



## 2025 R-EU-R Jean Monnet Module Intensive Course

### Rule of Law and Fundamental Rights Protection in the EU

# THE MECHANISMS OF RULE OF LAW

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Με τη συγχρηματοδότηση  
της Ευρωπαϊκής Ένωσης

Co-funded by the Erasmus+ program of the European Commission

PROJECT IDENTIFIER: 101127674



# **ABSTRACT**

1. Definition
2. Legal basis
3. General Points of concern
4. RULE OF LAW TOOLBOX
  - a. Article 7 TEU
  - b. Art 258 TFEU and infringement procedure
  - c. Conditionality Regulation

# RULE OF LAW DEFINITION

- An “umbrella-principle”
- Static or dynamic definition?
- TASK: Putting substance into the theoretical/abstract:
- HOW? With Judgements – Frameworks – Reports

# LEGAL BASIS OF RULE OF LAW

## 1. Article 2 TEU

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, **the rule of law** and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

## 2. Article 19(1) TEU

The Court of Justice of the European Union shall include the Court of Justice, the General Court and specialised courts. It shall ensure that in the interpretation and application of the Treaties the law is observed.

Member States shall provide remedies sufficient to **ensure effective legal protection** in the fields covered by Union law.

## LEGAL BASIS OF RULE OF LAW

### 3. Article 47 CFR

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the **right to an effective remedy** before a tribunal in compliance with the conditions laid down in this Article.

Everyone is entitled to a **fair and public hearing** within a reasonable time by an **independent and impartial tribunal** previously established by law. Everyone shall have the possibility of being advised, defended and represented.

**Legal aid** shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

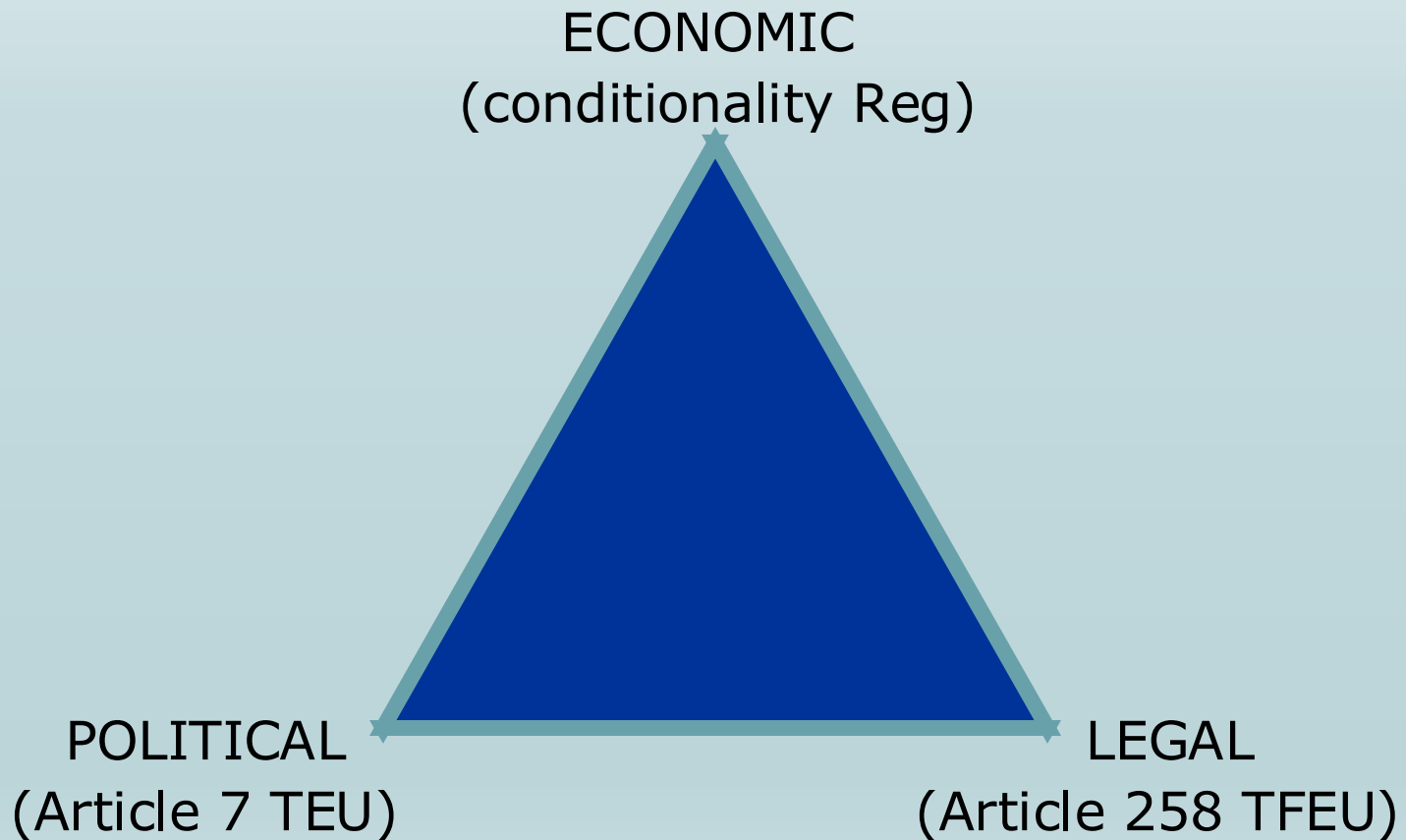
## **POINT 1**

### **THE ETERNAL "BATTLE"**



### **POINT 3**

## **THE TRIANGLE OF TYPES OF MEASURES FOR RULE OF LAW PROTECTION**



# **PROMOTION OF RULE OF LAW AND PREVENTION OF BREACHES (ROL TOOLBOX)**

## **MAIN**

1. Article 7 TEU
2. Rule of Law Framework
3. Infringement procedure (art 258TFEU)
4. Annual Cycle (RoL Reports)
5. Conditionality Mechanism

## **ANCILLARY**

- EU JUSTICE SCOREBOARD
- EUROPEAN SEMESTER – economic that includes justice and corruption
- NGO Reports
- Compliance with Charter of FR for cohesion fund



# 1. ARTICLE 7 TEU

- Art 7(1) TEU: Preventive measures
  - **RISK** of a serious (COM(2003)606) breach of Art2TEU
  - Proposal by 1/3 MS, EurParl, Comm
  - EurParl Consent
  - Council Decision => **MAY** issue Recommendation
- Art 7(2-3) TEU: Sanctions
  - **EXISTENCE** of a serious breach of Art2TEU
  - Proposal by 1/3 MS, Comm
  - EurParl Consent
  - **EurCouncil unanimous** Decision =>
  - **MAY** Suspension of rights

## **2. RULE OF LAW FRAMEWORK**

- COM (2014) 158
  - An early-warning tool since March 2014
  - Structured dialogue to address rule of law breaches
  - Resolve Systemic Threat for the Union before the Art7 procedure
- 
- 1) Commission to initiate the procedure and start the dialogue, followed by an Assessment
  - 2) Commission Opinion (confidential)
  - 3) Finally, Commission Recommendation (public)
  - 4) Follow up: possible Launch of Art7 TEU

**LARGELY ABANDONED PROCEDURE**

### 3. INFRINGEMENT PROCEDURE and Art258TFEU

- What triggered Art258TFEU procedure?
- The “Portuguese judges” case – C-64/16 on 27 Feb 2018
- Main Question: Whether second subparagraph of Article 19(1) TEU (effective judicial protection) must be interpreted as meaning that the principle of judicial independence precludes general salary-reduction measures
- Decision mentioned Art2TEU and mutual trust
- **Article 19 TEU gives concrete expression to the value of the rule of law stated in Article 2 TEU**
- And concrete explanation of judicial independence

## **4. RULE OF LAW REPORTS**

- Document: COM (2019) 343 – Blueprint for action
- PURPOSE: In order not to have Framework+Art7 or Art 258TFEU
- 1<sup>st</sup> Rule of Law Reports: 2020
- Annual + continuous
- Written inputs and country visits By Commission, MS, NGOs etc
- Report – Assessment – Recommendation
- What entails: justice – anti-corruption – media – checks and balances
- 2/3 success rate on recommendations

## **5. CONDITIONALITY MECHANISM**

- Regulation 2020/2092
- Budget protection or EU financial interests
- Conditions
  - On going screening for
  - Breaches of rule of law
  - Risk or affect the Union budget
  - No other means to protect the budget (subsidiarity)
- Procedure
  - Formal notification of the MS
  - MS observations
  - Commission assessment
  - Proposal of measures
  - Second Assessment and implementing Decision
  - Council voting
  - Commission reassessment