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Illiberalism's Challenge to the European Single Market

Lessons learned for the next Multiannual Financial Framework



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Executive Summary

Rule-of-law backsliding in EU member states is usually framed as a constitutional or democratic problem for the European Union (EU). However, this paper argues that it is equally a problem of economic governance. In Hungary and Poland, illiberal governments have combined market-friendly instruments with targeted market interventions, renationalising strategic sectors, weakening regulatory authorities, and channelling public tenders and subsidies to politically loyal elites. The result is a form of ‘illiberal state capitalism’ that directly distorts the Single Market: it discriminates against foreign and non-aligned firms, erodes legal certainty, and undermines the independence of the regulators on which companies rely.

The paper explores the impact of illiberal state capitalism in Hungary and Poland on the EU Single Market. From the perspective of the ‘European economic constitution’, it understands the capture of political and market governance institutions as two sides of the same illiberal coin. Mutual trust between member states - a fundamental precondition for market integration - rests on the rule of law; conversely, the EU’s competences in Single Market governance – including competition policy, harmonisation under Article 114 of the Treaty on the Functioning of the European Union (TFEU), and infringement procedures – can be among its most effective tools for legal action against illiberal distortion.

In recent years, the European Commission took an ‘economic turn’ by framing the rule of law as a matter of competitiveness and investment se-

curity, as well as including a Single Market dimension in the Annual Rule of Law Report (ARoLR). The negotiations on the Multiannual Financial Framework (MFF) 2028–2034, together with political transitions in Poland and Hungary, more recently, offer the EU a narrow window of opportunity to increase its political and economic resilience against illiberalism. In light of ongoing MFF negotiations, the nexus between the rule of law and the Single Market provides opportunities to strengthen both.

Key Recommendations

- **Strengthen enforcement.** The Commission should use existing tools (infringement proceedings) more assertively, especially concerning the use of Article 114 TFEU. Furthermore, stronger enforcement of competition rules can contribute to counter illiberal monopolisation of political and economic power. This requires breaking down administrative silos between Directorate-Generals to improve coordination, monitoring and enforcement.
- **Apply conditionality.** Rule-of-law conditionality is the EU’s strongest instrument to address illiberalism. A stronger link of rule-of-law reforms with the EU budget is a step in the right direction, but requires consistency, transparency and accountability on the side of the Commission. Council decision-making on rule-of-law conditionality should shift to reversed qualified majority voting to prevent political blockades, while the disbursement

of frozen funds should be tied to the implementation of reforms rather than political bargaining.

- **Improve scope and depth of the ARoLR.** The ARoLR's significance will increase in the next MFF by linking reform recommendations with disbursement of EU funds. The Report's analytical depth should be enhanced by indicating the urgency of proposed reforms, creating a publicly accessible reform-tracking tool and providing greater transparency about its methodology. Furthermore, the substance of the ARoLR and its country-specific recommendations must remain insulated from bargaining between national capitals and Brussels.
- **Deepen the Single Market dimension of the ARoLR.** Analysis should draw a clearer distinction between multinationals and small and medium-sized enterprises (SMEs) in terms of exposure. Here, case data from the online problem-solving service SOLVIT should be assessed as an early-warning mechanism for potential breaches of EU law. Furthermore, the Commission should broaden and adequately resource stakeholder consultations, particularly for SMEs and civil society organisations, whose watchdog capacity needs secure, long-term funding.

In short: illiberalism is both a strategic investment risk for business and a strategic governance challenge for the EU. Strengthening the nexus between the rule of law and the Single Market gives policymakers sharper tools and broader political coalitions to defend both.

Introduction

The Single Market¹ is widely regarded as the greatest success story of European integration – both economically and politically. According to econometric simulations, the Single Market has increased the EU's gross domestic product (GDP) by around 3-4 per cent since 1992, while also creating at least 3.6 million jobs across Europe²

Yet the Single Market's importance extends beyond its economic benefits for Europe. It also has symbolic value. The Single Market is a unifying symbol for European cooperation that transcends political party lines and national boundaries. Its integrating force is made especially clear in the European Parliament's resolution on the 30th anniversary of the Single Market, adopted in January 2023, which hailed it as “the engine of European integration” and “the key path towards peace, stability and prosperity on the European Continent”.³ Similarly, according to Enrico Letta, the Single Market is “much more than a market” – it is the bedrock of European integration and the values on which it rests.⁴

And European Commission President Ursula von der Leyen described the Single Market as an integral part of European identity: “it is a cornerstone of who we are as Europeans”.⁵

However, the Single Market continues to face a number of serious challenges, as outlined in the reports by Enrico Letta and Mario Draghi.⁶ From a rule-of-law perspective, some of problems affecting European companies and consumers include:

- inconsistent implementation and enforcement of existing rules;
- short-notice enactment of legal regulations;
- lack of investment security;
- lengthy administrative and judicial procedures;
- discriminatory practices against, and unequal treatment of, non-domestic firms.⁷

¹ Official EU documents both use the terms ‘Single Market’ and ‘Internal Market’ interchangeably. This paper uses ‘Single Market’, based on the Commission's own terminology in the Annual Rule of Law Report 2025.

² European Commission, ‘The Single Market: Our European Home Market in an Uncertain World. A Strategy for Making the Single Market Simple, Seamless and Strong’, COM(2025) 500 final (2025).

³ European Parliament, European Parliament Resolution of 18 January 2023 on the 30th Anniversary of the Single Market: Celebrating Achievements and Looking towards Future Developments (2022/3015(RSP)), 2023.

⁴ Enrico Letta, ‘Much More than a Market. Empowering the Single Market to Deliver a Sustainable Future and Prosperity for All EU Citizens (2024)’ <<https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>> [accessed 19 June 2026].

⁵ Ursula von der Leyen, ‘Speech by President von der Leyen at the European Parliament Plenary Debate on ‘High Time to Deliver on the Single Market, Providing Certainty and Predictability for EU Businesses and Quality Jobs’, 20 May 2026 <https://ec.europa.eu/commission/presscorner/api/files/document/print/en/speech_26_1110/SPEECH_26_1110_EN.pdf> [accessed 19 June 2026].

⁶ Letta, ‘Much More than a Market. Empowering the Single Market to Deliver a Sustainable Future and Prosperity for All EU Citizens’; Mario Draghi, ‘The Future of European Competitiveness: Part A: A Competitiveness Strategy for Europe’ (2025), doi:10.2873/2741915.

⁷ European Commission, ‘A Simpler Single Market to Make Companies Choose Europe’ (2025), doi:10.2873/2741915; Roberto Bernasconi et al., ‘What Is the Untapped Potential of the EU Single Market?’, 14 January 2026 <https://www.ecb.europa.eu/press/economic-bulletin/articles/2026/html/ecb.ebart202508_01~2e71d52829.en.html> [accessed 19 June 2026]; European Economic and Social Committee, ‘EESC Opinion: The Economic Dimension of the Rule of Law’, Own-initiative opinion INT/1076-EESC-2025-00003-00-00-AC-TRA (2024) <<https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/economic-dimension-rule-law>> [accessed 25 June 2026].

Some of these issues stem from the ongoing fragmentation of the Single Market which hampers European companies' cross-border operations. European businesses require predictable law-making, smooth administrative and judicial procedures, and fair treatment to reap the benefits of the Single Market. But other, more structural problems threaten business success and European competitiveness.

In recent years, a worrying regression in the rule of law has been observed in some EU member states, including (but by no means limited to) Hungary and Poland. Illiberal governments have not only curtailed citizens' freedoms, weakened judicial independence and undermined electoral fairness. They have also eroded fair competition, legal certainty, and market access – key ingredients of the Single Market recipe.⁸ According to the EU Justice Scoreboard, in some member states, companies have only limited trust in the effectiveness of investment protection or in the independence of the judiciary and regulatory authorities, particularly public procurement bodies and competition authorities.⁹ Recent analyses underlined the economic costs of populists in power.¹⁰

Against this backdrop, the European Commission has taken an 'economic turn' in its enforcement of and public communication on the rule of law in recent years. Brussels stresses the importance of the rule of law for ensuring a stable and predictable business environment, investment security, and European prosperity and competitiveness, more broadly.¹¹ The Annual Rule of Law Report (ARoLR) now includes a Single Market dimension which analyses how rule-of-law problems affect companies and the functioning of the Single Market. Furthermore, the EU Justice Scoreboard incorporates relevant data on the efficiency of justice systems and in-

dependence of courts and regulatory bodies. Hence, a broader, more economically oriented understanding of the rule of law offers opportunities to create synergies with a variety of monitoring and enforcement instruments within the Single Market. This includes the Single Market Scoreboard, the Competitiveness Compass, and the SOLVIT system which allows citizens and companies to flag problems arising from the incorrect application of internal market regulations by public authorities.

In this context, this paper approaches the erosion of the rule of law as both a constitutional and economic governance challenge for the EU. It studies how illiberal state capitalism in Poland and Hungary undermined the rule of law and EU Single Market rules and demonstrates how capture of political institutions and market capture are two sides of the same illiberal coin. Therefore, the paper focuses on the systematic and far-reaching challenge that illiberalism poses to the EU's political and economic foundations. Other problems European companies face – including inadequate transposition of legislation, lacking efficiency of justice systems or problems concerning the handling of commercial cases – are beyond the scope of this paper.

The remainder of the paper is structured as follows. First, it re-examines the nexus between the rule of law and the Single Market in the history of European integration. Second, using illiberal state capitalism as the main analytical lens, it analyses how the regression of the rule of law in some EU member states affects the functioning of the Single Market. Third, considering the ongoing negotiations on the next MFF, the paper makes recommendations for strengthening the rule of law and the Single Market against illiberal distortion. Here, the Single Market has a dual role. On the one hand, it is un-

⁸ European Commission, '2025 Rule of Law Report. The Rule of Law Situation in the European Union', COM(2025) 900 final (2025).

⁹ European Commission, 'The 2026 EU Justice Scoreboard, 2026' <https://commission.europa.eu/document/download/d1367f58-9eed-4ebd-8eb3-68646b7c7ddc_en?filename=2026_eu_justice_scoreboard.PDF>.

¹⁰ Manuel Funke, Moritz Schularick, and Christoph Trebesch, 'Populists in Power: Economic and Political Consequences', *EconPol Forum*, 2024.2(2024), pp. 24–28.

¹¹ European Commission, '2025 European Semester – Spring Package', COM(2025) 200 final (2025).

dermined by rule-of-law regression; on the other, it provides a basis for legal and political action at the EU level to address such erosion. By shrewdly using its competences in the governance of the Single Market, the EU has much to gain – both politically and economically.

A *conditio sine qua non*: the rule of law and the Single Market

The rule of law is enshrined as a foundational value of the European Union in Article 2 of the Treaty on European Union (TEU) alongside respect for human dignity, freedom, democracy, equality, and human rights. Article 2 TEU is a legally binding requirement that mandates all member states and EU institutions to respect the foundational values of the Union.

The core function of the rule of law is limiting the arbitrary use of public power.¹² In 2020, the Conditionality Regulation gave the rule of law a statutory definition, thus enshrining it in EU primary law. This definition encompasses a set of principles, including legality, legal certainty, prohibition of executive arbitrariness, effective judicial protection, equality before the law, impartial courts, and separation of powers.¹³

While Article 2 TEU sets out the foundational values upon which the EU is based, including the rule of law, Article 3 TEU provides the overall direction of European integration. Alongside the promotion of peace, European values, and the well-being of its peoples, the establishment of the Single Market is among the objectives of the Union (Article 3 (3) TEU). The Single Market itself rests on four fundamental principles set out in Article 26 TFEU. It is defined as an area without internal frontiers

in which the free movement of goods, persons, services, and capital is ensured. Here, EU competence broadly covers measures aimed at establishing or ensuring the functioning of the Single Market. In practice, Article 114 TFEU is widely used as a legal basis by European institutions for enacting EU law and harmonising national rules.¹⁴

Since the early days of European integration, the rule of law at the EU level and the Single Market have been almost inseparable. The law and its rule were vital instruments for integrating economic activity of different nation states in the European Coal and Steel Community (ECSC, 1952) and the European Economic Community (EEC, 1958). After a period of abolishing internal customs tariffs and harmonising national standards, the Single Market was formally established in 1993, following the Commission's White Paper on the Single Market (1985) and the Single European Act (1987), which paved the way for the Maastricht Treaty (1992).¹⁵

The inseparable nature of the relationship between the Single Market and the rule of law becomes particularly evident in the case law of the Court of Justice of the European Union (CJEU). Throughout the integration process, the CJEU played a pivotal role in shaping the

¹² Brian Z. Tamanaha, 'Functions of the Rule of Law', in *The Cambridge Companion to the Rule of Law*, ed. by Jens Meierhenrich and Martin Loughlin (Cambridge University Press, 2021), pp. 221–36, doi:10.1017/9781108600569.013.

¹³ Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a General Regime of Conditionality for the Protection of the Union Budget, in OJ L, 2020, 4331.

¹⁴ Annegret Engel, 'Licence to Regulate: Article 114 TFEU as Choice of Legal Basis in the Digital Single Market', in *New Directions in Digitalisation: Perspectives from EU Competition Law and the Charter of Fundamental Rights*, ed. by Annegret Engel, Xavier Groussot, and Gunnar Thor Petursson (Springer Nature Switzerland, 2025), pp. 13–28, doi:10.1007/978-3-031-65381-0_2.

¹⁵ Elisabeth Bublitz, 'The European Single Market at 25', *Intereconomics*, 53.6 (2018), pp. 337–42, doi:10.1007/s10272-018-0779-7.

Single Market's constitutional framework, centred on the principle of market access.¹⁶ Its hallmark decisions *inter alia* include:

- *Van Gend & Loos* (1963): The Court established the doctrine of **direct effect** of EU law, arguing that the EEC Treaty created a new, supranational legal order whose subjects are not only member states but also citizens. Thus, individuals can claim rights directly derived from EU law and enforce those rights in national courts.¹⁷
- *Costa v ENEL* (1964): Based on the doctrine of direct effect, the CJEU ruled on the principle of **primacy of EU law** over national law by emphasising the Community's autonomous nature. Under the European Court of Justice's (ECJ) doctrine of primacy, national judges came to play a crucial role in the application and enforcement of EU law.¹⁸
- *Dassonville* (1974): The CJEU ruled that **measures having an effect equivalent to quantitative restrictions were prohibited**. The *Dassonville formula* adopts a broad interpretation of the free movement of goods on the Single Market, treating measures that restrict such movement as generally unlawful. *Dassonville* is often considered the most important judgment on the Single Market.¹⁹

- *Cassis de Dijon* (1979): The Court established the principle of **mutual recognition**: a product lawfully produced and marketed in one EU country must generally be permitted to be sold in any other EU Member State.²⁰

This case law affected the very identity of the Community. Building on these decisions, in its *Les Verts* judgment, the Court confirmed that the EEC was a community based on the rule of law.²¹ Together with the other foundational values in Article 2 TEU, the commitment to the rule of law is the basis of mutual trust between the member states. Mutual trust ensures the comparability of national acts, practices, or structures, and the possibility for judicial remedies before European institutions.²² In contrast, without the rule of law, effective judicial protection, and democratic law-making, reciprocal recognition of rules among the member states would erode, with detrimental effects on states, companies, citizens, and the entire Union alike.

Thus, originating in the integration of coal and steel production 75 years ago, a new, European legal order *sui generis* emerged – in Walter Hallstein's words, a “community of law”²³ – autonomous from the member states that created it.²⁴ European integration is integration through law.²⁵

¹⁶ Pieter van Cleynenbreugel and Xavier Miny, 'The Fundamental Economic Freedoms: Constitutionalizing the Internal Market', in *The Idea of Economic Constitution in Europe* (Brill Nijhoff, 2022), pp. 263–97 (p. 266), doi:10.1163/9789004519350_016.

¹⁷ Rafal Manko, '60 Years of the Van Gend & Loos Judgment', EPRS_BRI(2023)739326, PE 739.326 (2023) <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/739326/EPRS_BRI\(2023\)739326_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/739326/EPRS_BRI(2023)739326_EN.pdf)> [accessed 19 June 2026].

¹⁸ Rafal Manko, 'Costa v Enel Judgment: 60 Years on – The Making of the Doctrine of Primacy of EU Law', EPRS_BRI(2024)762361 (2024) <[https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2024\)762361](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2024)762361)> [accessed 9 July 2026].

¹⁹ Justine Muller, 'Procureur Du Roi v Dassonville: The Judicial Dossier Behind the Measure Equivalent to Trade Restriction Formula', *European Papers – A Journal on Law and Integration*, 2021 6 (2021), p. 579–588, text/html/PDF, doi:10.15166/2499-8249/486.

²⁰ Barbara Martinello, 'Free Movement of Goods, Fact Sheets on the European Union' (European Parliament, 2026) <https://www.europarl.europa.eu/ftu/pdf/en/FTU_2.1.2.pdf> [accessed 9 July 2026].

²¹ Judgment of the Court of 23 April 1986 – Case 294/83 – Parti Écologiste 'Les Verts' v European Parliament, 1986.

²² Cecilia Rizcallah, 'The Principle of Mutual Trust in European Union Law: An Essential Principle Facing a Crisis of Values', *Working Papers, Forum Transregionale Studien* (2022), vol. 9/2022 (p. 5), doi:10.25360/01-2022-00059.

²³ Walter Hallstein, *Europäische Reden* (Deutsche Verlags-Anstalt, 1979), p. 343.

²⁴ Manko, '60 Years of the Van Gend & Loos Judgment'.

²⁵ Mauro Cappelletti, Monica Seccombe, and Joseph H. H. Weiler, 'Integration Through Law: Europe and the American Federal Experience. A General Introduction', in *A Political, Legal and Economic Overview*, ed. by Mauro Cappelletti, Monica Seccombe, and Joseph H. Weiler (De Gruyter, 2013), pp. 3–68.

Looking back: The European economic constitution and the role of competition law

In the early years of the integration process, the term ‘economic constitution’ featured prominently in legal discussions on the nature of European integration and the organisation of the economy. The term refers to a ‘set of fundamental principles, tools and instruments that permit a state or polity to set up, structure and regulate its economy’.²⁶ Shaped by the German ordoliberal school, the European economic constitution rests on the premise that the economy must be structured in accordance with key principles enshrined in the Treaties, including the protection of individual economic freedoms and preservation of a system of undistorted competition.²⁷

In this sense, the economic constitution is not merely a legal analytical concept but also carries normative weight regarding the economic decisions it constitutionalises. In terms of content, Article 3 TEU states that the Union shall be based on a ‘highly competitive social market economy’. The CJEU argued that together with the four fundamental freedoms, market access, non-discrimination, and strong competences in competition policy amount to a ‘supranational economic constitution’.²⁸ In this regard, EU constitutional law places certain constraints on how the member states are permitted to organise their economic systems,

while still maintaining an open and pluralist character.²⁹

Therefore, we can identify important functional synergies between the economic constitution and the rule of law. The former seeks to rule out discretionary (economic) governance practices by public authorities, as well as state capture and the establishment of private monopolies.³⁰ The economic constitution thus helps prevent unchecked concentrations of political (and economic) power, a key objective of the rule of law. In other words, effectively limiting the exercise of arbitrary public power requires the rule of law to extend to areas in which public power intersects with economic activity. The rule of law is the *conditio sine qua non* of the efficacy and the legitimacy of the economic constitution.³¹

Within this legal order, competition policy plays a particularly important role. First and foremost, it is a key anti-domination instrument, aimed at preventing the concentration of extensive market power.³² As argued by Bernatt, there is also a ‘virtuous circle between the rule of law and competition law, which allows for the rule of law to guarantee its democratic function’.³³ In this sense, competition is a key structural feature of democracy by helping to ensure pluralism. Just as electoral law safeguards political competition, competition law protects fairness and ensures a level playing field in the market sphere.³⁴

²⁶ Pieter van Cleynenbreugel, ‘Member States in the EU Economic Constitution: Rule of Law Challenges and Opportunities’, *Legal Issues of Economic Integration*, 46.4 (2019), pp. 329–44 (p. 331) <<https://kluwerlawonline.com/api/Product/CitationPDFURL?file=Journals\LEIE\LEIE2019021.pdf>> [accessed 14 March 2025].

²⁷ Ernst-Joachim Westmcker, ‘European Economic Constitution’, *Max Planck Encyclopedia of European Private Law*, 2012 <https://max-eup2012.mpipriv.de/index.php/European_Economic_Constitution> [accessed 8 May 2025].

²⁸ van Cleynenbreugel, ‘Member States in the EU Economic Constitution’, p. 270.

²⁹ Miguel Poiras Maduro, ‘We the Court: The European Court of Justice and the European Economic Constitution’ (Bloomsbury Publishing Plc, 1998); Clemens Kaupa, ‘The Pluralist Character of the European Economic Constitution’, *Modern Studies in European Law*; v. 62; Volume 67 (Hart Publishing, 2016).

³⁰ van Cleynenbreugel, ‘Member States in the EU Economic Constitution’, p. 331.

³¹ Joerges, ‘Konflikt und Transformation’, p. 367.

³² Maciej Bernatt, ‘The Missing Dimension’, *Verfassungsblog*, 22 May 2026, doi:10.59704/bbb46ebf5cd4063e.

³³ Maciej Bernatt, ‘Populism and Antitrust: The Illiberal Influence of Populist Government on the Competition Law System, Global Competition Law and Economics Policy’ (Cambridge University Press, 2022), p. 149, doi:10.1017/9781108609548.

³⁴ Todd Davies and Spencer Cohen, ‘Democracy or Domination’, *Verfassungsblog*, 23 January 2025, doi:10.59704/8ba649a185b7f0ae.

Thus, it can be understood as a ‘quasi-constitutional foundation of liberal democracy’.³⁵

After a period of narrowly focused enforcement of competition law, the ‘competition–democracy nexus’³⁶ has recently returned to the fore in European debates. The close cooperation between the second Trump administration in the United States and tech entrepreneurs such as Elon Musk and Mark Zuckerberg illustrates the democratic importance of preventing the emergence of a ‘plutocracy’.³⁷ However, there are also plenty worrying examples of state capture closer to home, that challenge both the integrity of the European Single Market and the rule of law more broadly.

Looking to the present: The rule-of-law crisis and illiberal state capitalism

For a long time, political and legal discussions in the EU focused on the dangers posed by illiberal strategies aimed at capturing the judiciary and other independent state institutions, while the impact of illiberal governments’ economic strategies on the Single Market remained largely under the radar. Two countries that offer valuable insights into some of the typical economic policies pursued in this context are Poland and Hungary. Poland’s Law and Justice (PiS) and Hungary’s Fidesz governments implemented wide-ranging reforms to aggrandise executive power,

weaken accountability mechanisms, and undermine institutional checks and balances, especially judicial independence. Figure 1 (p. 12) illustrates the erosion of the rule of law in Hungary (red) and Poland (green) compared with the aggregated EU score (blue).

In the literature, both countries are treated as cases of prolonged illiberal governance. Illiberalism can be defined as a coherent political ideology that challenges modern liberalism by advocating majoritarian, sovereign, and culturally homogeneous solutions.³⁸ A comprehensive account of the conceptual debates on illiberalism is beyond the scope of this paper. In a nutshell, however, the literature discusses an interplay of political, economic, and cultural factors that have contributed to its emergence.³⁹ Of particular interest for this paper are the economic characteristics of illiberal rule.

The literature refers to Poland and Hungary as cases of ‘illiberal state capitalism’.⁴⁰ The term describes a system characterised by increased state interventionism in the economy and autocratic governance aimed at entrenching political power and weakening liberal democratic institutions.⁴¹ More specifically, four defining features of illiberal state capitalism can be identified.

First, illiberal governments do not fully renounce market liberalism. They combine market-friendly and often neoliberal elements with interventions benefitting selected groups and in-

³⁵ Kati Cseres, ‘EU Competition Law and Democracy in the Shadow of Rule of Law Backsliding’, SSRN Scholarly Paper no. 4032499, Amsterdam Law School Research Paper, No. 2022-05 <<https://papers.ssrn.com/abstract=4032499>> [accessed 12 March 2025].

³⁶ Elias Deutscher, ‘The Competition–Democracy Nexus Unpacked—Competition Law, Republican Liberty, and Democracy’, *Yearbook of European Law*, 41 (2022), pp. 197–251, doi:10.1093/yel/yeac003.

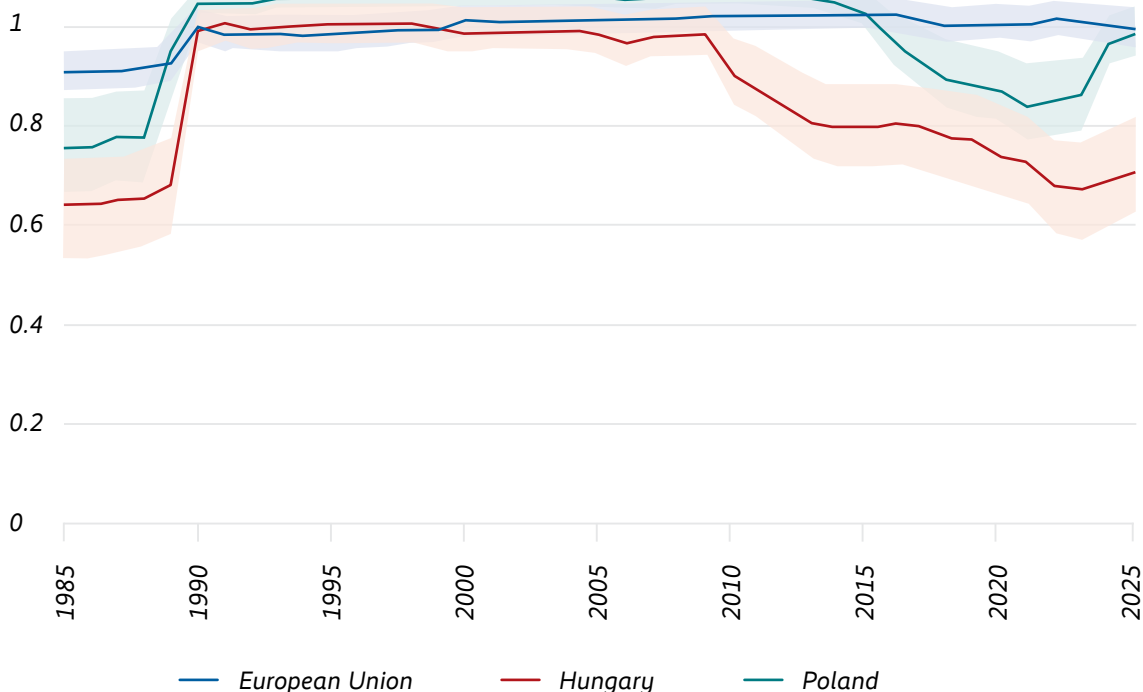
³⁷ Alberto Alemanno and Jacquelyn Veraldi, ‘Musk, Power, and the EU: Can EU Law Tackle the Challenges of Unchecked Plutocracy?’, published online 2025, doi:10.17176/20250527-121302-0.

³⁸ Marlene Laruelle, ‘Illiberalism: A Conceptual Introduction’, *East European Politics*, 38.2 (2022), pp. 303–27, doi:10.1080/21599165.2022.2037079.

³⁹ Philip Manow, ‘Unter Beobachtung: Die Bestimmung der liberalen Demokratie und ihrer Freunde’, (Suhrkamp, 2024); Philip Manow, ‘Spaltungslinien: Europas Parteiensysteme und die Dekonsolidierung des Nationalstaats’, (C.H.Beck, 2026); Karl Pichelmann and Marco Buti, ‘European Integration and Populism: Addressing Dahrendorf’s Quandary’, CEPR, 22 February 2017 <<https://cepr.org/voxeu/columns/european-integration-and-populism-addressing-dahrendorfs-quandary>> [accessed 19 June 2026].

⁴⁰ Judit Ricz, ‘The Anatomy of the Newly Emerging Illiberal Model of State Capitalism: A Developmental Dead End?’, *International Journal of Public Administration*, 44.14 (2021), pp. 1253–63, doi:10.1080/01900692.2021.1874984.

⁴¹ Ricz, ‘The Anatomy of the Newly Emerging Illiberal Model of State Capitalism’.



Note: Shadows around the lines indicate measurement confidence ratings.

Source: Varieties of Democracy, V-Dem Institute, Gothenburg.

terests.⁴² The use of market-friendly instruments points towards the legacy of the post-1989 socio-economic transition in Poland, Hungary, and Central and Eastern Europe (CEE) more broadly. Hungary and Poland adopted a neoliberal growth model which was based on export-led reindustrialisation (particularly in manufacturing), predominantly oriented towards German markets.⁴³ It also sought to at-

tract foreign direct investment (FDI) through tax benefits and other investment incentives.⁴⁴ One of the main sources of FDI were multinational corporations from Western Europe and the US, resulting in a dominance of foreign-owned enterprises and banks in both markets. Poland and Hungary therefore faced significant external dependencies and were consequently described as 'dependent market economies'.⁴⁵

⁴² István Benczes and Joanna Orzechowska-Waślawska, 'Governing the Economy Under Populist Rule: The Cases of Hungary and Poland', *Problems of Post-Communism*, 71.4 (2024), pp. 341–55, doi:10.1080/10758216.2023.2301085; Alen Toplišek, 'The Political Economy of Populist Rule in Post-Crisis Europe: Hungary and Poland', *New Political Economy*, 25.3 (2020), pp. 388–403, doi:10.1080/13563467.2019.1598960.

⁴³ Jakub Szabó, 'Political Economy of Illiberal Capitalism in Hungary and Poland', *Politická Ekonomie*, 70.5 (2022), pp. 617–37, doi:10.18267/j.polek.1364.

⁴⁴ Miklós Szanyi, 'The FDI-Led Development Model Revisited? The Case of Hungary', IWE Working Paper no. 220 (Institute for World Economics – Centre for Economic and Regional Studies, 2016) <<https://econpapers.repec.org/paper/iweworkpr/220.htm>> [accessed 17 April 2024]; Péter Mihályi and Iván Szelényi, 'The Place of Rent-Seeking and Corruption in Varieties of Capitalism Models', in *Market Liberalism and Economic Patriotism in the Capitalist World-System*, ed. by Tamás Gerőcs and Miklós Szanyi (Springer International Publishing, 2019), pp. 67–97, doi:10.1007/978-3-030-05186-0_5.

⁴⁵ Andreas Nölke and Arjan Vliegenthart, 'Enlarging the Varieties of Capitalism: The Emergence of Dependent Market Economies in East Central Europe', *World Politics*, 61.4 (2009), pp. 670–702, doi:10.1017/S0043887109990098.

After 2010, PiS and Fidesz continued to use neoliberal policies such as tax cuts to attract foreign capital. Moreover, business-friendly changes to labour laws weakened worker protections, while both unionisation and collective bargaining declined.⁴⁶ Between 2004 and 2018, Hungary recorded the biggest drop in unionisation among the Visegrád states – from 11.4 per cent to 8.3 per cent. Poland, meanwhile, saw unionisation fall from 19.1 per cent of employees in 2004 to 12.7 per cent in 2018.⁴⁷

Second, illiberal state capitalism is characterised by targeted and politicised market interventions. This predominantly refers to strategic market restructuring. Both Poland and Hungary attempted to renationalise strategic sectors, create national champions, and protect loyal business elites from international competition.⁴⁸

Third, in illiberal state capitalist systems, redistributive policies are characterised by clientelism and tend to favour pensioners, families, and the middle class.⁴⁹ However, important differences between Poland and Hungary are also apparent. In Poland, PiS expanded income redistribution by introducing measures such as the popular ‘Family 500+’ child benefit which boosted the party’s electoral support. In Hungary, in contrast, Fidesz rolled back welfare, shifting from universalistic policies to targeted programmes benefitting

middle-class families, flat tax reforms, and punitive workfare schemes for the poor.⁵⁰

The fourth characteristic of illiberal state capitalism is the most important, as it defines the scope conditions: the monopolisation of political and economic power. It corresponds to the strategic weakening political and economic oversight institutions, centralising decision-making, and engaging in rent-seeking, corruption, and cronyism.⁵¹ In this sense, violations of the rule of law are both the means and the end: they create opportunities for cronyism and rent extraction, while also contributing to the consolidation of illiberal power.

It is here that illiberal state capitalism fundamentally clashes with the EU’s economic constitution, based on the principles of non-discrimination, market access, and free competition governed by impartial institutions. As Poland and Hungary under illiberal rule were understood as hybrid political regimes⁵² – neither fully democratic nor fully autocratic – their economic systems display hybrid characteristics of statist and neoliberal practices.

The next section illustrates how illiberal state capitalist policies are put into practice and analyses how they challenge the Single Market order.

⁴⁶ Erdost Akin, ‘Hungary After Orbán: Why Tisza’s “New Hungary” May Leave Workers Behind’, *Social Europe*, 27 April 2026 <<https://www.socialeurope.eu/hungary-after-orban-why-tiszas-new-hungary-may-leave-workers-behind>> [accessed 24 August 2026].

⁴⁷ Rafał Riedel and Jakub Anusik, ‘Capitalist Backsliding? From Neoliberalism to “Illiberal Market Economy” in Poland and Hungary’, *PARTECIPAZIONE E CONFLITTO*, 8 October 2024, pp. 452–68 (p. 461), doi:10.1285/i20356609v17i2p452.

⁴⁸ Ricz, ‘The Anatomy of the Newly Emerging Illiberal Model of State Capitalism’.

⁴⁹ Miklós Szanyi, Hungary: ‘From Pioneering Transition to Pioneering State Capitalism’ (China-CEE Institute Nonprofit Ltd., 2020), pp. 65–83 <<https://china-cee.eu/wp-content/uploads/2020/12/UoW-Book-updated1223.pdf#page=69>> [accessed 17 April 2024].

⁵⁰ Jakub Tomášek, ‘The Welfare States of Hungary’s Fidesz and Poland’s Law and Justice: Explaining the Surprisingly Divergent Trajectories’, *Europe in Question*, no. 181 (2023) <<https://www.econstor.eu/bitstream/10419/303464/1/EIQ-DP181.pdf>> [accessed 9 July 2026]; Kristóf Szombati, ‘The Consolidation of Authoritarian Rule in Rural Hungary: Workfare and the Shift from Punitive Populist to Illiberal Paternalist Poverty Governance’, *Europe-Asia Studies*, 73.9 (2021), pp. 1703–25, doi:10.1080/09668136.2021.1990861.

⁵¹ Miklós Szanyi, ‘The Emergence of the Patronage State in Central Europe: The Case of FDI-Related Policies in Hungary Since 2010’, in *Market Liberalism and Economic Patriotism in the Capitalist World-System*, ed. by Tamás Gerócs and Miklós Szanyi (Springer International Publishing, 2019), pp. 99–126, doi:10.1007/978-3-030-05186-0_6; Dawid Piątek, ‘The Illiberal Model of State Capitalism in Poland’, *Ekonomia i Prawo. Economics and Law*, 22.1 (2023), pp. 157–75, art. 1, doi:10.12775/EIP.2023.009; Visnja Vukov, ‘European Integration and State Capture: Insights from the EU’s Earlier Eastern Enlargement’, *Journal of European Public Policy*, 32.12 (2025), pp. 3059–84, doi:10.1080/13501763.2025.2513652.

⁵² András Bozóki and Dániel Hegedűs, ‘An Externally Constrained Hybrid Regime: Hungary in the European Union’, *Democratization*, 25.7 (2018), pp. 1173–89, doi:10.1080/13510347.2018.1455664; Andrzej Schultz and Kinga Schultz, ‘Why Poland Should Join the European Public Prosecutor’, *Verfassungsblog*, 12 December 2023, doi:10.59704/4e3f361709cc0c71.

Lessons learned? Illiberal state capitalism in practice

From the Polish and Hungarian cases, we can identify three clusters of illiberal state capitalist practices. This clustering does not claim to be exhaustive, but aims at tracing the broader trends identified in the literature.

Centralisation, expedited law-making, and strategic (non-)enforcement

Illiberal governments strategically strengthen their executive control over economic governance, thereby reducing legal certainty, oversight, and regulatory independence.

Centralisation, both territorially and politically, shifts competences from regional and local bodies to ministries or the prime minister's office, thus limiting local self-government. Simultaneously, intra-party decision-making is concentrated through charismatic leadership, enhancing the executive's ability to allocate rewards and impose punishments for political purposes.⁵³

Expedited law-making allows governments to bypass standard legislative procedures to limit parliamentary scrutiny, public debate, and stakeholder consultations with companies and civil society organisations. A major problem in Hungary was the (ab)use of governmental decrees. For almost half a decade, the two-thirds Fidesz majori-

ty in parliament repeatedly renewed a state of emergency which granted the government wide-ranging powers to *rule by decree*.⁵⁴ It allowed the government to circumvent established law-making procedures and undermined oversight regulatory authorities, including the national competition authority. Fast-tracked and emergency procedures were a huge challenge to legal certainty, as the government could quickly amend contested provisions in the event of legal challenges.⁵⁵ For the companies affected, this significantly curtailed their ability to seek legal regress in court.

Another feature of illiberal economic policies is *strategic (non-)enforcement of competition law*, combined with the *weakening of market oversight bodies*, which limits the free-market space.⁵⁶ The most prominent example of this is Article 24/A of the Hungarian Competition Act, introduced in 2013, which barred the competition authority from reviewing mergers that the government had deemed to be in the public interest by decree. Infamously, this provision was used to exempt the concentration of almost 500 media outlets under the pro-government KESMA foundation from regulatory scrutiny.⁵⁷

In Poland, the erosion of the independence of the judiciary and oversight bodies was starkly illustrated by the General Court's landmark *Sped-Pro* ruling in 2022 (T-791/19). *Sped-Pro*, a rail freight company, lodged a complaint with the

⁵³ Riedel and Anusik, 'Capitalist Backsliding?'

⁵⁴ Attila Horváth, 'Government by Decree: A Never-Ending Story? Analysis of Hungary's Emergency Legislation (2020–2024)', *Review of Central and East European Law*, 50.3–4 (2026), pp. 439–73, doi:10.1163/15730352-bja10125.

⁵⁵ European Economic and Social Committee, 'EESC Opinion: The Economic Dimension of the Rule of Law'.

⁵⁶ Riedel and Anusik, 'Capitalist Backsliding?', p. 464.

⁵⁷ Bernatt, 'The Missing Dimension'.

Commission about alleged abuse of a dominant market position by PKP Cargo, a Polish state-controlled railway company. However, the Commission rejected the complaint and referred the matter to the Polish competition authority. The Court had to determine whether the Commission could rely on the Polish authority despite serious concerns about rule-of-law backsliding and institutional independence in Poland. It held that the Commission was required to assess those systemic concerns concretely before deferring enforcement to the national authority. *Sped-Pro* is a significant judgment because it links Article 2 TEU (the rule of law) and Article 19 TEU (effective judicial protection) with the practical functioning of competition enforcement inside the Single Market.⁵⁸ It thus confirms that the rule of law is a condition for effective market governance, rather than merely a constitutional ideal. If national competition authorities or courts are vulnerable to political influence, the enforcement of EU market rules may become uneven, meaning that firms may not enjoy equal conditions across member states. The ruling thus strengthened the role of independent authorities in EU Single Market governance.

Another important Court ruling from a rule-of-law perspective is the *Towercast* judgment (C-449/21).⁵⁹ In this case, the Court was confronted with the problem that some mergers may have market-distorting effects, while nevertheless remaining below the thresholds for legal intervention by competition authorities. The Court paved the way for competition authorities, under certain conditions, to conduct ex post merger assessments under the abuse-of-dominance rules, provided that the relevant legal conditions are met. In illiberal settings, *Towercast* matters because it can counter

weak institutional capacity, selective enforcement, and regulatory capture. However, from a business perspective, an increase in ex-post assessments by competition authorities could create legal uncertainties in mergers and acquisitions.⁶⁰ This highlights the need to strike a balance between effective merger control enforcement and legal certainty and predictability. The European Competition Network (ECN), which is a coordination platform for national competition authorities, is well placed to develop practical guidelines.⁶¹

Market restructuring and capture

Both in Hungary and Poland, illiberal regimes engaged in targeted *restructuring of markets* by defining strategically relevant sectors with a view to reducing external dependency and increasing national ownership.

In Poland, ‘repolonisation’ was particularly pronounced in the energy, transportation, and banking sectors, which had undergone extensive privatisation in the 1990s. During the global financial crisis, the share of foreign-owned assets in Polish banks exceeded 70 per cent; ten years later, the share of assets owned by domestic investors overtook that of foreign ones again. The ultimate aim of nationalisation was to create and/or strengthen state-owned enterprises (SOEs) or state-controlled enterprises in Poland.⁶²

Similarly, in Hungary, national ownership in banking, communication, construction, insurance, and transportation aimed at reducing dependency on foreign companies. By means of ad hoc regulatory interventionism, selective regula-

⁵⁸ Maciej Bernatt, ‘Economic Frontiers of the Rule of Law: *Sped-Pro V. Commission*’, SSRN Scholarly Paper no. 4501540 (Social Science Research Network, 1 January 2023) <<https://papers.ssrn.com/abstract=4501540>> [accessed 22 June 2026].

⁵⁹ Judgment of the Court (Second Chamber) of 16 March 2023 - Case C-449/21 - *Towercast*, 2023.

⁶⁰ Paulina Komorowska-Mrozik and Konrad Biskup, ‘One Year after the *Towercast* Judgment’, PwC, 2024 <<https://www.pwc.pl/en/articles/one-year-after-the-towercast-judgment.html>> [accessed 26 June 2026].

⁶¹ European Competition Network, ‘Joint Statement by the European Competition Network (“ECN”) on the Implementation of Merger Call-in Mechanisms’, 23 June 2026 <https://competition-policy.ec.europa.eu/document/download/211087d8-fbb2-4090-9937-b6f6a19d059f_en?filename=ECN_Joint_Statement_on_Merger_Call-in_Mechanisms_23062026.pdf> [accessed 26 June 2026].

⁶² Benczes and Orzechowska-Wacławska, ‘Governing the Economy Under Populist Rule’.

tory enforcement, price controls, and turnover-based taxes, the government sought to force European companies in those sectors to sell their shares on the Hungarian market to cronies close to the government, or generate income for the public budget.⁶³ These attempts led to several infringement procedures by the European Commission against Hungary. Two cases from recent years are particularly noteworthy:

→ **The retail tax case (INFR(2024)4022):**⁶⁴

Hungary's retail tax regime subjected foreign controlled retail companies operating in Hungary as integrated companies or linked undertakings to high and steeply progressive tax rates on their turnover. According to the Commission, this means the tax regime constitutes a restriction to the freedom of establishment in the Single Market. Despite country-specific recommendations (CSR) of the European Semester since 2023, and Hungary's commitment to phase out the tax, it still had not done so by the time of the 12 April 2026 elections. In late April 2026, the Commission referred Hungary to the Court for failing to abolish the tax. The new government did not provide a clear timeline for the possible abolition of the tax, citing budgetary constraints.⁶⁵

→ **'Additional Mining Fee' (C-144/24):**⁶⁶ Another important case of discrimination against foreign businesses concerned what was referred to as the 'additional mining fee'. In 2021, Hungary had introduced by decree reference prices for five construction materials that were set below prevailing market prices. Companies that sold materials above the reference price were obliged to pay an 'additio-

nal mining fee'. In January 2026, the Court ruled this to be a breach of the rules on the freedom of establishment and indirect discrimination against foreign-owned companies.

However, market restructuring does not always affect foreign-owned companies and may instead discriminate against some domestic companies while benefiting others. In these cases where there are no cross-border implications for the Single Market, EU competence to address illiberal policies is very limited, presenting a significant challenge for businesses operating under such conditions.

Corruption, cronyism, and the role of regulatory authorities

A third defining feature of illiberal state capitalism is the systemic dimension of cronyism and corruption. In both Poland and Hungary, access to public tenders, subsidies, licenses, and policy advantages became contingent on political loyalty, enabling patronal networks to consolidate party-state capture. For instance, both countries created various types of funds, agencies, and foundations that, while dependent on the state, were outside the formal structures of public administration, thereby making it easier to channel funds to individuals linked to the ruling political parties.⁶⁷

One difference between the two countries is that in Poland, business elites with ties to political parties dominated in the strategic SOE sector, whereas in Hungary, under the System of National Cooperation (NER), political loyalty was rewarded with economic opportuni-

⁶³ York Albrecht, 'German Companies in Hungary. To Adapt, Endure, or Engage?' Institut für Europäische Politik Study 2024) <https://iep-berlin.de/site/assets/files/3853/iep_study_germancompaniesinhungary-1.pdf> [accessed 10 July 2026].

⁶⁴ European Commission, 'Commission Decides to Refer Hungary to the Court of Justice of the European Union', European Commission, 29 April 2026 <https://ec.europa.eu/commission/presscorner/detail/en/ip_26_919> [accessed 25 June 2026].

⁶⁵ Global Banking & Finance Review, 'Hungary Plans Tax Reform After 2026 Budget, Says Prime Minister Magyar', Global Banking & Finance Review, 21 May 2026 <<https://www.globalbankingandfinance.com/hungary-pm-magyar-tax-reform-come-new-2026-budget/>> [accessed 25 June 2026].

⁶⁶ Judgement of the Court (Fifth Chamber) - Case C-144/24 - Additional Mining Fee, 2026.

⁶⁷ Piątek, 'The Illiberal Model of State Capitalism in Poland', p. 164.

ties.⁶⁸ The irregularities in public procurement were among the reasons why the Commission triggered the Conditionality Regulation to protect the EU's financial interests against fraud in Hungary.⁶⁹ The creation of new politically loyal business and managerial elites allowed the regime to intervene in the media markets, in particular. For instance, the Polish state-owned company Orlen acquired the media group Polska Press in 2021, while Hungarian oligarchs established a media conglomerate loyal to the government.⁷⁰ After the April 2022 election, it became clear that the Fidesz-created media system was not only politically vulnerable but also ultimately financially unsustainable. Since the new government stopped state funding for the media, "companies facing the greatest difficulties are those whose business models relied on state propaganda advertising and the media monopoly built under Orbán".⁷¹

Again, cronyism is closely associated with the weakness of independent institutions, including procurement review bodies. Data from the EU Justice Scoreboard 2022 shows that companies' trust in such authorities is lowest in Hungary, followed by Bulgaria and Greece.⁷² Thus, rebuilding market trust in political, judicial, and economic institutions will be a central challenge for Hungary's transition in the years ahead.

The characteristics of illiberal state capitalism presented here – executive aggrandisement and centralisation, market restructuring, cronyism, and corruption – illustrate that these regimes are not merely seeking to consolidate political power at any cost. They also impede economic development⁷³ and undermine the integrity of the Single Market.

⁶⁸ Juliette Garside, 'Orbán's Oligarchs on Edge as Hungary Poised to Launch Wealth Tax', World News, The Guardian, 2 June 2022 <<https://www.theguardian.com/world/2022/jun/02/orban-oligarchs-on-edge-hungary-wealth-tax-peter-magyar>> [accessed 10 July 2022].

⁶⁹ Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on Measures for the Protection of the Union Budget against Breaches of the Principles of the Rule of Law in Hungary, in OJ L, 2022, L312, 00000 <http://data.europa.eu/eli/dec_impl/2022/2506/oj> [accessed 26 June 2022].

⁷⁰ Anna Wójcik, 'Learning from Poland's Imperfect Reform', Verfassungsblog, 10 June 2022, doi:10.59704/9285551e3282e0a0; Jamie Wiseman, "'The Hungary Model': How Poland Copied Illiberal Tactics for Weakening Independent Media', Ipi.Media, 20 May 2020 <<https://ipi.media/the-hungary-model-how-poland-copied-illiberal-tactics-for-weakening-independent-media-2/>> [accessed 26 June 2022].

⁷¹ Hanna Solti, 'As State Billions Have Dried Up, Fidesz's Media Empire Is Shrinking', Propaganda Machine, Atlatzo, 17 June 2022 <<https://english.atlatzo.hu/2022/06/17/as-state-billions-have-dried-up-fidesz-media-empire-is-shrinking/>> [accessed 10 July 2022].

⁷² European Commission, 'The 2022 EU Justice Scoreboard', p. 54.

⁷³ Ricz, 'The Anatomy of the Newly Emerging Illiberal Model of State Capitalism'.

The way forward: Strengthening the rule of law and the Single Market in the next MFF

For more than a decade, the EU has grappled with the challenge of illiberalism. During the so-called the “toolbox decade”⁷⁴ it created a wide range of instruments, procedures, and a common understanding of the rule of law. The toolbox now contains preventive mechanisms – the rule-of-law dialogue in the Council, the Justice Scoreboard, and the ARoLR – to monitor the rule of law in EU member states. It has also established new corrective instruments to address violations, most notably rule-of-law conditionality, which complement existing sanctioning tools such as infringement procedures and the Article 7 TEU procedure.⁷⁵ Given the political deadlock surrounding the enforcement of Article 7 TEU, budgetary conditionality is widely regarded as the EU’s most effective instrument for addressing illiberal challenges.⁷⁶

Thus, the design of the next MFF presents a crucial opportunity to safeguard the rule of law and the Single Market. In particular, it must strengthen the protection of the rule of law through conditionality. Moreover, it must establish a robust anti-fraud framework to prevent the systematic embezzlement of EU funds that has fuelled the Hungarian illiberal state capitalism, in particular. In this regard, the Commission’s pro-

posal for the MFF 2028–2034 entails wide-ranging changes to allocation and use of EU funds, as well as to the rule-of-law conditionality attached to them. Here, three key changes are of particular interest.

First, the Commission proposes to safeguard the EU budget through an ex ante horizontal condition. This would mean that compliance with the rule of law, gender equality, and the Charter of Fundamental Rights is ensured more proactively through the National and Regional Partnership Plans (NRPPs).⁷⁷ The NRPPs are the primary tool for setting out member states’ core policy objectives and linking the disbursement of money to reform priorities in the European Semester and the ARoLR. They include a streamlined architecture for cohesion and agricultural funds which are merged into a single fund: the ‘European Fund for Economic, Social and Territorial Cohesion, Agriculture and Rural, Fisheries and Maritime, Prosperity and Security’.⁷⁸

Second, the Commission proposes establishing a Single Market and Customs Programme (SMCP) in the MFF, merging the existing Single Market programme, Customs programme, and programmes aimed at protecting the Uni-

⁷⁴ Laurent Pech, ‘The Use, Misuse and Non-Use of the EU’s Rule of Law Toolbox’, DI Working Paper (Budapest), no. 2025/34 (2025) <https://democracyinstitute.c.eu.edu/sites/default/files/article/attachment/2025-11/Laurent%20Pech_The%20use%2C%20misuse%20and%20non-use%20of%20the%20EU%E2%80%99s%20rule%20of%20law%20toolbox_CEU%20DI%20WP%2034%202025-1.pdf> [accessed 31 March 2026].

⁷⁵ Maria Skóra, ‘How to Improve the EU’s Rule of Law Toolbox’, FES Policy Paper, 15 June 2023 <https://iep-berlin.de/site/assets/files/2509/230602_rule_of_law_toolbox_online_1.pdf> [accessed 11 March 2025].

⁷⁶ Thu Nguyen, ‘Raising the Cost of Rule of Law Breaches: Rule of Law Conditionality in the Next EU Budget’, Jacques Delors Centre, 22 April 2026 <<https://www.delorscentre.eu/en/publications/detail/publication/raising-the-cost-of-rule-of-law-breaches>> [accessed 28 June 2026].

⁷⁷ Sophie Pornschlegel, Support for Democracy in the next MFF - The Role of Political Foundations, Policy Brief (Friedrich-Ebert-Stiftung, 2025) <<https://brussels.fes.de/news/policy-brief-support-for-democracy-in-the-next-mff-the-role-of-political-foundations.html>> [accessed 15 July 2026].

⁷⁸ European Commission, ‘A Dynamic EU Budget for the Priorities of the Future - The Multiannual Financial Framework 2028-2034, COM(2025) 570 final’.

on against tax fraud and tax evasion. The Commission announced plans to break down barriers within the Single Market and foster collaboration among member states through stronger enforcement of EU law and competition policy.⁷⁹ Importantly, the SMCP would also help protect the EU's financial interests by improving the anti-fraud architecture through cross-border exchange of data and by promoting cooperation between national authorities. The total planned budget for the SMCP is around €6.3 billion.⁸⁰

Third, the AgoraEU funding stream includes the Citizens, Equality, Rights, and Values programme (CERV+), which seeks to promote the rule of law, civil society, and EU values. The Commission has earmarked €3.6 billion for this programme. In addition, the Justice Programme provides a further €798 million to support the digitisation of justice systems, judicial cooperation, staff training, and access to justice.⁸¹

Overall, the MFF proposal would strengthen the link between financial incentives and rule-of-law reforms. It also responds to calls from the business community for more assertive enforcement of EU law concerning the Single Market. A decline in infringement procedures over the past 15 years indicates that the Commission had become more reluctant in enforcing EU law vis-à-vis the member states.⁸² In that context, the communication on the “Simpler, Clearer and Better Enforced EU Rulebook” from April 2026 marks a shift: it makes stronger enforcement of Single Market rules a strategic focus of the Commission's simplification and competitiveness agenda.⁸³

However, certain shortcomings remain in the link between the rule of law and the Single Market, which the Commission should address.

Recommendation 1: Addressing illiberalism through enforcement and conditionality

While the EU developed several tools to address rule-of-law backsliding over the past decade, some researchers criticise that, instead of creating new instruments, the EU should have used existing tools at its disposal - including infringement proceedings and the Article 7 procedure - more assertively to address backsliding. In this sense, the Single Market and the rule of law both suffer from the same problem: weak enforcement of existing rules due to a lack of administrative capacities, insufficient resources, and, above all, political will. In light of this, the European Commission must make enforcement a priority in the future.

→ **Enforcement of EU law.** The Commission must use existing enforcement tools more assertively. For one, this means initiating infringement proceedings over violations of the Single Market and the rule of law. Here, the Commission should continue to leverage the synergies between the rule of law and the Single Market. This requires developing a more holistic understanding of the nexus between them and reducing silo thinking between relevant Directorate-Generals. In the past, the Commission has often strategically used Single Market law to tackle rule-of-law issues in the member states. For instance, in its *Commission v Hungary (Values of the European*

⁷⁹ European Commission, 'A Dynamic EU Budget for the Priorities of the Future - The Multiannual Financial Framework 2028-2034'.

⁸⁰ David Ashton and Pieter Baert, Single Market and Customs Programme, European Parliamentary Research Service Briefing PE 779.262 (2025) <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/779262/EPRS_BRI\(2025\)779262_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/779262/EPRS_BRI(2025)779262_EN.pdf)> [accessed 15 July 2026].

⁸¹ Rafal Manko, Justice Programme 2028-2034, PE 779.257 (European Parliamentary Research Service Briefing, 2025) <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/779257/EPRS_BRI\(2025\)779257_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/779257/EPRS_BRI(2025)779257_EN.pdf)> [accessed 15 July 2026].

⁸² European Round Table for Industry, 'Addressing Single Market Obstacles Response to Call for Evidence by European Commission on "Single Market Strategy for 2025"', 31 January 2025 <<https://ert.eu/wp-content/uploads/2025/02/ERT-Response-to-Call-for-Evidence-on-Single-Market-Strategy-Final.pdf>> [accessed 29 June 2026].

⁸³ European Commission, A Simpler, Clearer and Better Enforced EU Rulebook, COM(2026) 380 final (2026) <https://commission.europa.eu/document/download/75b997e8-eb00-4954-9705-6b61bdb05b87_en?filename=com-2026-380_en.pdf> [accessed 24 August 2026].

Union)⁸⁴ judgment of 21 April 2026, the Court held that Hungary's anti-LGBTIQ+ law not only infringed Article 2 TEU but also violated EU law governing the provision of services in the Single Market.⁸⁵

In this context, Article 114 TFEU is of particular relevance. In 2022, the Commission used its harmonisation competences as a basis for the Digital Services Act (DSA) which aims to combat disinformation as a threat to European democracies. On the one hand, the use of Article 114 TFEU as a basis for the DSA was criticised as disproportionate and excessively broad in scope.⁸⁶ On the other hand, using EU market competence to protect democratically relevant non-market values – such as media pluralism – can be seen as a legitimate means of safeguarding EU values where national illiberalism undermines them.⁸⁷ From this perspective, where rule-of-law regression threatens the functioning and integrity of the Single Market, Article 114 TFEU can serve as an adequate legal basis for addressing such illiberal distortions.

→ **Stronger enforcement of EU competition law:** This paper illustrates how illiberal state capitalism strategically erodes competition. Here, the Commission has strong competences to safeguard the integrity of markets. The erosion of market access and fairness hurts businesses and consumers alike. In vulnerable sectors, particularly the media, it can have serious consequences for democracy in the member states. Thus, effective merger control and ensuring the in-

dependence of competition authorities are vital.⁸⁸ Enforcement of competition rules is a shared competence between DG COMP and national competition authorities. The capacity of national competition authorities should be strengthened, and coordination among them improved, particularly through existing mechanisms such as the European Competition Network.

→ **Safeguarding the decision-making rules underpinning the rule-of-law conditionality against political deadlock.** Rule-of-law conditionality has been the most effective tool in addressing the illiberal challenge. In the MFF proposal, two horizontal conditionalities link EU funding to respect of the EU Charter of Fundamental Rights and principles of the rule of law. If a Member State fails to respect the agreed conditions, EU payments can be suspended either by a unilateral decision of the Commission (under the 'Charter' condition) or by a Council decision (under the Rule of Law condition).⁸⁹ According to the proposal, the final decision to block funds would be taken by the Council by qualified majority voting (QMV), potentially opening the way for a blockade, particularly if larger member states voted against it. This would create problems for the conditionality mechanisms similar to those posed by the existing mechanisms under Article 7 TEU. Reversed qualified majority voting (RQMV) would mitigate that risk by automatically adopting a Commission proposal to suspend funding unless a qualified majority in the Council votes against it.⁹⁰

⁸⁴ Judgment of the Court (Full Court) of 21 April 2026, C-769/22 - Valeurs de l'Union, 2026.

⁸⁵ Benedetta Lobina and Esther Martinez, 'EU Law Analysis: EU Values, LGBTIQ+ Rights and the Future of Democracy in Hungary and beyond: On the Wider Significance of Case C-769/22', EU Law Analysis, 30 April 2026 <<https://eulawanalysis.blogspot.com/2026/04/eu-values-lgbtqi-rights-and-future-of.html>> [accessed 10 July 2026].

⁸⁶ Alfonso Lamadrid De Pablo and Nieves Bayón Fernández, 'Why the Proposed DMA Might Be Illegal under Article 114 TFEU, and How to Fix It', Journal of European Competition Law & Practice, 12.7 (2021), pp. 576–89, doi:10.1093/jeclap/lpab059.

⁸⁷ Bruno de Witte, 'Internal Market Legislation as European Public Policy', Revista de Derecho Comunitario Europeo, no. 80 (April 2025), pp. 11–17, doi:10.18042/cepc/rdce.80.01.

⁸⁸ Kati Cseres and Ana-Caterina Ciusca, 'The EU's Chance to Curb Media Capture', Verfassungsblog, 11 December 2025, doi:10.59704/262e3f228f413597.

⁸⁹ Eulalia Rubio and Cinzia Alcidi, 'Navigating the European Commission's MFF Proposal for 2028-2034: Mapping Risks and Opportunities for Cohesion Policy and Regional Development', CASP_STU(2026)776029 (European Parliament, 2026).

⁹⁰ Nguyen, 'Raising the Cost of Rule of Law Breaches'.

→ **Applying conditionality.** Integrating funding instruments in the aforementioned fund and linking disbursement to the NRPPs offers an important opportunity to tie disbursement of EU funds to rule-of-law reforms. ‘Smart conditionality’ – the allocation of suspended funds to final beneficiaries – and the possibility of suspending payments at any time are also steps in the right direction. What is most important is the consistent and transparent application of rule-of-law conditionality. This must not fall victim to political bargaining between Brussels and the Member State capitals as it has done in the past. In 2023, the Commission unblocked €10.2 billion in cohesion funds in a move that was widely regarded as a political deal intended to secure Viktor Orbán’s acquiescence in the opening of EU accession negotiations with Ukraine and Moldova.⁹¹ In a legally non-binding opinion in February 2026, Advocate General Tamara Čapeta argued that the Commission had lifted the suspension of funds before Hungarian reforms had entered into force and failed to transparently justify its actions to the Member State concerned and all EU citizens.⁹² Similar arguments were put forward by the European Parliament, which initiated the legal proceedings against the Commission.⁹³ In the context of Hungary’s transition since April 2026, it is important that previously frozen EU funds be disbursed only in response to implemented reforms, rather than merely to political commitments or bargaining. For the next MFF, the NRPP Regulation should include an explicit clause making the release of funds conditional upon the complete fulfilment of the criteria pre-established by the Commission itself.⁹⁴

→ **Increase transparency and accountability of the European Commission itself.** In-depth analysis of the implementation of the Conditionality Regulation shows that, in addition to the transparency issues highlighted by Advocate General Čapeta, questions remain about how to ensure its strict application. This pertains in particular to the need for a clearer definition of the conditions under which financial sanctions are imposed and subsequently lifted.⁹⁵ To enhance democratic legitimacy, transparency, and accountability, **the role of the European Parliament in the conditionality mechanism must be strengthened**, notably by ensuring its access to the procedural information necessary to hold the Commission accountable. The proposed NRPP Regulation, for instance, only prescribes that the Commission shall inform Parliament of any decision concerning the non-fulfilment of the horizontal rule-of-law condition. It contains no equivalent requirement in relation to the for the Charter of Fundamental Rights condition. The proposed NRPP Regulation should therefore be amended to extend the Parliament’s scrutiny to all conditionalities.⁹⁶

Recommendation 2: Increasing the transparency and accountability of the ARoLR

The MFF proposal would elevate the political importance – and sensitivity – of the ARoLR, as it would define the reforms that member states are required to implement in order to receive funds. Civil society organisations have long called for the country-specific recommendations (CSRs) to

⁹¹ Joanna Demopoulou, ‘Three Readings of One Decision’, *Verfassungsblog*, 29 May 2026, doi:10.59704/5a9c28ccc431ec4f.

⁹² Tamara Čapeta, Opinion of Advocate General Čapeta Delivered on 12 February 2026 Case C-255/24; Demopoulou, ‘Three Readings of One Decision’.

⁹³ European Parliament, ‘Discharge 2024: EU General Budget - Commission’, 29 April 2026, 2025/2145(DEC)), 2026 <https://www.europarl.europa.eu/doceo/document/TA-10-2026-0125_EN.html> [accessed 28 June 2026].

⁹⁴ Jacquelyn D. Veraldi, ‘Limiting Commission Discretion in EU Funding Conditionality’, *Verfassungsblog*, published online 18 March 2026, doi:10.59704/304a672059e33ee1.

⁹⁵ Marie-Astrid Huemer, Isabelle Ioannides, and Mafalda Monda, Rule of Law Conditionality Regulation: European Implementation Assessment, European Parliamentary Research Service PE 774.64 (2025), doi:10.2861/0161872.

⁹⁶ Veraldi, ‘Limiting Commission Discretion in EU Funding Conditionality’.

be legally binding.⁹⁷ However, in view of the current MFF proposal, it is crucial that linking the recommendations to EU funds does not come at the expense of the substantive quality of the Rule of Law Report as a result of political bargaining between the member states and the Commission. Furthermore, the European Parliament deplored lacking reform implementation by the member states and called on the Commission to translate its recommendations into concrete milestones to be systematically acted upon by the member states.⁹⁸

Hence, given the budgetary significance of the CSRs in the next MFF, the Commission's assessment in the ARoLR and the CSRs, in particular, must be more transparent.

The Commission should, in particular:

- **Maintain and enhance the substantive quality of the ARoLR** as an impartial and objective reporting tool. The report and country-specific recommendations must not be subject to political bargaining between the member states and the Commission.
- **Communicate and justify the urgency of the proposed reforms** by creating a clear and transparent ranking system for CSRs in the ARoLR.
- Create a **publicly accessible reform-tracking tool** based on the report, aligned with and complementing the rule-of-law-related recommendations issued under the European Semester. The tool should cluster the recommendations issued under the two instruments which so far remain spread across different publications on the Commission's website. The reform tracker would enable policymakers, civil society organisations (CSOs), researchers, journalists, and the wider public to

better monitor the reforms proposed by the Commission and track member states' progress in implementing them.

- **Provide greater transparency and public access to information and documentation about** the Commission's assessment approach and methodology, as already highlighted in the European Court of Auditors' analysis of the approach.⁹⁹

Recommendation 3: Fleshing out the Single Market dimension in the ARoLR

The introduction of the Single Market dimension in the ARoLR in 2025 has been widely praised by governments, European institutions, the business community, and civil society. It sheds light on a dimension of Europe's rule-of-law crisis that has long been neglected. The Commission should amend and improve the dimension by:

- **Improving the analytical depth of the ARoLR.** Not all companies are equally vulnerable to illiberal or discriminatory measures. Large multinational companies generally have more legal and financial resources to cope with such legislation, while SMEs are particularly vulnerable. Thus, the Commission should analyse in greater depth which group of companies are most affected by rule-of-law issues. Additionally, the Single Market dimension can by its very nature only address problems that affect by cross-border operations. Preferential treatment, cronyism, and discrimination are much more difficult to tackle when they occur in domestic markets and affect domestic players. The ARoLR should also identify the most vulnerable sectors. One way of doing this is to link the ARoLR with the SOLVIT system. Across the EU in 2025, 3,612

⁹⁷ ECPMF, 'Civil Society Recommendations for an Ambitious Rule of Law Report', European Centre for Press and Media Freedom, 21 March 2022 <<https://www.ecpmf.eu/civil-society-recommendations-for-an-ambitious-rule-of-law-report/>> [accessed 28 June 2026].

⁹⁸ European Parliament, Discharge 2024: EU General Budget - Commission, P10_TA(2026)0125.

⁹⁹ European Court of Auditors, 'Review - The Commission's Rule of Law Reporting', 2024 <https://www.eca.europa.eu/ECAPublications/RV-2024-02/RV-2024-02_EN.pdf> [accessed 1 July 2026].

cases fell within SOLVIT's remit, of which 145 (4 per cent) were complaints submitted by businesses.¹⁰⁰ As part of the 2025 EU Single Market Strategy, a new SOLVIT case repository was designed to identify systemic obstacles to the effective operation of the Single Market. According to the Commission's own assessment, 'SOLVIT is transitioning from a purely problem-solving mechanism to a policy-shaping instrument.'¹⁰¹ Hence, SOLVIT data should be systematically analysed and consulted to improve the analytical depth of the Single Market dimension in the ARoLR.

→ **Increasing coordination among relevant DGs.** Illiberal rule extends beyond the administrative remit of DG JUST. It is a cross-cutting challenge that requires better horizontal coordination among DGs. Strengthening existing coordination methods among country teams involving DG JUST and DG CONNECT, as well as DG COMP, DG GROW, and DG BUDG, could help to identify risks and patterns requiring coordinated action. Additionally, through its own reporting on EU accession candidates, DG ENEST has proven experience in assessing independent authorities and the broader nexus between markets and the rule of law. Protecting the rule of law must be a horizontal priority for all Commission services. This includes the monitoring of market concentration and the role of SOEs. Here, clientelism and cronyism can evade traditional corruption indicators, while nevertheless having detrimental effects on the rule of law and the Single Market. Improving coordination and preventing silo thinking will be crucial for strengthening the Commission's enforcement capacity to protect both.

→ **Improving the scope and capacity of stakeholders** The strength of the ARoLR rests on

inputs from stakeholders, including civil society organisations and businesses. For many CSOs, contributing to the report has become a familiar task. However, for companies, and SMEs in particular, participating in stakeholder consultations is new territory and represents an additional burden on top of their day-to-day entrepreneurial activities. Thus, the Commission should encourage companies to contribute to the report and expand the range of stakeholders, businesses, and interest groups consulted. For instance, targeted stakeholder consultations for the 2025 iteration were held between 29 November 2024 and 24 January 2025, while a specific consultation on the Single Market dimension was launched only on 20 December 2025. According to the Commission, 'more than 20 business-related stakeholders from various member states' responded to the Single Market-specific questionnaire.¹⁰² This low number is not surprising, given that the consultation was carried out at the end of the business year and in the middle of the holiday season. The Commission should adapt its methodology to allow companies more time to contribute meaningfully to the report and make greater efforts to gather input from all EU member states and candidate countries.

→ **Securing adequate funding for CSOs.** The Commission's assessments of the rule of law rely on the expertise and watchdog role of civil society. Independent CSOs deliver indispensable analysis of legal drafts, legislative procedures, and implemented policies. The analytical depth of the ARoLR hinges on CSOs capacity to scrutinise national governments. However, by the Commission's own assessment, their proposal for civil society support in the next MFF represents the minimum funding required. In its current form, the

¹⁰⁰ European Commission, 'SOLVIT | Single Market and Competitiveness Scoreboard', 2026 <https://single-market-scoreboard.ec.europa.eu/enforcement-tools/solvit_en> [accessed 16 July 2026].

¹⁰¹ European Commission, 'SOLVIT | Single Market and Competitiveness Scoreboard'.

¹⁰² European Commission, 'Summary of the Targeted Stakeholder Consultation for the 2025 Rule of Law Report', 8 July 2025 <https://commission.europa.eu/document/download/522cf36e-c82d-413a-8d43-fda1f37e3ae2_en?filename=Summary%20of%20the%20contributions.pdf> [accessed 29 June 2026].

proposed AgoraEU instrument will not be sufficient for a sector that – despite its fundamental role for democracy and the rule of law in Europe – faces significant financial and political challenges. Thus, over the next ten years, the EU must transition to a funding model that actively invests in democratic renewal, a sound rule of law, and healthy civic space. In particular, operational funding for CSOs should enable them to maintain their long-term capacity and independence.¹⁰³

¹⁰³ Liza Saris, 'Funding Democracy in the next MFF' (European Policy Centre, 2026) <<https://d1xp398qalq39s.cloudfront.net/uploads/ckeditor/2026/07/01/connecting-europe-dp-v3.pdf>> [accessed 10 July 2026].

Conclusion

This paper demonstrated the considerable political and economic costs illiberalism bears for the EU. It examined how illiberal policies undermine the EU's foundational values and its economic constitution, which rests on market access, fairness, and non-discrimination. For companies, illiberalism is a strategic investment risk in the Single Market. For policymakers, illiberalism presents a strategic political and economic challenge to European cooperation, as it runs counter to the political commitment required to deepen the Single Market. From this perspective, the rule of law and the Single Market are inherently linked: by ensuring mutual trust as the foundation for economic cooperation, the former is the *conditio sine qua non* of the latter. In turn, EU competences in the Single Market sphere can be strategically leveraged to improve rule-of-law compliance.

In recent years, the Commission has taken a marked 'economic turn' in its rule-of-law policy, emphasising its importance for European competitiveness and prosperity. A gradual process of 'economisation'¹⁰⁴ of the rule of law over the past decade becomes observable. Economisation refers to a transactional approach where the Commission uses budgetary incentives – such as the European Semester, Conditionality Regulation, and Recovery and Resilience Facility – to incentivise reforms aimed at strengthening rule-of-law compliance.¹⁰⁵ The emphasis on economic prerogatives also extends to the Commission's communication on and enforcement of the rule

of law, which now centres on its importance for economic growth. The inclusion of the Single Market dimension in the ARoLR since 2025 marks another step in this process. It reflects a deliberate policy choice by the European Commission to link its rule-of-law policy with the broader competitiveness agenda.

On the one hand, a stronger link with economic governance can foster increased corporate sensitivity to the rule of law and serve as an angle for more effective enforcement by public actors. Given that rule-of-law regression and market distortions are two sides of the same coin, there is scope for stronger legal enforcement drawing on EU competences in competition and Single Market law. Additionally, a closer link of the rule of law and the Single Market offers potential for political coalition-building among pro-rule of law forces to build coalitions across party lines. Such coalitions should extend beyond the Council and the European Parliament by actively encouraging the business community and CSOs to support rule-of-law enforcement. Especially considering the polarised political climate in the European Parliament, the rule of law and the Single Market can function as important points of convergence between pro-European groups.

On the other hand, the broader trend of economisation of the rule of law also has its shortcomings. First, it risks narrowing the rule of law's normative core to an enabling condi-

¹⁰⁴ Louise Fromont, 'What EU Conditionality Says about the Rule of Law', *European Journal of Risk Regulation*, 16.3 (2025), pp. 839–52, doi:10.1017/err.2024.40.

¹⁰⁵ Pauline Thinus, 'The EU's Transactional Approach to Rule of Law Spending Conditionality in the 2020s', *JCMS: Journal of Common Market Studies*, 63.2 (2025), pp. 548–63, doi:10.1111/jcms.13620.

tion for competitiveness.¹⁰⁶ The rule of law is, after all, a constitutional value of the Union. It must not be compromised or instrumentalised purely for economic (or political!) considerations. Furthermore, stricter rule-of-law conditionality considerably expands the powers of the Commission, hence altering the inter-institutional architecture of EU governance.¹⁰⁷ Furthermore, there are serious concerns regarding the situation of the rule of law at the EU level itself. There is a great need for stronger transparency and accountability in the Commission's enforcement of the rule of law.¹⁰⁸ At the same time, the Commission's simplification and deregulation agenda (including Omnibus packages) comes at the expense of expedited law-making, procedural shortcuts, and increased legal uncertainty at the European level itself.¹⁰⁹ Additionally, there are concerns that the enforcement of EU digital regulations – including the Digital Markets Act (DMA), the DSA, and the Artificial Intelligence Act – are being compromised by political considerations in response to escalating pressure from the Trump administration.¹¹⁰ Thus, in the MFF 2028–2034, it will be crucial to ensure sufficient accountability mechanisms, clear procedural rules, and transparent monitoring of the Commission's enforcement of the rule of law.

Against this complex backdrop, political changes in Poland and Hungary, more recently, provide the EU with a window of opportunity to reflect on the politico-economic weaknesses that illiberal governments have exploited

in the past. Firmly linking budgetary conditionality with compliance with the rule of law and the Single Market acquis offers the Commission strong tools to safeguard the Treaties. It will be crucial for the Commission to deploy these instruments in a transparent and accountable manner. Additionally, as the Union prepares for enlargement, ensuring compliance with the rule of law and Single Market rules becomes even more relevant.

However, the current window of opportunity is only brief: the French presidential election in 2027 could have profound implications for the EU's rule-of-law policy and the functioning of the Single Market, overall. Moreover, there are serious doubts about the effectiveness of the conditionality regime when applied to net contributors to the EU budget, let alone the political feasibility of imposing financial sanctions on France in case of potential rule-of-law violations.

Therefore, the best way forward for the EU is to prevent illiberalism from taking root in the first place, while building resilience against illiberalism, at the same time. The nexus between the rule of law and the Single Market provides a valuable framework to address the potential political and economic fallout of illiberalism. On a positive note, Europe can only benefit from strengthening the rule of law and the Single Market. Together, a strong rule of law and a strong Single Market offer guidance and direction for political action.

¹⁰⁶ Kati Cseres, 'Rethinking the Rule of Law in EU Economic Governance: Insights from the 2025 Report', Kluwer Competition Law Blog, 2025 <<https://legalblogs.wolterskluwer.com/competition-blog/rethinking-the-rule-of-law-in-eu-economic-governance-insights-from-the-2025-report/>> [accessed 16 July 2026].

¹⁰⁷ Marco Fisicaro, 'Protection of the Rule of Law and "Competence Creep" via the Budget: The Court of Justice on the Legality of the Conditionality Regulation: ECJ Judgments of 16 February 2022, Cases C-156/21, Hungary v Parliament and Council and C-157/21, Poland v Parliament and Council', *European Constitutional Law Review*, 18.2 (2022), pp. 334–56, doi:10.1017/S1574019622000128; Ramona Coman and Leonardo Puleo, 'EU Regulatory Polity 3.0 for Compliance with the Rule of Law: When Depoliticising Goals Lead to Uneven Politicisation', *European Journal of Risk Regulation*, 16.3 (2025), pp. 910–26, doi:10.1017/err.2024.75.

¹⁰⁸ European Court of Auditors, 'Special Report 03/2024: The Rule of Law in the EU' (2024) <<http://www.eca.europa.eu/en/publications/sr-2024-03>> [accessed 10 July 2026].

¹⁰⁹ Alberto Alemanno, 'The Omnibus Road to Constitutional Drift', *Verfassungsblog*, 12 November 2025, doi:10.59704/13fb9490642332ff.

¹¹⁰ Barbara Grabowska-Moroz and Joelle Grogan, 'Rule of Law beyond the EU Member States 2025' (Central European University Democracy Institute, Rule of Law Clinic, 2025) <https://www.stiftung-mercator.de/content/uploads/2025/11/CEU-Democracy-Institute-Report-2025-v3_fin.pdf> [accessed 10 July 2026].

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Illiberalism's Challenge to the European Single Market – Lessons learned for the next Multiannual Financial Framework

The Single Market is a political and economic success story of European integration, and central to the European Union's competitiveness and prosperity. Its effective functioning depends on the rule of law as the *conditio sine qua non*: the rule of law is the foundation for mutual trust and economic cooperation among the Member States.

However, rule-of-law backsliding in some member states threatens not only the EU's foundational values but also its economic potential. The paper examines how illiberalism undermines the rule of law and breaches Single Market rules, and sets out recommendations for more effectively safeguarding both in the Multiannual Financial Framework 2028–2034.

Further information on the topic can be found here:

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