian-judges-who-challenge-him>> accessed 13 July 2025.

²⁶² Review of Democracy, 'Judicial Reforms in Italy: A Risk for the Rule of Law? | Review of Democracy' (30 April 2025) <<https://revdem.ceu.edu/2025/04/30/judicial-reforms-italy/>> accessed 13 July 2025.

²⁶³ Angela Giuffrida, "'It's Absurd': Italy's Judiciary in Power Struggle with Far-Right Government' *The Guardian* (12 July 2023) <<https://www.theguardian.com/world/2023/jul/12/italy-judiciary-power-struggle-far-right-government-giorgia-meloni>> accessed 13 July 2025.

²⁶⁴ 'Rule of Law in Italy Under EU Scrutiny | Human Rights Watch' (n 260).

judges in opposition to accusations of power politics²⁶⁵. No specific recommendations have been heard from EU actors, except from the occasional reprimands of some members of the European Parliament.

5.5. Observations and conclusions

The countries offer three very different profiles, with very distinct value mobilisation and interaction with the EU's system.

First, in the Netherlands, very little can be said. Compared to the other two countries, most of the issues highlighted there cannot be considered direct attacks on the values. They are more symptomatic of a system's shortcomings, which, unfortunately, are likely to occur in any system. In comparison to cases in Hungary and Italy, these do not constitute direct attacks from the government, given their awareness of the laws in question. Most of the EU's reaction against the Netherlands appears to stem from omissions by the state, rather than from confrontation. However, this study also suggests that the Dutch situation might be on the verge of significant change. As political representation has shifted in the country and Geert Wilders's populist party has gained influence, more direct attacks on the Principles of Values are being discussed. Although none have yet reached the status of law, there is no telling what might happen in the future, especially as some of the proposed provisions are highly vulnerable and resemble those observed in Hungary.

Second, Italy equally offers a fascinating account. Although the country has been at the centre of criticism long before Giorgia Meloni's electoral victory, it seems evident that the country is in the middle of a dramatic transformation since then. Her government has pushed for radical measures in all of the observed areas, using the traditional framing of populist political actors, such as a need for security, to fight crime, to defend the country's heritage from outsiders, and to make the country efficient once again. Though akin to what UoE scholars call 'legitimation usage', this thesis argues that it is not entirely the case. While it might be in some instances, through rhetoric of acting in Europe's interest, most of the time, the Italian government does not seem to necessarily mobilise the EU values specifically. In other words, the discourses that Meloni uses would not dramatically differ without the European question and are rooted in nationalism more than in using the European system to its advantage. On the other hand, the

²⁶⁵ 'Giorgia Meloni Wants to Transform Italian Democracy' (29 June 2024) <https://www.lemonde.fr/en/international/article/2024/06/29/giorgia-meloni-wants-to-transform-italian-democracy_6676105_4.html> accessed 13 July 2025.

EU's institutions have made a near-purely strategic use of enforcement mechanisms, or rather non-use, in Italy's case. Even in situations where infringement proceedings might have been in order, the EU seems to have refrained from going against Italy, and the main reason for this appears to be based on shared incentive. This would suggest that the Union is willing to disregard or dilute its values and principles when other interests are at play.

Finally, Hungary's case stands out, in part due to its length. While equally under the governance of far-right populist leaders, here, both narratives and the mobilisation of mechanisms differ drastically. Hungary's track record demonstrates antagonism, as if the country were, to use their Christian-based rhetoric, on a crusade against EU values. Hungary has repeatedly breached its obligations under the EU values, as well as the ECHR and the EU's Charter. Yet, the narratives used to justify those actions differ from other cases, as instead of using the usual nationalistic narratives, Hungary has seized the EU's usual narratives by turning them on their heads. Not only does the country justify some of its most repressive policies as pursued in the interest of the Union as a whole, or as the true defenders of what European values ought to be, they have also instrumentalised the usual rhetoric of the Union, mobilising transparency to justify surveillance, or mobilising the issue of safeguarding electoral integrity from foreign influence to muzzle opposition. This usage of European narratives extends further than international discourses, as their instrumentalisation is extended to tools of public participation, to steer public opinion and interest, which would, in turn, allow Hungary to justify their laws through the respect of its electorate's desire. As for the EU, they seem to play an ambivalent role in Hungary's case. While the Commission has often launched infringement procedures against Hungary, they have refused to request interim measures, even in cases where dramatic concerns highlighted for all levels of decision-making were identified, as is the case of the SPO, which placed a chilling effect on politicians campaigning for the EU elections²⁶⁶. Furthermore, other infringement proceedings against Hungary prove to be ineffective, as the country continues to amend its laws in newly devastating ways, to address CJEU judgements while continuing its attacks on democratic principles. This ineffectiveness of the EU's response is all the more damaging, as contrary to the other countries, Hungary's judiciary is not equipped to face these attacks. Additionally, Hungary has also proven the inadequacy of all other existing mechanism, as dialogue just equates to time loss, as Article 7 is inoperative and as the Rule of Law Conditionality Mechanism, despite having frozen some of Hungary's fund for good, proved to

²⁶⁶ RECLAIM and others, 'Accelerating the Infringement Procedure and Requesting Interim Measures in the Case of Hungary's Law on the Defence of National Sovereignty' (22 May 2024) <https://e038c6a4-24a2-4083-adc4-424355961a5a.usrfiles.com/ugd/e038c6_db73a19774854926815028a221b0770e.pdf> accessed 13 July 2025.

be breakable as Hungary was able to receive some of their funds, through political pressure and contenting EU requirements, without safeguards for future backsliding. Coincidentally, strategic use of EU instruments has also been prevented in Hungary's case by power politics, and the unwillingness of political actors to safeguard the foundation of the system in exchange for political gains, which explains the eight years during which the EPP has turned a blind eye on the situation. The EU Institutions, in Hungary's case, have failed to use their tools both from a strategic point of view, as their adopted strategies have consistently backfired, but also from a legitimation point of view as Hungary's case has, in a way, undermined the foundational principle of the Union and its Institutions, by highlighting weaknesses from all of the three main branches. In essence, by failing to mobilise its values against Hungary, the Union has, in a way, breached its own Values.

All in all, this case study suggests that when it comes to breaching the EU values, what matters is not the economy of the state, its geographical positioning, its institutional traditions or other standard indicators, but rather the prevalence of populist forces, mainly right-wing populist forces, which the EU seems incapable of blocking.

6. Discussion

6.1. Assessing the results

First and foremost, in both legal and political analysis, the issue of the EU's inadequate responses to populism has been evident. This research seems to confirm the assumption of legal scholars that the main reason for the ineffectiveness of enforcement tools has been political. Academics have effectively demonstrated that these tools are already at the EU's disposal; they simply are not used.

Regarding scholars of EU studies, they have extensively highlighted that the EU has been unable to mobilise a value-based narrative without it becoming permissive for takeover by populist forces. Moreover, building on their observations and the case study, one could argue that as populist forces take over EU narratives, the very emergence of these forces could stem from the EU's failure to craft a narrative that accommodates the Union's diversity, combined with the inadequacy of its responses to successive crises, each of which seems to have empowered these populist forces. Coincidentally, the case study appears to demonstrate that although populist forces pose an obstacle to safeguarding EU Values, there are different stages towards that goal. In instances such as Italy, where narrative still relies on nationalistic terms, the EU seems to retain some room for manoeuvre. However, in countries like Hungary, where EU Values have been fully incorporated into the populist narrative, this role diminishes significantly, as the distinction between narratives from the Union and the state, necessary for proper enforcement, seems to disappear.

Maybe what the EU needs to do is to make a shift. As this paper has demonstrated, in cases of violations of the values in a conscious manner, the dialogue first approach of the institutions is ineffective. Worse, its supposed more repressive tools, capable of heavy sanctions, have had limited effectiveness in tackling frontal attacks against the principles of Article 2. If neither dialogue nor sanction is working, and if the EU continues not to use its tool effectively, consciously, maybe it needs to shift perspective. What if instead of lamenting the lack of enforcement tools, the EU chose to reward states based on their performance in the promotion of the principles? This echoes one of the questions introduced in the Case study section: "Why is so much attention dedicated to the 'bad eggs' of the value question and not on the others?". Maybe this is the time for this consideration to appear at the institutional level. By observing

good trends and promoting it, the values could inspire an incentive to do better and push forward rather than discouragement and antagonism.

6.2. Avenues for future research

This thesis has concentrated its efforts on an overview of the values, the criticism around them, and the overall institutional shortcomings that have led to the current “value crisis” in the Union. Despite covering a large amount of literature and perspectives, a few aspects have appeared unexplored. Here are three areas that would deserve further attention.

Firstly, as others have questioned, there may be grounds for analysing how the enforcement of values within the Union itself is conducted. After all, numerous debates have already taken place concerning issues related to member states. However, as the ineffectiveness of the EU’s tools has become evident in cases of populist influence from some member states, what would occur if the EU institutions themselves began attacking the values? What safeguards exist to prevent the Union from neglecting its values? Infringements have been infrequent. Article 7 is a mechanism aimed at the states, and the Commission has nearly full discretion to propose legislation and assess compliance. So, what measures could prevent an attack on the values from within the very core of the EU’s system?

A second avenue for future research relates to the debate between dialogue and sanctions. One of the key questions of the case study was essentially: why do research efforts focus on countries that are performing poorly? The case study clearly showed that this is because there is little to discuss regarding others. So, what if the EU developed a tool to recognise the 'good guardians' of values—a kind of index that rewards good practices? For instance, this could be based on the annual rule of law report. The remaining question is what the reward would be. Many options could be explored. The EU could, for example, allow the country to advance a specific item on the agenda or establish a reward fund. This fund could even be intermittently financed through mechanisms such as the rule of law conditionality, using frozen assets.

Another option can be highlighted in the case of the Hungarian SPO and the declaration from the commission on their inability to act on a draft. This joins the side of legal academics supporting the creation of new tools. What if the Union created a mechanism through which the Union can take some sort of action, even consultative, from the drafting phase on issues about the EU values?

7. Conclusion

“To what extent did the reported failure of enforcement mechanisms on the Values lead to the Value crisis, and how have legal and political mobilisation of the Values as legal principles and narrative contributed to it?”

In conclusion, this thesis seems to observe that the Value Crisis the European Union is traversing stems from an unwillingness on the part of the guardians of the Values to sufficiently deploy their arsenal. This seems to have led to the normalisation of such breeches, which have now snowballed and found a narrative for themselves. Through its passivity, the Union has allowed populist forces not only to take over its narratives and control over the EU Values, but also to be weaponised against the very system that created them. The EU has failed to develop the Values in a way that would either make them tangible enough to prevent their manipulation or dynamic enough to accommodate the diversity of the European system. By staying away from potential conflict while pushing for a narrative based on a ‘community of shared values’ while never providing such a foundational argument by actions, discourses, and tools concrete enough, it has allowed other actors to do so in its stead. The only potential avenue now seems to be the near immediate mobilisation of newer conceptualisation of enforcement tools and confronting populist forces head-on. Yet, this seems increasingly unlikely as those same forces are gaining strength across the Union, becoming more powerful each day. Ultimately, this thesis appears to suggest that the emergence of the Value crisis cannot be solely explained by either of the original hypotheses, but rather by a combination of both. The EU’s selective enforcement of its rules and its failure to develop a coherent narrative have resulted in that narrative being overtaken by other political entities, possibly stemming from the Union’s initial inability to establish a clear and consistent framework.

8. Bibliography

Aiossa N, 'Hungary's New Bill Threatens to End Civil Society and Empower the Government to Persecute with Impunity' (*Transparency International EU*, 19 May 2025) <<https://transparency.eu/hungarys-new-bill-threatens-to-end-civil-society-and-empower-the-government-to-persecute-with-impunity/>> accessed 11 July 2025

Akaliyski P and Welzel C, 'Clashing Values: Supranational Identities, Geopolitical Rivalry and Europe's Growing Cultural Divide' (2020) 51 *Journal of Cross-Cultural Psychology* 740

Akaliyski P, Welzel C and Hien J, 'A Community of Shared Values? Dimensions and Dynamics of Cultural Integration in the European Union' (2022) 44 *Journal of European Integration* 569

Ambrosini M, 'The Populist Far Right Paradox: The Identification of the Enemy and Its Exceptions in the Immigration Policies of the Meloni Government in Italy' (2025) 13 *Comparative Migration Studies* 17

Amnesty International, 'A Year after Italy-Libya Migration Deal, Time to Release Thousands Trapped in Misery' (*Amnesty International*, 1 February 2018) <<https://www.amnesty.org/en/latest/news/2018/02/a-year-after-italy-libya-migration-deal-time-to-release-thousands-trapped-in-misery/>> accessed 12 July 2025

—, 'Netherlands: NGOs Seek Justice for Rights Violations under EU-Türkiye Deal' (*Amnesty International*, 6 March 2025) <<https://www.amnesty.eu/news/netherlands-ngos-seek-justice-for-rights-violations-under-eu-turkiye-deal/>> accessed 11 July 2025

Bánkuti M, Halmai G and Scheppele KL, 'Hungary's Illiberal Turn: Disabling the Constitution' (2012) 23 *Journal of Democracy* 138

Bárd P, 'The Hungarian "Lex NGO" before the CJEU: Calling an Abuse of State Power by Its Name' [2020] *Verfassungsblog* <<https://verfassungsblog.de/the-hungarian-lex-ngo-before-the-cjeu-calling-an-abuse-of-state-power-by-its-name/>> accessed 11 July 2025

Bárd P, Grogan J and Pech L, 'Defending the Open Society against Its Enemies' [2020] *Verfassungsblog* <<https://verfassungsblog.de/defending-the-open-society-against-its-enemies/>> accessed 11 July 2025

Bárd P and Śledzińska-Simon A, 'Rule of Law Infringement Procedures: A Proposal to Extend the EU's Rule of Law Toolbox. CEPS Paper on Liberty and Security in Europe, No. 2019-09, May 2019' <<https://www.ceps.eu/ceps-publications/rule-of-law-infringement-procedures/>> accessed 13 July 2025

Bekker S and Mailand M, 'The European Flexicurity Concept and the Dutch and Danish Flexicurity Models: How Have They Managed the Great Recession?' (2019) 53 *Social Policy & Administration* 142

Bender F, 'Abolishing Asylum and Violating the Human Rights of Refugees. Why Is It Tolerated?: The Case of Hungary in the EU', *Europe and the Refugee Response* (Routledge 2020)

Berretta E, ‘« Mode de vie européen » : Ursula von der Leyen persiste et signe’ (*Le Point*, 16 September 2019) <https://www.lepoint.fr/politique/mode-de-vie-europeen-ursula-von-der-leyen-persiste-et-signe-16-09-2019-2335968_20.php> accessed 12 July 2025

Besselink L, ‘The Bite, the Bark, and the Howl: Article 7 TEU and the Rule of Law Initiatives’ in András Jakab and Dimitry Kochenov (eds), *The Enforcement of EU Law and Values: Ensuring Member States’ Compliance* (Oxford University Press 2017) <<https://doi.org/10.1093/acprof:oso/9780198746560.003.0009>> accessed 22 June 2025

Blažo O, ‘Protection of Rule of Law While Protecting Rule of Law: Who Guards the Guardian?’ (2022) 2 Slovak Yearbook of European Union Law 51

Bonelli M, ‘Infringement Actions 2.0: How to Protect EU Values before the Court of Justice’ (2022) 18 European Constitutional Law Review 30

Bos SJ, ‘Germany and Hungary Leaders Clash over Migration - Vatican News’ (*Vatican News*, 6 July 2018) <<https://www.vaticannews.va/en/world/news/2018-07/germany-hungary-clash-migration.html>> accessed 10 July 2025

Calligaro O, *Negotiating Europe: EU Promotion of Europeanness since the 1950s* (Palgrave Macmillan 2013)

——, ‘From ‘European Cultural Heritage’ to ‘cultural Diversity’?: The Changing Core Values of European Cultural Policy’ (2014) 45 *Politique européenne* 60

——, ‘European Identity between Culture and Values: From European Heritage to “Our European Way of Life”’, *Value Politics in the European Union* (Routledge 2021)

——, ‘Values in the EU Policies and Discourse. A First Assessment’ (2016) 3 *Les Cahiers du Cevipol* 5

Civil Liberties Union for Europe, ‘Liberties Rule of Law Report 2024 - Netherlands’ (2024) <https://www.nhc.nl/assets/uploads/2024/03/NETHERLANDS_Liberties_RuleOfLaw_Report_2024.pdf> accessed 10 July 2025

Cokelaere A, Walker A and Haeck P, ‘Dutch Government Collapses after Geert Wilders’ Far-Right Party Quits’ (*Politico*, 3 June 2025) <<https://www.politico.eu/article/geert-wilders-dutch-government-collapse/>> accessed 11 July 2025

Coman R and Leconte C, ‘Contesting EU Authority in the Name of European Identity: The New Clothes of the Sovereignty Discourse in Central Europe’ (2019) 41 *Journal of European Integration* 855

Courthouse News Service, ‘Dutch Court Orders Government to Improve Migrant Centers’ (6 October 2022) <<https://www.courthousenews.com/dutch-court-orders-government-to-improve-migrant-centers/>> accessed 11 July 2025

Crespy A, *The European Social Question: Tackling Key Controversies* (Agenda Publishing 2022) <<https://www.jstor.org/stable/j.ctv25tnx09>> accessed 8 February 2025

Creutzfeldt N, Mason M and McConnachie K, *Routledge Handbook of Socio-Legal Theory and Methods* (Naomi Creutzfeldt, Marc Mason and Kirsten McConnachie eds, 1st edn, Routledge 2019) <<https://www.taylorfrancis.com/books/9780429952821>> accessed 12 July 2025

Crum B, ‘Saving the Euro at the Cost of Democracy?’ (2013) 51 *JCMS: Journal of Common Market Studies* 614

Csaky Z, ‘Freezing EU Funds: An Effective Tool to Enforce the Rule of Law?’

Curtis J, ‘Five Years On: Why Have Public Attitudes to Brexit Changed?’ (*UK in a changing Europe*, 31 January 2025) <<https://ukandeu.ac.uk/five-years-on-why-have-public-attitudes-to-brexite-changed/>> accessed 9 July 2025

De Vries CE, ‘How Foundational Narratives Shape European Union Politics’ (2023) 61 *JCMS: Journal of Common Market Studies* 867

de Wilde P, ‘Peace, Prosperity and Protection: Narratives of Integration and the “Justification Jungle” of Europe’s Public Spheres’ (2023) 61 *JCMS: Journal of Common Market Studies* 1194

Deleixhe M, ‘The European Union’s Refugee Policies: Cosmopolitan and/or Democratic?’, *Cosmopolitan Norms and European Values* (Routledge 2023)

Democracy R of, ‘Judicial Reforms in Italy: A Risk for the Rule of Law? | Review of Democracy’ (30 April 2025) <<https://revdem.ceu.edu/2025/04/30/judicial-reforms-italy/>> accessed 13 July 2025

Directorate-General for Communication, *The Schuman Declaration of 9 May 1950* (Publications Office of the European Union 2015) <<https://data.europa.eu/doi/10.2775/065>> accessed 9 June 2025

Doctors Without Borders, ‘Netherlands: MSF Provides Medical Care to Stranded Asylum Seekers’ (22 August 2022) <<https://www.doctorswithoutborders.org/latest/netherlands-msf-provides-medical-care-stranded-asylum-seekers>> accessed 11 July 2025

Dunja Mijatović, ‘HUMAN RIGHTS TALK: Covid-19 and Human Rights – Lessons Learned from the Pandemic’ <<https://rm.coe.int/human-rights-rights-talk-covid-19-and-human-rights-lessons-learned-fro/1680a0a7c3>> accessed 10 July 2025

Duranti M, *The Conservative Human Rights Revolution: European Identity, Transnational Politics, and the Origins of the European Convention* (Oxford University Press 2017)

Economist Intelligence Unit, ‘Democracy Index 2024’ (2024) <https://image.b.economist.com/lib/fe8d13727c61047f7c/m/1/609fbc8d-4724-440d-b827-2c7b7300353d.pdf?utm_campaign=MA00001514&utm_medium=email-owned&utm_source=eiu-marketing-cloud&RefID=&utm_term=20250710&utm_id=2078580&sfmc_id=00QWT00000TH2OS2A1&utm_content=Democracy+Index+2024&id_mc=285764321> accessed 10 July 2025

Englund L, ‘Fortress Europe vs. Open Borders’ in Lena Englund (ed), *Storying Contemporary Migration: Representation, Aspirations, Advocacy* (Springer Nature Switzerland 2024) <https://doi.org/10.1007/978-3-031-62003-4_5> accessed 6 July 2025

‘EU-Libya: EU’s Migration Cooperation with Libya Is “Morally Bankrupt” and Amounts to Complicity in Violations’ (*Amnesty International*, 8 July 2025) <<https://www.amnesty.org/en/latest/press-release/2025/07/eus-migration-cooperation-with-libya-morally-bankrupt/>> accessed 12 July 2025

Europäische Union (ed), *The Coronavirus Pandemic and Fundamental Rights: A Year in Review* (Publications Office of the European Union, 2021 2021)

European Commission, ‘Infringement Procedure’ (15 July 2022) <https://commission.europa.eu/law/application-eu-law/implementing-eu-law/infringement-procedure_en> accessed 9 June 2025

———, ‘European Commission at Work - Infringements’ <https://ec.europa.eu/implementing-eu-law/search-infringement-decisions/?lang_code=EN&typeOfSearch=&langCode=EN> accessed 10 July 2025

‘European Commission Launches Accelerated Infringement Proceedings against Hungary - European Commission’ <https://ec.europa.eu/economy_finance/articles/governance/2012-01-18-hungary_en.htm> accessed 13 July 2025

European Council, ‘Relations with the Countries of Central and Eastern Europe’, *The Bulletin of the European Communities* 6 (1993) <https://www.europarl.europa.eu/enlargement/ec/cop_en.htm> accessed 9 July 2025

———, ‘The Bratislava Declaration and Roadmap’ (2016) <<https://www.consilium.europa.eu/media/21250/160916-bratislava-declaration-and-roadmapen16.pdf>> accessed 9 July 2025

European Council on Refugees and Exiles (ECRE), ‘Netherlands: Government Announces “Strictest Asylum Policy Ever” and Requests Opt-Out from EU Migration Pact — Government Announces End to State-Funded Housing for Rejected Asylum Applicants — Demonstration Against Self-Declared “Asylum Crisis” — Emergency Shelter Required After Asylum Centre Exceeds Capacity’ (27 September 2024) <<https://ecre.org/netherlands-government-announces-strictest-asylum-policy-ever-and-requests-opt-out-from-eu-migration-pact-%e2%80%95-government-announces-end-to-state-funded-housing-for-rejected-asy/>> accessed 11 July 2025

European Court of Justice, ‘PRESS RELEASE No 49/25’

European Database of Asylum Law, ‘The End of the Right to Asylum in Hungary?’

European Network of National Human Rights Institutions, ‘State of the Rule of Law in Europe’ (European Network of National Human Rights Institutions 2025)

European Trade Union Confederation, ‘The Functioning of the Troika: A Report from the ETUC’ (2014) <https://www.etuc.org/sites/default/files/press-release/files/the_functioning_of_the_troika_finaledit2.pdf> accessed 9 July 2025

Eurostat, ‘GDP per Capita, Consumption per Capita and Price Level Indices’ (2024) <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=GDP_per_capita,_consumption_per_capita_and_price_level_indices> accessed 10 July 2025

Fernández JE, 'A Critical Analysis on the European Union's Measures to Overcome the Economic Impact of the COVID-19 Pandemic' (2021) 2020 5 *European Papers - A Journal on Law and Integration* 1399

Ferraresi M, 'Is Meloni the Leader Europe Needs?' (*Project Syndicate*, 1 May 2025) <<https://www.project-syndicate.org/commentary/giorgia-meloni-unlikely-eu-leader-for-the-trump-era-by-mattia-ferraresi-2025-05>> accessed 10 July 2025

Foret F and Calligaro O (eds), *European Values: Challenges and Opportunities for EU Governance* (1st edn, Routledge 2018) <<https://www.taylorfrancis.com/books/9781351037419>> accessed 7 April 2025

Foret F and Trino N, 'The "European Way of Life", a New Narrative for the EU? Institutions' vs Citizens' View.' (2023) 24 *European Politics & Society* 336

Foret F and Vargovčíková J (eds), *Value Politics in the European Union: From Market to Culture and Back* (Routledge, Taylor & Francis Group 2021)

García MJ, 'Implementation of EU Trade Agreements Under an Assertive, Open, and Sustainable Trade Policy' (2023) 11 *Politics and Governance* 212

Garot M-J, 'European Citizenship: 15 Years After the Maastricht Treaty' (Social Science Research Network, 26 October 2006) <<https://papers.ssrn.com/abstract=1023549>> accessed 9 July 2025

'Giorgia Meloni Wants to Transform Italian Democracy' (29 June 2024) <https://www.lemonde.fr/en/international/article/2024/06/29/giorgia-meloni-wants-to-transform-italian-democracy_6676105_4.html> accessed 13 July 2025

Giuffrida A, "'It's Absurd": Italy's Judiciary in Power Struggle with Far-Right Government' *The Guardian* (12 July 2023) <<https://www.theguardian.com/world/2023/jul/12/italy-judiciary-power-struggle-far-right-government-giorgia-meloni>> accessed 13 July 2025

Giuffrida A and Tondo L, 'Italy's Far-Right Interior Minister, Matteo Salvini, Escalates Attack on Judges' *The Guardian* (6 June 2019) <<https://www.theguardian.com/world/2019/jun/06/salvini-steps-up-attacks-on-italian-judges-who-challenge-him>> accessed 13 July 2025

Göbel M and Niederberger A, *Cosmopolitan Norms and European Values: Ethical Perspectives on Europe's Refugee Policy* (1st edn, Routledge 2023) <<https://www.taylorfrancis.com/books/9781003245278>> accessed 6 July 2025

Goździak EM, Main I and Suter B, *Europe and the Refugee Response: A Crisis of Values?* (1st edn, Routledge 2020) <<https://www.taylorfrancis.com/books/9780429279317>> accessed 5 July 2025

Graaf N, 'Dutch Rule of Law Alert' [2023] *Verfassungsblog* <<https://verfassungsblog.de/dutch-rule-of-law-alert/>> accessed 11 July 2025

Grabbe H, *The EU's Transformative Power* (Palgrave Macmillan UK 2006) <<http://link.springer.com/10.1057/9780230510302>> accessed 10 July 2025

Halmai G, ‘Coping Strategies of the Hungarian Constitutional Court since 2010’ [2022] *Verfassungsblog* <<https://verfassungsblog.de/coping-strategies-of-the-hungarian-constitutional-court-since-2010/>> accessed 11 July 2025

Hanelt E, ‘Getting Article 7 Done: Coalition-Building against Hungary in the European Parliament’ 0 *Journal of European Integration* 1

Herman LE, Hoerner J and Lacey J, ‘Why Does the European Right Accommodate Backsliding States? An Analysis of 24 European People’s Party Votes (2011–2019)’ (2021) 13 *European Political Science Review* 169

Hermann C, ‘Crisis, Structural Reform and the Dismantling of the European Social Model(s)’ (2017) 38 *Economic and Industrial Democracy* 51

Hoesch M, ‘The European Refugee Crisis: What Is It a Crisis Of?’, *Cosmopolitan Norms and European Values* (Routledge 2023)

Hungarian Helsinki Committee, ‘Building a Legal Fence – Changes to Hungarian Asylum Law Jeopardise Access to Protection in Hungary’ (7 August 2015) <<https://helsinki.hu/wp-content/uploads/HHC-HU-asylum-law-amendment-2015-August-info-note.pdf>> accessed 10 July 2025

———, ‘Analysis of the Bill on Foreign Funded Organisations (Lex NGO)’ (*Hungarian Helsinki Committee*, 12 April 2017) <<https://helsinki.hu/en/analysis-of-the-bill-on-foreign-funded-organisations-lexngo/>> accessed 11 July 2025

———, ‘Systemic Violations Of Asylum-Seekers’ Human Rights In Hungary Continues. Statement by the Hungarian Helsinki Committee to the OSCE HDIM 2019’ (2018) <https://www.osce.org/files/f/documents/1/d/434198_0.pdf> accessed 10 July 2025

———, ‘Hungarian Government Marks World Refugee Day by Passing Law to Jail Helpers’ (*Hungarian Helsinki Committee*, 20 June 2018) <<https://helsinki.hu/en/hungarian-government-marks-world-refugee-day-by-passing-law-to-jail-helpers/>> accessed 10 July 2025

———, ‘LexNGO2021 – A Look into Hungary’s Second Anti-NGO Law on Its First Anniversary’ <https://helsinki.hu/en/wp-content/uploads/sites/2/2022/05/HHC_LexNGO2021_info_note.pdf> accessed 11 July 2025

———, ‘Assessment of Act X of 2023 on the Amendment of Certain Laws on Justice Related to the Hungarian Recovery and Resilience Plan in Light of the Super Milestones Set out in the Annex to the Council Implementing Decision on the Approval of the Assessment of the Recovery and Resilience Plan for Hungary’ (22 May 2023) <https://helsinki.hu/wp-content/uploads/2023/05/Assessment_of_the_Judicial_Reform_052023.pdf> accessed 11 July 2025

———, ‘A Sauron’s Eye in the Hungarian Justice System’ (31 May 2024) <https://helsinki.hu/wp-content/uploads/2024/05/A_Saurons_eye_in_the_Hungarian_Justice_System_20240531.pdf> accessed 11 July 2025

Hurrelmann A, ‘European Democracy, the “Permissive Consensus” and the Collapse of the EU Constitution’ (2007) 13 *European Law Journal* 343

ILGA -Europe, 'Italy - Rainbow Map' (2025) <<https://rainbowmap.ilga-europe.org/countries/italy/>> accessed 10 July 2025

—, 'Netherlands - Rainbow Map' (2025) <<https://rainbowmap.ilga-europe.org/countries/netherlands/>> accessed 10 July 2025

'Is Italy's Model for Offshoring Migrants Doomed to Fail? – DW – 11/15/2024' (*dw.com*) <<https://www.dw.com/en/is-italys-model-for-offshoring-migrants-doomed-to-fail/a-70797546>> accessed 12 July 2025

Isiksel T, 'Square Peg, Round Hole: Why the EU Can't Fix Identity Politics' in Benjamin Martill and Uta Staiger (eds), *Brexit and Beyond* (UCL Press 2018) <<https://www.jstor.org/stable/j.ctt20krxf8.32>> accessed 9 July 2025

'Italy: Draconian New Law Criminalizing Peaceful Protest While Expanding Police Powers Must Be Rejected' (*Amnesty International*, 31 May 2025) <<https://www.amnesty.org/en/latest/news/2025/05/italy-draconian-new-law-criminalizing-peaceful-protest-while-expanding-police-powers-must-be-rejected/>> accessed 13 July 2025

'Italy Must Drop Disproportionate Ban on Working as Journalist from Proposed Defamation Law Reform | RSF' (12 April 2024) <<https://rsf.org/en/italy-must-drop-disproportionate-ban-working-journalist-proposed-defamation-law-reform>> accessed 13 July 2025

'Italy: Senate Gives Final Approval to Albania Asylum Deal Reform' (*InfoMigrants*, 22 May 2025) <<https://www.infomigrants.net/en/post/64710/italy-senate-gives-final-approval-to-albania-asylum-deal-reform>> accessed 12 July 2025

'Italy's Anti-Rescue Decree Risks Increasing Deaths at Sea | Human Rights Watch' (9 January 2023) <<https://www.hrw.org/news/2023/01/09/italys-anti-rescue-decree-risks-increasing-deaths-sea>> accessed 12 July 2025

Jacquot S and Woll C, 'Usage of European Integration - Europeanisation from a Sociological Perspective' (2003) 7 *EIoP European Integration Online Papers* 1

Jakob Hanke Vela and Claudia Chiappa, 'Brussels vs. Brussels: EU Parliament to Sue Commission over Hungary Cash' (*POLITICO*, 12 March 2024) <<https://www.politico.eu/article/parliament-sues-commission-over-unfreezing-of-hungary-funds/>> accessed 22 June 2025

Jorge Liboreiro, 'Hungary Gets €10 Billion in Frozen EU Funds amid Orbán's Threats' (*euronews*, 13 December 2023) <<https://www.euronews.com/my-europe/2023/12/13/brussels-releases-10-billion-in-frozen-eu-funds-for-hungary-amid-orbans-threats>> accessed 2 March 2025

José Manuel Durão Barroso, 'The EU and the Rule of Law – What Next?' (12 September 2012)

julianetetzlaff, 'Court Rules in Favor of Survivors on Humanity 1 - Decree of November 2022 Unlawful' (*SOS HUMANITY*, 13 February 2023) <<https://sos-humanity.org/en/press/humanity-1-decree-of-november-2022-unlawful/>> accessed 12 July 2025

Kelemen RD, 'The European Union's Authoritarian Equilibrium' (2020) 27 *Journal of European Public Policy* 481

Klaus W, 'Between Closing Borders to Refugees and Welcoming Ukrainian Workers: Polish Migration Law at the Crossroads', *Europe and the Refugee Response* (Routledge 2020)

Kochenov D, '1: The Acquis and Its Principles: The Enforcement of the "Law" versus the Enforcement of "Values" in the European Union', *The enforcement of EU law and values: ensuring member states' compliance* (First edition, Oxford University Press 2017)

——, 'Mistaking Supremacy for the Rule of Law in Difficult Times: On Some EU's Urgent Values Problems' (Social Science Research Network, 19 May 2025) <<https://papers.ssrn.com/abstract=5260118>> accessed 1 June 2025

Kochenov DV, 'On Barks, Bites, and Promises' in Uladzislau Belavusau and Aleksandra Gliszczynska-Grabias (eds), *Constitutionalism under Stress* (Oxford University Press 2020) <<https://doi.org/10.1093/oso/9780198864738.003.0010>> accessed 5 July 2025

Koppenhöfer N, 'From Syria to Ukraine: Unpacking Europe's Refugee Reception Divide – WMO' (16 November 2023) <<https://worldmediation.org/from-syria-to-ukraine-unpacking-europes-refugee-reception-divide/>> accessed 10 July 2025

Kyriazi A, 'Framing the EU Polity: How Commission Presidents Address Crises and Shape the Union' (2025) 0 *Journal of European Integration* 1

Macron E, 'For European Renewal' (4 March 2019) <<https://www.elysee.fr/en/emmanuel-macron/2019/03/04/for-european-renewal>> accessed 9 July 2025

Makszimov V, 'Commission to Trigger Mechanism That Could See Hungary Lose EU Funds' (*Euractiv*, 5 April 2022) <<https://www.euractiv.com/section/politics/news/commission-to-trigger-mechanism-that-could-see-hungary-lose-eu-funds/>> accessed 22 June 2025

Manners I, 'Normative Power Europe: A Contradiction in Terms?' (2002) 40 *JCMS: Journal of Common Market Studies* 235

Melguizo S, 'Meloni Approves a "gag Law" to Limit Peaceful Protests.' (*Ara in English*, 4 June 2025) <https://en.ara.cat/international/meloni-approves-gag-law-to-limit-peaceful-protests_1_5401850.html> accessed 13 July 2025

Moreno Barreneche S, 'Values: A Core Component in the Discursive Construction of Europe and the EU' (2023) 33 *Social Semiotics* 683

Moyn S, *Christian Human Rights* (University of Pennsylvania Press 2015)

Nettesheim M, 'The "Values of the Union": Building Legitimacy, Unification, Federalisation' (Social Science Research Network, 24 April 2024) <<https://papers.ssrn.com/abstract=4805865>> accessed 5 July 2025

Nicolaïdis K, 'Sustainable Integration in a Democratic Polity: A New (or Not so New) Ambition for the EU after Brexit' in Benjamin Martill and Uta Staiger (eds), *Brexit and Beyond* (UCL Press 2018) <<https://www.jstor.org/stable/j.ctt20krxf8.29>> accessed 9 July 2025

Nicolaïdis K and Pélabay J, 'One Union, One Story? In Praise of Europe's Narrative Diversity' in David Phinnemore and Alex Warleigh-Lack (eds), *Reflections on European Integration*

(Palgrave Macmillan UK 2009) <http://link.springer.com/10.1057/9780230232839_10> accessed 5 July 2025

Office for official publications of the European Communities, ‘Declaration on European Identity’

<https://www.cvce.eu/obj/declaration_on_european_identity_copenhagen_14_december_1973-en-02798dc9-9c69-4b7d-b2c9-f03a8db7da32.html>

Overton I, ‘The Brexit Lies That Literally Made Us All Poorer’ (*Byline Times*, 17 January 2023) <<https://bylinetimes.com/2023/01/17/the-brexit-lies-that-literally-made-us-all-poorer/>> accessed 9 July 2025

Pascoe R, ‘Keep Ministers out of Legal Appointments, Dutch Judges Say’ (*DutchNews.nl*, 11 January 2025) <<https://www.dutchnews.nl/2025/01/keep-ministers-out-of-legal-appointments-dutch-judges-say/>> accessed 11 July 2025

Pech L, ‘Article 7 TEU: From “Nuclear Option” to “Sisyphian Procedure”?’ in Uladzislau Belavusau and Aleksandra Gliszczynska-Grabias (eds), *Constitutionalism under Stress* (Oxford University Press 2020) <<https://doi.org/10.1093/oso/9780198864738.003.0011>> accessed 22 June 2025

Pech L and Kochenov D, ‘Strengthening the Rule of Law Within the European Union: Diagnoses, Recommendations, and What to Avoid’

Pech L and Scheppele KL, ‘Illiberalism Within: Rule of Law Backsliding in the EU’ (2017) 19 *Cambridge Yearbook of European Legal Studies* 3

Philips J, ‘Human Rights and the EU’s Responsibilities Towards Refugees’, *Cosmopolitan Norms and European Values* (Routledge 2023)

Pohjankoski P, ‘Bolstering Federal Execution of EU Law: Case C-123/22 Commission v. Hungary (Reception of Applicants for International Protection II)’ (2025) 32 *Maastricht Journal of European and Comparative Law* 89

Prickartz A-C and Staudinger I, ‘Policy vs practice: The use, implementation and enforcement of human rights clauses in the European Union’s international trade agreements’ (2019) 3 *Europe and the World: A law review* <<https://journals.uclpress.co.uk/ewlr/article/pubid/EWLR-3-2/>> accessed 12 July 2025

Priebus S, ‘The Commission’s Approach to Rule of Law Backsliding: Managing Instead of Enforcing Democratic Values?’ (2022) 60 *JCMS: Journal of Common Market Studies* 1684

———, ‘The Commission’s Approach to Rule of Law Backsliding: Managing Instead of Enforcing Democratic Values?’ (2022) 60 *JCMS: Journal of Common Market Studies* 1684

Racková N, ‘Constitutional Pluralism in Times of the Rule of Law Crisis: Susceptible to Abuse?’ [2025] *European Law Blog* <<https://www.europeanlawblog.eu/pub/st2hcwbv/release/1>> accessed 9 June 2025

RECLAIM, ‘Legal Opinion: Hungary’s 2023 Sovereign Defense Authority Law’ <https://www.reclaiming.eu/_files/ugd/e038c6_8aefa65d66a44d9f883a1f873d3af09d.pdf?index=true> accessed 22 June 2025

——, ‘Freedom of Information Request #Infringements’ (20 November 2024) <https://e038c6a4-24a2-4083-adc4-424355961a5a.usrfiles.com/ugd/e038c6_92befbae17684e5db95f44eb7fed4f0c.pdf> accessed 3 May 2025

——, ‘Historic EU Rally against Orbán’s Crackdown on Civil Society’ <https://55ed8d3c-c2a4-4bd9-a066-eda67d261bad.usrfiles.com/ugd/55ed8d_cfd7c9c57dc04f41a81d7b1cd33dc25e.pdf> accessed 11 July 2025

——, ‘Accelerating the Infringement Procedure and Requesting Interim Measures in the Case of Hungary’s Law on the Defence of National Sovereignty’ (22 May 2024) <https://e038c6a4-24a2-4083-adc4-424355961a5a.usrfiles.com/ugd/e038c6_db73a19774854926815028a221b0770e.pdf> accessed 13 July 2025

Renew Europe, ‘Hungary: EP Takes EC to Court over Frozen EU Funds’ (*Renew Europe*, 18 January 2024) <<https://www.reneweuropengroup.eu/news/2024-01-18/hungary-ep-takes-ec-to-court-over-frozen-eu-funds>> accessed 11 July 2025

Reporters Sans Frontières, ‘RSF Press Freedom Index’ <<https://rsf.org/en/index>> accessed 11 July 2025

Rice-Oxley M, ‘Poland Has Worked a Refugee Miracle. But How Much Longer Can It Last?’ *The Guardian* (6 April 2022) <<https://www.theguardian.com/global-development/2022/apr/06/poland-has-worked-a-refugee-miracle-but-how-much-longer-can-it-last>> accessed 10 July 2025

‘Rule of Law in Italy Under EU Scrutiny | Human Rights Watch’ (22 May 2025) <<https://www.hrw.org/news/2025/05/22/rule-law-italy-under-eu-scrutiny>> accessed 13 July 2025

Sandell A, ‘From the EEC to the EU: The Four Economic Freedoms as Fundamental Rights’ <https://www.academia.edu/12011836/From_the_EEC_to_the_EU_The_Four_Economic_Freedoms_as_Fundamental_Rights> accessed 9 July 2025

Sanou H, ‘Judges Are Used as Scapegoats to Undermine Rule of Law’ (*DutchNews.nl*, 8 May 2025) <<https://www.dutchnews.nl/2025/05/judges-are-used-as-scapegoats-to-undermine-rule-of-law/>> accessed 11 July 2025

Scharpf FW, ‘The European Social Model’ (2002) 40 *JCMS: Journal of Common Market Studies* 645

Scheppele KL and Kelemen RD, ‘Defending Democracy in EU Member States: Beyond Article 7 TEU’ in Francesca Bignami (ed) (1st edn, Cambridge University Press 2020) <https://www.cambridge.org/core/product/identifier/9781108755641%23CN-bp-15/type/book_part> accessed 2 March 2025

Scheppele KL, Kochenov DV and Grabowska-Moroz B, ‘EU Values Are Law, after All: Enforcing EU Values through Systemic Infringement Actions by the European Commission and the Member States of the European Union’ (2020) 39 *Yearbook of European Law* 3

Scheppele KL and Pech L, 'Is Article 7 Really the EU's "Nuclear Option"?' [2018] *Verfassungsblog* <<https://verfassungsblog.de/is-article-7-really-the-eus-nuclear-option/>> accessed 3 July 2025

Schlag P, 'Values' [1994] *Yale Journal of Law & the Humanities* <<https://scholar.law.colorado.edu/faculty-articles/774>>

Segarra H, 'Dismantling the Reception of Asylum Seekers: Hungary's Illiberal Asylum Policies and EU Responses' (2024) 40 *East European Politics* 43

Spieker LD, *EU Values Before the Court of Justice: Foundations, Potential, Risks* (Oxford University Press, Incorporated 2023)

Spisak A, 'Moving On: How the British Public Views Brexit and What It Wants From the Future Relationship With the European Union' (*Tony Blair Institute for Global Change*, 18 October 2022)

Spisak A and Tsoukalis C, 'Moving Forward: The Path to a Better Post-Brexit Relationship Between the UK and the EU' (*Tony Blair Institute for Global Change*) <https://assets.ctfassets.net/75ila1cntaeh/3i63TrXWJSM1qMKnOsoALz/6fb9c5c1a8cf12355c37c6663deefbda/Tony_Blair_Institute__Moving_Forward__A_Better_Post-Brexit_Relationship__June_2023.pdf> accessed 9 July 2025

Staff SB| J and GB, 'Italy Senate Passes Controversial Security Bill into Law' (5 June 2025) <<https://www.jurist.org/news/2025/06/italy-senate-passes-controversial-security-bill-into-law/>> accessed 13 July 2025

Sziros S, 'EU Commission Demands Hungary Withdraws Its Draft Transparency Law' (*euronews*, 15:05:20 +02:00) <<https://www.euronews.com/my-europe/2025/05/24/confrontation-ahead-eu-commission-demands-that-hungary-withdraws-draft-transparency-law>> accessed 11 July 2025

'Texts Adopted - The Situation in Hungary - Wednesday, 12 September 2018' <https://www.europarl.europa.eu/doceo/document/TA-8-2018-0340_EN.html> accessed 10 July 2025

'The Failure of the EU's Constitutional Project: A Cultural Discrepancy', in Kaarlo Tuori, *Constitutionalism: New Challenges* (Brill | Nijhoff 2008) <https://brill.com/view/book/9789047423515/Bej.9789004163485.i-164_007.xml> accessed 9 July 2025

'The New Conditionality Mechanism for the Protection of the EU Budget: Does the CJEU Judgement Give the All-Clear?' (*Elcano Royal Institute*) <<https://www.realinstitutoelcano.org/en/analyses/the-new-conditionality-mechanism-for-the-protection-of-the-eu-budget-does-the-cjeu-judgement-give-the-all-clear/>> accessed 22 June 2025

Transparency International, 'The Constitutional Court Gives the Green Light to State Arbitrariness - TI Hungary Continues the Case against the Sovereignty Protection Office in Strasbourg' (*Transparency International Hungary*, 19 December 2024) <<https://transparency.hu/en/news/constitutional-courts-decision-on-spo/>> accessed 11 July 2025

Valášek T, ‘Why Can’t the EU’s West and East Work as One?’

Vaucher A, *Democratizing Europe* (Palgrave Pivot 2016)

Viviane Reding, ‘The EU and the Rule of Law – What Next?’ (4 September 2013)

von Bogdandy A, Antpöhler C and Ioannidis M, ‘Protecting EU Values - Reverse Solange and the Rule of Law Framework’ (Social Science Research Network, 23 March 2016) <<https://papers.ssrn.com/abstract=2771311>> accessed 12 July 2025

von Bogdandy A and Dimitrios Spieker L, ‘Countering the Judicial Silencing of Critics: Article 2 TEU Values, Reverse Solange, and the Responsibilities of National Judges’ (2019) 15 *European Constitutional Law Review* 391

Walker N, ‘The Idea of Constitutional Pluralism’ (2002) 65 *The Modern Law Review* 317

Webley L, ‘The Why and How to of Conducting a Socio-Legal Empirical Research Project’, *Routledge Handbook of Socio-Legal Theory and Methods* (1st edn, Routledge 2019) <<https://www.taylorfrancis.com/books/9780429952821/chapters/10.4324/9780429952814-4>> accessed 12 July 2025

Weymans W, ‘A Critical History of the Use of “European Values”’ in Regina Polak and Patrick Rohs (eds), *Values – Politics – Religion: The European Values Study: In-depth Analysis – Interdisciplinary Perspectives – Future Prospects* (Springer International Publishing 2023) <https://doi.org/10.1007/978-3-031-31364-6_3> accessed 1 March 2025

———, ‘A Critical History of the Use of “European Values”’ in Regina Polak and Patrick Rohs (eds), *Values – Politics – Religion: The European Values Study: In-depth Analysis – Interdisciplinary Perspectives – Future Prospects* (Springer International Publishing 2023) <https://doi.org/10.1007/978-3-031-31364-6_3> accessed 6 July 2025

Woll C and Jacquot S, ‘Using Europe: Strategic Action in Multi-Level Politics’ (2010) 8 *Comparative European Politics* 110

Woollard C, ‘Has the Mediterranean Refugee Crisis Undermined European Values?’ (2018) <<https://www.iemed.org/publication/has-the-mediterranean-refugee-crisis-undermined-european-values/?lang=fr>> accessed 5 July 2025

Zajmi X, ‘Hungary’s Frozen Cohesion Funds Testing EU’s Rule of Law Conditionality’ (*Euractiv*, 23 May 2025) <<https://www.euractiv.com/section/economy-jobs/news/hungarys-frozen-cohesion-funds-testing-eus-rule-of-law-conditionality/>> accessed 22 June 2025

Ziccardi AV Angela, ‘Why the EU Should Pay Attention to Italy’s and Albania’s Migration Gamble’ (*ECFR*, 9 January 2025) <<https://ecfr.eu/article/why-the-eu-should-pay-attention-to-italy-and-albanias-migration-gamble/>> accessed 13 July 2025

Associação Sindical dos Juizes Portugueses v Tribunal de Contas [2018] ECJ Case C-64/16

Case C-78/18 European Commission v Hungary [2020] ECJ Case C-78/18

European Commission v Hungary [2012] ECJ Case C-286/12

European Commission v Hungary [2020] ECJ Case C-808/18

European Commission v Hungary [2021] ECJ Case C-821/19

European Commission v Hungary [2023] ECJ Case C-823/21

European Commission v Hungary [2024] ECJ Case C-123/22

European Commission v Republic of Poland [2019] ECJ Case C-619/18

Hungary v European Parliament and Council of the European Union [2022] ECJ Case C-156/21

Opinion of Advocate General Ćapeta delivered on 5 June 2025 (ECJ)

Republic of Poland v European Parliament and Council of the European Union [2022] ECJ Case C-157/21

Staatssecretaris van Justitie en Veiligheid v X [2025] ECJ Case C-662/23

Action brought on 25 March 2024 – Parliament v Commission 2024

Charter of Fundamental Rights of the European Union 2000 (2000/C364/01)

Consolidated version of the Treaty on the Functioning of the European Union 2007 (European Union)

European Union's Member States, *Consolidated Version of the Treaty on European Union*

Official Journal of the European Communities, *Treaty on the European Union* <https://www.cvce.eu/content/publication/2002/4/9/2c2f2b85-14bb-4488-9ded-13f3cd04de05/publishable_en.pdf> accessed 9 July 2025

Publications Office of the European Union, *Consolidated Version of the Treaty on European Union* <<https://op.europa.eu/en/publication-detail/-/publication/a41bf59d-146a-11f0-b1a3-01aa75ed71a1/language-en>> accessed 9 June 2025