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POSITION PAPER

**RENEW EUROPE'S  
COMMITMENT  
TO RULE OF LAW:**  
A Renewed Call for Action

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# RENEW EUROPE'S COMMITMENT TO RULE OF LAW: A Renewed Call for Action

## Introduction

The rule of law constitutes the cornerstone of every legal system. This fundamental principle is based on universal, unchangeable values and inherently linked to democracy and human rights, rather than merely the literal following of the laws. On the EU level, these values are reflected in Article 2 of the TEU. Renew Europe has been a steadfast defender of the rule of law across the European Union, playing a pivotal role in establishing the Rule of Law Conditionality Mechanism to ensure that Member States adhere to the EU's fundamental values. This mechanism has been essential in holding countries accountable for democratic backsliding, particularly in Poland and Hungary.

In recent years, we witnessed troubling developments in these countries, where judicial independence and democratic checks were systematically undermined. However, with the recent change in government in Poland, there is hope for a positive shift in the country's commitment to the rule of law.

In Hungary, the erosion of democratic institutions and the rule of law under Prime Minister Viktor Orbán continues to be deeply concerning. Over the years, the Hungarian government has systematically weakened judicial independence, restricted media freedom, and targeted civil society, creating an environment that is hostile to democratic checks and balances. The government's increasing control over key sectors, including education, judiciary and the media has led to a sharp decline in democratic standards, undermining the core values of the European Union. Despite repeated warnings and the initiation of Article 7 proceedings, the Council has shown inability to make meaningful progress, while Hungary rejected every opportunity to reverse its authoritarian course. This persistent disregard for European values demands a stronger and more coordinated response from the EU to protect democracy, fundamental rights, and the rule of law.

Developments in a number of Member States, including Slovakia, Malta, Bulgaria and Greece, also signal alarming threats to the rule of law, demanding an unwavering response from Renew Europe to defend democracy across the EU. As we enter a new legislative term, the stakes could not be higher. We must make it clear that the EU will not stand by while governments backslide on their commitments. We will hold those in power accountable and demand that they honor the values they have signed up for. At the same time, citizens in these countries must know that Europe is with them, standing firm for justice, democracy and the rule of law.

We must also acknowledge the external threats to the rule of law from authoritarian regimes like Russia. These threats manifest in various forms, including disinformation campaigns and interference in elections, which undermine the foundations of our democracy and attack such fundamental principles as non-discrimination. Therefore, our responses should be of a dual coordinated nature, effectively countering both internal democratic backsliding and external hostile influences.

## Renew europe's 10-point-plan for strengthening the rule of law

### 1. ESTABLISHMENT OF THE EU MECHANISM ON DEMOCRACY, THE RULE OF LAW AND FUNDAMENTAL RIGHTS

Breaches of the values enshrined in Article 2 of the TEU undermine the cohesion of the European project, erode the rights of Union citizens, and weaken mutual trust among Member States. The current Rule of Law Toolbox is composed of various measures with differing functions and limitations, fragmented across multiple Commission portfolios. This fragmentation hampers its effectiveness in addressing the erosion of the rule of law within the EU.

To respond more comprehensively, the Toolbox must be streamlined and improved. In this regard, the European Parliament, under the leadership of Renew Europe, strongly advocated for the creation of an EU mechanism on democracy, the rule of law, and fundamental rights. This mechanism would encompass all aspects of Article 2 TEU and operate under an interinstitutional agreement between the Commission, the European Parliament, and the Council, ensuring a unified approach to annual monitoring across all Member States and a clear link to concrete Union measures for cases when deficiencies remain unaddressed. On such a fundamental issue, the actions of the three institutions must be coordinated, and work should not be duplicated. This would enable the establishment of an annual cycle for monitoring the values of the Union where the tools would be used hierarchically rather than in parallel with one another.

The European Commission has already expressed its openness to more cooperation between the institutions. Beyond the pilot initiative launched during the previous legislature, it will be necessary to determine the most relevant way to renew the experience and work together on new areas of cooperation in line with the President's guidelines. Renew Europe will ensure that this dialogue is properly maintained. In the interim, before this ultimate goal is achieved, it is essential to advance and refine the individual instruments within the current Rule of Law Toolbox. In particular, we need to:

### 2. EXPAND THE RULE OF LAW CONDITIONALITY MECHANISM AND INTRODUCE "SMART CONDITIONALITY"

Renew Europe calls for the consistent and rigorous application of the Rule of Law Conditionality Mechanism across all Member States. No country should be exempt from permanent and ongoing scrutiny regardless of the political party affiliation of its government. In order to ensure this implementation, all existing mechanisms should be assessed in terms of their relevance to the evolution of the rule of law in the country concerned. Rather than a range of tools, there should be a hierarchy, simplification and complementarity among the tools. All Member States should be treated equally. Furthermore, frozen EU funds should only be released once meaningful reforms are fully implemented and compliance with the rule of law is guaranteed. We need to focus on a common understanding of what is meant by meaningful reforms. This ensures that Member States are held accountable and that EU funds are not misused in countries that fail to uphold democratic standards.

The Rule of Law Conditionality Mechanism should be expanded and systematized to cover all EU funding programmes and instruments, ensuring that EU resources are safeguarded against misuse in all EU countries where the rule of law is in jeopardy. To this end, the Union's general Financial Regulation should include a comprehensive rule of law conditionality component, seeing that no funds are disbursed if the basic requirements stemming from Article 2 TEU cannot be guaranteed. Renew Europe advocates for the introduction of "smart conditionality,"<sup>1</sup> allowing EU funds to bypass national governments that undermine the rule of law and be distributed directly to municipalities, NGOs, and other actors that uphold European values. Ideally, "smart conditionality" should be implemented through a horizontal clause in the next Multiannual financial framework (MFF) and it should also include an element of "positive conditionality", i.d. granting additional funds to Member States who apply the EU's fundamental rights fully or go into more detail.

### 3. MAKE THE RULE OF LAW REPORT MORE COMPREHENSIVE

The annual Rule of Law Report should include broader indicators, such as media independence, civil society's role, fundamental rights, including sexual and reproductive rights, academic and artistic freedom, gender equality, protection of minorities and vulnerable groups, respect for international law and the functioning of democratic institutions, to provide a fuller picture of rule of law standards across the EU. The entire scope of Article 2 of the EU Treaty must be covered. Additionally, there should be a closer link between the findings of the Rule of Law Report, the degree of implementation of reforms in accordance with the recommendations made and the allocation of financial support under the EU budget, ensuring that EU funds are tied to respect for democratic principles. The Rule of Law Report should also incorporate a Single Market dimension, examining how breaches of the rule of law affect fair competition and the functioning of the internal market across Member States. Finally, the Rule of Law Report should

- set deadlines for the implementation of country-by-country recommendations,
- link the implementation of the recommendations to the procedures under Article 7, to infringement procedures, and to budgetary conditionality,
- make the report rely more on critical rather than descriptive analysis,
- develop clear indicators for assessing the situation with a severity scale,
- highlight cross-cutting trends,
- allow for a multiannual view of the rule of law in the European Union,
- ensure that the report also serves to promote policies that allow citizens to claim their rights, not just to remedy violations.

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<sup>1</sup> See also: [Renew Europe Position Paper on Smart Conditionality and the Rule of Law](#) (July 2020)

#### **4. STRENGTHEN AND RENEW THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE (EPPO)**

The EPPO's mandate must be renewed and expanded, with increased resources in terms of financing and qualified staff becoming a bigger priority within the current and future MFFs to combat corruption and the misappropriation of EU funds. The revision of the EPPO regulation must be carried out promptly to ensure that the EPPO can effectively fulfil its mission. A stronger legal framework will allow the EPPO to better address complex cross-border cases and hold those responsible for financial crimes accountable, ensuring that EU funds are protected and used as intended. Member States that do not take part in the EPPO should not be eligible for managing EU funds indirectly. For those Member States availing of the JHA opt-out in accordance with the Lisbon Treaty, they should have a relevant and independent national equivalent, working in close cooperation with the EPPO.

#### **5. ADDRESS THE IMPACT OF RULE OF LAW VIOLATIONS ON THE INTERNAL MARKET**

The breakdown of the rule of law negatively impacts the functioning of the Single Market. Trust in institutions is crucial for democracies and economies to function well. Renew Europe calls for stronger use of Single Market rules to counteract unfair treatment of companies in all sectors (e.g. media sector, retail sector, real estate sector, etc.)

#### **6. ACCELERATE ARTICLE 7 TEU PROCEEDINGS**

The Hungarian context regarding the effective implementation of Article 7 TEU highlights more than ever that the Council must be able to enforce the values of the Union within the framework of the procedures provided for under that article. If not, the EU's action on the rule of law cannot be credible. Renew Europe urges the Council to push forward ongoing Article 7 TEU proceedings to ensure appropriate application of the TEU whenever democratic standards are not upheld and rule of law is undermined. All Member States must be held accountable for failing to uphold EU values.

#### **7. ENFORCE INFRINGEMENT PROCEDURES MORE STRICTLY**

The European Commission must apply infringement procedures consistently and swiftly, imposing financial penalties where Member States fail to comply with EU law. In the past, the Commission has been too hesitant in addressing violations, especially concerning breaches of the rule of law. As the guardian of the treaties, the Commission must act promptly and decisively when violations occur, ensuring that infringement procedures are initiated without delay. This is particularly crucial in the realm of rule of law violations, where any hesitation undermines the EU's credibility and allows further democratic backsliding. Renew Europe calls for a more assertive approach, with the Commission fulfilling its role as an enforcer of EU principles by ensuring compliance through firm and timely action.

#### **8. STRENGTHEN JUDICIAL EXCHANGES ACROSS EUROPE**

To promote judicial cooperation and safeguard the independence of the judiciary, Renew Europe calls for the dedication of a larger part of the current and future MFFs to the EU Justice

Fund, facilitating exchanges between judges and prosecutors across Member States. We must also take action to promote a culture of independence and impartiality within the judiciary, fostering behavioural practices that uphold the highest standards of judicial integrity throughout Europe. Polish judges, who actively opposed reforms from the Law and Justice Party that jeopardised judicial independence and undermined the rule of law, embody this culture and stand as a significant symbol of resistance to the politicisation of the judiciary. It is important that the appointment and promotion of judges and prosecutors are determined solely by their qualifications and not influenced by political or personal considerations. Renew Europe calls for the EU institutions to ensure constant oversight, guaranteeing that judges and prosecutors remain independent of the authorities that appoint or re-appoint them.

## **9. CREATE A NEW FUND FOR THE “RESTAURATION OF THE RULE OF LAW” AND BOOST SUPPORT FOR CIVIL SOCIETY**

The dismantling of the Rule of Law can be quick but has significant and long-lasting repercussions in the whole society, even after illiberal governments have left the power. The case of Poland is telling. The new government has an immense task to re-build democratic institutions, a civic space and even a culture of the Rule of Law in the institutions and the whole society. We therefore call for the creation of a new and specific funding programme in the next MFF to support national, regional and local authorities, as well as civil society organisations in re-building a system of Rule of Law. As we call for with other financial instruments, a rigorous control based on precise indicators must be established so that funds are conditioned on concrete achievements in the area of the rule of law.

The EU must increase its support for civil society through the Rights and Values Programme, ensuring that organizations defending democracy and human rights receive the resources they need.

## **10. STRENGTHEN THE RESPECT FOR INTERNATIONAL LAW**

Respecting international law is essential for upholding the rule of law and protecting human rights. We urge EU institutions to take decisive action to encourage every Member State to commit to and uphold key international human rights treaties, including those adopted within the framework of the Council of Europe. The Istanbul Convention should be prioritized as a key instrument for the protection of women’s rights and combating gender-based violence. Furthermore, it is vital for Member States to adhere to the principles set forth in the European Convention on Human Rights and to implement the decisions of the European Court of Human Rights. It is also crucial that they consider the opinions and recommendations of the Venice Commission, which provide valuable guidance on maintaining rule of law, democracy and human rights. Renew Europe views the commitment to international legal standards as a necessary instrument for addressing and reversing democratic backsliding.

## Conclusion

Renew Europe calls on all its member parties to champion the rule of law both in the European Parliament and in their national legislatures. Governments involving Renew Europe parties must actively promote stronger rule of law protections at the EU level. We look forward to working closely with the new liberal EU Commissioner for Rule of Law in advancing this crucial agenda.

Democracy and the rule of law are at the heart of Renew Europe's mission. As defenders of these core values, we remain committed to fighting for justice and democratic integrity across the Union. In the upcoming legislative term, we will strengthen our efforts to ensure that Europe remains a bastion of freedom, justice, and democracy for all.

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