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Insight

Can the EU's next budget defend democracy and the rule of law?

by Zselyke Csaky, 21 September 2026

The European Commission is proposing to broaden rule of law conditionality and boost democracy funding in its next seven-year budget. But member-states may still blunt these ambitions.

Viktor Orbán's electoral defeat in April 2026 marked the EU's return to a community governed by the rule of law and democracy in all of its member-states. But as far-right and illiberal populist parties continue to gain ground across Europe, the EU's ability to defend its core values is shaping up to be one of the key challenges of the next decade. And unlike previous waves of populism, these parties are winning support in larger, richer countries – such as in France, where the Rassemblement National (RN) is polling first ahead of next year's elections, and in Germany, where the Alternative für Deutschland (AfD) has secured major advances, including a historic victory in Saxony-Anhalt.

That is why the negotiations around the EU's next seven-year budget – the 2028-34 Multiannual Financial Framework (MFF) – matter. The MFF sets the amount of EU funds available to support democracy as well as the process for restricting EU funds when member-states fail to respect the rule of law. The Commission's proposal, published in July 2025, would considerably expand and strengthen both mechanisms.

This insight looks at what the existing record tells us about the EU's ability to protect the rule of law, what the Commission's proposals would change, and, most importantly, whether the negotiations now underway in Brussels are likely to preserve or damage these ambitions.

What has the EU done so far to protect the rule of law?

The EU currently relies on four separate tools to protect the rule of law, each of which has a different legal basis, trigger and decision-making process:

- First, the so-called 'Article 7' procedure allows the EU to respond to threats to its foundational values. Establishing the existence of a serious and persistent breach requires unanimity in the European

Council – minus the member-state under scrutiny – and it allows for the suspension of a member-state's voting rights.

- Second, the rule of law conditionality regulation, in force since 2022, allows the Commission to propose suspending funds where a breach affects the bloc's financial interests in a "sufficiently direct way". It requires a qualified majority vote in the Council.

- Third, the Common Provisions Regulation (CPR) governs how the EU distributes cohesion funds and several smaller funds. This requires member-states to respect the Charter of Fundamental Rights when spending EU money and lets the Commission suspend funds on its own authority.

- Finally, the Recovery and Resilience Facility (RRF), the EU's post-Covid recovery instrument, ties disbursement of grants and loans to country-specific 'milestones'. Several milestones have targeted judicial independence in the case of Hungary and Poland, the two EU countries that experienced major democratic deterioration in the past decade. The Council approves national recovery plans, but the Commission assesses whether milestones have been met before authorising payments.

While Article 7 has never led to sanctions, the three other tools have suspended real money. At its peak, Hungary lost access to roughly €32 billion, or about 16 per cent of its GDP; while Poland had some €136 billion frozen, or around 17 per cent of its GDP. Yet, the mechanism used for those freezes was revealing. The conditionality regulation itself – the mechanism explicitly designed to punish rule of law breaches, and the one requiring a Council vote backed by member-states – accounted for just €6.3 billion of Hungary's total frozen funds and was never even triggered against Poland. Much larger sums were withheld under the horizontal enabling conditions of the CPR and the RRF, under which the Commission has a greater ability to decide unilaterally.

This was not by accident. Measures under the conditionality regulation require approval by a qualified majority of member-states, upon a recommendation by the Commission. Under the CPR and the RRF, however, the Commission itself could decide whether to release or withhold funds, with the Council approving national plans but not directly involving itself with reviewing the milestones.

The past decade suggests a clear pattern: whenever rule of law breaches required member-states to sanction one another, the EU has either failed to act or settled for less. The Article 7 mechanism never reached the sanctions stage despite clear evidence of serious rule of law breaches both in Hungary between 2010 and 2026 and in Poland between 2015 and 2023. And when the Commission triggered the conditionality regulation against Budapest, the Council reduced its proposed suspension of Hungary's cohesion funds from 65 to 55 per cent.

The Commission has not been exempt from accusations that political considerations influence its decision-making. When it released €10.2 billion in cohesion funds to Hungary in late 2023, the decision coincided with Budapest lifting its veto on EU funding for Ukraine. Rule of law experts criticised the move, accusing the Commission of betraying the rule of law in a backroom deal, while the European Parliament brought a case against the Commission before the European Court of Justice. The Commission has also faced significant criticism over its failure to respond in a timely manner in numerous other instances – from rule of law backsliding in Slovakia to media pluralism concerns in Bulgaria.

Still, the EU has not been toothless in protecting the rule of law. Financial suspensions imposed substantial political and economic costs on the Hungarian and Polish governments, contributing to political change in both countries. But the past decade has shown that political considerations and member-states' own reluctance to interfere in each other's internal affairs often take precedence over ensuring rule of law compliance.

What would the Commission's proposal change?

The first important change in the Commission's proposal concerns expanding rule of law conditionality to a wider pool of funding. The current tools apply to cohesion and other funds, but not to agricultural funds. This meant that in the case of Poland and Hungary, roughly one-third and one-quarter of EU funds, respectively, were exempt from rule of law sanctions. The Commission's 2028-34 proposal combines cohesion, agriculture, migration and several other funds into a single 'Fund' worth around €771 billion, subjecting them all to conditionality. This more than triples the volume of spending formally exposed to rule of law and Charter requirements, compared with today's roughly €200 billion.

Second, the proposal introduces three instruments for rule of law compliance, mirroring the three existing tools:

- The 'rule of law horizontal condition' (Article 9 of the budget proposal) mirrors the conditionality regulation but it does not require that a breach be explicitly linked to the EU budget. This would allow the Commission to act on a broader range of violations.

- The 'Charter horizontal condition' (Article 8), modelled on the current CPR horizontal enabling condition, requires that member-states respect principles like equality, justice or freedom of expression when spending EU money.

- Finally, and perhaps most importantly, the national plans submitted under the new budget will follow the current RRF model. This means that the Commission can withhold approval of a plan or later, the disbursement of funds, if a country fails to respect the rule of law or address related concerns. This turns the current model – where payments are automatic and suspensions are the exception – on its head: countries will have to continuously demonstrate compliance with the rule of law to receive EU money.

Third, the Commission's proposal creates a more direct link between funding decisions and the annual Rule of Law Reports, in which the Commission evaluates the state of the rule of law in the 27 member-states and four enlargement countries. Article 25 of the proposal makes the Rule of Law Reports' recommendations part of member-states' mid-term reviews, giving these reports a more concrete role in decisions about national plans and payments.

The proposal would also do more to protect the ultimate beneficiaries of EU money. Article 15 opens the way towards reallocating lost funds to programmes supporting democracy, civil society and the fight against corruption. This principle of 'smart conditionality' addresses one of the fundamental issues with financial sanctions. Suspending EU funds can put pressure on an anti-democratic government, but it can also deprive municipalities, regions and civil-society organisations of resources while allowing the government to blame Brussels. 'Smart conditionality' would seek to impose costs on the authorities responsible for democratic backsliding while maintaining support for those working to resist it.

Where the new system still falls short

The Commission's proposal introduces significant improvements. But it also reproduces a core weakness of rule of law conditionality in the existing system: the need to secure political agreement in the Council.

Under the new rule of law horizontal condition, the Commission proposes suspension, but the Council decides by qualified majority whether to accept it. The Commission would still retain decision-making under the Charter condition – however, the proposal specifies that when a breach triggers both conditions simultaneously, the rule of law condition should take priority.

This means that in cases where the Commission could plausibly use either mechanism, it would be required to rely on the one involving the Council rather than the one it could administer itself. Some of the most serious breaches could therefore be channelled through the more politically constrained procedure rather than the one that is more effective and more easily triggered.

This is not a small technical detail. As we wrote in a piece published in February 2025, rule of law conditionality has so far been tested, and brought mixed results, against poorer, smaller, net-beneficiary states. Applying these tools successfully against a larger net contributor – where the political cost of a Council majority is much higher – would be significantly harder. Building a qualified majority against an influential government would carry greater political cost, while withholding EU funding would exert less economic leverage.

With illiberal parties advancing in France and elsewhere, such a test may not be far off. A recent Delors Centre analysis argues that measures proposed under the rule of law condition should be subject to reverse qualified majority voting, allowing a Commission suspension to proceed automatically unless a qualified majority in the Council actively votes against it. It also suggests re-evaluating the current prioritisation in the proposal, arguing that compliance with the Charter should not be subordinate to compliance with the rule of law more broadly.

That is not the direction of negotiations so far. The Council's own June 2026 negotiating box affirms that the new Fund should provide "strong safeguards to ensure respect of the rule of law." Yet it also notes that "the Council will be involved as appropriate in the implementation of horizontal conditions". In addition, the negotiating box brackets the option of smart conditionality (Annex II/77) in its entirety – signalling a lack of agreement on redirecting lapsed funds towards pro-democracy actors. Member-states, in other words, are happy to keep the rhetoric of stronger conditionality while quietly preserving their own veto over its use.

What happens to democracy funding?

Conditionality can deter bad behaviour, but punishment does little to encourage the good – resources and funding are necessary to promote, rather than just protect, the rule of law and democracy. The EU's main instrument for supporting civil society, independent media and corruption watchdogs has been the Citizens, Equality, Rights and Values programme (CERV). Yet, its budget of €1.55 billion – spread across the previous MFF's seven-year period, has been far below demand. In some cases, it rejected 92 per cent of applications for lack of funding, despite assessing many as excellent.

In response, the Commission has created a new programme, AgoraEU, with a proposed budget of €8.6 billion for 2028-34. This covers a broader range of programmes: besides CERV (€3.6 billion), also culture

(€1.8 billion) and media (€3.2 billion). On paper, this is significant progress: the proposal more than doubles previous CERV funding and creates a distinct funding stream for media. These are positive developments.

Relative to the size of the EU budget and the scale of the challenge, however, the increase is much more modest. According to a recent mapping exercise by the European Policy Centre (EPC), the share of the MFF devoted specifically to funding democracy would increase from around 0.25 to 0.33 per cent. This means that at a time when democratic resilience is set to be one of the EU's key challenges, the bloc will spend less than 1 per cent on supporting organisations and actors that protect it. The increase may not even be enough to offset funding cuts from the United States' closure of USAID and other European governments' reductions in funding for civil society.

Moreover, the budget negotiations have so far provided little reassurance. The European Parliament proposed increasing AgoraEU to €10.72 billion, while the Council has proposed cutting the Commission's proposal to €7.3 billion. Last month, the six 'Frugals' net-contributor states – Austria, Denmark, Finland, Germany, the Netherlands and Sweden – demanded cuts of "several hundred billion euros" from the entire budget. AgoraEU sits within the part of the budget that is new and therefore most likely to experience cuts – especially as long as the current beneficiaries of cohesion and agriculture funds continue to defend their share.

What does this mean going forward?

By broadening conditionality and increasing funding, the EU could make meaningful progress towards protecting the rule of law and promoting democracy within its member-states. The Commission's MFF proposal builds on the lessons of the last decade: instruments run by the Commission work better than those involving Council approval – but only when the Commission actually chooses to use them.

The central lesson of previous funding suspensions was that political will, not legal design, decides how effective conditionality is. The Commission's proposal fails to address the one feature that has consistently produced watered-down outcomes: a Council vote that governments are reluctant to cast against each other. If anything, the proposal entrenches member-states' ability to block sanctions by giving the instrument requiring Council approval priority over the Commission-only one. Meanwhile, the modest funding increase proposed for civil society and independent media is already being negotiated downward.

This does not mean that the next budget will have no teeth. Adopting the RRF model and extending scrutiny to agricultural funds would represent genuine progress. But as with the conditionality regulation, the gap between the ambition on paper and the willingness of member-states to use it in practice is significant. Requiring reverse qualified majority to stop proposed sanctions would narrow this gap.

Given how the first test cases played out – reduced suspensions and politically timed releases – there is little reason to expect that member-states, sitting on both sides of the negotiating table, would want to give up power. Still, with illiberal political parties gaining ground in larger member-states, MFF negotiators have every reason to press for stronger rule of law safeguards.

Zselyke Csaky is a senior research fellow at the Centre for European Reform.