

The Rule of Law in the EU: Crisis and Solutions

17–18 April 2023, Stockholm

IVA Conference Center, Grev Turegatan 16



CENTRE FOR EUROPEAN RESEARCH
CERGU



Conference Programme

17 April

08:15 – 09:00 Registration and Coffee

09:00 – 09:15 **Welcome and Introduction**

09:15 – 09:30 **Opening Keynote by Commissioner Didier Reynders**
(online)
Chair: Göran von Sydow, Director of SIEPS

09:30 – 10:30 **Keynote by Koen Lenaerts**, President of the Court of Justice of the European Union
Chair: Jane Reichel, Professor of Law, Stockholm University

10:30 – 11:00 Coffee

11:00 – 11:15 **Keynote by Christian Danielsson**, the Swedish State Secretary for EU Affairs
Chair: Göran von Sydow, Director of SIEPS

11:15 – 12:30 **Panel I: Moving Forward on Article 7**
R. Daniel Kelemen, Professor of Political Science and Law, Rutgers University
Dimitry Kochenov, Head of the Rule of Law Research Group and Professor of Legal Studies, Central European University
Henriikka Leppo, Head of EU litigation, Ministry for Foreign Affairs of Finland
Chair: Andreas Moberg, Associate Professor, University of Gothenburg and Director, CERGU

12:30 – 13:45 Lunch (all participants)

13:45 – 15:00 **Panel II: Money Talks! Using Financial Tools to Foster Compliance with the Rule of Law**
Kim Lane Scheppele, Professor of Sociology and International Affairs, Princeton University
Anna Wójcik, Assistant Professor, Institute of Legal Studies of the Polish Academy of Sciences
Harry Flam, Senior Advisor in Economics, SIEPS
Chair: Xavier Groussot, Professor of EU Law, Lund University

15:00 – 15:30 Coffee

Panel I: Moving Forward on Article 7

This panel discusses Article 7 TEU, the most central of the EU's political tools to protect the rule of law. Under this Treaty provision, the Council may determine that there is a 'clear risk' of a Member State infringing the EU's values. In 2017, the Commission activated Article 7 against Poland and in 2018 the European Parliament launched it against Hungary. The Council has held several hearings, but no vote has yet taken place. The procedure can best be described as stuck. Treaty reform is sometimes presented as a solution to the stalemate. Should Article 7 be revised to make it work more effectively, and if so, how? Does the EU's inability to effectively address the rule of law crisis affect its credibility?

Panel II: Money Talks! Using Financial Tools to Foster Compliance with the Rule of Law

This panel discusses the first lessons to be drawn from the application of the so-called conditionality mechanism against Hungary. The mechanism enables the EU to withhold payments from EU funds to a Member State that does not comply with the rule of law in a way which has an adverse effect on the EU's budget. Does the conditionality mechanism have an impact? The panel also addresses alternatives to the conditionality mechanism, such as the provisions of the Recovery and Resilience Facility, which require Member States to comply with certain country-specific recommendations before the funds are dispersed. More generally, the panel assesses the effectiveness of economic sanctions to foster compliance with the rule of law.

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15:30 – 16:45 **Panel III: The External Dimension**

Christophe Hillion, Professor of European Law,
University of Oslo
Ian Manners, Professor of Political Science, University of
Lund
Cecilia Malmström, Senior Research Fellow, Peterson
Institute for International Economics and former
European Commissioner for Trade
Chair: Per Cramér, Professor of International Law,
University of Gothenburg

16:45 Reception (all participants)

18:30 Conference dinner (speakers)

18 April

08:30 – 09:00 Registration and coffee

09:00 – 09:30 **Keynote by Staffan I. Lindberg**, Director of V-Dem,
University of Gothenburg
Chair: Joakim Nergelius, Professor in Law, Örebro University

09:30 – 10:45 **Panel IV: Looking Forward: Restoring the Rule of Law in EU Member States**

Armin von Bogdandy, Director at the Max Planck
Institute for Comparative Public Law and International Law,
Max Planck Institute
András Sajó, Professor of Law, CEU and former judge at the
European Court of Human Rights
Iain Cameron, Professor in Public International Law at
Uppsala University
Chair: Antonina Bakardjieva Engelbrekt, Professor of
European Law, Stockholm University

10:45 – 11:15 Coffee

11:15 – 12:30 **Panel V: Defending the EU's Values Beyond the Rule of Law**

Luke Dimitrios Spieker, Research Fellow, Max Planck
Institute
Allan Rosas, former Judge of the Court of Justice of the
European Union
Monica Claes, Professor of European and Comparative
Constitutional Law, Maastricht University
Chair: Ana Bobić, Référendaire, Court of Justice of the
European Union

12:30 – 13:00 **Conclusions & Closing Keynote by Kim Lane
Scheppele**, Professor of Sociology and International Affairs,
Princeton University
Chair: Christophe Hillion, Professor of European Law,
University of Oslo

Panel III: The External Dimension

This panel discusses how the rule of law crisis affects the EU's image as a global norm promoter and how this, in turn, effects the EU's ability to act externally. According to Article 21 TEU, the EU 'seeks to advance' the rule of law in the rest of the world. But the EU's external legitimacy will fade as its internal unity over the rule of law is challenged. The EU has long included conditionality clauses in its international agreements, alongside other concrete and reciprocal international commitments based on promoting the rule of law and respect for human rights. Could third countries use these commitments to enforce the rule of law in the EU? The panel also discusses to what extent the rule of law crisis may affect the enlargement process, which has been reanimated by Russia's war against Ukraine.

Panel IV: Looking Forward: Restoring the Rule of Law in EU Member States

This panel discusses how the rule of law can be restored, when a Member State government which has taken an authoritarian path is replaced by a government that wishes the state to once more uphold the rule of law. The example closest at hand might be Poland, where the PiS-led government could be replaced by the opposition in the next Polish election of November 2023. Is a democracy bound to follow constitutional rules set by authoritarians? Is the solution to adopt a new constitution, even if that would violate the existing rules? Or would it be sufficient to remove the central perpetrators from the judiciary to re-establish a functioning judicial system?

Panel V: Defending the EU's Values Beyond the Rule of Law

The case law of the CJEU pays testament to the possibility to concretely 'operationalize' one of the EU's values: the rule of law. This panel discusses whether the EU could and should defend its other values, which are equally under threat in some Member States. The infringement proceedings lodged against Hungary and Poland over the infringement of LGBTQ+ rights might be a step in that direction. The panel further discusses some of the objections by Member States that have taken an 'illiberal' turn, not least the EU's alleged lack of competence and the need to respect the 'the national identity' of Member States.