

Challenges to the Rule of Law in Italy: Also a Danger to the EU?

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During the Eurovision Debate 2024 among the Spitzenkandidaten for the Presidency of the Commission, Ursula von der Leyen declared herself ready to cooperate with all politicians who guarantee three conditions: “to be pro-European, pro-Ukraine-and therefore anti-Putin-and pro-rule-of-law”. At the end of July 2024, the European Commission's report on the rule of law in the 27 Member States was published. The publication, expected at the beginning of July, had been postponed at the behest of Commission President von der Leyen.

- ▶ According to various reports published in early 2024 which consider the time span of the Meloni government in power, Italy currently shows some problems with respect to certain constituent elements of the rule of law: in particular, with regard to media freedom, judicial independence, and protection of human rights.
- ▶ The European Union Rule of Law Report 2024 on Italy also displays some problems on this issue and provides some recommendations: to improve the efficiency of the judicial system, to assess the consequences of the proposed direct election of the Head of Government on the separation of powers and the competences of Parliament and the President of the Republic, to consider the risks of the repeal of the offence of abuse of office on the responsibilities of public office holders and the spread of corruption, as well as to protect freedom of information from risks of political interference.
- ▶ For the future, also in order to protect their own credibility, the European institutions should look with the same attention and sensitivity at any risk of violation of the rule of law in all 27 Member States, to ensure that it is uniformly respected and to facilitate cooperation throughout the whole European Union.

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Rule of Law in EU Member States: An Introduction

Rule of law is one of the defining attributes of liberal democracies. As a measure of the extent to which governors are constrained by law and abide by it, it is key to preventing abuses of powers and protecting the rights of minority groups from being abused by the majority. It encompasses various measures, the main ones being judicial independence, the absence of corruption, media freedom and the protection of human rights.

The principle of rule of law is enshrined in Article 2 of the Treaty on the European Union (TEU), which states that “the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights”. It is also one of the core values of the Council of Europe, mentioned in the preamble of its Statute as well as in Article 3 of the same text.¹

Notwithstanding their obligations under EU law, many instances of EU Member States failing to comply with EU standards exist. In some countries, more blatant and grave violations of the EU *acquis* – such as the Hungarian government’s attempts to curtail media freedom and civil liberties– have led European institutions to take action by using the legal means at their disposal under Article 7 TEU (often referred to as a “nuclear option”), as well as the Commission to launch infringement procedures provided in Article 258 TFEU. While the former mechanism has been used in cases of generic rule of law deficiencies– without, however, ever going as far as sanctioning any Member State – infringement proceedings have been triggered following MS adoption of national legislation in contrast with EU primary and secondary law. Two of the countries that have been mostly subject to such mechanisms are Poland and Hungary, paradigmatic examples of illiberal unfolding. One of the most recent actions includes the infringement proceeding opened on February 7, 2024, against Hungary, following Hungary’s adoption in December 2023 of the Protection of Sovereignty Act (often referred to as “sovereignty law”) that breached several EU fundamental rights.²

Lastly, since January 2021, the Commission can resort to the rule of law conditionality mechanism to address rule of law breaches.³ This instrument has been used against Hungary in December 2022, leading to the block of cohesion policy funds flowing from the EU budget to the country.⁴

In other EU Member States, rule of law backsliding has occurred through small and incremental steps, often harder to detect, but equally dangerous for the health of democratic systems. This trend aligns with the observations of those scholars who argue that forms of democratic backsliding have become more ambiguous and slower in pace than in the past. For instance, Luhmann has identified a three-step sequence explaining the rise of anti-pluralists to power.⁵ This process starts with illiberal parties leveraging mounting citizens discontent, continues with the ascendancy of would-be authoritarians to powers thanks to the successful anti-pluralist voters’ mobilization, and culminates in actual autocratization. Therefore, an adequate supply of democratic parties capable of mobilizing pro-

¹ Article 3, Chapter II of the Statute of the Council of Europe states that: “Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I.

² [Infringement Procedure No. 2024/2001](#).

³ Regulation 2020/2092 of the European Parliament and the Council of December 16, 2020.

⁴ [European Commission. \(2023\). Commission considers that Hungary’s judicial reform addressed deficiencies in judicial independence but maintains measures on budget conditionality. Press release.](#)

⁵ A. Lüthmann, L. Gastaldi, D. Hirndorf, S.I. Lindberg (2020). Defending Democracy against Illiberal Challengers: A Resource Guide. Varieties of Democracy Institute/University of Gothenburg.

democratic forces, combined with strong institutional safeguards acting as checks and balances, are crucial factors for enhancing the resilience of European democratic societies.

Given that data indicates that only 1 in 5 democracies survive the process of autocratization once it has started,⁶ it is evident that addressing the first instances of backsliding – including those related to the rule of law – at their early stages becomes paramount, so as to prevent the onset or further progression of the autocratization sequence. For this to happen, it is first necessary to spot them even when they are less evident, a task facilitated by the availability of data and reports assessing the state of the rule of law in EU Member States.

Moreover, it should not be forgotten that the rule of law consists of a set of principles and values interpreted in the political, economic, social and cultural context of a national order. In the case of the European Union, the issue is even more complex than in the case of a national State, since full respect for the rule of law requires that not only the European institutions, but also and above all those of the Member States, guarantee respect for its principles and values. Indeed, it is well known that Union law can only be enforced through the commitment of the institutions of the States that make up the Union. Therefore, just as the entry of anti-system parties into a national parliament threatens to undermine respect for the rule of law in that country, any departure from the principles of the rule of law by a Member State threatens to undermine respect for them not only for the citizens and institutions of that State, but for those of the Union as a whole. At this historic moment, therefore, the European Union cannot afford internal divergences on respect for the principles and values of the rule of law if it wishes to fully implement the programmes and regulations that it will adopt in the legislature that has just begun.

Rule of Law in EU Member States: The Case of Italy

The publication of the 2024 Rule of Law report by the European Commission, originally scheduled for July 3, 2024, has been delayed to the end of the month, coinciding with the closure of the nominations for EU top positions. This decision has raised concerns among those who, highlighting the political reasons behind such a choice, have suggested Ursula von der Leyen's willingness to secure the support of EU Member States' leaders, particularly that of Giorgia Meloni, and of MEPs such as ECR members from Fratelli d'Italia (Fdi), for her re-election.⁷

The text in question is the fifth edition of a report issued annually since 2020 by the Commission, as part of the Rule of Law Mechanism and its commitment to protecting and promoting the rule of law in EU Member States, in accordance with the core values on which the Union is founded. By assessing the state of the rule of law in each of the 27 members, proposing country-specific recommendations to address related challenges, and measuring the progress made with respect to previous years, the report is highly valuable, especially at a time when illiberal worrisome tendencies that threaten the integrity of democratic systems are emerging in several EU countries. Indeed, while a fully-fledged authoritarian shift is evident only in some national contexts, such as Hungary, a few of the key rule of law components appear to be under threat in several other countries. Well-established democracies are far from immune to the risk of erosion of democratic norms and institutions. In Italy, recent developments in some of the essential interdependent areas for ensuring the rule of law, notably that

⁶ Ibid.

⁷ Clothilde Goujard (2024), ["Von der Leyen buries report slamming Italy as she seeks Meloni's vote"](#). Politico, 16.6.2024.

of judicial independence and media freedom, have raised large concerns among various sectors of civil society, which have emphasized the risks of an illiberal turn in the country. As such, they deserve the utmost attention.

The European Union's Rule of Law Report 2024 on Italy

On July 24, 2024, the European Union's Rule of Law Report on the 27 Member States for 2024 was published. Regarding Italy,⁸ the Report acknowledges some progress made during 2023, but also expresses concerns on some specific issues and presents recommendations for action to the Italian authorities. In particular:

- On the efficiency of the justice system, it is recommended to pursue more decisively the digitalisation of the criminal trial, to adopt a law regulating conflict of interest and the role of lobbies, as well as to properly regulate donations to political parties by setting up a single electronic register for information on party and campaign financing, which would make transparent the identity, composition and functions of interest groups, the extent and origin of funding;
- On the constitutional reform that would introduce the direct election of the Prime Minister and - according to the majority's intentions - thus strengthen the stability of the government, the Report records the concerns of many stakeholders surveyed for an assessment. The Italian Association of Constitutionalists, for example, fears that in this way the system of checks and balances envisaged in the Constitution could be restricted, especially with respect to the role of the President of the Republic, which would be greatly diminished in favour of the Prime Minister, whose eventual resignation would necessarily be followed by the early dissolution of Parliament, without ensuring the stability of the government that the reform promises to guarantee;⁹
- With regard to the fight against corruption, the repeal of the offence of abuse of office wanted by the government is criticised because it could conceal fraud in the management of public funds as well as favouritism in the stipulation of public contracts in exchange for favours and illicit donations, thus encouraging public corruption. The report warns that economic damage due to irregular use of public funds and interference by organised crime in the appropriation of PNRR funds would already amount to EUR 1.8 million.¹⁰
- On freedom of information, the Report considers that the reform forbidding the media to quote contents of judicial interceptions could restrict the freedom of the press and that of citizens to be adequately informed. In addition, the rule making it easier for political and institutional figures to sue individual journalists directly for an article or report deemed defamatory, risks becoming a threat to journalists, who might refrain from publishing articles disliked by political figures if they are called upon to defend themselves privately in court against extremely costly

⁸ Commission Staff Working Document, [2024 Rule of Law Report, Country Chapter on the rule of law situation in Italy, SWD\(2024\) 812 final](#), 24.7.2024.

⁹ During the parliamentary debate, even some Members of the majority have expressed concerns about the impact of the reform on the balance of powers. In addition, many are concerned that the draft delegates to ordinary legislation the definition of some key aspects related to the reform, such as the electoral law, of which neither the text nor its basic principles have been published for the time being.

¹⁰ In fact, investigations by the regional Public Prosecutors' Office of the Court of Auditors into a number of cases of abuse or fraudulent use of public resources and other irregularities connected with the implementation of PNRR projects, it would appear that the extent of the damage resulting from these offences amounted to much more than the estimated EUR 1.8 million.

claims. The Report also criticises the numerous episodes of attacks on journalists recently recorded in Italy: in the first six months of 2024 alone there have reportedly already been 75 such cases, of which 47 in the form of attacks on journalists and 13 as legal actions against journalists.¹¹ Also with regard to freedom of information, the Report criticises the longstanding interference by Italian political parties in the management of the public broadcasting service (RAI), which restricts its independence and thus jeopardises the quality of information.

It should be noted that the report's findings are not binding on the Italian institutions, but they can be an effective instrument of moral suasion for the government, which could face difficulties if it decides to ignore the recommendations for too long.

The 2024 Media Freedom Rapid Response (MFRR) Report

On 29 July 2024, the Report on the Degree of Media Freedom in Italy¹² was published by Media Freedom Rapid Response (MFRR), a Europe-wide mechanism co-founded by the EU, which tracks, monitors and reacts to violations of press and media freedom in EU Member States and Candidate Countries, with the aim to provide legal support, public advocacy and information to protect journalists and media workers.

During the processing of the report, on 16-17 May 2024 MFRR representatives met in Italy with numerous national exponents of information, civil society and opposition parties, as well as with Senator Barbara Florida, member of the Parliamentary Supervisory Commission on RAI, Valentina Grippo rapporteur on media freedom and the safety of journalists for the Parliamentary Assembly of the Council of Europe, and Pierluigi Mazzella, representative of the Italian government to the Steering Committee on Media and Information Society (CDMSI) of the Council of Europe and the board of the Communications Guarantee Authority. The MFRR also requested meetings with government representatives and institutions, including the Minister and Deputy Minister of Justice, the Undersecretary of State for Information and Publishing, the President of the Senate Justice Commission, and Senators and Deputies of the majority, but none of these requests were granted.

The Report, which periodically measures the degree of media freedom in the EU Member States, for Italy takes into consideration the time span October 2022 - June 2024, which coincides with the period in power of the Meloni government.

According to the Report, the Italian information system presents some serious problems. In particular, a high level of political control of the media is confirmed: the Report recognises how a certain degree of politicisation has always characterised RAI, but highlights how in the last two years this trend has reached an unprecedented level, causing extraordinary pressures on public service journalists and increasing cases of self-censorship. The current Italian law regulating RAI would in fact allow continuous and undue political interference in the governance of the public information service, contrary to what is required by the European Media Freedom Act (EMFA)¹³, and would guarantee RAI an inadequate level of public funding for an effective information service: a situation that would represent a serious threat to the independence of the public service, and which would jeopardise the citizens' right to free and impartial information.

¹¹ Of the 47 cases concerning various forms of attacks against journalists, 6 concerned physical attacks, 14 concerned attacks on private property and 27 concerned verbal attacks. The other 15 incidents related to cases of censorship; [see Mapping Media Freedom, Country Reports, Italy](#), 26-28.

¹² Media Freedom Rapid Response, [Silencing the Fourth Estate: Italy's Democratic Drift](#), Mission Report 2024.

¹³ Regulation 2024/1083 of the European Parliament and the Council of April 11, 2024

With regard to the European elections in June 2024, according to the Report, the revision of the regulation of the so-called *Par Condicio* Law¹⁴ - which should guarantee equal visibility to all political parties and which instead would have resulted in an undue greater presence in the media of the representatives of the majority parties - would have further aggravated the interference in the public service by the government coalition, raising concerns about unmediated political propaganda in public broadcasting.

Another aspect considered worrying relates to the attempted acquisition of AGI - one of the country's main news agencies - by a publishing group owned by Antonio Angelucci, currently a Lega Nord Member of Parliament and already the owner of national newspapers (*Il Giornale*, *Il Tempo*, *Libero*): according to the Report, the affair would represent another example of indirect political interference in information, a risk of concentration of information organs in the hands of the same owner, and a clear case of conflict of interest that would negatively affect an already fragile Italian media market.

Again, the report complains about the frequent legal threats against journalists often used by public officials and members of the ruling coalition to try to suppress independent voices critical of them. Like other previously mentioned reports, the MFRR Report also highlights the increasing number of harassment cases against journalists, exploiting both civil and criminal defamation laws, which would require a timely and adequate transposition of the recently adopted anti-SLAPP EU Directive, adopted by the Council of the European Union on March 19, 2024, which entered into force in April 2024 and that EU Member States have two years to transpose into national law;¹⁵ furthermore, according to the Report, a comprehensive reform of the defamation regime should be approved, abandoning the current Balboni draft law, whose provisions are contrary to international standards on freedom of expression.¹⁶

Overall, the Report sees in the combination of the problems indicated a strong intolerance of the governing coalition in power in Italy towards forms of criticism or opposition by the media against it, resulting in a broad contraction of freedom of expression and a consequent weakening of the country's level of democratic democracy.

Data and Reports: Looking Behind Numbers

Data and reports serve as valuable resources for providing country-specific insights into the state of the rule of law in the European Union. Numerous agencies and organizations use scores to assess the status of democratic systems based on various indicators. However, it is important to acknowledge that ratings

¹⁴ The *Par Condicio* Law (L. 28/2000) contains provisions guaranteeing equal access to the media during election campaigns and for political communication. The law stipulates that during the electoral campaign preceding an election, radio and television political communication shall take the form of political forums, debates, round tables, contradictory presentations of candidates and political programmes, interviews and any other form that allows for the confrontation of the candidates' different political positions. The rule should ensure equal visibility for all political parties and politicians during election campaigns.

¹⁵ Directive 2024/1069 of the European Parliament and the Council of April 11, 2024.

¹⁶ The Balboni draft law ([DDL S 466](#)), which proposes changes to the law on defamation, is currently being debated in the Italian Parliament. The proposal aims to reform defamation by responding to the Constitutional Court rulings (No. 132/2020 and No. 150/2021), aligning with the rulings of the European Court of Human Rights and established Italian case law. However, while abolishing prison sentences for the offence of defamation, the DDL maintains the penalisation of defamation, and proposes to significantly increase fines for criminal defamation, raising the minimum fine to two ranges: from 5,000 to 10,000 euros and from 10,000 to 50,000 euros. Currently, fines for criminal defamation are in the range of a few thousand euros.

tend to remain stable over time, and might not fully capture all the changes occurring, particularly minor ones.

This is evident when examining data retrieved from the NGO Freedom House concerning Italy.¹⁷ What emerges is that scores reflecting rule of law trends in various fields – such as political pluralism and participation, corruption, independent judiciary, civil liberties – have remained unchanged from 2020 to 2023. In contrast, V-Dem’s liberal democracy index reports minor regressions, decreasing from 0,78 in 2021 to 0,76 in 2023. Similarly, when isolating the rule of law index, it appears that Italy’s score has decreased from 0,90 in 2021 to 0,88 in 2023.¹⁸ At first glance, quantitative indicators might suggest that rule of law in the country has regressed minimally since 2021. However, this contrasts with the findings of various reports, which highlight the worrisome backsliding tendencies of the rule of law triggered by several measures implemented by the coalition government led by Prime Minister Giorgia Meloni since 2022.

Apart from the report issued by the European Commission, many organizations are actively engaged in producing similar texts. For instance, the 2024 Rule of Law report issued by the Civil Liberties Union for Europe represents a valuable resource to assess the Italian situation in 2023 compared to previous years.¹⁹

An Overview of Rule of Law in Italy: Media Freedom, Judicial Independence, and the Protection of Human Rights

Concerns over the potential erosion of the democratic order in Italy have increased following the ascendance in October 2022 of the coalition government led by Giorgia Meloni, leader of the far-right populist party Fratelli d’Italia (Fdi), along with Lega, Forza Italia, and Noi Moderati. Some of the policies and rhetoric of the government during the past two years have sparked reactions from some of the opposition parties as well as civil society, who have warned against the risk of an anti-democratic drift in Italy.

An analysis of Italy’s justice system, anti-corruption framework, pluralism and human rights protection provides insights on the state of the rule of law in the country. Specifically, it is evident that throughout 2023 Italy has witnessed regression in each of these rule of law components compared to 2022, except for improvements registered in the area of anti-corruption.

Concerning the judicial system, despite progress in trial duration compared to 2022, concerns about the independence and freedom of the judiciary have arisen over the announcement of the introduction of psycho-aptitudinal tests for magistrates and the critique of some judicial decisions by the executive. One of such incidents is represented by the Apostolico case, which concerned a judge from Catania’s court, Iolanda Apostolico, who was openly criticized by Members of the government, including Prime Minister Meloni, over a ruling on the release of an immigrant in a detention center.

Italy’s regressing tendencies in the field of press freedom were already detected in 2023 by the Media Pluralism Report, which had highlighted that press freedom violations in the form of attacks to individual or media entities had increased alarmingly throughout the year.²⁰ According to the World Press Freedom

¹⁷ Data available at: <https://freedomhouse.org/country/italy>.

¹⁸ Data available at: https://v-dem.net/data_analysis/CountryGraph/.

¹⁹ [Civil Liberties Union for Europe \(2024\). Rule of Law Report 2024.](#)

²⁰ [Mapping Media Freedom. \(2023\). Monitoring Report – 2023.](#)

Index by Reporters Without Borders (RSF), Italy's position dropped of five slots from between 2024 and 2023, moving from 41st to 46th out of the 180 countries where such indicators were measured.²¹ Attempts to hamper media freedom and transparency have included an increased control of the executive over the media and its content, such as by silencing journalists expressing dissenting views from those of the government. A prominent example is represented by the Italian public broadcasting company (RAI), where some programs have been abruptly canceled, amounting to an unequivocal, fully-fledged censorship. As already highlighted in the 2023 Report of the Commission,²² journalists in Italy are also increasingly targeted by strategic lawsuits against public participation (SLAPPs), often initiated by political figures.

Restrictions to free media and press, as well as increasing harassment of journalists, represent a clear violation of Article 10 of the European Convention of Human Rights (ECHR), notably Article 10 on the freedom of expression, and are in stark contrast with the consolidated case-law of the European Court of Human Rights (ECtHR), where the protection of journalistic sources has been recognized as one of the basic conditions for press freedom, united with the vital public-watchdog role of the press.²³ To protect journalists and their sources, the EU has implemented two instruments, which will hopefully reverse such regressing tendencies. The first one is the already mentioned Anti-SLAPP Directive: while the Directive represents a key step in fostering compliance with EU standards, concerns have been raised regarding its limits, represented, for instance, by the large discretion that it leaves for EU MS as well as by its limited scope, as it is only applicable to cross-border civil proceedings. Secondly, the above-mentioned European Media Freedom Act (EMFA) that entered into force on May 7, 2024 has introduced new rules to protect media pluralism within the EU, addressing both the issue of the independence of the public service media and introducing safeguards to editorial independence.

Regarding human rights, throughout 2023, Italy has made no progress concerning the safeguard of rights of LGBTQIA+ individuals. The Italian government's reluctance on this matter is also evident from its refusal to allow the transcription of birth certificates of children of same-sex families. It has therefore come as no surprise that Italy has recently decided not to sign the European Declaration on the advancement of legislation on the protection of LGBTIQ+ individuals – a position that aligns Italy with that Hungary, Romania, Bulgaria, Croatia, Lithuania, Latvia, Czech Republic and Slovakia.²⁴

A significant area of concern is the failed protection of gender rights, such as the right of abortion. Although formally guaranteed by Law 194/98, access to abortion in Italy is hindered by objectors of conscience in many regions. Recent controversy has arisen over a law granting pro-life groups access to abortion clinics. This measure, proposed by Giorgia Meloni's FdI party, places Italy alongside EU Member States known for their restrictions on abortion procedures, such as Hungary under Viktor Orbán.

Lastly, rights of migrants and asylum seekers are also under threat in Italy. Not only has the government been hindering the work of NGOs that are involved in rescue operations of migrants at sea, but the recent deal concluded with Albania concerning the externalization of migration control has also received strong

²¹ Data available at: <https://rsf.org/en/index>.

²² [European Commission. \(2023\). 2023 Rule of Law Report – The Rule of Law Situation in the European Union.](#)

²³ [ECtHR. Goodwin v. the United Kingdom. App. No. 28957/95.](#) Judgment of July 11, 2002; Council of Europe (2022). [Guide on Article 10 of the European Convention of Human Rights. Freedom of expression.](#)

²⁴ European Council. (2024). Declaration on the continued advancement of the human rights of LGBTIQ persons in Europe. May 17, 2024.

criticism by the opposition as well as by several NGOs, such as Human Rights Watch, due to concerns over migrants' human rights protection.²⁵

How to Foster Member States' Compliance with the Rule of Law? Assessing the Efficacy of Available Mechanisms

Countering rule of law backsliding requires the involvement of multiple actors, both institutional, such as democratic parties acting as gatekeepers, and non-institutional ones, including journalists and civil society organizations. At the EU level, the role of the EU institutions in strengthening Member States' compliance with EU values is key. The Commission's annual Rule of Law report is crucial, as it allows for an in-depth analysis capable of capturing subtle changes that are hard to detect through quantitative data.

The rule of law enforcement toolbox mentioned earlier comprises mechanisms that EU institutions can resort to in order address clear violations of the EU acquis and promote Member States' compliance with EU primary and secondary law. Given that the Treaties do not foresee the possibility of denying a country its membership to the Union, the effectiveness of such mechanisms is paramount for the future of liberal democracy in Europe.

The efficacy of linking money to value through the rule of law conditionality instrument has raised some doubts, especially considering its limited impact on net contributors to the EU budget, such as Italy, compared to net recipients, such as Hungary and Poland. Similarly, infringement procedures initiated by the Commission have so far appeared unable to fully address illiberal developments in EU Member States. One major limitation is that they only allow to address countries when they adopt national legislation that violates EU law. Conversely, they are unable to capture regressing rule of law trends happening more subtly, as in the case of Italy.

In this sense, the sanctioning procedure foreseen by Article 7 TEU appears to have greater potential in promoting the respect for the rule of law, especially as the TEU makes explicit reference to its applicability in cases of violations of the values referred to in Article 2 TEU. However, its limitations are evident, considering that the requirement of unanimity in the European Council set by Paragraph 2 of the Article is difficult to meet, especially when illiberal actors are supported by other EU leaders. It is therefore not surprising that, to date, Article 7(2) and (3) proceedings have never been triggered by the European Council, and no country's EU membership rights, such as the right to vote in such an institution, have ever been suspended, even in cases of systemic attacks to EU values such as those observed in Hungary.

From this framework, several conclusions can be drawn. Firstly, the instruments at the disposal of EU institutions face some limitations, especially under some conditions: when countries contribute more to the budget than they receive, and when rule of law violations do not occur through the adoption of laws. Secondly, reforming the TEU by introducing the majority vote in the European Council is desirable to ensure that provisions foreseen by primary law are more easily applicable in cases of Member States' violations of EU founding values. Clearly, EU institutions must take prompt measures to reverse the escalation of democratic regression in several EU countries. It is crucial that illiberal tendencies are addressed as soon as they emerge in their early stages, before it's too late and the Union's democratic legitimacy is undermined permanently.

²⁵ Judith Sunderland (2024), [Italy Migration Deal with Albania is a Costly, Cruel Farce. Human Rights Watch](#), 6.6.2024.

Conclusion: Observing the Rule of Law as a Condition for European Cooperation

Although they do not express such severe judgments as for Hungary or Slovakia, the recent reports mentioned above show that the respect for the rule of law is not fully guaranteed in all aspects in Italy either. This could be a problem in the possibility of cooperation between the Italian government and the European institutions, since it was Ursula von der Leyen herself who said during the Eurovision Debate 2024 among the Spitzenkandidaten for the Presidency of the Commission that she could cooperate with all politicians who guarantee three conditions: “to be pro-European, pro-Ukraine-and therefore anti-Putin-and pro-rule-of-law”.²⁶ Therefore, how the Italian government will react to the reports’ remarks on the rule of law and media freedom is likely to be a factor on which how much room for effective collaboration can be realised between Rome and Brussels during the European legislature that has just begun.

On the EU side, it is to be hoped that the same sensitivity regarding respect for the rule of law will be ensured in all 27 Member States: otherwise, the impression would be given that certain national violations are dealt with more firmly by the EU institutions than others, fuelling the dangerous risk of being accused of bias. If the rule of law is a cornerstone of European governance, respect for it must be rigorously demanded throughout the EU.

²⁶ Federico Baccini (2024), [Alliance with far-right inflames pre-European debate. Von der Leyen opens up to Meloni](https://eunews.it), eunews.it, 23.5.2024.

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