



Having our cake and eating it too? European Union and Czechia getting ready for enlargement

Pavλίna Janebová, Vendula Kazlauskas





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Summary

- The increasingly challenging geopolitical landscape pushes the EU to enhance its capacity to act efficiently and cohesively, both internally and vis-à-vis international partners and competitors. This leads also to a reconsideration of the EU's enlargement strategy, which is viewed as a geopolitical necessity. However, there are concerns about the EU's ability to function effectively with up to ten new members.

- The EU currently faces several challenges in its decision-making processes, struggling to find efficient solutions in key areas, particularly in safeguarding the rule of law across the bloc. Strengthening mechanisms to ensure all Member States respect these principles is essential for the EU's continued existence in a competitive international environment and is crucial for successful future enlargements.

- The accession of new members would require significant adjustments. This includes reforms to the voting system in the Council of the EU and changes in the functioning of other EU institutions, including the European Parliament and the European Commission. Each change will influence numerous other fields.

- There is a need for a deeper and more comprehensive debate within Czechia regarding the implications of EU enlargement and institutional reforms. Simplistic views on veto rights and influence overlook the broader challenges and opportunities that come with an expanding EU, highlighting the importance of engaging in more substantive discussions on the cascade of challenges connected with enlargement.



Recommendations

For the EU

- The EU rule of law principles should be operationalized into a set of empirically designed standards and benchmarks.
- The Article 7 procedure's efficiency might be increased by enshrining the obligation of the Council to act within a certain period of time. The Member States should open a politically difficult discussion about abandoning the "unanimity -1" requirement and setting a more operational threshold.
- To maintain the efficiency of the European Commission in the future, it will be inevitable to abandon the principle of one commissioner per member state.

For Czechia

- The government and political parties should open and lead an honest debate about the future of the EU, and also communicate it broadly in the public space.
- This debate needs to be based on a thorough cost-benefit analysis of the impact of various scenarios for the reform of the EU as well as enlargement, grounded in reliable data while taking into account political and institutional developments on the EU level.
- The government needs to take a more proactive and constructive approach in the debate on the European level, not limiting itself to reacting to the proposals of others but coming up with its own constructively formulated ideas, including red lines.
- Politicians as well as the media and expert community should communicate the impact of the decline of rule of law in terms of specific impacts it has e.g. on the use of EU funds in Czechia or the functioning of the single market for Czech businesses.
- A wider range of actors should engage in communication about the Czech priorities for the enlarged EU, including the business sector.



Introduction

European integration has been evolving ever since its inception back in the 1950s. The last revision of the primary law of the EU' happened at the turn of the century, which was the same time that the 'permissive consensus' can be said to have ended. Following wide discussions, it was the voters in France and the Netherlands who buried the Treaty establishing a Constitution for Europe and even the watered-down version of it, the Treaty of Lisbon, has had a very difficult path to ratification. Since then, the EU has moved towards deeper cooperation in several areas, however, it has been done outside of the formal treaty change mechanism and usually as a reaction to a serious crisis, be it the economic and financial one or the pandemics. More than fifteen years after the Treaty of Lisbon was signed, however, the question of another round of changes to the way the EU functions has been brought up again, turning from "if" to "how".

Perspectives on reform of the EU and the specific characteristics that the process should take differ between the Member States. While there are some which are more on the enthusiast side, even open to a treaty change including a convention and an intergovernmental conference and other subsequent steps, there are many which prefer a more careful and gradual approach. Czechia belongs to those who take an overall rather skeptical stance, preferring the implementation of reforms within the current legal framework.¹

There is a wide variety of possible tweaks to the functioning of the EU in several areas. This text intends to identify options for adjustments in two of them that would make the EU a better fit for the world of today – representation of Member States in the institutions and the rule of law. When assessing the possible changes, we take into account not only their potential in making the workings of the EU more efficient but also the extent to which they are acceptable for the more skeptical members of the club, with the primary attention on Czechia.

¹ Piotr Buras, Engjellushe Morina. Catch-27: The contradictory thinking about enlargement in the EU. Warsaw: European Council on Foreign Relations (ECFR), 2023, 19. <https://ecfr.eu/wp-content/uploads/2023/11/Catch-27-The-contradictory-thinking-about-enlargement-in-the-EU.pdf>.



1 If it works, why change it... Does it though?

Over the last decade or so, the multilateral international order has been increasingly challenged by an intensifying global competition characterized and pushed primarily by China's ascendance and Russia's revisionism. It has become apparent that to ensure its own sovereignty in the conditions of a multipolar world the EU will have to work on its ability to act efficiently and in a united manner internally as well as vis-à-vis international partners and competitors. This, especially in light of the Russian military actions against Ukraine, starting with the illegal annexation of Crimea in 2014, and the full-scale invasion of Ukraine beginning in 2022, which have thrown into sharp relief the need for the EU to also develop its capabilities when it comes to hard power and the ability to defend itself without overly relying on the US.

The complexity of the EU's governance processes, resulting in their sluggishness, is considerable with the current 27 Member States and will likely only increase with as many as ten new countries possibly joining the club in the upcoming one to two decades. Enlargement of the EU has been acknowledged as a geopolitical necessity, given the international context mentioned above, especially the ambitions of China and Russia. A Union of 35 Member States might however be too slow to react not only to external impulses but also to deal with internal agendas. What's more, even at the present stage, the EU has struggled to find efficient solutions in some key agendas, most crucially, safeguarding the rule of law across the bloc.

The EU has been forced to find ways of dealing with the issue of democratic decline and rule of law deficits in various Member States for more than a decade. While these issues are (legitimately) often considered from the point of view of values in themselves, it is crucial not to underestimate the very practical ways in which failure to adhere to common principles stated in the Treaties undermines the functioning of the single market as well as mutual trust between the Member States. As such, coming up with more efficient ways of bringing all Member States to respect these principles is a sine qua non for the continued existence of the EU in the increasingly competitive international environment. While the future of the EU might very well be "multispeed", rule of law is not one of the areas with an "opt out" possibility. Moreover, not being able to enforce strict adherence to the rule of law principles in the Member States also limits the legitimacy of the EU in requiring candidate states to adjust to those principles as a condition for accession to the Union.²

² Olivier Costa, Daniela Schwarzer, Pervenche Berès et al. Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century. Paris-Berlin: Franco-German Working Group on EU Institutional Reform, 2023, 16. <https://www.auswaertiges-amt.de/blob/2617206/4doe001offcd8coo79e21329bbbb3332/230919-rfaa-deu-fra-bericht-data.pdf>.



2 Enlarge, but don't reform: The contradictory Czech approach

The quest to reform the EU's efficiency is inherently challenging, as it requires the approval of Member States that are often reluctant to abandon their rights for the "greater good". This challenge is also reflected in the Czech debate on the EU's absorption capacity and enlargement in general.³

Czechia already proclaimed its support for EU expansion to include Ukraine and the Western Balkans before the beginning of the full-scale Russian invasion of Ukraine. Its priorities are a stable European neighborhood, and the expansion of the internal market. It was also a clear advocate for enlargement during the Czech presidency of the Council of the EU in 2022. Czech support for enlargement is also enshrined in the government's Policy Statement.⁴ In his speech at the conference commemorating the 20th anniversary of Czechia's accession to the EU, Prime Minister Fiala reiterated this stance and his government's support towards enlargement of the EU by the Western Balkan countries, Ukraine and Moldova – provided they meet all necessary conditions. This meritocratic approach is predominant among the EU states, yet the same states – including Czechia – also use geopolitical reasoning⁵ for enlargement seen through the prism of "securing the stability of the entire Europe, our home and our lifestyle".⁶ In practice, these two approaches are often contradictory – given that geopolitical developments do not wait for the EU to finish its complex bureaucratic proceedings.

Despite this clear declaratory stance,⁷ there is little discussion in Czechia about the implications of accepting new members, either for the country itself or for the Union as a whole. Similarly, there is limited debate on the enlargement methodology. Although the government is gathering inputs on what enlargement would mean for Czechia, these considerations have not filtered down to the public level. The Czech position is against opening the treaties.⁸ However, there is a lack of discussion on what alternative approaches could be pursued.

The reforms would significantly influence Czechia's position within the EU. The impact would be not only in the most visible areas – budgetary or in the

³ Nevertheless, the debate is not unique for Czechia only – see for example the above-cited ECFR Policy Brief (Buras and Morina 2023).

⁴ Government of the Czech Republic, "Policy Statement of the Government | Government of the Czech Republic," <https://vlada.gov.cz/en/jednani-vlady/policy-statement/policy-statement-of-the-government-193762/>.

⁵ Piotr Buras, Engjellushe Morina. Catch-27: The contradictory thinking about enlargement in the EU. Warsaw: European Council on Foreign Relations (ECFR), 2023, 4. <https://ecfr.eu/wp-content/uploads/2023/11/Catch-27-The-contradictory-thinking-about-enlargement-in-the-EU.pdf>.

⁶ Vláda ČR, "Projev premiéra Petra Fialy na konferenci 20 let Česka v EU: Vize pro rozšířenou Evropu | Vláda ČR," <https://vlada.gov.cz/cz/clenove-vlady/premier/projevy/projev-premiera-petra-fialy-na-konferenci-20-let-ceska-v-eu-vize-pro-rozsirenou-evropu-213234/>.

⁷ Czechia has also joined the Friends of the Western Balkans group, founded by Austria in 2023. According to the Göttweig Declaration, signed by member states of this group, the enlargement policy should be also a geostrategic tool, and the group calls for „renewed vigour and acceleration of the accession process“, as well as for „further advancing the gradual integration between the European Union and the region“. Friends of the Western Balkans, "Göttweig Declaration," https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aktuelles/Aufmacher/2023/Goettweig_Declaration.pdf. In addition to supporting the Western Balkan states, Czech Minister for European Affairs Dvořák initiated a letter to the Belgian Presidency of the Council of the EU, in which Czechia, along with 11 other states, called for progress in the accession talks of Ukraine and Moldova. Barbora Navrátilová, "Ministr Dvořák dopisem vyzval k posunu v jednáních o vstupu Ukrajiny a Moldavska do EU," Tvoříme Evropu, June 5, 2024, <https://tvorimeevropu.cz/2024/06/05/ministr-dvorak-dopisem-vyzval-k-posunu-v-jednanih-o-vstupu-ukrajiny-a-moldavska-do-eu/>.

⁸ Vláda ČR, "Projev premiéra Petra Fialy na konferenci 20 let Česka v EU: Vize pro rozšířenou Evropu | Vláda ČR," <https://vlada.gov.cz/cz/clenove-vlady/premier/projevy/projev-premiera-petra-fialy-na-konferenci-20-let-ceska-v-eu-vize-pro-rozsirenou-evropu-213234/>.



frequently debated change of unanimity voting on selected topics in the Council of the EU, but also in the position of the country in the EU institutional structure after the necessary institutional reform. Adjustments to the multiannual financial framework could have direct consequences for the country's access to EU funds, and becoming a net contributor to the EU budget sooner than expected. That is not to mention the political impact of up to ten countries accessing the Union, i.a. increasing the heterogeneity of the club, likely leading to some version of a multi-speed Europe.

Despite these potential impacts, public and political discourse in Czechia on EU reforms remains limited, often reduced to a simplistic debate over the necessity of preserving the veto right in the Council of the EU voting. This sole issue has become highly politicized and simplified mainly by the current opposition parties, led by Andrej Babiš and his ANO movement, but also by a significant part of the ruling Civic Democratic Party (ODS).⁹ ANO won the European Parliament (EP) elections in June 2024 with an agenda promising among other things to “preserve the veto right in the EU”, which was also reflected in the priorities of the new political group “Patriots for Europe” in the EP of which ANO is a founding member.

The Czech population has traditionally viewed the EU through a simplistic “us versus Brussels” lens, a perspective that has been reinforced by political leaders who have long depicted the EU as having a rather negative impact on the country. As a result, Czechia belongs among the lowest rankings of countries whose population thinks that the “country's membership of the EU is a good thing”.¹⁰ The number of people who believe that Czechia can play an active role in the EU and assert its position in decision-making even declined between 2019 and 2023,¹¹ despite the successful Czech presidency of the Council of the EU taking place during this time. In this environment, the population is particularly susceptible to populist and oversimplified narratives, and sensitive to any feeling that decisions on the EU level are done “about us without us”.

The current Czech government has stated that it is “open to debate on the possibility of improving the functioning of the EU” and is “happy to hear the possibilities.”¹² However, if the Czech position remains limited to merely “listening” to proposals from other states, without generating its own debate on the EU's future shape, seeking support for its priorities, and engaging in constructive negotiations, the country risks being marginalized within the broader context of European integration.¹³

⁹ “Zrušení veta a odebrání kompetencí evropským státům ústavním výborem EP je podle občanských demokratů nepřijatelné, je cestou směřující k vytvoření superstátu – ODS – Občanská demokratická strana,” <https://www.ods.cz/clanek/24929-zruseni-veta-a-odebrani-kompetenci-evropskym-statum-ustavnim-vyborem-ep-je-podle-obcanskych-demokratu-neprijatelne-je-cestou-smerujici-k-vytvoreni-superstatu>.

¹⁰ European Union, “EP Spring 2024 Survey: Use your vote - Countdown to the European elections - April 2024 - Eurobarometer survey,” <https://europa.eu/eurobarometer/surveys/detail/3272>.

¹¹ From 40 % in 2019 to 33 % in 2023. STEM. 2023. Češi a Evropa: Unie jako symbol. Nevěřejný průzkum.

¹² A “source close to the government”, quoted by Deník N. Markéta Boubínová, Tomáš Linhart, “Unijní lídři řešili na summitu v Granadě rozšíření EU, zasekli se na migraci,” Deník N, October 6, 2023, https://denikn.cz/1250804/unijni-lidri-resili-na-summitu-v-granade-rozsireni-eu-zasekli-se-na-migraci/#p_lock.

¹³ Czechia has already not been invited to the group of ten countries assembled by German Foreign Minister Baerbock to discuss the necessary reforms and address the concerns of smaller states about being outvoted if the qualified majority voting (QMV) principle is adopted. This exclusion may stem from a lack of consensus on this issue within the governing coalition. Kateřina Šafaříková, “Německá ministryně chce Ukrajinu v EU. Rozšíření unie o nové země považuje za nutnost,” Aktuálně.cz, November 3, 2023, <https://zpravy.aktualne.cz/zahranici/nemecka-ministryne-chce-ukrajinu-v-eu-rozsireni-unie-o-nove/r~a2b09acc7a4411eeba63ac1f6b220ee8/>; Vendula Kazlauskas, “CZ PRES 2022: Češi překvapili Evropu i sami sebe. Umí Česko využít získaný potenciál?,” in *Odolná střední Evropa: Cesta k bezpečné budoucnosti*, ed. Lucie Tungul (Praha: Topaz, 2024) 29, <https://top-az.eu/odolna-stredni-evropa-cesta-k-bezpecne-budoucnosti/>.



3 Challenges for the EU institutional setting

The accession of up to ten new Member States will significantly alter the composition, organization, and decision-making processes of EU institutions, including not only the Council, as previously discussed, but also the European Parliament and the European Commission.

Historically, almost every EU enlargement has been accompanied by institutional reforms. Article 49 of the Treaty on European Union (TEU) stipulates that the accession treaty must outline "the conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State."¹⁴ Similarly, the Copenhagen criteria emphasize that "the Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration."¹⁵

Just as there are concerns about the im/possibility of decision-making by the current system of unanimity in the Council, this potential institutional paralysis could also extend to other key institutions – the European Parliament and the European Commission – if the number of Member States grows beyond what the current system can accommodate.

3.1 European Parliament: The 751 Member Cap

Of all the EU institutions, the European Parliament is likely to be able to accommodate enlargement without facing significant resistance. Currently, the 720 Members of the European Parliament (MEPs) include 21 representatives from Czechia. Article 14(2) of the TEU specifies that the European Parliament may have a maximum of 750 MEPs plus the President, with a maximum of 96 and a minimum of 6 seats per country.

An expansion of the EU, particularly with the inclusion of a large state like Ukraine, would necessitate a reassessment of the current seat distribution among Member States. Such adjustments occur regularly, most recently in response to Brexit. Although most of the changes increased the total number of MEPs, in 2014, 12 Member States lost one seat each, as a reaction to the newly adopted Lisbon Treaty. Czechia saw its representation reduced from 22 to 21 MEPs; however, this reduction did not spark significant controversy. It is likely that any further reduction in the number of Czech MEPs following EU enlargement would not provoke substantial opposition from either political leaders or the public, if clear and equitable criteria are established, and if reductions are proportionally applied across Member States.

Conversely, the issue of MEPs' salaries and other compensations frequently attracts media attention, especially during election periods. A reduction in the number of MEPs might even be welcomed by a part of Czech society. Additionally, the persistently low voter turnout in European Parliament elections (36.45% in the 2024 election) suggests that this institution is unfortunately not viewed as a priority by Czech citizens, and thus, a reform in the number of seats is unlikely to generate significant opposition.

¹⁴ European Union, "EUR-Lex - 12016M049 - EN - EUR-Lex," <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12016M049>.

¹⁵ European Commission, "Accession criteria - European Commission," https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/glossary/accession-criteria_en.



3.2 European Commission: The Future of the One Commissioner Per State Principle

More significantly, the anticipated accession of up to ten new Member States would have a strong impact on the functioning of the European Commission. The current number of Commissioners, and the corresponding number of portfolios, has already faced criticism for being excessive. Although the Lisbon Treaty initially proposed reducing the number of Commissioners to two-thirds of the number of Member States, the European Council opted to maintain the number of Commissioners in line with the number of Member States. However, with an increasing number of Commissioners, there will be a growing need to reduce the portfolios to ensure they remain meaningful. Additionally, a larger College of Commissioners could hinder effective and swift coordination, much like the challenges observed in the Council of the EU.

For Czechia, maintaining adequate representation in the Commission is crucial, but this does not necessarily require having a Commissioner. Not having its own Commissioner could be at least partially off-set by enhancing the Czech presence in senior and managerial positions, where it currently has limited representation.¹⁶ Strengthening these informal contacts, as well as increasing the number of Czechs working in the Commissioners' cabinets, would help to ensure that Czech perspectives are reflected in EU proposals and could provide valuable, informal channels of communication back to Czechia. With this in mind, the implementation of the system proposed in the Lisbon Treaty, under the condition of rotation, may not pose a significant threat to Czech interests or the promotion of its priorities. However, from a political and public opinion perspective, this option is less viable. In Czechia, the Commissioner is one of the most visible "faces" of the European Union representing the EU as such rather than a particular political party and serving as a key link between EU institutions and the Czech public, unlike MEPs who are closely associated with political parties. If Czechia were to lose its Commissioner, it is likely that concerns about "Brussels deciding without us" would intensify, a sentiment that would be exploited by EU critics and populist parties, further undermining the legitimacy of EU actions in the eyes of the Czech public.

An alternative approach to managing the growing number of Commissioners, could involve appointing two Commissioners per portfolio, effectively halving the number of portfolios. However, while shared leadership roles are becoming more common in various organizations, applying this principle to top political positions could create confusion over decision-making authority and potentially lead to conflicts over control of the assigned portfolios. A more efficient approach might be to rotate the Commissioner leading one Directorate-General (DG) every 2.5 years¹⁷ aligning with the term of the President of the EP. This system would allow for continuity, with one Commissioner serving as a "shadow" to the "acting" Commissioner during half of their mandate, ensuring that they are well-prepared to take over. For Czechia, this arrangement would mean retaining a high-level representative in the Commission, who could also be more active and visible domestically during the 2.5 years when they are not the "lead" Commissioner, thereby enhancing their ability to explain European policies to the Czech public.

¹⁶ Jindřich Ginter, "V rozsáhlém aparátu Evropské unie pracuje jen velmi málo Čechů," *Novinky.cz*, April 14, 2023, <https://www.novinky.cz/clanek/zahranicni-evropa-v-rozsahlem-aparatu-evropske-unie-pracuje-jen-velmi-malo-cechu-40426630>.

¹⁷ Olivier Costa, Daniela Schwarzer, Pervenche Berès et al. *Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century*. Paris-Berlin: Franco-German Working Group on EU Institutional Reform, 2023, 20. <https://www.auswaertiges-amt.de/blob/2617206/4doe001offcd8coo79e21329bbbb3332/230919-rfaa-deu-fra-bericht-data.pdf>.



3.3 Council of the EU: Beyond the Veto

The most significant institutional challenges related to enlargement concern the functioning of the European Council and the Council of the European Union, where the principle of one representative per Member State is non-negotiable. This necessitates further streamlining of decision-making processes. While QMV is already used in most areas and Czechia typically aligns with the European consensus, having been outvoted only 3% of the time historically,¹⁸ the political debate surrounding the extension of QMV remains contentious. When President Pavel called for an open discussion on this issue in his Bruges speech,¹⁹ he faced intense criticism from populist parties, which was well noted by the current government and underlined that the subject is politically unviable.

However, Czechia will eventually need to confront this issue, and future governments will have to adopt a more nuanced stance than outright rejection. Czechia should engage in a candid discussion about where it might find the adoption of QMV acceptable, and if QMV were to be adopted unanimously under the so-called Passarella clause, it should identify areas where it would not obstruct its implementation and delineate its red lines. During negotiations, Czechia could prioritize areas that are important to it while seeking appropriate safeguards. If Czechia intends to maintain its role as one of the strongest supporters of Ukraine, and if it truly views enlargement primarily through a geopolitical lens, the introduction of QMV in areas such as common foreign and security policy or the imposition of sanctions would be a logical first step. These areas are not only the most frequently discussed and academically examined, but several Member States also explicitly linked the possibility of EU enlargement to the adoption of QMV in these domains.²⁰ Recent events have demonstrated that a single Member State, or a small group, can significantly impede the adoption of sanctions against Russia, thereby undermining Czechia's stated interests. To safeguard these interests, Czechia should engage constructively in discussions about the introduction of QMV. While there is a risk that Czechia might find itself isolated on certain issues — such as its support for Israel, which often conflicts with the mainstream EU position, the benefit of the entire EU not being exposed to blackmail by non-cooperative Member States is arguably bigger.

Therefore, Czechia should actively participate in discussions on how to structure QMV, including potential adjustments to the criteria for the number of Member States to make up a blocking minority or the incorporation of national interests safeguards into the system. Yet, this crucial debate is currently not taking place.

Although the introduction of QMV would require a significant sacrifice from Member States, it is necessary to realistically assess the potential benefits it could bring, particularly in overcoming the current paralysis that may worsen with further enlargement. Czechia's key interests — support for Ukraine, a unified EU stance toward Russia, and backing for enlargement — are all areas where a discussion on QMV will be essential in the future and where QMV could already help advance Czech priorities.

¹⁸ Tamás Levente Molnár (Ed.), Nikolett Garai, Vít Havelka et al. *Multilateral Cooperation in the EU: Internal Cohesion, Group Dynamics, and Voting Behaviour of Selected State Blocks*. Budapest: Institute for Foreign Affairs and Trade, 2021, 148. https://hiia.hu/wp-content/uploads/2021/10/minilateral_online_v1.pdf.

¹⁹ Prague Castle, "The Speech of the President of the Czech Republic at the occasion of the opening ceremony of the academic year in the Concert Hall, T'zand, Bruges - Prague Castle," <https://www.hrad.cz/en/president-of-the-cr/current-president-of-the-cr/public-addresses-and-interviews/the-speech-of-the-president-of-the-czech-republic-at-the-occasion-of-the-opening-ceremony-of-the-academic-year-in-the-concert-hall-tzand-bruges-17386>.

²⁰ Bundesregierung, "Address by Olaf Scholz "This is Europe" | Federal Government," <https://www.bundesregierung.de/breg-en/news/address-by-olaf-scholz-2189412>.



4 Rule of law or of the most insolent?

Despite the crucial importance that the rule of law and the willingness of Member States to adhere to its principles has for the entire project of EU integration, the EU has not been able to efficiently enforce it. While there are several instruments and mechanisms enshrined in the EU legislation to both prevent (annual rule of law dialogue,²¹ rule of law reports, EU Justice Scoreboard, Rule of Law Framework²²) and sanction (procedures stated in the Art. 7 of TEU, infringement procedures before the Court of Justice of the EU, Rule of law conditionality regulation²³) rule of law breaches, their application, especially in the latter category, has not posed a hindrance for the governments of some of the Member States to adopt legislative measures sharply contradicting the EU values as defined in the Treaties. The most glaring example of this has been the lengthy conflict of the European institutions with Hungary in which several mechanisms applied have arguably not brought any substantial change - to the contrary, the assessment of the situation in Hungary pertaining to rule of law as well as standards of democracy has even deteriorated.²⁴

In the conflicts about the rule of law, two key principles of European integration inevitably clash – firstly, adherence of all Member States to the rule of law is absolutely necessary in order for the single market as well as the cohesion policy to function – and these are both among the basic areas of European cooperation. Secondly, given the sovereignty of the Member States and their individual political traditions, their interpretation of what does and does not align with the rule of law as defined by the EU, will differ to a certain extent. What is then crucial is the willingness of the Member States to engage in an honest dialogue with the institutions or other Member States and adjust measures that do not comply with the EU framework. Whereas before EU accession, candidate states with a clear goal in mind usually do their best to meet the Copenhagen criteria, this motivation often declines once they are in. Further, the willingness of the Member States to comply declines once they do not see the requirements as legitimate and this tendency is even stronger with the absence of an efficient coercive mechanism on the side of the EU.²⁵ While the principles of the rule of law have been sufficiently defined in the EU primary as well as secondary law – despite some of the Member States' representatives pointing out to a lack of clarity,²⁶ and all of the Member States sign up to respect them before accession, to avoid misunderstandings and excuses, the EU rule of law principles should be operationalized into a set of empirically designed standards and benchmarks.²⁷ Applying the criteria objectively to all Member States should go without saying, i.e. to avoid accusations of criticism being politically motivated.

²¹ European Council, "Rule of law - Consilium," <https://www.consilium.europa.eu/en/policies/rule-of-law/#toolbox>.

²² European Commission, "Rule of law framework - European Commission," https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-framework_en.

²³ European Commission, "Rule of law conditionality regulation - European Commission," https://commission.europa.eu/strategy-and-policy/eu-budget/protection-eu-budget/rule-law-conditionality-regulation_en.

²⁴ "Hungary: Country Profile | Freedom House," <https://freedomhouse.org/country/hungary>; "MEPs: Hungary can no longer be considered a full democracy | News | European Parliament," <https://www.europarl.europa.eu/news/en/press-room/20220909IPR40137/meps-hungary-can-no-longer-be-considered-a-full-democracy>.

²⁵ "The EU must face up to its rule of law crisis | Chatham House – International Affairs Think Tank," <https://www.chathamhouse.org/2023/05/eu-must-face-its-rule-law-crisis>.

²⁶ Laurent Pech, "The Rule of Law as a Well-Established and Well-Defined Principle of EU Law," *Hague Journal on the Rule of Law* 14, June 2022: 107-138. <https://doi.org/10.1007/s40803-022-00176-8>.

²⁷ Maria Skóra. *How to Improve the EU's Rule of Law Toolbox*. Brussels: Friedrich-Ebert-Stiftung (FES), 2023, 7. <https://library.fes.de/pdf-files/bueros/bruessel/20380.pdf>.



Given the political prominence of the rule of law on the current EU agenda as well as the key importance it has for the overall functioning of the Union as such, it might be a good idea to create a special portfolio in the upcoming European Commission, with a commissioner bearing permanent responsibility for overseeing the preventative mechanisms as well as compliance of the Member States with rule of law related recommendations and pushing for a faster pace of progress in the sanctions procedures.

When it comes to the Article 7 procedures, the main hindrance to taking both the one against Poland as well as the one against Hungary into the next phase has been political – i.e. solidarity of the Member States' leaders with one of their own or perhaps imagining themselves in the position of the sanctioned one in the future. The principle of political leaders deciding on legal issues does not make much sense but at least in the current state of EU integration it is probably not realistic to do away with it. The requirement of unanimity in the European Council when voting on whether there is an “existence of a serious and persistent breach by a Member State of the values referred to in Article 2” is indeed difficult to meet, especially with regard to political alliances and loyalties between certain political leaders, it is clear however that the Council has not been willing to make even the first step, i.e. to “determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2,” for which only 4/5 of the Member States are needed. Enshrining the obligation of the Council to act within a certain period of time could unblock the procedure. Abandoning the “unanimity -1” requirement would be politically difficult to uphold, but might also contribute to Article 7's greater efficiency.

Finally, financial sanctions and the freezing of funds have arguably proven to at least somewhat achieve the intended results.²⁸ The focus of the budgetary conditionality mechanism on finance provides an opportunity for a clearer demonstration of where and how the rule of law deficits harm the EU²⁹ while also presenting a strong case for political leaders of each member state to prevent the money of their taxpayers being abused. The mechanism should thus be used as early as possible rather than as an instrument of “last resort”.³⁰

Czech Civic Democrats, the leading party of the current coalition government, have traditionally been skeptical towards sanctioning other EU Member States on the basis of their not complying with the rule of law standards, interpreting the EU's measures as infringing on the sovereignty of Member States.³¹ Before the start of the Czech presidency of the Council and in the context of the full-scale invasion of Russia against Ukraine, Prime Minister Fiala diminished the importance of the rule of law agenda in favor of questions of security.³² While at least some of the Christian Democrats have traditionally also been rather sympathetic towards the so called “traditionalist” policies of the Fidesz government of Hungary, the other coalition

²⁸ Camino Mortera-Martinez, Sander Tordoir. Hungary, Poland and the EU: It's the money, stupid?. Brussels: Centre for European Reform (CER), 2023. https://www.cer.eu/sites/default/files/insight_CMM_ST_hungary_pol_8.2.23.pdf.

²⁹ Eric Maurice. The Rule of Law: the uncertain gamble on conditionality. Brussels: Fondation Robert Schuman, 2023. <https://www.robert-schuman.eu/en/european-issues/660-the-rule-of-law-the-uncertain-gamble-on-conditionality>.

³⁰ Olivier Costa, Daniela Schwarzer, Pervenche Berès et al. Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century. Paris-Berlin: Franco-German Working Group on EU Institutional Reform, 2023, 16. <https://www.auswaertiges-amt.de/blob/2617206/4doe001offcd8c0079e21329bbb3332/230919-rfaa-deu-fra-bericht-data.pdf>.

³¹ Lukáš Matoška, Katarína Brezovská, “EU strká nos do věci, ke kterým nemá kompetence, miní Vondra. Ten požadavek je oprávněný. Z Maďarska se stává autokracie, soudí Richterová,” Český Rozhlas Plus, October 4, 2022, <https://plus.rozhlas.cz/eu-strka-nos-do-veci-ke-kterym-nema-kompetence-mini-vondra-ten-pozadavek-je-8840658>.

³² Kateřina Zichová, “Právní stát teď není prioritou, říká Fiala. České předsednictví se ale sporům s Polskem a Maďarskem nevyhne,” EURACTIV.cz, May 24, 2022, <https://euractiv.cz/section/cr-v-evropske-unii/news/pravni-stat-ved-neni-priorita-rika-fiala-ceske-predsednictvi-se-ale-sporum-s-polskem-a-madarskem-nevyhne/>.



parties - TOP09, Mayors and Independents and the Pirates - tend to emphasize the importance of the rule of law and openly criticize the Member States that do not adhere to it, also in the European Parliament.³³ Overall however, a rather reserved stance can be expected from the Czech government in the case of toughening EU sanctions in this regard.³⁴ In the case of a change of government after the 2025 general election, even less support for a tough approach can be expected, as the leader of the strongest current opposition party, ANO, Babiš counts himself among the closest allies of Viktor Orbán.³⁵ A possible change of position might come once Czechia becomes a net contributor to the EU budget, as that would presumably increase Czech taxpayers' attention towards how their money sent to the common European budget is spent. So far, decline in the rule of law is rarely mentioned in connection to its practical impact on the fair distribution of EU funds or the business environment.

³³ Europarlament přehledně (@ep_prehledne), "Evropský parlament dnes schválil usnesení o situaci v Maďarsku a zmrazení finančních prostředků EU. Čeští europoslanci hlasovali následovně," X, January 18, 2024, https://x.com/ep_prehledne/status/1747970007693156612.

³⁴ Financial sanctions against Hungary based on the Conditionality Mechanism were agreed upon by the Council of the EU under the leadership of the Czech presidency in December 2022. However, rather than an expression of a genuine position of Czechia, it was a result of an interplay of several factors, i.a. Czechia trying to secure funding for the attacked Ukraine. Markéta Boubínová, "Orbán přestal vetovat peníze pro Ukrajinu, Maďarsko přijde o méně miliard z unijního rozpočtu," Deník N, December 13, 2022, <https://denikn.cz/1030204/orban-prestal-vetovat-penize-pro-ukrajinu-madarsko-prijde-o-mene-miliard-z-unijniho-rozpocetu/>.

³⁵ Marianne Gros, "Orbán's Fidesz forming new far-right alliance with Austrian, Czech parties," POLITICO, June 30, 2024, <https://www.politico.eu/article/viktor-orban-fidesz-form-new-far-right-alliance-austria-czech-republic/>.



Conclusions

In this paper, we have focused on two key areas that will be particularly affected by the growing number of EU members. We have addressed those areas where the need for change is most pressing and where public discussion is already active, especially as these issues will come to the forefront with the formation of the next European Commission and the beginning of work for the new EU institutions. However, each change will influence numerous other fields, making reforms both possible and necessary in almost all areas of the EU's functioning.

The next 5 year period presents a significant opportunity to re-examine the functioning of the conditionality mechanism, particularly as EU lawmakers will be negotiating the upcoming Multiannual Financial Framework (MFF) for 2028-2034. Given that the next EU enlargement is likely to occur within this period, it is crucial to consider this factor in setting conditions for new Member States. The rule of law conditions must be clearly defined to avoid repeating past mistakes and to ensure stronger enforcement of the rules. At the same time, it is an opportunity to establish more transparent conditions for existing Member States, and the rule of law should be an integral part of the MFF negotiations.

In addition to the reforms discussed, it is essential to carefully assess the financial and social impact of enlargement on key EU policies such as cohesion policy and the common agricultural policy. The EU Member States should engage in a honest debate also about the negative impacts of enlargement and explain them to the public well ahead, in an understandable way. Enlargement is a double-edged sword and without the societal support of the necessary reforms, it is doomed to fail and rather to increase the quarrels within and between the current EU Member States.

The EU stands at a critical juncture, and the more thoroughly it prepares, the better it will be able to address both internal and external challenges. Despite being aware of the precarious international environment, Czechia's debate on the future of the EU has lacked both depth and breadth. Since the beginning of the Russian full-scale invasion of Ukraine, the Czech debate has not moved further than from the declaratory support of enlargement. However, the political support for concrete necessary steps to enable it is missing. This lack of comprehensive discourse could hinder the country's ability to influence future EU developments effectively.

Although the current Czech government is the most pro-European in recent history, it has neglected several key opportunities to engage in necessary debates about the future of the EU. Although the Czech presidency of the EU Council was a significant opportunity to steer the discussions, it did not translate into a wider debate in the public space about the country's priorities and necessary steps to take to enable the enlargement.

The current Czech approach, where we attempt to "have our cake and eat it too," is not politically sustainable in the long term. As the EU prepares for a new phase of enlargement and institutional reform, the Czech Republic will soon face a critical decision: to actively engage and shape the future of the Union or risk being sidelined in the evolving landscape.



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+420 224 813 460



www.amo.cz



info@amo.cz



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Pavλίna Janebová

Pavλίna Janebová is the AMO Research Director. She focuses on Czech foreign and European policy and Central European cooperation. Pavλίna is a graduate of European Studies which she read at the Faculty of Social Studies, Masaryk University, where she currently pursues a PhD degree in International Relations and European Politics.



pavlina.janebova@amo.cz



[@PavlinaJanebova](https://twitter.com/PavlinaJanebova)

Vendula Kazlauskas

Vendula Kazlauskas (born Karásková) works in AMO as a Project Manager and AMO Research Fellow. She holds master's degree in International Relations from the Faculty of Social Studies of Masaryk University in Brno, Czech Republic, and bachelor's degree in History of Art from the Faculty of Arts of the same university. She focuses on Czech foreign and European policy, the European Union and on its perception in the eyes of Czech society.



vendula.kazlauskas@amo.cz



[@VendulaK3](https://twitter.com/VendulaK3)

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