

# The Future Enlargement as a Challenge to EU Democracy and Stability: The Need for a Cautious Transition

Marco Sciarra\*

## Abstract

In the last decade, the EU has experienced a major political and institutional crisis with Poland and Hungary concerning the erosion of the rule of law and the authoritarian regression occurring in those countries. The crisis has been so acute that EU institutions have implemented concrete actions against the abovementioned countries, with several top European politicians openly advocating their exclusion from the EU. At the same time, EU institutions and major political forces seem prepared to undertake – within a relatively short period – an enlargement potentially concerning the Balkan countries, Moldova and Ukraine. This article will show – using widely accepted international data and metrics – that the countries that are currently candidates to join the EU are in fact structurally less democratic than Poland and Hungary. From this point of view, there seems to be a clear contradiction between legitimately criticising the democratic involution experienced by Poland and Hungary and allowing structurally less democratic countries to join the EU. There is a strategic risk for the EU in allowing the accession of countries that have not yet completed the democratisation process and could therefore face future democratic crises similar to (or worse than) those experienced by Poland and Hungary. If those crises were to occur on a larger scale, they could ultimately jeopardise the overall quality of EU democratic mechanisms, possibly leading to a sort of ‘contagion effect’ to other EU member states. Moreover, there is a consensus that – in its current configuration – the EU is experiencing a structural crisis concerning the efficacy and efficiency of its institutional design and governance mechanisms. In this context, should the enlargement occur without prior comprehensive EU governance reform, it would probably lead to a worsening of the abovementioned structural crisis. In other words, an enlargement implemented *ceteris paribus* would lead to a less effective EU, which in turn would endanger the quality of democracy within it. For these reasons, this article will argue that the enlargement should be preceded by a lengthy and carefully thought-out transition phase aimed at achieving two fundamental goals: i) candidate countries should complete a process of democratisation intended to minimise the risk of democratic crises, and ii) the EU should implement a comprehensive reform of its governance aimed at preventing the risk of a ‘post-enlargement’ paralysis.

\*PhD Candidate, Department of Law, Roma Tre University.

## **I. Introduction: the path to a new enlargement of the European Union**

The European Union has been engaged for years in the process of further enlargement to the east, which will potentially involve the Balkan states, Moldova and Ukraine. This process gained further momentum on the political front following Russia's full-scale invasion of Ukraine in February 2022. Indeed, as a concrete sign of political solidarity with Ukraine, the European Union decided to grant that country candidate status in June 2022. This was accompanied by a similar decision – also taken in June 2022 – to grant candidate status to Moldova, which is also a target of Russia's expansionist aims.

From this point of view, the enlargement of the European Union is in fact conceived as a functional tool for pursuing political stabilisation, economic growth and democratic development in the countries concerned. At the same time, however, over the last fifteen years, the European Union has experienced two significant political and institutional crises that have pitted European institutions against the national institutions of two countries involved in the 2004 enlargement to the east: Hungary and Poland. These countries have been accused by legal experts, political scientists and politicians of implementing a series of legislative measures that have led to democratic regression and the erosion of the rule of law, thereby contravening the values set out in Article 2 of the Treaty on European Union (TEU). Precisely for this reason, many parties have called not only for the mechanism laid down in Article 7 TEU to be activated, but more generally for these countries to be excluded from the European Union itself.<sup>1</sup>

This article aims to analyse a contradiction that is widely underestimated by those in favour of enlargement: using a vast amount of data from highly reliable international sources, it will highlight how the countries applying for membership of the European Union have been – and continue to be – structurally less democratic and less respectful of the rule of law than Poland and Hungary.

To this end, we will first briefly reconstruct the evolution of the conflict that has developed over the years between the European institutions and the national institutions of Poland and Hungary. Subsequently, we will carry out the abovementioned data analysis and, finally, we will focus on the potential risks for the European Union posed by rapid enlargement without a lengthy and structured process of democratisation within the candidate countries.

In a nutshell, there are two risks on which we will focus. First, if candidate countries join the European Union without having completed the democratisation process, there is a risk that conflicts similar to those that have occurred between European institutions and national institutions in Poland and Hungary will arise again in the future with the new Member States, on a larger scale. Second, there is a risk that the European Union will expand without first reforming its governance mechanisms. In this case, the risk is that extending the current governance mechanisms to include seven additional countries will exacerbate the EU

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<sup>1</sup> The following have expressed this view, among others: ANSA Redazione, 'Renzi, Orban Cambi Idea o Ungheria Fuori' (ANSA, 30 March 2020) <[https://www.ansa.it/sito/notizie/topnews/2020/03/30/renzi-orban-cambi-idea-o-ungheria-fuori\\_ec5a9c1a-f1a2-4041-aba1-b70283d22b13.html](https://www.ansa.it/sito/notizie/topnews/2020/03/30/renzi-orban-cambi-idea-o-ungheria-fuori_ec5a9c1a-f1a2-4041-aba1-b70283d22b13.html)> accessed 10 March 2026; BBC, 'Dutch PM Rutte: No Place in EU for Hungary with Anti-LGBT Law' (BBC News, 24 June 2021) <<https://www.bbc.com/news/world-europe-57596263>> accessed 10 March 2026; ANSA Redazione, 'Calenda: "Ungheria va Cacciata a Pedate Fuori Dall'Ue"' (ANSA, 1 February 2024) <[https://www.ansa.it/sito/videogallery/italia/2024/02/01/calenda-ungheria-va-cacciata-a-pedate-fuori-dallue\\_ce23dab1-b324-4aa2-98a7-ba4adc1d582a.html](https://www.ansa.it/sito/videogallery/italia/2024/02/01/calenda-ungheria-va-cacciata-a-pedate-fuori-dallue_ce23dab1-b324-4aa2-98a7-ba4adc1d582a.html)> accessed 10 March 2026.

governance crisis, leading to its substantial paralysis and consequently undermining its stability.

With reference to the enlargement of the European Union, this article will examine the scenario of an enlargement to the east taking place relatively quickly and involving seven countries: Ukraine, Moldova, Albania, Bosnia and Herzegovina, North Macedonia, Montenegro and Serbia. However, the possible accession of Kosovo, Georgia and Turkey will not be considered. In the case of Kosovo, the prospect of its accession to the EU remains distant as long as it continues to remain unrecognised by five EU Member States: Cyprus, Greece, Romania, Slovakia and Spain.<sup>2</sup> In the case of Georgia, the prospect of joining the European Union appears remote today because of the significant political tensions that arose in 2024 between the Georgian government – led by the majority party Georgian Dream – and the European institutions. It is specifically because of these tensions that Georgian Prime Minister Irakli Kobakhidze announced in 2024 that Georgia’s accession process would be suspended until 2028.<sup>3</sup> As for Turkey, the prospect of joining the European Union seems remote due to widespread opposition to this possibility from a broad coalition of governments and political forces (both national and European).

Returning to the countries covered by the scenario examined, in addition to the abovementioned Ukraine and Moldova, which, as mentioned, obtained candidate country status in June 2022, this also includes Albania, Bosnia and Herzegovina, North Macedonia, Montenegro and Serbia.<sup>4</sup> With regard to Albania, after submitting its application for membership in 2009, this nation was granted candidate country status in June 2014. In March 2020, the Council decided to approve the opening of accession negotiations, which are still ongoing. As for Bosnia and Herzegovina, following Russia’s full-scale invasion of Ukraine in December 2022, the European Council decided to grant this status to Bosnia and Herzegovina as well. Accession negotiations with Bosnia and Herzegovina were formally opened in March 2024. North Macedonia applied for EU membership in March 2004 and was granted candidate status in December 2005. However, for a long time it was not possible to start accession negotiations due to the ongoing dispute with Greece over the use of the name ‘Macedonia’. This dispute was successfully resolved through the Prespa Agreement<sup>5</sup> on the new name of the country (Republic of North Macedonia, or North Macedonia), which entered into force in February 2019. In March 2020, the Council finally decided to approve the opening of accession negotiations. In December 2023, North Macedonia completed screening sessions for all negotiating chapter groups, but no groups have yet been opened.

As for Montenegro, after gaining independence in 2006, it submitted its application for EU membership in December 2008. The country was granted candidate status in December

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<sup>2</sup> Andrea Bianco, ‘Engagement without recognition: il Kosovo come paese terzo’ (2023) 59(2) DPCE Online <<https://doi.org/10.57660/dpceonline.2023.1972>> accessed 10 March 2026.

<sup>3</sup> Lucy Davalou and Andrew Naughtie, ‘Georgian prime minister suspends EU membership talks until end of 2028’ (*Euronews*, 28 November 2024) <<https://www.euronews.com/my-europe/2024/11/28/georgian-prime-minister-suspends-eu-membership-talks-until-end-of-2028>> accessed 10 March 2026.

<sup>4</sup> The information provided on the candidate countries is taken from the following, among other sources: André De Munter, ‘The Western Balkans’ (Fact Sheets on the European Union, European Parliament) <[www.europarl.europa.eu/factsheets/en/sheet/168/i-balceni-occidentali](http://www.europarl.europa.eu/factsheets/en/sheet/168/i-balceni-occidentali)> accessed 10 March 2026; ‘EU Enlargement’ (European Union) <[https://european-union.europa.eu/principles-countries-history/eu-enlargement\\_en](https://european-union.europa.eu/principles-countries-history/eu-enlargement_en)> accessed 10 March 2026.

<sup>5</sup> On the Prespa Agreement, see Stefan Rohdewald, ‘Citizenship, Ethnicity, History, Nation, Region, and the Prespa Agreement of June 2018 between Macedonia and Greece’ (2018) 66(4) *Südosteuropa* 577 <<http://dx.doi.org/10.1515/soeu-2018-0042>> accessed 10 March 2026.

2010 and accession negotiations were opened in June 2012. In recent years, significant political instability in Montenegro caused the EU integration process to stall, but considerable progress was made in 2024, including the provisional closure of three negotiation chapters.

Finally, with regard to Serbia, this country applied for EU membership in December 2009 and was granted candidate status in March 2012. The accession negotiations were formally opened on 21 January 2014. The progress of negotiations has fluctuated over the past decade, with this situation linked overall to a series of issues, including the definitive normalisation of relations between Serbia and Kosovo and the controversial relationship between Serbia and the Russian Federation.

## **II. The democratic backsliding seen in Poland and Hungary and the conflict with EU institutions**

### ***1. The fundamental features of the democratic backsliding process***

As mentioned in the introduction, over the last fifteen years the European Union has faced a serious political and institutional crisis with Poland and Hungary, caused by democratic regression and the erosion of the rule of law in these two countries.

There is no space in this article for an in-depth reconstruction<sup>6</sup> of the various measures that have characterised these processes of democratic backsliding, but it is worth attempting to summarise the main areas in which this process has developed and the actions taken by the European Union to counter it.<sup>7</sup> In a nutshell, the process of democratic backsliding in both countries has taken shape in three fundamental areas: i) the attempt to weaken legislative power and, conversely, strengthen executive power; ii) the attempt by the political forces temporarily in government to ‘politically capture’ institutions in the constitutional justice system; and iii) the attempt – again by the political forces temporarily in government – to weaken the independence of the ordinary judiciary in order to increase the possibility of gaining political control over those institutions.

With regard to the first aspect, this was particularly relevant in Hungary, where it even led to the approval in 2011 – after a parliamentary review lasting only nine days – of a new constitution, which then came into force on 1 January 2012.<sup>8</sup> This new constitution objectively shifted the centre of gravity of the institutional system in favour of the Hungarian President and the Executive, weakening the National Assembly’s ability to counterbalance the latter’s influence. A similar trend, albeit less intense, has affected Poland, leading to several censures – from both the Polish Supreme Court and the Venice Commission<sup>9</sup> – regarding the abuse of accelerated legislative procedures.

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<sup>6</sup> For a complete reconstruction of the crisis of the rule of law in Poland and Hungary, see, *ex plurimis*: Cesare Pinelli, ‘Illiberal regimes in the perspective of comparative constitutionalism’ (2017) 1 *Rivista di Diritti Comparati* 1; Laurent Pech and Kim Lane Scheppele, ‘Illiberalism Within: Rule of Law Backsliding in the EU’ (2017) 19 *Cambridge Yearbook of European Legal Studies* 3 <<http://dx.doi.org/10.1017/cel.2017.9>> accessed 10 March 2026; Jan Sawicki, *L’erosione “democratica” del costituzionalismo liberale* (Franco Angeli Editore 2020).

<sup>7</sup> For more on the reconstruction that follows, see Ignazio Spadaro, ‘La crisi dello Stato di diritto in Ungheria, Polonia e Romania ed i possibili rimedi a livello europeo’ (2021) 14 *Federalismi.it*.

<sup>8</sup> On the relationship between the new Hungarian constitution, the Hungarian democratic backsliding and the EU, see Gábor Halmai, ‘The Fundamental Law of Hungary and the European Constitutional Values’ (2019) 39(2) *DPCE Online* <<https://doi.org/10.57660/dpceonline.2019.742>> accessed 10 March 2026.

<sup>9</sup> Reference is made, in particular, to the Supreme Court Opinions of 16 December 2019 and 23 December 2019, Venice Commission, *Opinion No 860/2016* (CDL-AD(2016)026-e, 14 October 2016) paras 21–22. In the

With regard to the second issue – the attempt to ‘politically capture’ the institutions in the constitutional justice system – this concerned both countries.

In Hungary, Article 24 of the abovementioned new constitution established that the composition of the parliamentary committee responsible for selecting candidates for the Hungarian Constitutional Court is no longer equal between the majority and the opposition, but reflects the proportions of the various parliamentary groups, which has the result of rendering the opposition’s vote *de facto* irrelevant. At the same time, the Court was deprived of the power to elect its own president; a choice that was also given to Parliament. All of this has resulted in the Constitutional Court being placed *de facto* under the control of the parliamentary majority to a significant extent.

With regard to Poland, however, this issue proved even more significant, sparking a political and legal conflict that profoundly affected Polish society. In essence, and just to mention the main points, in November 2015, the PiS party – having obtained an absolute majority of seats in the previous October’s elections – passed a law (which was later declared unconstitutional) that i) gave the Head of State powers to interfere in the functioning of the Constitutional Court, and ii) provided for the dismissal of members elected in the previous legislature. In December 2015, the PiS passed a second law – which would also be declared unconstitutional the following March – whereby judges were subject to disciplinary action, at the initiative of the Polish President or the Minister of Justice, and the power to declare their removal from office was transferred from the Constitutional Court to the Sejm (the lower house of the national legislature). This serious institutional clash eventually died down in December 2016 with the appointment of the new President of the Polish Constitutional Court, who was elected by the ruling PiS party.

The dispute subsequently reignited, resulting primarily in the controversial ruling issued by the Polish Constitutional Court on 11 December 2023. In a nutshell, through this ruling, the Polish Constitutional Court identified areas of conflict between certain provisions of EU law and certain provisions of the Polish Constitution.<sup>10</sup> Specifically, the provisions under review were Article 279 of the Treaty on the Functioning of the European Union (TFEU), which provides for the possibility for the Court of Justice of the European Union (CJEU) to order provisional measures within its jurisdiction, and Article 39 of the Statute of the Court of Justice, which specifically regulates the prerogative to impose these same precautionary measures upon the decision of the President or a judge of the CJEU.

These provisions would be contrary to the Polish Constitution if they were to affect the principles set out in Article 2 of the Polish Constitution (principle of a democratic state), Article 8(1) (principle of the supremacy of the Constitution) and Article 90(1) (provision

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same vein, subsequently, again in the Venice Commission, *Opinion No 977/2020* (CDL-AD(2020)017, 22 June 2020) para 18; OSCE Office for Democratic Institutions and Human Rights, *Opinion No JUD-POL/365/2019[AIC]* (14 January 2020) para 30.

<sup>10</sup> However, it is worth noting that the Polish Constitutional Court’s legitimacy to rule in this area has been challenged by European institutions and specifically by the Court of Justice of the European Union (CJEU). On 18 December 2025, the CJEU “handed down a momentous judgment, in which it found that the Constitutional Tribunal (CT) of Poland does not satisfy the requirements of an independent and impartial tribunal established by law.” On this issue, see, for example, Wojciech Sadurski, ‘The CJEU Versus the Constitutional Tribunal in Poland: On the CJEU’s Judgment in Case C-448/23 (European Commission v. Republic of Poland)’ (VerfBlog, 20 December 2025) <<https://verfassungsblog.de/the-cjeu-versus-the-constitutional-tribunal-in-poland/>> accessed 10 March 2026.

relating to the procedure for the transfer of powers from the State to international organisations).

With regard to the third aspect, this concerns attempts – made in both Hungary and Poland – to influence the ordinary judiciary. In the case of Hungary, this phenomenon has resulted in the substantial disempowerment of the Hungarian judiciary’s self-governing body, which has been deprived of its constitutional basis and most of its powers in favour of the new ‘National Judicial Office’ (Obh), which has a president elected by the National Assembly on the recommendation of the Hungarian President.

Conversely, in the Polish case the attempt to weaken the independence of the ordinary judiciary was carried out through ordinary law. Specifically, the Law of 8 December 2017 intervened in the mechanism for appointing members of the Polish judiciary’s self-governing body, removing the power to elect the fifteen judges who sit on the body from the judges and assigning it to the Sejm. This created a clear imbalance in favour of Parliament, which was the source of a bitter political and institutional conflict that continued in the following years.

## **2. The political and institutional consequences of the democratic backsliding process**

### *2.1 The opening (and failure) of the procedure established by Article 7(1) TEU*

The process of democratic backsliding in Poland and Hungary, briefly described above, has led to an unprecedented political and institutional clash with the European institutions, which has resulted in a series of actions being taken by the latter. Specifically, in December 2017, the Commission initiated – for the first time in history – the procedure laid down in Article 7(1) TEU against Poland for violating Article 2 TEU. A little less than a year later, in September 2018, the same procedure was initiated against Hungary, this time at the instigation of the European Parliament. The experience of events following the activation of the abovementioned procedures has demonstrated the weakness of the instruments laid down in Article 7 TEU. Article 7(1) stipulates that:

‘On a reasoned proposal by one third of the Member States, by the European Parliament or by the European Commission, the Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2. Before making such a determination, the Council shall hear the Member State in question and may address recommendations to it, acting in accordance with the same procedure. The Council shall regularly verify that the grounds on which such a determination was made continue to apply.’<sup>11</sup>

It has become clear that the very high majority required – 80% of Member States – makes it impossible to conclude the procedure, rendering it ineffective in practice. This consideration applies *a fortiori* to the mechanisms referred to in paragraphs 2 and 3 of Article 7, which provide that:

‘The European Council, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the consent of the European Parliament, may determine the existence of a serious and persistent

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<sup>11</sup> Consolidated Version of the Treaty on European Union [2012] OJ C326/13, art 7, para 1.

breach by a Member State of the values referred to in Article 2, after inviting the Member State in question to submit its observations.

Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of the Treaties to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons. The obligations of the Member State in question under the Treaties shall in any case continue to be binding on that State.<sup>12</sup>

In the present case, it was clear from the outset that the preliminary requirement for a unanimous decision by the Council would never be met, given that Poland and Hungary could have used a cross-veto (Poland would have used its veto when the procedure concerned Hungary, and vice versa).

In May 2024, the Commission terminated the procedure against Poland having found that Poland ‘has launched a series of legislative and non-legislative measures to address the concerns on independence of the justice system, it has recognised the primacy of EU law and is committed to implementing all the judgment of the Court of Justice of the European Union and the European Court of Human Rights related to rule of law including judicial independence.’<sup>13</sup> In contrast, the procedure against Hungary is still open.

## *2.2 The approval and implementation of Regulation EU 2020/2092*

Having acknowledged the substantial ineffectiveness of the procedures laid down in Article 7 TEU, the European institutions have shifted towards a different approach based on financial conditionality as a fundamental instrument for protecting the rule of law in the European Union. This approach led – at the end of a long political and institutional process – to the approval of 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.

This is not the forum for a detailed analysis of that regulation, on which there is already a wealth of literature, but it is valuable to review its fundamental features and underlying logic. In summary, the regulation establishes a general conditionality regime aimed at protecting the European Union’s budget in the event that Member States commit violations of the rule of law that could jeopardise the Union itself or its financial interests.

It is important to emphasise that the protection of the rule of law is thus characterised as an indirect objective of the regulation, insofar as the elaborate procedure laid down in Article 6 of the regulation is only activated – pursuant to Article 4(1) – if violations of the rule of law could ‘affect or seriously risk affecting the sound financial management of the Union budget or the protection of the financial interests of the Union in a sufficiently direct way’.<sup>14</sup>

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<sup>12</sup> Consolidated Version of the Treaty on European Union [2012] OJ C326/13, art 7, paras 2-3.

<sup>13</sup> European Commission, ‘Commission intends to close Article 7(1) TEU procedure for Poland’ (Press Release IP/24/2461, 6 May 2024) <[https://ec.europa.eu/commission/presscorner/detail/nl/ip\\_24\\_2461](https://ec.europa.eu/commission/presscorner/detail/nl/ip_24_2461)> accessed 10 March 2026.

<sup>14</sup> 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 [2020] OJ L433I/1, art 4, para 1.

This basic structure is confirmed by Article 5 of the regulation, which establishes the ‘Measures for the protection of the Union budget’, and in particular by paragraph 3, which – in establishing the criterion of the proportionality of the measures to be implemented in the event of a breach – states that ‘they [the measures] shall be determined in light of the actual or potential impact of the breaches of the principles of the rule of law on the sound financial management of the Union budget or the financial interests of the Union. The nature, duration, gravity and scope of the breaches of the principles of the rule of law shall be duly taken into account. The measures shall, insofar as possible, target the Union actions affected by the breaches’.<sup>15</sup>

As to the rationale behind the instrument, it should be emphasised that the use of economic conditionality is by no means alien to the functioning of the EU. It was borrowed from the actions of major international economic institutions – in particular the World Bank and the IMF – which used it in agreements guaranteeing financing to developing countries in order to promote financial stabilisation and economic growth in those countries. Within the European Union, this instrument had already been widely used in the context of the sovereign debt crisis that affected the periphery of the eurozone between 2009 and 2013 and the responses provided to it by European institutions.<sup>16</sup>

As expected, Poland and Hungary – feeling themselves to be the targets of the abovementioned regulation – lodged two separate appeals with the CJEU seeking its annulment. In two separate judgments referred to as ‘twin’ judgments due to their similar nature – C-156/21 and C-157/21<sup>17</sup> – the CJEU rejected the appeals, declaring the regulation to be lawful. With regard to Poland, the change of government that has taken place in the meantime has resolved the crisis with the European institutions, leading – as seen above – to the closure of the procedure referred to in Article 7 TEU. With regard to Hungary, however, the continuing crisis between the European institutions and the Hungarian national government has led, for the first time in 2022, to the regulation in question being applied against Hungary. Specifically, the process of applying Regulation 2020/2092 – which began in April 2022 with the European Commission’s initial notification to the Hungarian institutions – concluded in December 2022 with the Council’s decision to suspend €6.3 billion in European funds earmarked for Hungary.<sup>18</sup>

### **III. Data analysis: how democratic – and respectful of the rule of law – are the candidates for membership of the EU?**

After briefly attempting to clarify the characteristics and consequences of the democratic backsliding process that has affected Poland and Hungary over the last decade, we will now

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<sup>15</sup> Regulation (EU, Euratom) 2020/2092 (n 14) art 5, para 3.

<sup>16</sup> On the evolution of ‘economic conditionality’ as a tool of European governance, see Peter Becker, ‘Conditionality as an Instrument of European Governance – Cases, Characteristics and Types’ (2024) 63(2) JCMS 1 <<http://dx.doi.org/10.1111/jcms.13580>> accessed 10 March 2026.

<sup>17</sup> This reference is to the so-called twin judgments Case C-156/21 *Hungary v European Parliament and Council of the European Union*, ECLI:EU:C:2022:97; Case C-157/21 *Poland v Parliament and Council of the European Union* [2022] ECLI:EU:C:2022:98

<sup>18</sup> On the application of Regulation EU 2020/2092 against Hungary, see European Council, ‘Rule of law conditionality mechanism: Council decides to suspend €6.3 billion given only partial remedial action by Hungary’ (Press Release, 12 December 2022) <<https://www.consilium.europa.eu/en/press/press-releases/2022/12/12/rule-of-law-conditionality-mechanism/>> accessed 10 March 2026; Cecilia Sanna, ‘Tanto tuonò che piove. Il Consiglio UE applica il regolamento condizionalità nei confronti dell’Ungheria’ [2022] Rivista Eurojus.it accessed 10 March 2026.

analyse a series of quantitative indices – developed using different databases and methodologies – aimed at measuring levels of respect for democracy and the rule of law.

The seven candidate countries are known to perform structurally and significantly below the EU average in this area.<sup>19</sup> The aim of the analysis is to compare the results obtained over the years by the seven candidate countries for EU membership with those obtained by Poland and Hungary in order to understand whether they can be considered, overall, more or less respectful of democracy and the rule of law than the two countries that have proved most problematic within the EU framework.<sup>20</sup>

### **1. The Economist Democracy Index**

The ‘Democracy Index’ is an index published by the Economist Intelligence Unit (EIU) – the research and analysis division of the Economist Group<sup>21</sup> – and aimed at measuring the quality of democracy across the world.

#### *1.1 Methodology*

As far as the methodology used is concerned, the index “on a 0 to 10 scale is based on the ratings for 60 indicators, grouped into five categories: electoral process and pluralism; civil liberties; the functioning of government; political participation; and political culture. Each category has a rating on a 0 to 10 scale, and the overall index is the simple average of the five category indexes.

The category indexes are based on the sum of the indicator scores in the category, converted to a 0 to 10 scale. Adjustments to the category scores are made if countries do not score a 1 in the following critical areas for democracy: 1. Whether national elections are free and fair. 2. The security of voters. 3. The influence of foreign powers on government. 4. The capability of the civil service to implement policies. If the scores for the first three questions are 0 (or 0.5), one point (0.5 point) is deducted from the index in the relevant category (either the electoral process and pluralism or the functioning of government). If the score for 4 is 0, one point is deducted from the functioning of government category index.

The index values are used to place countries within one of four types of regimes:

- 1) Full democracies: scores greater than 8,
- 2) Flawed democracies: scores greater than 6, and less than 8
- 3) Hybrid regimes: scores greater than 4, and less than 6
- 4) Authoritarian regimes: scores less than 4.

**Full democracies:** Countries in which not only basic political freedoms and civil liberties are respected, but which also tend to be underpinned by a political culture conducive to the

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<sup>19</sup> On this point, see Charles Brasseur, Vera Pachta and Chiara Grigolo, *Towards an Enlarged Union: Upholding the Rule of Law* (Policy Paper 30, International IDEA 2024) 12 <<https://doi.org/10.31752/idea.2024.25>> accessed 10 March 2026.

<sup>20</sup> When it comes to the data concerning Ukraine, it is crucial to highlight that the state of war existing with Russia since February 2022, has inevitably affected negatively indicators of freedom and the rule of law. Moreover, it is also important to highlight that the conflict between Russia and Ukraine started in 2014 with the illegal annexation of Crimea and the occupation of part of Donbass and that between 2014 and 2022 Russia and Ukraine have been in a state of high international tension. To sum up, the interpretation of data concerning Ukraine should consider three different phases: i) data before 2014, ii) data between 2014 and 2022 and iii) data after the full-scale invasion started in February 2022.

<sup>21</sup> The Economist Group is a UK-based private company, which publishes the weekly journal *The Economist*.

flourishing of democracy. The functioning of government is satisfactory. Media are independent and diverse. There is an effective system of checks and balances. The judiciary is independent and judicial decisions are enforced. There are only limited problems in the functioning of democracies.

**Flawed democracies:** These countries also have free and fair elections and, even if there are problems (such as infringements on media freedom), basic civil liberties are respected. However, there are significant weaknesses in other aspects of democracy, including problems in governance, an underdeveloped political culture and low levels of political participation.

**Hybrid regimes:** Elections have substantial irregularities that often prevent them from being both free and fair. Government pressure on opposition parties and candidates may be common. Serious weaknesses are more prevalent than in flawed democracies – in political culture, functioning of government and political participation. Corruption tends to be widespread and the rule of law is weak. Civil society is weak. Typically, there is harassment of and pressure on journalists, and the judiciary is not independent.

**Authoritarian regimes:** In these states, state political pluralism is absent or heavily circumscribed. Many countries in this category are outright dictatorships. Some formal institutions of democracy may exist, but these have little substance. Elections, if they do occur, are not free and fair. There is disregard for abuses and infringements of civil liberties. Media are typically state-owned or controlled by groups connected to the ruling regime. There is repression of criticism of the government and pervasive censorship. There is no independent judiciary”.<sup>22</sup>

### *1.2 Data analysis*

With reference to the data analysis, the available data cover the period between 2006 and 2024.<sup>23</sup> In the period between 2006 and 2023, the seven candidate countries covered by the article scored structurally worse than both Poland and Hungary.

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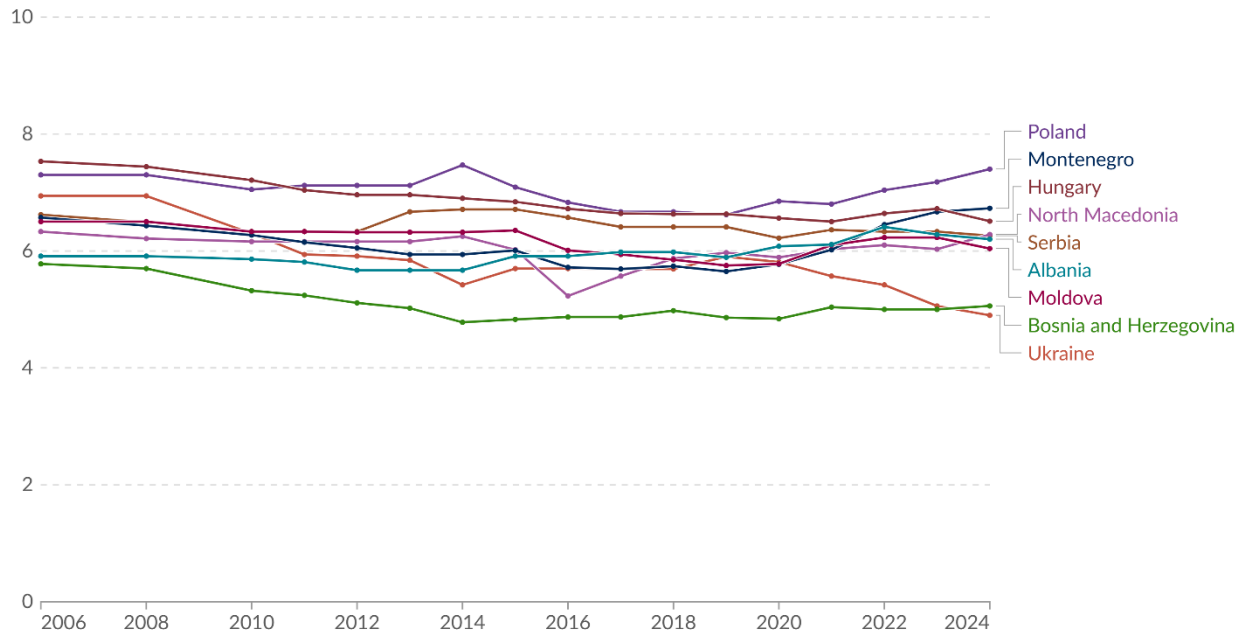
<sup>22</sup> Economist Intelligence Unit, *Democracy Index 2024: What's wrong with representative democracy?* (2025) 87–88.

<sup>23</sup> 'Democracy Index (EIU)' (Our World in Data 2024) <<https://ourworldindata.org/grapher/democracy-index-eiu>> accessed 10 March 2026.

## Democracy index



Data by the Economist Intelligence Unit<sup>1</sup>. Expert estimates of the extent to which citizens can choose their political leaders in free and fair elections, enjoy civil liberties, prefer democracy over other political systems, can and do participate in politics, and have a functioning government that acts on their behalf. The index ranges from 0 to 10 (most democratic).



Data source: Economist Intelligence Unit (2006-2024)

OurWorldinData.org/democracy | CC BY

**1. Economist Intelligence Unit** The Economist Intelligence Unit publishes data and research on democracy and human rights. It relies on evaluations by its own country experts, supplemented by representative surveys of regular citizens to assess political institutions and the protection of rights. The Economist Intelligence Unit is the research and analysis division of The Economist Group, the sister company of The Economist newspaper. Learn more: [Democracy data: how do researchers measure democracy?](#)

**Figure 1: The Economist Democracy Index, data from 2006 to 2024 concerning the nine countries considered by this article. Data processed through the website Ourworldindata.org**

Only in 2024 did Montenegro (6.73) overtake Hungary (6.51), but the remaining six candidate countries scored lower than Hungary.

In 2024, of the seven candidate countries, none scores higher than 7, only one (Montenegro) scores higher than 6.5, while the remaining six score below 6.5.

Five have scores between 6 and 7, thus characterising them as flawed democracies, while Bosnia and Herzegovina (5.06) and Ukraine (4.90) have scores that characterise them as hybrid regimes.

With specific reference to Ukraine, even if we consider the data for 2021 – the last year before the Russian invasion – it should be noted that the country had a score of 5.57, which still characterised it as a hybrid regime.

An analysis of the evolution of the data over the period considered (2006-2024) shows that, of the seven candidate countries considered, only two have recorded an improvement in their results (Montenegro and Albania), while the remaining five have recorded a structural deterioration. In the case of Ukraine, the deterioration is also confirmed compared to the 2021 figure.

Essentially, the data show that in at least five of the seven candidate countries, no serious, long-term structural democratisation process is under way.

## ***2. The Freedom in the World report from Freedom House***

*Freedom in the World* is a yearly report prepared by the US non-governmental organisation Freedom House<sup>24</sup> aimed at measuring the quality of civil liberties and political rights in every nation in the world.

### *2.1 Methodology*

In terms of the methodology used, the report is prepared using a two-tier system consisting of scores and status.

‘A country or territory is awarded 0 to 4 points for each of 10 political rights indicators and 15 civil liberties indicators, which take the form of questions; a score of 0 represents the smallest degree of freedom and 4 the greatest degree of freedom. The political rights questions are grouped into three subcategories: Electoral Process (3 questions), Political Pluralism and Participation (4), and Functioning of Government (3). The civil liberties questions are grouped into four subcategories: Freedom of Expression and Belief (4 questions), Associational and Organizational Rights (3), Rule of Law (4), and Personal Autonomy and Individual Rights (4). The political rights section also contains an additional discretionary question addressing forced demographic change. For the discretionary question, a score of 1 to 4 may be subtracted, as applicable (the worse the situation, the more points may be subtracted). The highest overall score that can be awarded for political rights is 40 (or a score of 4 for each of the 10 questions). The highest overall score that can be awarded for civil liberties is 60 (or a score of 4 for each of the 15 questions). The scores from the previous edition are used as a benchmark for the current year under review. A score is typically changed only if there has been a real-world development during the year that warrants a decline or improvement (e.g., a crackdown on the media, the country’s first free and fair elections), though gradual changes in conditions – in the absence of a signal event – are occasionally registered in the scores.

The combination of the overall score awarded for political rights and the overall score awarded for civil liberties, after being equally weighted, determines the status of Free (F), Partly Free (PF), or Not Free (NF).

Prior to the 2020 edition, *Freedom in the World* assigned a country or territory two ratings – one for political rights and one for civil liberties – based on its total scores for the political rights and civil liberties questions. Each rating of 1 to 7, with 1 representing the greatest degree of freedom and 7 the smallest degree of freedom, corresponded to a specific range of total scores. The average of the ratings determined the status of Free, Partly Free, or Not Free. While the underlying formula for converting scores into status remains identical, starting in the 2020 edition *Freedom in the World* no longer presented the 1-7 ratings as a separate element of its findings. The ratings are still included in the raw data available for download’.<sup>25</sup>

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<sup>24</sup> Freedom House is a non-profit organisation founded in October 1941 and based in Washington, D.C. It is best known for political advocacy surrounding issues of democracy, political freedom and human rights.

<sup>25</sup> Freedom House, *Freedom in the World 2025: Methodology Questions* (2025) 2. This document also provides more details concerning the methodology applied to determine the scores.

## *2.2 Data analysis*

The data available cover the period between 2013 and 2025.<sup>26</sup>

With regard to the analysis of the data, what emerges is that in the period 2013-2022 – coinciding with the democratic backsliding process recorded in Poland and Hungary – the seven candidate countries consistently scored worse than Poland and Hungary, with the sole exception of Serbia, which scored the same as Hungary in 2017 (76) and slightly better in 2018 (73 compared to 72).

Again, considering the period between 2013 and 2022, the data show that it is possible to divide the period in question into three phases: in the first, from 2013 to 2015, five of the seven candidate countries had obtained PF status, while only two (Montenegro and Serbia) had obtained F status. In the second, from 2016 to 2018, Serbia was the only candidate country to obtain F status, while the other six had obtained PF status. In the third phase, which runs from 2019 to 2022 (and in reality until 2025), the seven candidate countries have all obtained PF status (as has Hungary itself).

From 2023 onwards, the data show a change: three of the seven candidate countries (Albania, Montenegro and North Macedonia) scored higher than Hungary in 2023, 2024 and 2025, while still remaining in PF status.

Therefore, in the last three years, all seven candidate countries have recorded scores lower than Poland, and four of the seven have also scored lower than Hungary.

Overall, considering the period 2013-2025, all seven candidate countries scored lower than Poland, and only three of the seven scored higher than Hungary in the last three years (yet still obtained the same PF status as Hungary).

If we consider instead the evolution of the data for the candidate countries over the period in question, we can see that between 2013 and 2025, only two countries (Albania and North Macedonia) recorded an improvement (rising from 63 to 68 and from 64 to 67 respectively), while the other five countries all recorded a deterioration in their scores.

Whereas in 2013, of the seven candidate countries, two (Montenegro and Serbia) had F status and five had PF status, in 2025 all seven candidate countries have PF status. Once again, therefore, the data show that no structural democratisation process is under way in the countries considered and that, on the contrary, there has been a democratic regression.

## **3. The World Justice Project (WJP) Rule of Law Index**

The World Justice Project Rule of Law Index is a tool intended to offer a comprehensive assessment of the extent to which countries adhere to the rule of law in practice. The index is developed by the World Justice Project (WJP) which is an independent non-profit organisation founded by William H. Neukom and William C. Hubbard in 2006 with the stated mission of working ‘to advance the rule of law worldwide’.<sup>27</sup>

### *3.1 Methodology*

As far as the methodology is concerned, ‘the country scores and rankings presented in this report are built from more than 500 variables drawn from the assessments of over 214,000 households and 3,500 legal practitioners and experts in 142 countries and jurisdictions,

<sup>26</sup> ‘Freedom in the World Report’ (Freedom House 2025)

<sup>27</sup> ‘About us’ (World Justice Project) <<https://worldjusticeproject.org/about-us>> accessed 10 March 2026.

making it the most accurate portrayal of the factors that contribute to shaping the rule of law in a country or jurisdiction.

To present an image that accurately portrays the rule of law as experienced by ordinary people, each score of the Index is calculated using a large number of questions drawn from two original data sources collected by the World Justice Project in each country: a General Population Poll (GPP) and a series of Qualified Respondents' Questionnaires (QRQs).

They capture the experiences and perceptions of ordinary citizens and in-country professionals concerning the performance of the state and its agents and the actual operation of the legal framework in their country.

Once collected, the data is carefully processed to arrive at country-level scores. As a first step, the respondent level data is edited to exclude partially completed surveys, suspicious data, and outliers (which are detected using the Z-score method). Individual answers are then mapped onto the 44 sub-factors of the Index (or onto the intermediate categories that make up each sub-factor), codified so that all values fall between 0 (weakest adherence to the rule of law) and 1 (strongest adherence to the rule of law), and aggregated at the country level using the simple (or unweighted) average of all respondents.

This year [2024], to allow for an easier comparison across years, the resulting 2024 scores have been normalized using the MinMax method with a base year of 2015. These normalized scores were then successively aggregated from the variable level all the way up to the factor level to produce the final country scores, rounded to two decimal points, and rankings. In most cases, the GPP and QRQ questions are equally weighted in the calculation of the scores of the intermediate categories (sub-factors and sub-sub-factors).<sup>28</sup>

### *3.2 Data analysis*

The analysis of the available data over the period 2015-2024<sup>29</sup> shows similar results to those highlighted above.

During the period in question, all six candidate countries for which complete data are available<sup>30</sup> recorded scores that were consistently lower than those of Poland throughout the entire period.

With regard to Hungary, however, between 2015 and 2018, all six countries recorded lower results than Hungary, and three of the six countries (Albania, Serbia and Ukraine) confirmed this trend throughout the entire period.

As for the other three, with reference to Bosnia, between 2019 and 2023 it recorded the same scores as Hungary, except in 2022 when it recorded a lower result (0.52 for Bosnia compared to 0.53 for Hungary). In 2024, however, Bosnia narrowly surpassed Hungary (0.52 for Bosnia compared to 0.51 for Hungary). Overall, therefore, it can be said that, in the long term, Bosnia and Herzegovina has performed worse than or similarly to Hungary.

As regards North Macedonia, it should be noted that since 2019 it has scored higher than Hungary (except in 2020, when the scores were the same).

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<sup>28</sup> World Justice Project, *The World Justice Project Rule of Law Index 2024* (2024) 185–86.

<sup>29</sup> For the period in question, complete data are available for six of the seven candidate countries, all except Montenegro, for which only data for 2023 and 2024 are available.

<sup>30</sup> All except Montenegro.

With regard to Moldova, after a period from 2015 to 2021 in which it scored lower than Hungary, it achieved the same score as Hungary in 2022 and in the last two years (2023 and 2024) it scored higher.

With reference to Montenegro, however, only data for 2023 and 2024 are available, and in both cases the country's score is higher than that of Hungary.

In summary, all the countries performed worse than Hungary between 2015 and 2018, and three (Albania, Serbia, and Ukraine) consistently performed worse than Hungary throughout the entire period.

Of the remaining four, only data for 2023 and 2024 are available for Montenegro, which are higher than those for Hungary. Bosnia recorded results lower than or similar to Hungary, except for 2024, which is slightly higher (0.52 compared to 0.51). After a long period of underperforming compared to Hungary, Moldova did better in 2023 and 2024.

Only North Macedonia recorded a prolonged period (2021-2024) of higher results than Hungary.

More generally, two factors should be considered: first, the narrowing of the gap between the candidate countries and Hungary appears to be due more to a deterioration in the latter's results than to a structural improvement in the performance of the candidate countries. Second, it should be noted that the results achieved by the candidate countries appear, in absolute terms, to be modest overall. In this regard, suffice it to say that none of the seven countries considered ever exceeded a score of 0.6 over the entire period in question and that in 2024 all candidate countries recorded results lower than those of countries such as Botswana and Kuwait. Finally, it should be noted that four (Albania, Bosnia, North Macedonia and Serbia) of the six countries for which we have complete data<sup>31</sup> recorded a deterioration in their performance over the period considered, while only two – Moldova and Ukraine – recorded an improvement (with the latter, however, remaining below the 0.5 threshold). Here too, the data show that no structural process of strengthening the rule of law is under way in the countries considered.

#### ***4. The Rule of Law: Percentile Rank***

The Rule of Law: Percentile Rank is an indicator developed by the World Bank Group which 'captures perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence'.<sup>32</sup>

##### *4.1 Methodology*

The indicator is developed by the World Bank Group in the broader context of the Worldwide Governance Indicators (WGI) research project. This is a 'long-standing research project to develop cross-country indicators of governance. The WGI consist of six composite indicators of broad dimensions of governance covering over 200 countries since 1996: Voice and Accountability, Political Stability and Absence of Violence/Terrorism, Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption. These indicators are based on several hundred variables obtained from 31 different data sources, capturing governance perceptions as reported by survey respondents, non-governmental

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<sup>31</sup> All except Montenegro.

<sup>32</sup> 'Rule of Law Percentile Rank' (World Bank) <<https://data.worldbank.org/indicator/RL.PER.RNK>> accessed 10 March 2026.

organizations, commercial business information providers, and public sector organizations worldwide'.<sup>33</sup>

#### 4.2 Data analysis



**Figure 2: The Rule of Law: Percentile Rank developed by the World Bank Group. Data from 2005 to 2023 concerning the nine countries considered by this article. Data processed through the World Bank official website.**

The analysis of the data once again confirms the trend already highlighted above.

If we look at the data for the period 2005-2023, all seven candidate countries consistently scored lower than both Poland and Hungary. During the period under consideration, none of the seven candidate countries ever exceeded 60 points, with the lowest score recorded by Poland and Hungary being 62, achieved by Poland in 2006.

With regard to the performance of the candidate countries, it should be noted that, considering the period between 2005 and 2023, all countries except Ukraine saw an improvement in their scores. However, it should be noted that these countries started from very low scores – for reasons determined by the historical and political evolution of the Balkan region and Eastern Europe – with four countries below 40 points, three of which (Serbia, Albania and Ukraine) were below 30 points.

With specific reference to Ukraine, the country's score fell from 26 in 2006 to 20 in 2023. If, on the other hand, we were to take 2021 (the last year before Russia's large-scale invasion) as the reference year, Ukraine would have confirmed its 2006 score of 26 points. Whereas if we were to take 2013 as a reference (the last year before the annexation of Crimea and the occupation of Donbass) this score would have fallen from 26 points in 2006 to 23 in 2013. These are in any case very low scores, the lowest of the analysed sample. Over the entire

<sup>33</sup> Daniel Kaufmann, Aart Kraay and Massimo Mastruzzi, 'The Worldwide Governance Indicators: Methodology and Analytical Issues' (2010) World Bank Policy Research Working Paper 5430 <<https://ssrn.com/abstract=1682130>> accessed 10 March 2026.

period considered, Ukraine is the only country that has never exceeded the 30-point threshold. If, on the other hand, we narrow down the period considered to the decade 2013-2023, what emerges is that four of the seven countries considered (Montenegro, North Macedonia, Bosnia and Herzegovina, and Ukraine) have seen their scores worsen, while the other three (Serbia, Moldova and Albania) have seen an improvement.

Again, therefore, the data show that – at least in the last decade – there has not been a structural process of improvement of the rule of law in the countries considered.

### **5. The V-DEM Rule of Law Index**

The Varieties of Democracy Institute (V-DEM) is an independent Research Institute, founded in 2014 by the Swedish political scientist Staffan I. Lindberg. Its work is aimed at developing datasets and quantitative indexes in order to measure democracy in concrete terms.

#### *5.1 Methodology*

One of the abovementioned quantitative tools is the Rule of Law Index.

The index – which ranges from 0 to 1 – is intended to capture ‘the extent to which the government complies with the law, courts are independent, laws transparent, justice accessible, corruption absent, and the bureaucracy is impartial’.<sup>34</sup>

The scores ‘rely on information from multiple indicators based on a sophisticated Bayesian measurement model, which uses the judgements of multiple experts per country and additional information about coder characteristics to calculate point estimates supplemented with estimates of uncertainty in the form of confidence intervals’.<sup>35</sup> More specifically, the scores are based on expert surveys conducted through online questionnaires:

‘The online questionnaire contains detailed questions with well-defined response categories. It is divided into different clusters, where the indicators used to measure adherence to the rule of law are taken from the surveys covering civil liberties, the executive, and the judiciary. The carefully selected international and native country experts (mostly academics) are assigned surveys matching their expertise’.<sup>36</sup>

The index is then ‘constructed by fitting a Bayesian factor analysis model (including all observations) to the indicators. This procedure takes into account the measurement uncertainty associated with the individual indicators via the method of composition. The model estimates the posterior distribution of the latent factor score for each country-year observation, and these posterior distributions are used to produce point estimates (posterior averages) and confidence intervals (standard deviations and highest posterior density regions). The index scores are subsequently standardized to a probability (0-1) score by using the normal cumulative distribution function based on the assumption that the latent trait follows a normal distribution. This procedure, which tends to squish values – and

<sup>34</sup> ‘V-DEM Rule of Law Index’ (Our World in Data 2024) <<https://ourworldindata.org/grapher/rule-of-law-index?tab=line&time=2005..2024&country=POL~HUN~MNE~MDA~ALB~SRB~BIH~UKR~MK>&D#sources-and-processing> accessed 10 March 2026.

<sup>35</sup> Svend-Erik Skaaning, ‘A global, historical rule of law index’ (2025) *Zeitschrift für Vergleichende Politikwissenschaft* <<https://doi.org/10.1007/s12286-025-00625-2>> accessed 10 March 2026.

<sup>36</sup> *ibid* 180.

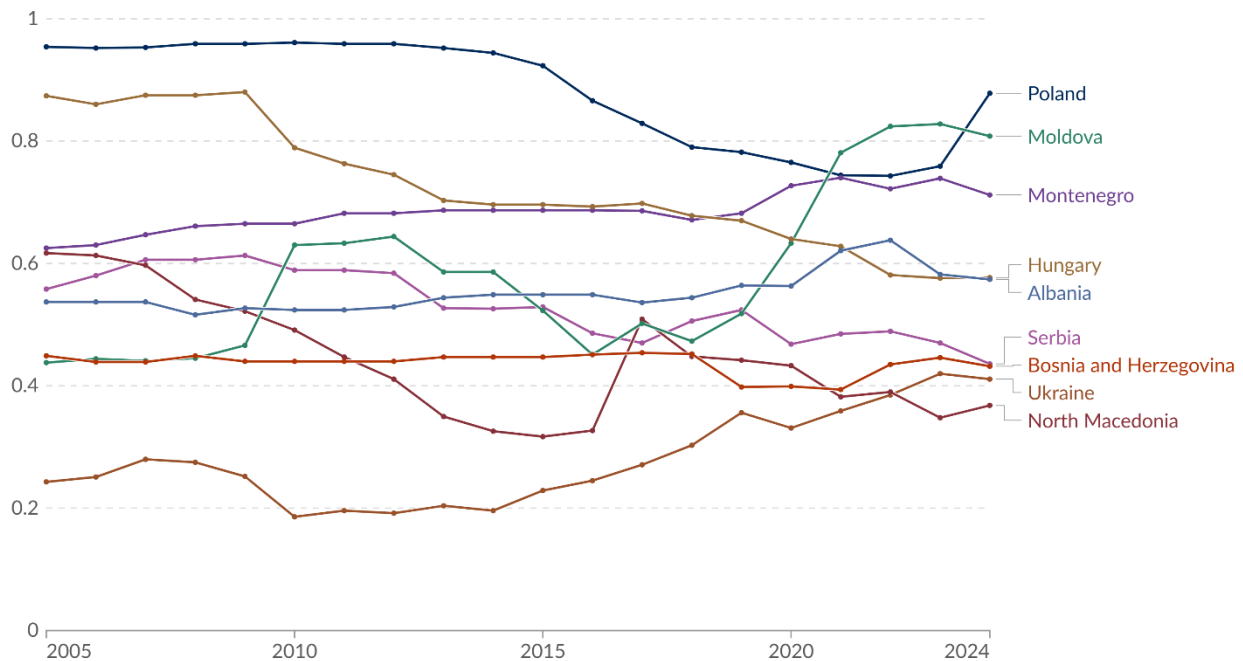
smooth over random error – at the extremes, is used to ease interpretation and increase comparability across different V-Dem indices. It deserves mentioning that while this standardization spreads out the observations, it also leads to some variance truncation in the upper end'.<sup>37</sup>

## 5.2 Data analysis

### Rule of Law Index, 2005 to 2024

Our World  
in Data

Data by V-Dem<sup>1</sup>. Expert estimates of the extent to which the government complies with the law, courts are independent, laws transparent, justice accessible, corruption absent, and the bureaucracy is impartial. The index ranges from 0 to 1 (most rule-based).



Data source: V-Dem (2025)

OurWorldinData.org/democracy | CC BY

1. V-Dem The Varieties of Democracy (V-Dem) project publishes data and research on democracy and human rights. It relies on evaluations by around 3,500 country experts and supplementary work by its own researchers to assess political institutions and the protection of rights. The project is managed by the V-Dem Institute, based at the University of Gothenburg in Sweden. Learn more: [Democracy data: how do researchers measure democracy?](#) [The 'Varieties of Democracy' data: how do researchers measure democracy?](#) [The 'Varieties of Democracy' data: how do researchers measure human rights?](#)

**Figure 3: The V-DEM Rule of Law Index. Data from 2005 to 2024 concerning the nine countries considered by this article. Data processed through the website Ourworldindata.org.** Analysis of the data for the period considered – from 2005 to 2024 – once again confirms the trends that emerged previously.

Between 2005 and 2018 – a period that includes the democratic backsliding by Poland and Hungary – all candidate countries consistently scored lower than both Poland and Hungary. Furthermore, for four of the seven candidate countries (Serbia, Bosnia and Herzegovina, North Macedonia and Ukraine), the situation remains unchanged from 2018 to 2024. However, the situation changed in subsequent years for Moldova, Montenegro, and Albania.

<sup>37</sup> *ibid* 187.

As regards Moldova, after consistently scoring lower than Poland and Hungary until 2020, the trend changes from 2021 onwards. In fact, between 2021 and 2023, Moldova scores higher than both Poland and Hungary, standing out as the country with the highest score in the entire sample considered. In 2024, Moldova was overtaken by Poland but scored higher than Hungary.

With regard to Montenegro, it should be noted that, since 2019, the country has consistently scored higher than Hungary (and lower than Poland). From this point of view, Montenegro has therefore overtaken Hungary in structural terms. Finally, with reference to Albania, in the two-year period 2022-2023, this country scored higher than Hungary, only to be overtaken by the latter in 2024.

In conclusion, in 2024, all seven candidate countries scored lower than Poland, and five of the seven (Albania, Serbia, Bosnia and Herzegovina, North Macedonia and Ukraine) scored lower than Hungary. Four of these (all except Albania) scored below 0.5.

If we look instead at the evolution of the data, considering the entire period 2005-2024, it emerges that four of the seven candidate countries have recorded an improvement (Moldova, Montenegro, Albania and Ukraine) and three a deterioration (Serbia, North Macedonia and Bosnia and Herzegovina). However, if we focus on the period 2014-2024, the data show that only two countries (Serbia and Bosnia and Herzegovina) recorded a deterioration in their results, while the remaining five recorded an improvement.

## 6. Overall results

In this section, five databases<sup>38</sup> that attempt to measure compliance with rules governing democracy, civil liberties, political rights and the rule of law were analysed.

According to the **Economist Democracy Index**<sup>39</sup>, between 2006 and 2023, all seven candidate countries consistently scored lower than Poland and Hungary. In 2024, however, all seven candidate countries performed worse than Poland, while six out of seven (all except Montenegro) performed worse than Hungary.

Furthermore, with regard to the evolution of the data, only two (Montenegro and Albania) of the seven countries recorded an improvement in the data, while the remaining five recorded a deterioration.

With reference to **Freedom in the World**<sup>40</sup> data, in 2025 all seven countries score lower than Poland, while four out of seven countries (Bosnia, Moldova, Serbia and Ukraine) scored lower than Hungary. All seven candidate countries were granted Partly Free status.

Furthermore, in terms of the evolution of the data, we can see that between 2013 and 2025, only two countries (Albania and North Macedonia) recorded an improvement (rising from 63 to 68 and from 64 to 67 respectively), while the other five countries all recorded a deterioration in their scores.

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<sup>38</sup> i) The Economist Democracy Index, ii) Freedom in the World, iii) The World Justice Project (WJP) Rule of Law Index, iv) The Rule of Law: Percentile Rank, and the v) V-DEM Rule of Law Index.

<sup>39</sup> Economist Intelligence Unit, 'Democracy Index' (Our World in Data 2024) <<https://ourworldindata.org/grapher/democracy-index-eiu>> accessed 10 March 2026.

<sup>40</sup> Freedom House, *Freedom in the World* (2025) <<https://freedomhouse.org/report/freedom-world>> accessed 10 March 2026.

With reference to the **World Justice Project (WJP) Rule of Law Index**<sup>41</sup>, in 2024 all seven candidate countries scored lower than Poland, while compared to Hungary, three countries scored lower (Albania, Serbia and Ukraine) and four scored higher (Bosnia, Montenegro, North Macedonia and Moldova). In terms of the evolution of the data, it should be noted that four (Albania, Bosnia, North Macedonia and Serbia) of the six countries for which we have complete data<sup>42</sup> recorded a deterioration in their performance over the period considered, while only two – Moldova and Ukraine – recorded an improvement (with the latter, however, remaining below the 0.5 threshold).

With reference to the **Rule of Law: Percentile Rank**<sup>43</sup> compiled by the World Bank, throughout the entire period considered from 2005 to 2023, all seven candidate countries consistently recorded results lower than those of Poland and Hungary. With regard to the performance of the candidate countries, it should be noted that, considering the period between 2005 and 2023, all countries except Ukraine saw an improvement in their scores. However, if we narrow our analysis to the last decade of available data, 2013-2023, four countries recorded a deterioration in their results (Montenegro, North Macedonia, Bosnia and Herzegovina, and Ukraine) and three countries recorded an improvement (Serbia, Moldova and Albania).

On the other hand, with reference to the **V-DEM Rule of Law Index**<sup>44</sup>, in 2024, the last year available, all seven candidate countries scored lower than Poland, and five of the seven (Albania, Serbia, Bosnia and Herzegovina, North Macedonia and Ukraine) scored lower than Hungary. Four of these (all except Albania) scored below 0.5. As for the evolution of the data, considering the entire period 2005-2024, it emerges that four of the seven candidate countries have recorded an improvement (Moldova, Montenegro, Albania and Ukraine) and three a deterioration (Serbia, North Macedonia and Bosnia and Herzegovina). However, if we focus on the period 2014-2024, the data show that only two countries (Serbia and Bosnia and Herzegovina) recorded a deterioration in their results, while the remaining five recorded an improvement.

The above results allow us to draw some conclusions. First, the data show that the seven candidate countries have been and continue to be less democratic and less respectful of the rule of law than Poland and, overall, Hungary. Second, the data show that, in absolute terms, the results achieved by the candidate countries are relatively modest and that the convergence observed with Hungary is in fact due more to the democratic regression experienced by the latter than to any improvement in the candidate countries. Finally, an analysis of the data obtained from each country on the various indices shows that, for at least four of the seven countries considered (Bosnia and Herzegovina, North Macedonia, Serbia and Ukraine), there is no systematic process of improvement in democracy and respect for the rule of law.

#### **IV. The EU enlargement: the risks and the need for a cautious transition.**

##### **1. The risks of an accelerated EU enlargement**

<sup>41</sup> World Justice Project, *WJP Rule of Law Index* (2024) <<https://worldjusticeproject.org/rule-of-law-index/global>> accessed 10 March 2026.

<sup>42</sup> All except Montenegro.

<sup>43</sup> World Bank, 'Rule of Law: Percentile Rank' <<https://data.worldbank.org/indicator/RL.PER.RNK>> accessed 10 March 2026.

<sup>44</sup> 'V-DEM Rule of Law Index' (Our World in Data 2024) <<https://ourworldindata.org/grapher/rule-of-law-index>> accessed 10 March 2026.

Having verified that the candidate countries cannot be considered more democratic and respectful of the rule of law than Poland and Hungary have been and continue to be, it is necessary to reflect on the risks that could arise from a possible acceleration of the enlargement process and from the fact that this could take place without a lengthy and cautious transition process.

First, the accelerated entry into the EU of countries that have not yet completed the democratisation process poses the risk that European institutions might face new political and institutional crises in the future – similar to those that occurred with Poland and Hungary – caused by democratic regression in the new Member States. The rationale behind this argument is i) that a weaker and less stable democracy (like those analyzed in this article) is structurally more likely to experience a crisis than a full and stable democracy and ii) that the consequences of such a crisis would probably be more dangerous than those of a crisis occurring in a full and stable democracy. The occurrence of these crises – with the resulting increase in political conflict – would inevitably undermine political stability, the effectiveness of governance mechanisms and the overall democratic quality of the European Union.

Second, the accelerated entry of these countries into the EU also poses the risk of what could be described as a ‘genetic mutation’ of the EU itself. The accession of a number of countries that are far from being fully democratic could bring about a qualitative change in the values and operational mechanisms of the EU as a supranational political entity. There is a risk that the European Union could be transformed from a union of democratic countries, in which the democratic regression of some Member States is a pathological exception, into a ‘hybrid union’ in which the coexistence of democratic regimes and hybrid (or not fully democratic) regimes becomes a politically accepted and normal reality. Such a transformation would clearly result in an overall decline in the quality of democracy within the European Union and – in all likelihood – also a decline in the quality of democracy within the democratic countries of the Union.

Finally, it is important to emphasise the effect that accelerated EU enlargement would have on the effectiveness of the EU’s governance mechanisms. Already today, in the current context of 27 Member States, there is general consensus that the EU is experiencing a structural crisis capable of jeopardising its very existence.<sup>4546</sup>

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<sup>45</sup> On the subject, among many contributions, see AJ Menéndez, ‘The Existential Crisis of the European Union’ (2013) 14(5) *German Law Journal* 453 <<https://doi.org/10.1017/s2071832200001917>> accessed 10 March 2026; Luisa Torchia (ed), *L’Unione europea in crisi* (Giuffrè Editore 2017); L Frosina, ‘La Crisi Esistenziale dell’Unione Europea, tra Deriva Intergovernativa e Spinte Centrifughe’ (2018) 2 *Nomos – l’Attualità nel Diritto*; Nathalie Brack and Seda Gürkan (eds), *Theorising the Crises of the European Union* (Routledge 2020) <<https://doi.org/10.4324/9781003001423>> accessed 10 March 2026.

<sup>46</sup> That the European Union is facing a long and unresolved existential crisis has also been admitted by distinguished pro-Europeans including: Jean Claude Juncker, see J. Rankin, ‘EU is facing existential crisis, says Jean-Claude Juncker’ *The Guardian* (London, 14 September 2016) <<https://www.theguardian.com/world/2016/sep/13/jean-claude-juncker-eu-is-facing-existential-crisis>> accessed 10 March 2026; Romano Prodi, see M Banks, ‘Romano Prodi: EU confronted by existential crisis’ (*The Parliament Magazine*, 9 March 2019) <https://www.theparliamentmagazine.eu/news/article/romano-prodi-eu-confronted-by-existential-crisis> accessed 10 March 2026; Mario Draghi, see ‘Draghi: the EU has lost the illusion of being a player on the international stage’ (*Eunews*, 22 August 2025) <https://www.eunews.it/en/2025/08/22/draghi-the-eu-has-lost-the-illusion-of-being-a-player-on-the-international-stage/> accessed 10 March 2026; C Zappieri, ‘Draghi sferza l’Europa: «Marginale e spettatrice, è evaporata l’illusione di una Ue que ha potere»’ *Corriere della Sera* (Milan, 22 August 2025)

There is, in fact, extensive debate on the EU's ability to respond promptly to contemporary challenges and on the relationship between these challenges and the EU's democratic legitimacy. It is therefore logical to assume that this crisis would only worsen in the event of such a far-reaching enlargement of the EU in the absence of a prior significant reform of the governance mechanisms currently enshrined in the Treaties. In the current context, it is easy to imagine that a further crisis in the EU's decision-making effectiveness would fuel the political advance of forces opposed to the European project, and in some cases dangerous to the very democratic stability of certain Member States. Thus, accelerated EU enlargement could become – through the resulting crisis in governance mechanisms – an existential threat to the European Union and to democracy in some of its Member States.

Finally, it is important to highlight the logical contradiction between EU enlargement based on 'unchanged rules' and the prospect – currently supported by the main European political forces – of deepening the European integration process with the strategic objective of creating a federal-type supranational state entity.<sup>47</sup> In other words, it is reasonable to say that EU enlargement *ceteris paribus* – with the right of veto currently provided for in the treaties extended to seven additional countries – would only lead to a structural worsening of the already serious difficulties experienced by the EU since at least the 2008/2009 crisis and delay the prospect of further federal developments in the European project.<sup>48</sup>

From this point of view, therefore, European leaders are faced with a conundrum: on the one hand, completing EU enlargement without first reforming the treaties would mean postponing the prospect of deepening the European project in a federal sense. On the other hand, initiating a systematic process of treaty reform would mean postponing EU enlargement until after its conclusion.

## **2. The need for a cautious transition**

Based on the above considerations, it can be said that the enlargement of the European Union should ideally be preceded by a lengthy and cautious transition process. This transition process should have two fundamental pillars.

The first pillar relates to the fact that the European Union should engage in a process of 'democracy building' with candidate countries aimed at significantly strengthening democracy and ensuring respect for the rule of law within their institutional systems. It is worth noting that progress has been made in raising awareness of the importance of respect for the rule of law in the EU enlargement process: for example, in 2024, four (Albania, Montenegro, North Macedonia and Serbia) of the seven candidate countries analysed in this

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[https://www.corriere.it/politica/25\\_agosto\\_22/draghi-ue-marginale-e-spettatrice-e-evaporata-l-illusione-di-un-europa-che-conti-od343a4f-a0b8-4825-82cb-1c705e637xlk.shtml](https://www.corriere.it/politica/25_agosto_22/draghi-ue-marginale-e-spettatrice-e-evaporata-l-illusione-di-un-europa-che-conti-od343a4f-a0b8-4825-82cb-1c705e637xlk.shtml) accessed 10 March 2026.

<sup>47</sup> The fact that the strategic objective of the European project is a federal-style supranational state entity – as enshrined in the TEU through the 'ever closer union clause' – is shared by the main European political groups and was recently reiterated by a leading pro-European, Mario Draghi, who stated that the EU 'should become a state'. See 'Mario Draghi: EU must become a state' (Modern Diplomacy, 8 December 2023) <<https://moderndiplomacy.eu/2023/12/08/mario-draghi-eu-must-become-a-state/>> accessed 10 March 2026.

<sup>48</sup> Former President of the European Commission Romano Prodi, among others, also expressed this view. See R Castaldi, 'Prodi: "L'allargamento esige mutamenti istituzionali"' (Euractiv, 9 June 2023) <<https://euractiv.it/section/allargamento-e-parternariati/interview/prodi-lallargamento-esige-mutamenti-istituzionali/>> accessed 10 March 2026.

article were included in the Rule of Law Report for the first time.<sup>49</sup> However, it is clear that there is significant room for improvement. For example, EU delegations in candidate countries should strengthen their capacity to understand different institutional contexts and engage in dialogue with civil society actors, seeking to make analytical capacity as uniform as possible across the various candidate countries.

Second, the EU could strengthen measures to involve candidate countries in the EU's internal debate on the issue of respect for the rule of law.

Finally, the issue of applying conditionality to the granting of European structural funds, both before and after the possible accession of the candidate countries to the EU, appears to be crucial. From this perspective, it is clear that 'strengthening the conditionality of EU funding would also increase the likelihood of rule of law reforms being successfully implemented'.<sup>50</sup>

In this regard, one possible solution could be to apply the same model of 'governance by conditionality'<sup>51</sup> to the European Union enlargement process as is applied to EU Member States within the framework of the NGEU and the RFF. In a nutshell, candidate countries should develop multi-annual national democratisation and rule of law plans organised around milestones and targets, which cover both intermediate qualitative and final quantitative performance objectives. The Commission would adopt a delegated regulation to monitor the implementation of these plans, and the disbursement of EU funds would follow the request from the Member States to be assessed by the Commission on the achievement of the qualitative milestones and quantitative targets set in the plans.

The second axis around which the transition process should be structured is that relating to the reform of the EU's internal governance mechanisms. From this perspective, Member States should develop a comprehensive plan for reforming EU governance, which should be adopted prior to – or at least concurrent with – the enlargement process.

In my opinion, the key element of this project should be the political and legal recognition of a reality that already exists in practice, namely the existence of different levels of political and economic integration, with the main dividing line being membership of the eurozone. Enlarging the EU to 34 countries without changing the rules would most likely condemn it to a long period of ungovernability, instability and impotence.

In conclusion, the enlargement of the EU to include the Balkan states, Moldova and Ukraine is an historic undertaking, but one that presents enormous risks. The success of such an operation appears to be linked to a need for it to be preceded by a lengthy period of preparation and transition intended to minimise existing risks and costs. If, on the other hand, the decision is made to force enlargement, disregarding the importance of this phase, there is a real risk that the dangers described above will materialise, leading to a further crisis of democracy and the rule of law in Europe.

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<sup>49</sup> Directorate-General for Justice and Consumers of European Commission, 'The 2024 Rule of Law Report' (Commission 2024) <[https://commission.europa.eu/publications/2024-rule-law-report-communication-and-country-chapters\\_en](https://commission.europa.eu/publications/2024-rule-law-report-communication-and-country-chapters_en)> accessed 10 March 2026.

<sup>50</sup> Brasseur, Pachta and Grigolo (n 19) 9.

<sup>51</sup> The idea of 'Governance by Conditionality' is developed in C Fasone and M Simoncini, 'Next Generation EU and Governance by Conditionality: A Transformation of the European Economic Constitution?' (2024) 9(3) European Papers.