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**NEOLIBERALISM AS A DECONSTRUCTION OF LIBERALISM IN THE EU:  
THE USE OF SEMANTIC INVERSION IN THE RULE OF LAW  
CONDITIONALITY REGULATION**

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DELL'INVERSIONE SEMANTICA NEL DISCORSO SUL REGOLAMENTO DELLA  
CONDIZIONALITÀ LEGATA AL RISPETTO DELLO STATO DI DIRITTO*Edoardo Maria Landoni, Iacopo Taddia \** ORCID: EML 0009-0008-1145-1751 ORCID: IT 0009-0008-6510-507X

## ABSTRACT

[ENG.] The paper examines tensions between liberalism and neoliberalism in the European Union's (EU) discourse and response to the Rule of Law crisis. Using qualitative content analysis and network representation, we identify what we define as “semantic inversion”, whereby neoliberal actions are justified with liberal democratic rhetoric. Consequently, by retracing and analyzing the legislative bargaining behind the Rule of Law Conditionality Regulation, we define the trajectory of the conditionality mechanism in the inter-institutional bargaining, identifying several crucial fractures that have reshaped its scope and ambition, showing a significant misalignment between the various actors involved, which seems to be the basis of the observed misalignment in the EU public discourse.

**Keywords:** Liberalism and Neoliberalism – Semantic Inversion –Rule of Law– European Union.

[It.] L'articolo esplora le tensioni tra liberalismo e neoliberalismo presenti nel discorso dell'Unione Europea (UE) nella sua risposta alla crisi dello Stato di Diritto. Tramite un'analisi qualitativa dei contenuti e una rappresentazione delle reti semantiche emerge ciò che definiamo “inversione semantica”: una strategia discorsiva per cui azioni neoliberali risultano giustificate da una retorica liberal-democratica. Conseguentemente, ripercorrendo la negoziazione legislativa interistituzionale che ha preceduto l'approvazione del Regolamento sulla condizionalità legata al rispetto dello Stato di diritto, abbiamo identificato diverse fratture cruciali che ne hanno rimodulato obiettivi e ambizioni. Da tale analisi emerge un chiaro disallineamento tra le aspettative degli attori coinvolti, che sta alla base e viene riflesso nel disallineamento rilevato nel discorso pubblico.

**Parole chiave:** Liberalismo e neoliberalismo – Inversione semantica – Stato di diritto – Unione Europea.

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## 1. INTRODUCTION

The intricate relationship between liberalism and neoliberalism has become a focal point in contemporary political discourse, revealing deep-seated tensions within the liberal tradition. Beneath its seemingly coherent surface, in fact, liberalism harbors a complexity filled with contradictions and unresolved internal debates. It represents a dynamic and evolving tradition, characterized by a wide range of interpretations and internal conflicts that have stretched its definition to the point where it can be employed as a vague concept to legitimize contradictory political agendas.

The European Union (EU) provides a compelling context for examining the implications of these internal tensions within liberalism. The EU's self-identification as a champion of liberal democracy is complicated by the emergence of neoliberalism, a distinct strand within the broader liberal tradition. Neoliberalism, with its emphasis on market primacy and limited state intervention, diverges significantly from classical liberalism. This divergence has profound implications for EU governance, particularly as neoliberalism has increasingly shaped the Union's policies throughout its development.

Since 2012, the EU has been grappling with an autocratization crisis, which has posed significant challenges to its foundational values of liberal democracy. This crisis has exposed the tensions between the EU's professed commitment to liberal democratic principles and the increasing influence of neoliberalism within its governance structures.

In the first part of this work, we examine the contested nature of liberalism, focusing on its inherent contradictions and diverse interpretations. Specifically, we analyze both the political and economic dimensions embedded within the liberal tradition. We analyze the contrasting influence of liberalism and neoliberalism on EU governance, focusing on whether it prioritizes neoliberal over liberal democratic values. In the second part, the paper examines the EU's response to the ongoing Rule of Law (RoL) crisis, highlighting the tensions between its stated commitment to liberal democratic values and the practical challenges of enforcement. Despite its creative impulse in renovating its Rule of Law Toolbox, the EU has struggled to effectively address breaches by Member States. The most recent tool – the RoL Conditionality Regulation – reveals an underlying ambiguity in whether the EU actions prioritize safeguarding the RoL or protecting the EU financial interests. This ambiguity raises questions about the true alignment of the EU's actions with its liberal democratic ideals. From this starting point, adopting qualitative content analysis of parliamentary debates and then through a network representation, the study uncovers what we define “semantic inversion”, where neoliberal actions are justified using liberal democratic ideas as a legitimization umbrella, highlighting potential discrepancies between the EU's rhetoric and its actual practices. This analysis aims to clarify whether the EU's approach truly aligns with its foundational liberal principles or if it prioritizes economic concerns over democratic values.

Despite the EU having mobilized since the 2000s to develop tools aimed at defending liberal democracy, these instruments appear to have fallen short of their intended goals. Scholars have referred to this phenomenon as a “Rule of Law pantomime”<sup>1</sup>, highlighting how many of these initiatives have failed to deliver substantive outcomes, often remaining confined to self-referential rhetoric. Yet, despite these limitations, the EU has continued to portray itself as a stronghold of liberal democracy – a narrative prominently reflected in treaties, institutional declarations, and parliamentary debates. However, this discursive strategy of staunchly defending liberal democracy does not seem to align with the policies the EU has actually implemented. This discrepancy became particularly apparent with the adoption of the RoL Conditionality Regulation, heralded as a landmark achievement in protecting the RoL but, in practice, seemingly more focused on safeguarding the EU’s financial interest.

This paper aims to explore the puzzle arising from this perceived misalignment: the EU portrays itself as a defender of liberal democracy but appears to fall short in creating effective tools to uphold these principles. Instead, the new so-called RoL defense mechanisms seem to lean more toward protecting the Union’s financial interests. This puzzle will be disentangled by examining how the EU constructs its rhetorical strategy to present itself as a defender of liberal democracy, despite a noticeable lack of alignment between its rhetoric and its policies. Furthermore, the study investigates whether this strategy is identifiable and - if so - explores the underlying reasons for the theoretical-empirical mismatch between the EU’s liberal democratic discourse and its predominantly neoliberal instruments.

## 2. LIBERALISM AND NEOLIBERALISM: THE BATTLE OF BACKGROUND IDEAS

Liberalism is often hailed as the concept that lies at the foundation of the protection and development of individual freedom, democracy, human rights and the rule of law. However, beneath its seemingly coherent surface lies a complexity made of contradictions and unresolved internal debates. Far from being a monolithic notion, liberalism is a dynamic and evolving tradition, marked by a rich diversity of interpretations and internal conflicts. As Galston unequivocally puts it: «every historian of liberalism recognize(s), that self-styled liberals have always disagreed vigorously among themselves»<sup>2</sup>.

Acknowledging this intricate web of internal disagreements, some of which are quite radical<sup>3</sup>, allows us to understand how the concept of liberalism has been stretched to the point where its definition becomes blurred. As a result, liberalism can be used as a nebulous idea to legitimize contradictory political agendas. Following Abbey<sup>4</sup>, in our analysis we acknowledge liberalism as an «essentially contested concept», meaning, in short, that since its inception it has experienced a broad spectrum of interpretations and internal variations.

Abbey argues that liberalism’s internal diversity – its various interpretations and approaches – leads to continuous disputes about what truly constitutes liberalism. Different thinkers and traditions adopt

<sup>1</sup> K. L. Scheppele, *Appearing to be Doing Something: The EU Rule of Law Pantomime*, International Conference Rule of Law in the EU: Consensus and Discontents, EUI, 2021.

<sup>2</sup> W. A. Galston, *Liberalism and internal dissent*, in S. Chambers, P. Nosco (Eds.), *Dissent on Core Beliefs Religious and Secular Perspectives*, Cambridge University Press, 2015, 21. Italics is mine.

<sup>3</sup> See: N. Olsen, *What is Liberalism? Definitions, Approaches, Narratives*. In *Proceedings of the 16th International Conference on the History of Concepts*, 2013, 39-41; M. Freedman, *Liberalism: A very short introduction*, Oxford University Press, 2015.

<sup>4</sup> R. Abbey, *Is Liberalism Now an Essentially Contested Concept?*, in *New Political Science*, 2005, Vol. 27(4), 461-480.

the liberal label while diverging significantly in their understanding and application of its core principles, such as individual freedom, equality, and justice.

For instance, Abbey points out that, despite John Rawls being possibly the leading figure in modern liberalism, and despite Rawls himself acknowledging that his deontological approach was merely one among many within the liberal tradition, there is still a contemporary tendency to equate his version with liberalism as a whole. However, recognizing liberalism as an essentially contested concept implies also that all the diverse approaches – many of which are in stark contrast to Rawls’s perspective – can still be legitimately considered liberal.

Using this framework will aid in understanding that simply using the label “liberalism” reveals little about its potential political implications. In fact, it is crucial to highlight that the political outcomes resulting from embracing different «background ideas» – drawing on Vivien Schmidt’s<sup>5</sup> contribution, where she defines these as «unquestioned assumptions of a polity, the deep philosophical approaches that serve to guide action, the unconscious frames or lenses through which people see the world, and/or the meaning constellations by which people make sense of the world»<sup>6</sup> – under the umbrella concept of liberalism can differ greatly. Therefore, precisely understanding the boundaries of what a political actor includes or excludes from its conception of “liberalism” is crucial for accurately interpreting and evaluating their political actions and understanding the direction of their political strategies.

On this point, Sartori<sup>7</sup> interestingly recognizes that a distinction can be drawn within the liberal debate, namely between political liberalism and economic liberalism (*liberismo*). The former primarily represents a theory and practice of personal freedom, legal protection, and constitutional governance, while the latter is an economic doctrine. According to Sartori, in fact, the confusion between these terms arises from the fact that *liberismo* (economic liberalism) is predominantly used in Italian debates but lacks a counterpart in Anglo-Saxon terminology. Sartori laments this absence, suggesting that the use of *liberismo* (economic liberalism) would help distinguish different phenomena more clearly.

Since liberals often diverge on key issues, such as the appropriate level of state involvement in socio-economic affairs, the relationship between property and liberty, and foundational conceptions of the good and the right<sup>8</sup>, it becomes especially important to identify the underlying background idea of “liberalism” that influences EU governance, particularly in relation to the “neoliberal” philosophy. In fact, within the broad and contested framework that characterizes liberalism<sup>9</sup>, neo-liberalism has emerged as a distinct and very influential background idea of the EU political economy, particularly since the final decades of the last century<sup>10</sup>.

Neoliberalism is often associated with the elections of Margaret Thatcher in 1979 and Ronald Reagan in 1980, and it is widely regarded as a transformative framework for political and economic governance in the latter part of the last century. While these moments symbolized its global ascent, the intellectual and institutional roots of neoliberalism extend much further, predating World War II. Figures such as

<sup>5</sup> V. A. Schmidt, *The roots of neo-liberal resilience: Explaining continuity and change in background ideas in Europe’s political economy*, in *The British Journal of Politics and International Relations*, 2016, Vol. 18(2) 318–334.

<sup>6</sup> V. A. Schmidt, *The roots of neo-liberal resilience*, cit. 320.

<sup>7</sup> G. Sartori, *Democrazia. Cosa è*, Rizzoli, 1993, 212.

<sup>8</sup> S. Phelan, S. Dawes, *Liberalism and Neoliberalism*, in *Oxford Research Encyclopedia of Communication*. <https://oxfordre.com/communication/view/10.1093/acrefore/9780190228613.001.0001/acrefore-9780190228613-e-176>.

<sup>9</sup> R. Abbey, *Is Liberalism Now an Essentially Contested Concept?*, cit., 463.

<sup>10</sup> V. A. Schmidt, *The roots of neo-liberal resilience*, cit., 320.



Ludwig von Mises and Friedrich Hayek were pivotal in shaping its foundation, advocating for the epistemological superiority of markets over state planning. Their ideas emerged as a critique of Keynesian economics, which they argued relied too heavily on state intervention, and gained traction as governments sought solutions to the crises of the 1970s and 1980s. This shift was epitomized by Thatcher's and Reagan's policies of deregulation, privatization, and the prioritization of market mechanisms. On the international stage, neoliberal principles were entrenched through the "Washington Consensus"<sup>11</sup>, which guided the policies of institutions such as the International Monetary Fund and the World Bank<sup>12</sup>, thus generating, *inter alia*, significant implications for European economic policies and integration. In particular, this paradigm influenced deeply the European Union's approach during the post-Soviet enlargement where economic liberalization was seen as the sole pathway towards democracy. Since then, these principles shaped the economic frameworks of European countries, emphasizing fiscal discipline, market liberalization, and structural reforms. They also influenced the trajectory of European integration by reinforcing priorities such as monetary stability, competitive markets, and the removal of trade barriers, which became foundational to the development of the single market and subsequent governance structures within the European Union. The general conflation of these terms that followed — where "liberalism" is often reduced to the positions of *liberismo* now called "neoliberalism" — has led to a narrative of liberal political orders as being compatible only with economic and societal conceptions rooted in *liberismo* (economic liberalism), to the detriment of alternative liberal interpretations. In this sense, *neoliberalism*, as a part of liberal thought but overlapping with the concept of economic liberalism, has won the semantic battle over the term. As Sartori puts it, «'Liberalismo' (la parola) ha perso la guerra delle parole [...] una sconfitta nella guerra delle parole porta con sé una crisi d'identità e, sulla scia di questa, una infausta perdita di forza»<sup>13</sup>.

These overlaps illustrate the difficulty in precisely delineating these ideologies as distinct, as both share foundational commitments to individual freedoms and market principles. Yet, the political implications of leaning toward one or the other are profound: while neoliberalism emphasizes market efficiency and limited state intervention, more egalitarian liberal traditions, such as those articulated by John Rawls, prioritize social equity and redistributive justice. This fluidity underscores the complexity of liberal thought and the wide-ranging impacts of its different iterations on political and economic governance.

For the purposes of this analysis, it is therefore important to clearly distinguish between the implications of having liberalism or neoliberalism (or economic liberalism) as background idea. These two terms and their respective semantic fields are often confused and frequently used interchangeably — sometimes strategically — even though they bring about profoundly different background ideas. This distinction is crucial because the semantic fields and thus the worldview associated with these two terms are fundamentally different, and having one or the other as a background idea leads to significantly different political actions. Within the liberal camp, classical liberals and Rawlsians criticize the neoliberal

<sup>11</sup> See on this: C. Gore, *The rise and fall of the Washington Consensus as a paradigm for developing countries*. *World Development*, 28(5), 2000, 789–804. S. Babb, *The Washington Consensus as transnational policy paradigm: Its origins, trajectory and likely successor*, *Review of International Political Economy*, 20(2), 2013, 268–297.

<sup>12</sup> S. Phelan, S. Dawes, *Liberalism and Neoliberalism*, *cit.*

<sup>13</sup> Translation of the authors: «'Liberalism' (the word) has lost the war of words [...] a defeat in the war of words brings with it an identity crisis and, in its wake, an unfortunate loss of strength». G. Sartori, *Il liberalismo che precede i liberalismi*, Centro Einaudi, 2004, 154.

faction for «usurping the term “liberal” to represent a very narrow, predominantly conservative and capitalist doctrine»<sup>14</sup> thereby neglecting the principles of welfare provision and social justice. Neoliberalism, in fact, while being part of the broader liberal tradition<sup>15</sup>, is, as already seen, a specific strand that diverges from classical liberalism by distorting some of its foundational principles. It primarily focuses on the doctrine of laissez-faire capitalism, subordinating the pursuit of any other goals to the advancement of individual interests<sup>16</sup>. The hierarchy of values established by neoliberalism as a background idea is clear and significantly influences political action. As Schmidt notes «Neo-liberalism conceives of the polity as made up of the individual first, the community second, with legitimate state action extremely limited with regard to community-based demands on the individual»<sup>17</sup>. This framework shapes political and economic decisions by systematically placing individual capitalist interests above communal welfare or collective goals. Neo-liberals have created what Zielonka describes<sup>18</sup> as a “false dichotomy” between liberalism and communitarianism, portraying liberalism as solely focused on individualism.

Given that background ideas constitute the “deep core” of policy programs, it is essential to determine which of these two “souls”, political or economic, underlies the EU’s approach to liberalism. This understanding is key not only to grasp what drives the EU’s political actions but also to uncover the discursive strategies the EU employs to legitimize its role and political authority.

Despite the fact that neoliberal interests have been embedded in the EU’s framework since its inception – prioritizing the interests of the wealthier segments of society and defending economic priorities even at the cost of democratic principles<sup>19</sup> – the EU consistently presents itself as the foremost champion of liberal democracy. By claiming to protect and promote the equal dignity and freedom of all citizens through human rights, democracy, and the RoL, the EU implicitly provides its own interpretation of liberalism as a background idea by equating liberalism with liberal democracy. This narrative is particularly emphasized by the explicit articulation of these values in Article 2<sup>20</sup>, positioned at the very beginning of the Treaty on European Union, which suggests that the EU’s actions are aligned with the ideals of political liberalism. However, to determine whether these ideals truly guide the EU’s actions, it is essential to empirically evaluate its response to EU values offenders and reactions to value breaches in the framework of the RoL defense. Such an evaluation will involve scrutinizing how consistently the EU upholds these values, whether it effectively balances economic interests with the protection of liberal democratic principles, and which background idea seems to be guiding its action empirically.

<sup>14</sup> J. Zielonka, *Counter Revolution: Liberal Europe in Retreat*, Oxford University Press, 2018, 20.

<sup>15</sup> See: P. Mirowski, D. Plehwe, *The road from Mont Pèlerin: the making of the neoliberal thought collective*. Harvard University Press. 2009; S. Dawes, S. Phelan. *Liberalism and Neoliberalism*. Oxford Research Encyclopedia of Communication. 2018. Some liberal authors, for instance: M. Freeden, *Liberalism: A very short introduction*, cit, 146., do not think that neoliberals should be considered as part of the “liberal family”. This tension between authors, however, only strengthens the necessity of considering liberalism as an essentially contested concept.

<sup>16</sup> J. Zielonka, *Counter Revolution: Liberal Europe in Retreat*, cit. 22.

<sup>17</sup> V. A. Schmidt, *The roots of neo-liberal resilience*, cit., 320

<sup>18</sup> J. Zielonka, *Counter Revolution: Liberal Europe in Retreat*, cit. 33.

<sup>19</sup> See C. Hermann, *Neoliberalism in the European Union*, Studies in Political Economy, 79, 2007, 61 - 90; T. Theuns, *Promoting democracy through economic conditionality in the ENP: a normative critique*, in *Journal of European Integration*, 39(3), 2017, 287-302. M. A. Wilkinson, *Authoritarian liberalism and the transformation of modern Europe*, Oxford University Press, 2021.

<sup>20</sup> «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». Art. 2, Consolidated Versions of the Treaty on European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012M002>.

### 3. THE EU'S RULE OF LAW CRISIS: CHALLENGES AND RESPONSES IN UPHOLDING LIBERAL DEMOCRACY

Rather than focusing on the historical evolution of liberalism within the EU which brought to the current configuration of the EU as a liberal democracy, our attention will be directed to how these values are actively challenged and defended within the EU. This approach will help us more clearly determine whether the EU's actions are aligned with political liberalism or neoliberalism when its foundational principles come under scrutiny.

Over the past decade, the EU has experienced what has been termed a RoL crisis – or autocracy crisis<sup>21</sup> – which has significantly challenged some of the fundamental tenets of EU liberal democracy<sup>22</sup>. The effectiveness and development of the EU's Rule of Law Toolbox in addressing these challenges has also been a focal point of scholarly debate<sup>23</sup>. The EU addresses RoL breaches through various mechanisms. One of the primary mechanisms for addressing is the Article 7 TEU procedure. This allows the EU to suspend certain rights of a Member State, including voting rights in the Council, if that state is found to be in serious breach of fundamental EU values such as democracy, human rights, and the RoL. Article 7 TEU is often referred to as the EU “nuclear option” due to its severity and the significant political consequences it entails. However, its effectiveness is hampered by the requirement of unanimous agreement among Member States, making it difficult to implement. The European Commission invoked Article 7 against Poland in 2017, and the European Parliament did so against Hungary in 2018. Despite these actions, they have had limited tangible impact on the autocratizing trends in these countries, highlighting the challenges of enforcing RoL through this mechanism.

In addition to Article 7, the EU can take legal action against Member States under Articles 258-260 TFEU. These infringement procedures allow the European Commission to bring a Member State before the Court of Justice of the European Union (CJEU) if it fails to fulfill its obligations under EU law. If the CJEU finds that a Member State has breached its obligations, it can impose penalties, including fines. While this process is legally binding, it can be time-consuming and may not always address systemic issues related to the RoL effectively.

Recognizing the limitations of these mechanisms, the Commission introduced the Rule of Law Framework in 2014. This framework provides an early intervention mechanism aimed at preventing the escalation of systemic threats to the RoL within Member States. It involves a structured dialogue between the Commission and the Member State concerned, allowing the Commission to assess the situation and provide recommendations for corrective action. The framework is intended to be a “soft” mechanism, emphasizing dialogue and cooperation over punitive measures. However, its effectiveness depends on the willingness of Member States to engage constructively with the Commission.

<sup>21</sup> R. D. Kelemen, *The European Union's failure to address the autocracy crisis: MacGyver, Rube Goldberg, and Europe's unused tools* in *Journal of European Integration*, 45(2), 2023.

<sup>22</sup> See: T. Theuns, *The need for an EU expulsion mechanism: Democratic backsliding and the failure of Article 7* in *Res Publica*, 28, 2022, or C. Closa, *Institutional logics and the EU's limited sanctioning capacity under Article 7 TEU* in *International Political Science Review*, 42(4), 2021, or J.-W. Müller, *Defending democracy within the EU*, in *Journal of Democracy*, 24(2), 2013.

<sup>23</sup> See: L. Pech & K. L. Scheppele, *Illiberalism within: Rule of law backsliding in the EU* in *Cambridge Yearbook of European Legal Studies*, 19, 2017; or K. L. Scheppele, D. V. Kochenov, & B. Grabowska-Moroz, *EU values are law, after all: Enforcing EU values through systemic infringement actions by the European Commission and the member states of the European Union* in *Yearbook of European Law*, 39, 2020; or X. Groussot & A. Zemskova, *Using financial tools to protect the rule of law: Internal and external challenges in The Rule of Law in the EU: Crisis and solutions* in *SIEPS*, 2023.



In 2020, the Rule of Law Review Cycle was introduced as part of the EU's broader efforts to monitor and promote the RoL across the Union. This cycle includes the Annual Rule of Law Report, which provides a comprehensive overview of the state of the RoL in each Member State, identifying challenges and best practices. The report is intended to foster dialogue and peer pressure among Member States, encouraging them to address any shortcomings.

Additionally, the European Public Prosecutor's Office (EPPO) became operational in 2020, further reinforcing the EU's capacity to address violations of EU law, particularly those related to fraud and corruption involving EU funds. The EPPO has the authority to investigate and prosecute crimes against the EU budget, ensuring that financial resources are protected from abuse.

Other monitoring mechanisms include the EU Justice Scoreboard, which provides comparative data on the efficiency, quality, and independence of judicial systems across the EU. The Cooperation and Verification Mechanism (CVM), specifically applied to Bulgaria and Romania, monitors progress in judicial reform, the fight against corruption, and, in the case of Bulgaria, the fight against organized crime. The European Semester, originally an economic monitoring tool, has also incorporated RoL assessments into its annual cycle of economic and social policy coordination, highlighting the interconnection between economic governance and the RoL.

Despite the European Commission's creative efforts over the past decade, the RoL arsenal has not yielded tangible results. The Commission's most recent attempt to counteract the decline in democratic quality within Member States is the RoL Conditionality Regulation, first activated in December 2022 against Hungary. This activation underscores ongoing challenges, particularly regarding judicial independence, corruption, media freedom, and academic freedom.

The first input for the legislative procedure leading to the approval of the RoL Conditionality Regulation can be traced back to October 2016, with the European Parliament's call for a «comprehensive Union mechanism for democracy, the rule of law, and fundamental rights» through the establishment of a Union Pact for Democracy, the Rule of Law, and Fundamental Rights<sup>24</sup>. Momentum for RoL Conditionality Regulation increased in 2018 when the European Commission proposed a regulation to safeguard the Union's budget from «generalized deficiencies» related to the RoL in Member States<sup>25</sup>. This proposal became a key topic in the discussions surrounding the 2020 Multiannual Financial Framework (MFF). The Special European Council in July 2020 marked a turning point, with the Council agreeing to link RoL to funding access for the first time. Nevertheless, the proposal put forth by the German Presidency of the Council was less ambitious than what the EP had envisioned, leading to disagreements between the two institutions<sup>26</sup>. The legislative process was fragmented and marked by numerous delays: beginning with the negative opinion from the Council's Legal Service on the Commission's proposal<sup>27</sup>, followed by opposition from Hungary and Poland, which threatened to derail the adoption of the 2021–27 MFF. The European Council's

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<sup>24</sup> European Parliament, *REPORT with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights*, 2016.

<sup>25</sup> European Commission, *Regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalized deficiencies as regards the rule of law in the Member States*, 2018.

<sup>26</sup> European Council, *Special meeting of the European Council (17-21 July 2020): conclusions*, 2020.

<sup>27</sup> Opinion of the Legal Service 13593/18, *Proposal for a Regulation of the European Parliament and of the Council on the Protection of the Union's Budget in Case of Generalised Deficiencies as Regards the Rule of Law in the Member States*, 2018.

decision in December 2020 to postpone the regulation's implementation until the CJEU could rule on its legality further contributed to these setbacks<sup>28</sup>.

Also from a mere technical perspective, the ambition of the Regulation adopted in 2020 was significantly diminished compared to its earlier versions<sup>29</sup>. Among other changes, the Commission is now required to demonstrate a direct link between the breach and its impact on the budget to activate the regulation. Furthermore, the Council remained firm on not applying reverse qualified majority voting to the sanction process, meaning the decision to implement sanctions, once proposed by the Commission, requires approval by a qualified majority in the Council. If a Member State disagrees with the sanction, the issue can be escalated to the European Council, potentially extending the process to four months<sup>30</sup>.

The final regulation was the result of multiple layers of compromise. Although it was widely celebrated for the unprecedented linking of budget allocation to the respect for the RoL, it also faced significant criticism<sup>31</sup>. What seems to be the common thread among the various critical perspectives on the new mechanism appears to be the following recurring ambiguity<sup>32</sup>: is its primary aim to safeguard the EU budget and ensure the proper management of its resources, or is it to uphold the RoL and the values expressed in the Art. 2 as overarching principles, i.e. uphold liberalism as the pivotal background idea of the EU? This ambiguity appears to be particularly evident while comparing the narrative strategy of the EU surrounding the RoL mechanism and the actual political implication of the regulation.

#### 4. THEORETICAL AND METHODOLOGICAL FRAMEWORK

The blurred concept of liberalism within the EU appears to be two-headed. On one side, there is a political interpretation rooted in liberal democracy; on the other, an economic version aligned with classical *laissez-faire* neoliberalism. As extensively discussed, while both belong to the liberal tradition, these two background ideas embody entirely different values, goals, and semantic fields. This ambiguity becomes evident in the discursive strategy adopted by the EU institutions in addressing the autocratization crisis, epitomized by the public debate preceding the most recent defense mechanism for the RoL designed by the EU: the RoL Conditionality Regulation. An instrument where the defense of the RoL – belonging to the more general background idea of liberalism – is carried out through the suspension of funding – something that is much related with the background idea of neoliberalism.

The main research questions that we aim to answer are the following: Is the RoL Conditionality Regulation normatively coherent with the values it aims to defend, specifically those associated with the background idea of political liberalism? And secondly, If inconsistencies are identified, what underlying factors contribute to the misalignment between the Regulation's stated liberal democratic objectives and its actual design and implementation?

<sup>28</sup> European Council, *Conclusions EUCO 22/20*, 2020.

<sup>29</sup> European Commission, *Regulation (EU, Euratom) 2020/2092 of 16 December 2020 on a general regime of conditionality for the protection of the Union budget*, in Official Journal of the European Union, 2020.

<sup>30</sup> S. Hollander, *Report on the use and potential use of the threat since the launch of the EU-level Rule of Law Alert System*, in Respond to Emerging Dissensus: Supranational Instruments and Norms of European democracy (RED-SPINEL), Working Paper No.1, 2024.

<sup>31</sup> See K.L.Scheppele, L. Pech & S. Platon, *Compromising the Rule of Law while Compromising on the Rule of Law*, in VerfBlog, 2020, A. Alemanno & M. Chamon, *To Save the Rule of Law you Must Apparently Break It*, in VerfBlog, 2020 and Enzo Cannizzaro, *Neither Representation nor Values? Or, "Europe's Moment"* in Eur. Papers 1101, 1102, 2020.

<sup>32</sup> A. Baraggia & M. Bonelli, *Linking Money to Values: The New Rule of Law Conditionality Regulation and Its Constitutional Challenges*, in German Law Journal, 23(2), 2022.

The first research question will be addressed by conducting a qualitative content analysis of all parliamentary debates within the European Parliament that explicitly addressed or discussed the promotion of democracy, the Rule of Law (RoL), and fundamental EU values in the context of the RoL Conditionality Regulation. The analysis covers the time frame from January 2018 – when the European Commission first presented the *Regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalized deficiencies as regards the rule of law in the Member States* – to January 1, 2021, the date the Regulation came into force.

The units of analysis consist of entire speeches, which were machine-translated using DeepL and manually checked for accuracy. This process ensures that the analysis captures the full range of discussions related to this topic, including interventions by Members of the European Parliament (MEPs), European Commissioners, and representatives of the Council.

The objective of the analysis is to compare the conceptual use of ideas associated with the two co-existing frameworks within the EU – liberalism and neoliberalism – and to assess whether there is normative consistency between the discursive strategies observed in parliamentary debates and the content of the regulation adopted at the beginning of 2021.

The mechanism that we hypothesized could occur in this dynamic – and which seems to be confirmed by the data analysis – is a specific discursive strategy that we have defined as “semantic inversion”. By semantic inversion, we mean a discursive technique that consists in referring to – or defending or even attacking – a concept while extensively drawing from words belonging to a semantic field associated with another concept, which may carry different – or even significantly different – meanings. In our case, the hypothesized dynamics happen when, despite defending the background idea of neoliberalism, the EU discourse draws from the semantic universe of liberalism. Clearly, the opposite can also happen. We thus sought to verify if there was indeed an inversion in referring to the semantic field of one term or the other. The use of the semantic field in the analysis of liberalism and neoliberalism seems particularly appropriate to us because semantic fields, just like background ideas, have a collective and configurational nature. Like the spheres of influence represented by background ideas, semantic fields are groups of words that, organized homogeneously based on their meaning, create the logical networks that underpin the concept.

We therefore attempted to identify this phenomenon in the selected texts and then repeated the analysis on the legislative documents that led to the approval of the Regulation. The results (available in Appendix B) show an almost total level of correlation, so for the sake of parsimony, we will present and discuss only those related to the parliamentary debates.

In a preliminary work, guided by the relevant literature, partially overviewed in the previous paragraphs<sup>33</sup>, we identified the semantic fields of the two background ideas of liberalism and neoliberalism. Once identified, we drafted a codebook that guided us in the qualitative content analysis (visible in Appendix A), on which we based our analysis of the frequency of use of terms pertaining to one semantic field or the other.

Our methodology consists in a qualitative content analysis of the evaluative aspects of speeches. We adopted a mixed-method, where qualitative and quantitative dimensions are treated as distinct analytical

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<sup>33</sup> To compile the Codebook we also drew on: B. Amable, *Morals and politics in the ideology of neo-liberalism*, in *Socio-Economic Review* 9, 2011; D. Harvey, *A Brief History of Neo-Liberalism*, Oxford: Oxford University Press, 2005; and C. Hay, *The normalizing role of rationalist assumptions in the institutionalist embedding of neo-liberalism*, in *Economy and Society* 33(4), 2004.

phases. First, an automated word search was conducted using keyword stems rather than lemmatized forms, allowing us to capture all references related to a specific semantic concept (e.g., searching for “Financ\*” to include “finance”, “financial”, “finances of the EU”, etc.). The second phase involved manually assessing the actual frequency of words, guided by a consideration of how the terms were employed within their specific contexts. The codebook provided in the appendix outlines when each term was included or excluded from the frequency count. As Galantino notes<sup>34</sup>, this type of analysis requires active involvement by the researcher to select which graphical forms to include or exclude, based on theoretically-driven research questions and a preliminary understanding of the subject matter. This is consistent with Mayring’s<sup>35</sup> influential work, which emphasized that «qualitative content analysis is not a rigid technique but a process that requires continual decisions on procedures and stages of analysis». This methodological approach allows us to move beyond simple quantitative word frequency analysis by focusing on the meaning conveyed by terms (the “signified”) rather than their mere appearance (the “signifiers”), as shown in the works of Pansardi and Battagazzorre<sup>36</sup>.

Following the analysis, conducted manually on the 18 envisioned parliamentary debates, we presented the results using network analysis to explore and better visualize the semantic relationships between key concepts associated with the background ideas of liberalism and neoliberalism. The analysis involved constructing a network where each node represented a distinct concept, such as “Democracy”, “Equality”, “Market”, and “Finance”, among others. Edges were established between nodes to reflect semantic associations within and across these conceptual clusters. Specifically, concepts traditionally associated with liberalism, including “Democracy”, “Rule of Law”, and “Human Dignity”, were interconnected, while concepts linked to the neoliberal semantic field, such as “Market”, “Competitiveness”, and “Deregulation”, formed a separate cluster. Additionally, nodes that were semantically relevant to both sets of ideas, like “Freedom” and “Trade”, were connected to both clusters. The weight of the nodes was determined by the frequency with which these concepts appeared in the texts analyzed. The network was visualized using the software Gephi. This methodological approach provided a clear visualization of the semantic landscape, revealing which set of background ideas was most prominently drawn upon in each context of interest.

The coherence evaluation will be addressed through the development of an immanent critique – a method that has already been effectively utilized by scholars such as Theus<sup>37</sup> and Nicolaïdis<sup>38</sup> to evaluate the normative coherence of EU instruments – focusing on the RoL Budget Conditionality. Immanent critique is a powerful tool rooted in the critical theory tradition, particularly associated with the Frankfurt School, which emphasizes the importance of evaluating a system or practice from within its own normative framework. Unlike other forms of critique that impose external standards, immanent critique emphasizes the importance of evaluating a system or practice from within its own normative frame-

<sup>34</sup> M. G. Galantino, *Conflitti internazionali e “minaccia immigrazione”: la stampa italiana in Libia all’“Emergenza Nord Africa”* in P. Isernia, F. Longo (Eds), *Il Mulino*, 2019, 178.

<sup>35</sup> P. Mayring, *Qualitative Content Analysis. Theoretical Foundation, Basic Procedures and Software Solution*, Social Science Open Access Repository SSOAR, 2014.

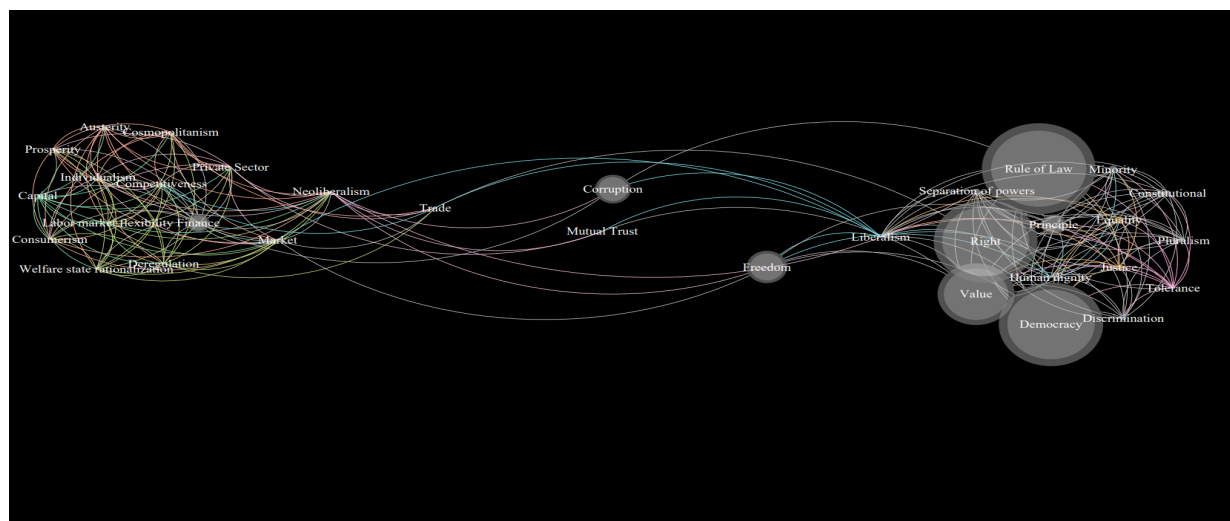
<sup>36</sup> P. Pansardi, F. Battagazzorre, *The discursive legitimization strategies of the president of the commission: a qualitative content analysis of the State of the Union Addresses (SOTEU)*, *Journal of European Integration*, 2018.

<sup>37</sup> T. Theuns, *Promoting democracy through economic conditionality in the ENP: a normative critique*, in *Journal of European Integration*, 2017.

<sup>38</sup> K. Nicolaïdis, *European Democracy and its Crisis*, in *Journal of Common Market Studies*, 2012.

work. This approach aligns with the notion that immanent critique “generates the standards needed to overcome a particular reality from within the given reality”<sup>39</sup>. The EU’s interpretation of liberalism, as expressed in Article 2 of the TEU, will serve as our internal benchmark for evaluating the coherence of the RoL Budget Conditionality mechanism, to determine whether it genuinely aligns with the EU’s professed commitment to liberal values or if there are discrepancies between the EU’s rhetoric and its actual practice.

For the second research question, the methodology for addressing RQ2 involved a reanalysis of all the texts used for the first RQ, enriched with an in-depth review of additional primary and secondary sources. Primary sources included key legislative documents such as recommendations, amendments, proposals for regulations, and official reports produced by EU institutions. These documents offered us insights into the legislative process, shedding light on institutional priorities, negotiations, and compromises that influenced the development of the RoL Conditionality Regulation. Secondary sources, including press reviews, journal articles, and public statements by policymakers, were used to contextualize these findings and explore broader political and institutional dynamics surrounding the regulation. The analysis mainly aimed at reconstructing the legislative process with a particular emphasis on the trilogue negotiations, which played a critical role in shaping the final version of the RoL Conditionality Regulation. This involved examining meeting records, procedural documents, and interinstitutional communications to identify pivotal moments of negotiation and compromise. The investigation provided an understanding of how conflicting institutional interests influenced the regulation’s scope, priorities, and ultimate design.



The analysis of the debates was aimed at evaluating the normative coherence between the EU’s narrative strategy and the concrete political actions undertaken in the defense of the RoL — the core of the EU’s own interpretation of liberalism. The focus was on understanding how this issue is discussed, which aspects are emphasized, the nature of the interinstitutional approach, and what priorities exist within the diverse interpretations of liberalism as a background idea. Based on the data from our quali-

<sup>39</sup> R. Jaeggi, *Rethinking Ideology*, in B. de Bruin and C. F. Zurn (Eds.), *New Waves in Political Philosophy*, London: Palgrave Macmillan. 2009, 63–86.



tative content analysis, it is clear that the parliamentary discourse — which includes contributions from both the European Commission and the Council — approaches the defense of the RoL from a perspective that is fully aligned with the EU's interpretation of liberal democracy. The terms associated with the semantic field of liberalism appear with remarkable frequency, particularly when compared to terms linked to the neoliberal field. This pattern is clearly visible in the network analysis that follows, where the size of the nodes, representing the frequency of term usage, is indicative of the emphasis placed on liberalism. The difference in the size of the nodes between the right (semantic field of liberalism) and the left (neoliberalism) provides a clear overview of the content of the parliamentary debates.

Given this semantic overview, one might expect that the sanctioning mechanism emerging from these debates, filled with liberal narrative, would be a broad-based tool designed to protect against all forms of violations of the RoL, democracy, and fundamental EU values, as repeatedly reported in the transcripts of the debates. However, when the analysis shifts to examining the RoL Conditionality Regulation, the concrete regulatory instrument that emerged after three years of parliamentary discussions, the picture becomes much less clear-cut. The stated purpose of this mechanism is to protect the RoL, but in a way that diverges significantly from the EU's broader interpretation of this principle. The RoL Conditionality Regulation introduces a «layer of protection in cases when breaches of RoL principles affect or risk affecting the EU's financial interests»<sup>40</sup>. Thus, the actual purpose of the mechanism is to safeguard the EU budget. As a result, not all violations of the RoL are subject to sanctions, but only those that «directly affect or seriously risk affecting the sound financial management of the Union budget or the financial interests of the Union in a sufficiently direct way»<sup>41</sup>.

This reveals a significant discrepancy, particularly from a discursive standpoint, between the content of the parliamentary debates — which are rich with references and intentions rooted in the EU's liberalism background idea — and the actual regulatory instrument that was developed. The resulting regulation appears primarily as a macroeconomic tool focused on the ultimate protection of the EU's financial interests, which aligns more closely with the core values of a different background idea, that of neoliberalism. In this context, the phenomenon of semantic inversion becomes evident — and is clearly depicted in the network analysis above. The extensive use of terms associated with the semantic field of liberalism seems to have played a key role in legitimizing the creation of a tool that, in practice, defends values more closely tied to neoliberalism. This occurred despite the minimal use of terms from the neoliberal semantic field in the debates that served as the basis for legitimizing the regulation.

In summary, while the parliamentary discourse strongly emphasized liberal values, the actual outcome — the RoL Budget Conditionality — reflects a shift towards protecting neoliberal interests, demonstrating a clear use of “semantic inversion” where the language of liberalism was used to justify a mechanism that ultimately serves a different ideological purpose.

We have demonstrated that a clear discrepancy exists between discourse and implementation within the EU RoL debate and policies. The next step is to understand *why* this discrepancy takes place. While we have identified a gap between the EU's liberal democratic rhetoric and its actual practices, uncovering the root causes of this gap requires further investigation.

<sup>40</sup> European Commission, *Regulation (EU, Euratom) 2020/2092 of 16 December 2020 on a general regime of conditionality for the protection of the Union budget*, in Official Journal of the European Union, 2020.

<sup>41</sup> *Idem*.

One plausible explanation is that this divergence stems from the structural limitations inherent in designing minimally effective rule of law (RoL) protection mechanisms within the EU's governance framework. Constructing democratic defense tools - even minimal ones - within the confines of neoliberal principles, such as financial conditionality, might be the only feasible option for enforcement under the EU's constitutional and institutional constraints. If this is the case, the apparent semantic inversion would not be a deliberate strategy to pursue neoliberal objectives under the guise of Article 2 principles. Rather, it would represent a pragmatic necessity - a "lesser evil" - arising from past enforcement failures and the rigid distribution of competences within the EU. In cases where member states manipulate their judicial systems, these actions often have cascading effects, including disruptions to the functioning of the internal market. Such distortions provide the EU with a clear legal basis to intervene, as ensuring the proper functioning of the internal market lies squarely within its competences. Consequently, linking RoL violations to market disruptions may emerge as the most practical and legally defensible approach for the EU to take action under its current constitutional framework.

To better understand the underlying logic behind this inconsistency, we analyzed the legislative process - specifically the trilogues - that led to the formulation of the final draft of the Budget Conditionality mechanism.

### 5.1. *The Legislative Train*

The genesis of the new RoL defense mechanism can be traced back to 2016, when the EP's Committee on Civil Liberties, Justice, and Home Affairs proposed a comprehensive initiative known as the EU Pact for Democracy, Rule of Law, and Fundamental Rights (EU Pact for DRF)<sup>42</sup>. This proposal aimed to establish an independent expert panel to conduct annual evaluations and provide country-specific recommendations. However, the European Commission rejected this proposal, citing potential legal incompatibilities with existing treaties and concerns over its practicality<sup>43</sup>.

In the years that followed, the EP reiterated its position, expressing frustration over the lack of progress by the Commission and the Council on the need for an interinstitutional agreement. In particular, the EP urged the Commission to explore linking the distribution of the Union's budget to compliance with democracy, RoL, and fundamental rights<sup>44</sup>.

In the same year, the European Commission introduced a regulation aimed at linking the protection of the EU budget to compliance with the RoL<sup>45</sup>. While this proposal marked a significant step forward, it faced criticism for its vague definitions of "generalized deficiencies" and its reliance on qualified majority voting rather than unanimity, which was seen by some as a potential source of contention. The European Parliament (EP), taking a stronger stance, pushed for more robust measures. It intro-

<sup>42</sup> European Parliament. (2016). *Report with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights (2015/2254(INL))*. Plenary Sitting, A8-0283/2016, Committee on Civil Liberties, Justice and Home Affairs, Rapporteur: Sophia in 't Veld.

<sup>43</sup> European Commission, 2017, *Follow up to the European Parliament resolution with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights*. Retrieved from [[https://oeil.secure.europarl.europa.eu/oeil/en/procedure-file?reference=2015/2254\(INL\)](https://oeil.secure.europarl.europa.eu/oeil/en/procedure-file?reference=2015/2254(INL))]

<sup>44</sup> European Parliament, 2018, *European Parliament resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights (2018/2886(RSP))* (P8\_TA(2018)0456).

<sup>45</sup> European Commission, 2018, *Proposal for a regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States (COM(2018) 324 final, 2018/0136 (COD))*. Brussels: European Commission.

duced amendments aimed at applying the Copenhagen criteria to existing Member States, ensuring the enforcement of core democratic principles such as judicial independence and media freedom. The EP also advocated for greater transparency, suggesting that evaluations should rely on rulings from the European Court of Justice (ECJ) and recommendations from international organizations such as the Venice Commission<sup>46</sup>.

While the EP positioned itself as a key driver in the RoL Conditionality debate, the Council's stance remained initially ambiguous. The Council expressed support for conditionality but framed its purpose more narrowly, focusing on cases where deficiencies in the RoL directly impacted - or posed a risk to - the sound implementation of the EU budget and the Union's financial interests. This more restrained interpretation was reflected in European Council President Charles Michel's remarks, where he described the mechanism as a tool for «tackling instances of deficiencies which affect or risk affecting the sound implementation of the EU budget or the financial interests of the Union in a sufficiently direct way»<sup>47</sup>.

This divergence in approach revealed a clear political gap between the EP, which advocated for stronger and more expansive RoL enforcement mechanisms, and the Council, which appeared cautious and inclined toward a more pragmatic and budget-centric application of conditionality. It is therefore not surprising that the Multiannual Financial Framework (MFF) proposal agreement reached during the Council was outright rejected by the EP. The EP, in fact, found the proposal inadequate for several reasons, chief among them the fact that the conditionality mechanism, as interpreted by the Council, was significantly weakened compared to the EP's original design<sup>48</sup>.

During the July 2020 Special European Council, the concept of a future conditionality regime to protect both the EU budget and the *Next Generation EU* recovery fund was acknowledged, with the Commission being invited to propose measures to address breaches of the RoL<sup>49</sup>. The proposed regime introduced an important shift: measures addressing RoL breaches would be adopted by the Council through qualified majority voting, thus ensuring that no single Member State could unilaterally block efforts to penalize violations. «For the first time in the EU's history, respect for the RoL will be a decisive criterion for budget spending»<sup>50</sup>, declared European Council President Charles Michel. Despite this symbolic statement, no concrete legislative process or interinstitutional dialogue was launched at that time, and the details of the proposed mechanism remained vague.

Following the input and political guidance of the July Council, the subsequent meeting of heads of state held in September 2020 had a significant impact. A mechanism was introduced that explicitly linked respect for the RoL to access to funds. As this was an ordinary legislative measure, the Council was able to approve it by qualified majority, without requiring the support of all member countries.

<sup>46</sup> European Parliament, 2019, *Protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States* (P8\_TA(2019)0349). European Parliament legislative resolution of 4 April 2019 on the proposal for a regulation of the European Parliament and of the Council.

<sup>47</sup> Euractiv, n.d., *Michel offers flexible EU budget to convince sceptics*. Retrieved January 21, 2025, from [https://www.euractiv.com/section/economy-jobs/news/michel-offers-flexible-eu-budget-to-convince-sceptics/]

<sup>48</sup> Drachenberg, R., 2020, *Outcome of the special European Council, 20-21 February 2020*. European Parliamentary Research Service. PE 642.815.

<sup>49</sup> General Secretariat of the Council, 2020, *Special meeting of the European Council (17–21 July 2020): Conclusions* (EUCO 10/20).

<sup>50</sup> European Council, 2020, Remarks by President Charles Michel after the Special European Council, 17-21 July 2020. Retrieved from [https://www.consilium.europa.eu/en/press/press-releases/2020/07/21/remarks-by-president-charles-michel-after-the-special-european-council-17-21-july-2020/]

This meant that Hungary and Poland could not veto the proposal. However, the proposal - designed by the German Presidency of the Council - was less ambitious than the one initially put forward by the Parliament. For Members of the European Parliament (MEPs), the proposed mechanism was inadequate. The EP had recommended that the mechanism should follow a specific procedure: in the event of proven violations of the RoL, the Commission would decide whether to cut funds to a particular country, and the Council could only block the measure by a qualified majority vote (i.e., at least 55% of states representing 65% of the EU population). The compromise reached by the German Presidency reversed the intent of the Parliament's proposal. According to the revised text, sanctions would need to be proposed by the Commission and then approved by a qualified majority in the Council. Moreover, under the Council's advanced proposal, the possibility of introducing sanctions would be triggered only in cases of serious corruption and fraud. Other types of violations, such as attacks on the judiciary and the press, were excluded.

Nevertheless, despite disagreements over the content, the EU ambassadors of the member states officially agreed on the Council's position regarding a regulation establishing a regime of conditionality for the protection of the Union budget in cases of generalized deficiencies concerning the RoL<sup>51</sup>. This agreement finally allowed negotiations with the EP on the matter to commence. Shortly after this initial move by the Council, the EP adopted a clear position. On October 7, it voted on a resolution demanding a legally binding and effective mechanism to protect EU values<sup>52</sup>. Specifically, the EP proposed the implementation of annual country-specific recommendations, which could activate the EU values protection mechanism, infringement procedures, and budgetary conditionalities.

With 521 votes in favor - representing an absolute majority - it called for an interinstitutional agreement on an *Annual Monitoring Cycle on Union Values* to consolidate and expand upon existing mechanisms, such as the European Commission's Rule of Law Report. Essentially, the Parliament's proposal sought to unify and integrate all existing instruments for monitoring democracy into a single, cohesive framework. This framework would not only address the link between funds and respect for the RoL but would also go further by establishing a permanent mechanism for democracy monitoring and recommendations, akin to the European Semester for EU economic policies. To achieve such an ambitious goal, the first step is the establishment of budgetary conditionality. However, it is important to emphasize that - despite the political timing - the EP's resolution extends beyond budgetary conditionality. Through its position, the assembly has entrusted the Commission with the task of proposing an additional legislative measure to safeguard the RoL and European values on a broader scale.

On October 12th, the first formal trilogue on the proposed new rule-of-law mechanism began, driven by the urgency of the 2020 deadline to approve the next Multiannual Financial Framework (MFF). The initial proposal was based on the Commission's 2018 draft, despite significant pressure from a number of Member States for a less stringent regulation. Meanwhile, other European leaders - primarily from the EP - were advocating for stricter procedures<sup>53</sup>. Simultaneously, countries under scrutiny by European institutions for low human rights standards - notably Poland and Hungary, as well as Slovakia

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<sup>51</sup> Council of the European Union. (2020). *Regulation of the European Parliament and of the Council on a general regime of conditionality for the protection of the Union budget*.

<sup>52</sup> European Parliament, 2020, October 7. *Parliament demands a legally binding, effective mechanism to protect EU values*.

<sup>53</sup> Weber, M., García Pérez, I., Ciolos, D., Keller, S., & Lamberts, P. (2020, October 6). *European values are not for sale*. POLITICO. <https://www.politico.eu/article/european-values-not-for-sale-rule-of-law-eu-budget-and-recovery-plan/>



and the Czech Republic - responded with threats to block the Recovery Fund if pressure for a democracy-protection mechanism persisted. Amid these competing pressures, the trilogue commenced. EP negotiators appeared particularly firm on one point: ensuring that inaction by the Council in response to a Commission proposal would not be sufficient to stall the entire procedure<sup>54</sup>. While the overall atmosphere of the trilogue was cautiously optimistic, tensions were evident. Moritz Körner, a Renew Europe MEP, stated after a week of negotiations that no significant progress had been made, only minor compromises. He criticized the presidency for its inaction and condemned the insufficient support from the Commission<sup>55</sup>.

On November 5th, a draft provisional agreement was finally reached between the Parliament and Council negotiators, leading to the current Budget Conditionality mechanism. This represents the only feasible compromise between the Parliament's and Council's positions, which were clearly at odds due to divergent interests and priorities. The mechanism now provides for the possibility of cutting EU funding to Member States that fail to uphold their rule-of-law commitments, particularly when such violations threaten the EU's financial interests. Consequently, the budgetary implications of RoL violations have taken precedence over the violations themselves, significantly narrowing the scope of the EP's initial expectations for the negotiations.

Retracing the legislative process and analyzing the statements of the actors involved, it becomes clear that Budget Conditionality emerged as the only feasible compromise, not due to existing constitutional constraints but rather as a consequence of the divergences of interests among EU institutions. These divergences hinder the alignment of the objectives of the EU Treaties, the interests of Member States, and the ambitions of the EP. In essence, from the analysis of legislative documents and debates, what appears to be lacking is not technical legitimacy but rather a unified political will to make Budget Conditionality effective in cases of violations of the values enshrined in Article 2 of the Treaty on European Union.

Another argument supporting this conclusion relates to the Common Provisions Regulation (Regulation (EU) 2021/1060), which was adopted in parallel with Budget Conditionality. The CPR applies to the 2021–2027 programming period and governs eight EU funds - collectively accounting for one-third of the EU budget - whose management is shared between Member States and regions. Under the CPR, the use of these funds is conditioned on compliance with the EU Charter of Fundamental Rights, a requirement that goes well beyond mere adherence to the RoL as framed under Budget Conditionality in terms of mutual trust. Notably, the CPR has already been used against Hungary and Poland on issues such as judicial independence, academic freedom, LGBTIQ+ rights, and the rights of asylum seekers.

The legalistic argument that the neoliberal compromise embodied in Budget Conditionality represented the EU's only viable course of action to defend its fundamental values therefore appears unsustainable. The CPR, although applicable to only one-third of the total EU budget, operates legitimately and effectively without raising concerns about the EU's competences. This demonstrates that a

<sup>54</sup> Eder, H. (2020, November 5). *POLITICO Brussels Playbook: Biden on the cusp — Are we there yet? — Austria terror update*. POLITICO. Retrieved from <https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-biden-on-the-cusp-are-we-there-yet-austria-terror-update/>.

<sup>55</sup> Eder, F. (2020, February 17). *POLITICO Brussels Playbook: Another Juncker intervention — Bust a CAP — He who shall not be named*. POLITICO. Retrieved from <https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-another-juncker-intervention-bust-a-cap-he-who-shall-not-be-named/>.



similar instrument, targeting broader compliance with EU values, could be both legitimate and enforceable, challenging the notion that constitutional or procedural barriers precluded stronger action in this domain.

## 6. CONCLUSIONS

The analysis of the European Union's discourse and actions reveals a fundamental tension between its professed commitment to liberal democratic values and the priorities evident in its policy-making. This tension is visible in the use of what we have identified as "semantic inversion", a communicative strategy through which the EU draws on the language and ideals of liberal democracy to justify policies that, in practice, align more closely with neoliberal objectives. This rhetorical maneuver is not merely a matter of narrative inconsistency but reflects deeper structural dynamics within the EU, where competing background ideas - liberalism and neoliberalism - shape both its identity and its actions.

Surely this dynamic is particularly evident in the case of the RoL Conditionality Regulation, a mechanism heralded as a significant step in defending the EU's foundational values. While the regulation is framed as a defense of democracy and the RoL, its design and implementation reveal a more pragmatic focus on protecting the EU's financial interests. This misalignment underscores the complexity of the EU's dual identity as both a political and economic union. The EU's narrative framework suggests an adherence to the principles enshrined in Article 2 of the Treaty on European Union, but the content of its policies often reflects the sole logic of neoliberalism, emphasizing efficiency, fiscal discipline, and financial risk management. This approach, while possibly pragmatic in navigating institutional and political constraints, likely has significant negative consequences. This dissonance between rhetoric and action may further erode trust in the EU among its citizens and member states, opening the door to greater skepticism toward the European project as a whole. Critics who question the EU's commitment to its foundational values or view its actions as primarily motivated by economic self-interest are likely to find further validations in such inconsistencies.

Naturally, the reasons for this semantic inversion are multifaceted. While structural and institutional constraints within the EU's governance framework likely play a role, the legislative process leading to the Regulation suggests that the final outcome was the result of significant compromises between competing political priorities. The divergence between the European Parliament's more ambitious vision of a mechanism to protect democratic values and the Council's narrower focus on financial interests reflects broader tensions within the EU's institutional architecture and member state interests.

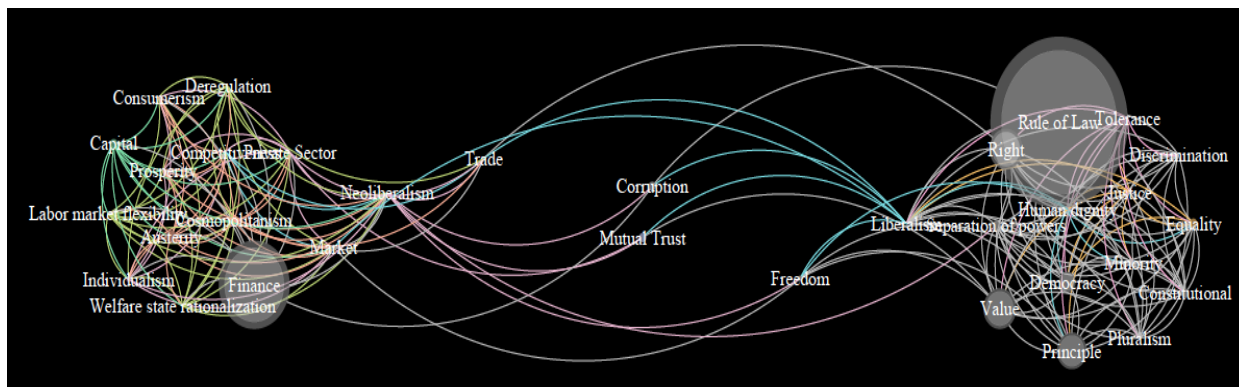
To conclude, it is important to recognize that the explanation we propose is not the only possible interpretation of the reasons behind this discrepancy. However, it is the one we find most plausible and have sought to substantiate through our analysis of parliamentary debates and legislative documents. This conclusion underscores the need for further critical reflection on how the EU can reconcile its rhetorical commitment to liberal democratic values with the practical realities of policymaking. In the end, the EU's future as a credible defender of liberal democracy hinges on its ability to bridge the growing divide between the ideals it proclaims and the realities it practices.

**Appendix A: The Semantic Fields Codebook** *liberalism, neoliberalism and the mixed cluster*

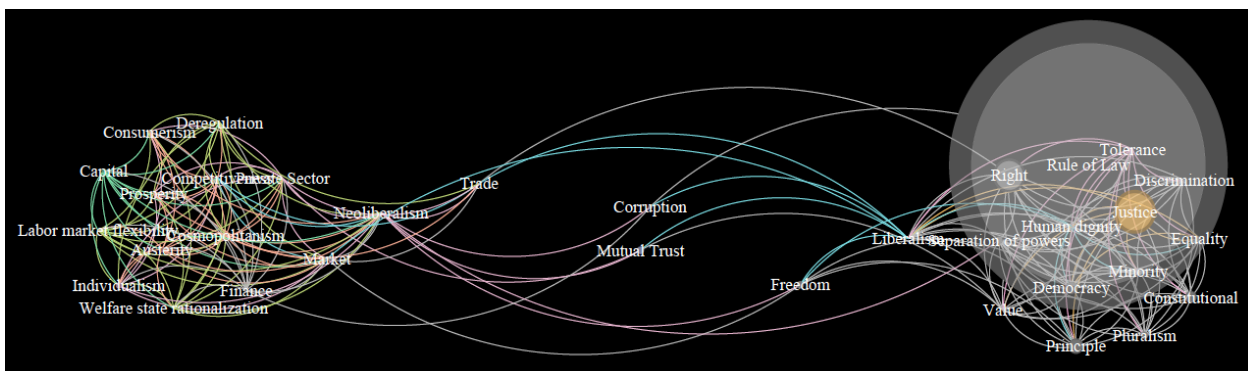
	n°	When counted (e.g.)	When ignored (e.g.)
<b>Democracy</b>	516	defenders of <b>democracy</b>	Christian <b>Democratic</b> ; anti- <b>democratic</b>
<b>Equality</b>	41	<b>equality</b> must be guaranteed	spoke beautifully about <b>equality</b>
<b>Minority</b>	42	respect for political <b>minorities</b>	right-wing populists who incite against <b>minorities</b>
<b>Principle</b>	123	upholds its <b>principles</b>	<b>principle</b> of subsidiarity
<b>Human dignity</b>	4		
<b>Value</b>	380	we stand up for our values	illiberal, anti-European, regressive values
<b>Rule of Law</b>	562	defending the <b>rule of law</b>	Mechanism for the <b>Rule of Law</b>
<b>Justice</b>	41	independent <b>justice</b>	Law and <b>Justice</b>
<b>Constitutional</b>	28	the principle of <b>constitutionality</b>	<b>Constitutional</b> Tribunal
<b>Discrimination</b>	25	combating <b>discrimination</b> .	<b>Anti-Discrimination</b> Directive
<b>Right</b>	513	the <b>right</b> to peacefully demonstrate	respect the <b>right</b> of nations to their tradition
<b>Pluralism</b>	19	it is about media <b>pluralism</b>	Is there political <b>pluralism</b> in Bulgaria?
<b>Tolerance</b>	11	the principles of <b>tolerance</b> for dissent	The Commission shows zero <b>tolerance</b>
<b>Separation of powers</b>	26	requires <b>separation of powers</b>	lack of <b>separation of powers</b>
<b>Mutual Trust</b>	8		
<b>Trade</b>	4	<b>trade</b> policy	<b>trade</b> unions
<b>Freedom</b>	198	fought for its <b>freedom</b> and democracy	Hungarian <b>freedom</b> fighters
<b>Corruption</b>	175		
<b>Efficiency</b>	7	decision-making process must still be prompt, swift, and unbureaucratic.	efficient rule of law mechanism
<b>Market</b>	12	ensure fair competition in our own <b>market</b>	the EU is more than just an internal <b>market</b>
<b>Competitiveness</b>	4	for future jobs, future growth, future <b>competitiveness</b>	in a rather <b>competitive</b> atmosphere.
<b>Consumer(ism)</b>	1	money is taken by the consumers	
<b>Prosperity</b>	1	ensuring court systems that (...) is the only true path to <b>prosperity</b>	<b>prosperity</b> alone is not enough.
<b>Individualism</b>	2	any talk on freedoms should be about all freedoms for every <b>individual</b> on Earth	alternative world is created to use the law to achieve one's party and <b>individual</b> goals
<b>Private Sector</b>	2	encourage CS organizations to be funded from (...) <b>private</b> capital	have admitted in <b>private</b>
<b>Cosmopolitanism</b>	1	the detestable world citizenship, fantasies of rootless <b>cosmopolitans</b>	
<b>Austerity</b>	1	on the one hand, <b>austerity</b> and free competition, and on the other, authoritarianism	forced us into <b>austerity</b> policies—we obviously see that this is not what we should do today.
<b>Capital</b>	3	we can continue making progress on the <b>capital</b> markets union.	EU tanks have never invaded a country's <b>capital</b> to ensure it remains in the EU
<b>Finance</b>	109	<b>financial</b> interests of the EU	Multiannual <b>Financial</b> Framework

## Appendix B: The RoL Conditionality Legislative Train

*Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States COM/2018/324 final - 2018/0136 (COD) - 2.5.2018*



*Communication from the commission to the european parliament, the european council, the council, the european economic and social committee and the committee of the regions strengthening the rule of law within the union a blueprint for action com/2019/343 final - 17.7.2019*



*European Parliament legislative resolution of 4 April 2019 on the proposal for a regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States (COM(2018)0324 — C8-0178/2018 — 2018/0136(COD))*

