

SHIFTING FOUNDATIONS: THE IMPLICATIONS OF THE RULE OF LAW CRISES
FOR ONTOLOGICAL SECURITY IN THE EUROPEAN UNION

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ABSTRACT

SHIFTING FOUNDATIONS: THE IMPLICATIONS OF THE RULE OF LAW CRISES FOR ONTOLOGICAL SECURITY IN THE EUROPEAN UNION

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Ontological security refers to an actor's sense of security and continuity in their routines, habits, and biographical narratives, as well as cohesion in their understanding of themselves, their social environment, and their place in the world. This study examines how the concept of ontological security may be utilized to evaluate the growing rule of law crises in the European Union. The rule of law principle in the European Union is a fundamental principle ensuring that all the EU institutions and member states are governed by the law and that all individuals and groups are protected from arbitrary actions. This study argues that distortions in rule of law and the EU's inability to uphold it can lead to a sense of ontological insecurity in the EU as the crisis undermines the core values upon which the Union is built. Through a qualitative analysis of EU public documents, case studies, and secondary literature, this thesis analyzes how the rule of law principle, the actions of the EU institutions to enforce it, and societal perceptions towards distortions have impacted the ontological security of the Union and its implications for the future of the EU. The research suggests that the violation in the EU's core value of the rule of law can be best explained by the disruption of the continuity of the biographical narrative, the radically shifting and polarized dichotomy of Self and Other, and the anxiety of the unknowability of the future that has damaged the EU's "protective cocoon", all of which are subfields of ontological security theory. The research concludes that the rule of law crises need to be managed carefully in order to avoid further fragmentation and to ensure the continued stability and integrity of the EU.

Keywords: ontological security, rule of law crisis, European Union, the future of Europe.

ÖZ

DEĞİŞEN TEMELLER: HUKUKUN ÜSTÜNLÜĞÜ KRİZLERİNİN AVRUPA BİRLİĞİ İÇİNDEKİ ONTOLOJİK GÜVENLİK ÜZERİNE ETKİLERİ

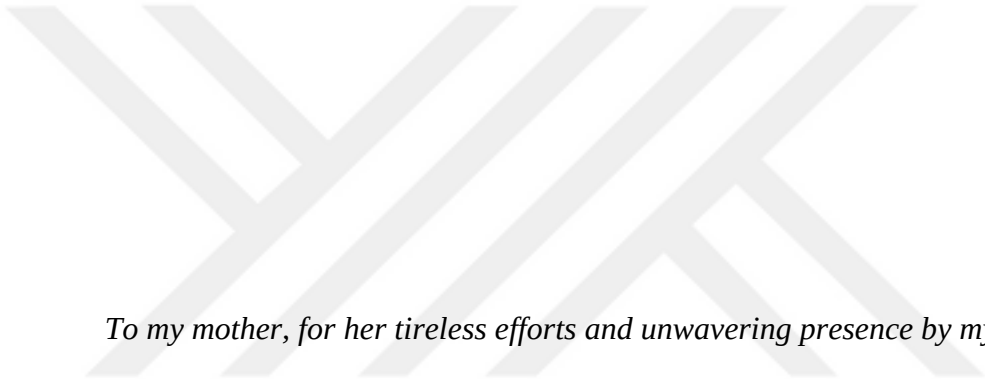
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Ontolojik güvenlik, bir aktörün rutinlerinde, alışkanlıklarında ve biyografik anlatılarında güvenlik ve süreklilik duygusunun yanı sıra, kendisi, sosyal çevresi ve dünyadaki yeri hakkındaki anlayışlarında bir bütünlük hissini ifade eder. Bu çalışma, Avrupa Birliği'nde gelişen hukukun üstünlüğü krizlerini değerlendirmek için ontolojik güvenlik kavramından nasıl faydalanabileceğini ele almaktadır. Avrupa Birliği'nde hukukun üstünlüğü ilkesi, tüm AB kurumlarının ve üye devletlerin hukuka tabi olmasını ve tüm bireylerin ve grupların keyfi eylemlerden korunmasını sağlayan temel bir ilkedir. Bu çalışma, hukukun üstünlüğü ihlallerinin ve AB'nin bu ilkeyi koruma konusundaki yetersizliğinin, AB'de ontolojik bir güvensizlik hissine yol açtığını, zira krizin Birlik'in üzerine inşa edildiği temel değerleri zayıflatıldığını savunmaktadır. AB'ye ait kamusal belgeler, vaka analizleri ve ikincil literatürün nitel bir analizi yoluyla, AB kurumlarının hukukun üstünlüğü ilkesini uygulama çabaları ve toplumun bu bozulmalara yönelik tepkileri, Birliğin ontolojik güvenliği üzerindeki etkiler ve bu durumun AB'nin geleceği açısından doğurabileceği sonuçlar incelenmektedir. Araştırma, AB'nin temel değerlerinden biri olan hukukun üstünlüğündeki ihlallerin, biyografik anlatının sürekliliğinin bozulması, radikal biçimde değişen ve kutuplaşan "Ben" ve "Öteki" dikotomisi ve bilinmeyen bir geleceğin yarattığı anksiyete gibi ontolojik güvenlik teorisinin alt başlıklarıyla en iyi şekilde açıklanabileceğini öne sürmektedir. Araştırma, hukukun üstünlüğü ilkesinden uzaklaşma durumunun, daha fazla parçalanmayı önlemek ve AB'nin daimî istikrarını ve birliğini sağlamak için dikkatli bir şekilde yönetilmesi gerektiği sonucuna varmaktadır.

Anahtar Kelimeler: ontolojik güvenlik, hukukun üstünlüğü krizi, Avrupa Birlięi, Avrupa'nın geleceęi.





To my mother, for her tireless efforts and unwavering presence by my side.

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LIST OF ABBREVIATIONS

CEU	: Central European University
CFSP	: Common Foreign and Security Policy
CJEU	: Court of Justice of the European Union
DRFMG	: LIBE Democracy, Rule of Law and Fundamental Rights Monitoring Group
ECSC	: European Coal and Steel Community
EPP	: European People's Parliament
EU	: European Union
IMF	: International Monetary Fund
LIBE	: Committee on Civil Liberties, Justice and Home Affairs
MEPs	: Members of the European Parliament
MFF	: Multiannual Financial Framework
MoFA	: Ministry of Foreign Affairs
NGOs	: Non-Governmental Organizations
OECD	: Organization for Economic Cooperation and Development
OSF	: Open Society Foundation
OST	: Ontological Security Theory
PiS	: Law and Justice Party
SOTEU	: State of the Union
TEU	: Treaty on European Union
TFEU	: Treaty on the Functioning of the European Union
UN	: United Nations
UNDP	: United Nations Development Programme
USL	: Social Liberal Union
WB	: World Bank
WJP	: World Justice Project
WWI	: World War I
WWII	: World War II

CHAPTER 1

INTRODUCTION

Security has been a central concept in the field of International Relations, with various theoretical approaches attempting to understand its evolving nature and significance. The traditional realist and neorealist perspectives have long emphasized the primacy of state security, focusing on military power and the balance of power as the primary means of ensuring national security. However, the end of the Cold War and the emergence of new security threats have led to a more nuanced understanding of security, with liberalism, constructivism, and critical theory offering alternative perspectives.

Realists have viewed security in strictly military terms, with the state as the primary actor and the pursuit of power as the key driver of international relations. This "security dilemma" arises from the inherent insecurity of states, leading to a perpetual arms race and the potential for conflict. Neorealists, such as Kenneth Waltz, have further developed this perspective, arguing that the anarchic nature of the international system forces states to prioritize their own security, leading to a focus on relative gains and the balance of power (Tariq et al., 2018, p. 481).

In contrast, liberal theorists have emphasized the role of international institutions, economic interdependence, and the importance of individual and human security. Barry Buzan's conceptualization of security as "the pursuit of freedom from threat" has been influential in broadening the traditional security agenda (Ilijić & Vujičić, 2020, p. 116). Constructivists have highlighted the social and ideational factors that shape perceptions of security, arguing that security is not an objective condition but a socially constructed phenomenon (Chatterjee, 2003, p. 140).

The end of the Cold War and the emergence of new security threats, such as terrorism, climate change, and pandemics, have further challenged the traditional security paradigm. Critical theorists have argued for a more comprehensive understanding of security, one that encompasses non-traditional threats and the security of individuals and communities, rather than just states (Haftendorn, 1991, p. 4).

Another such approach under critical theories is the ontological security theory, which has gained prominence in recent years as a way to conceptualize the security needs of states beyond the traditional focus on physical threats. Ontological security theory posits that states, like individuals, seek a sense of stability and continuity in their identities and relationships with others (Chatterjee, 2003, p. 141). This theory challenges the realist and neoliberal notions of security, which prioritize the protection of the state's physical territory and interests (Chatterjee, 2003, p. 142). Instead, ontological security theory emphasizes the need for states to maintain a coherent and stable sense of self, which can be threatened by changes in their external environment or internal dynamics (Haftendorn, 1991, p. 15). Ontological security theory offers a crucial framework for understanding the EU's current crises regarding the rule of law. It highlights how a state's identity and continuity are threatened when foundational principles like the rule of law are undermined. This theory provides insight into how these challenges have led to a state of existential anxiety within the EU, as its democratic identity is compromised by rule of law violations.

The origins of ontological security theory can be traced back to the work of sociologist Anthony Giddens, who argued that individuals and social entities, such as states, require a sense of ontological security to function effectively (Ilijić & Vujičić, 2020, p. 118). This concept has been further developed and applied to the field of international relations, with scholars examining how states' pursuit of ontological security can shape their foreign policy and security-seeking behaviors (Kaunert & Sahar, 2021, p. 3).

One of the key insights of ontological security theory is its recognition of the role of identity in shaping a state's security needs and responses (Chatterjee, 2003, p. 141). Whereas traditional security theories focus on material threats and interests, ontological security theory emphasizes the importance of states' need to maintain a consistent self-image and narrative, even in the face of changing circumstances (Kaunert & Sahar, 2021, p. 15). This focus on identity and narrative has led to a more nuanced understanding of how states navigate complex security dilemmas, such as the challenges posed by migration and the securitization of non-traditional security issues (Ilijić & Vujičić, 2020, p. 123). In this case, the challenge is that the EU is suffering from ontological insecurity as a result of domestic violations of the rule of law, which is based on the fundamental principles of the rule of law and forms the basis of its narrative.

The European Union is a supranational organization that has been instrumental in promoting peace, prosperity, and stability across the European continent. At the heart of the EU's

success lies the principle of the rule of law, which is widely recognized as a cornerstone of the Union's political and legal framework (Hurd, 2014, p. 39). The EU was founded on the principles of democracy, the rule of law, and respect for human rights. Rule of law is essential for ensuring the equality, accountability, predictability and stability for all member states and citizens. The principles of equality, accountability, predictability, and stability, which are fundamental to the rule of law, are also key concepts in ontological security. These shared values highlight the strong connection between the two, as both frameworks aim to provide a stable and consistent environment where member states and citizens can feel secure in their identities and futures. The rule of law is a fundamental concept that requires all individuals, institutions, and entities, including the state itself, to be accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated (Malby, 2017, p. 3). This principle ensures that the exercise of power is constrained by law, and that citizens are protected from the arbitrary use of authority (Gelaye, 2018, p. 81). In the context of the EU, the rule of law is crucial for maintaining the integrity of the Union's legal order, safeguarding the rights and freedoms of EU citizens, and promoting a culture of compliance with EU law (Menon, 2020, p. 65). The rule of law not only serves as a legal framework but also as a key component of the EU's ontological security. As a supranational entity, the EU relies on a coherent narrative built on shared values like democracy and rule of law. When these values are threatened, as in the cases of Poland and Hungary, the EU's ability to maintain its biographical continuity and stable identity is deeply challenged, resulting in ontological insecurity.

One of the key ways in which the rule of law supports the EU's objectives is by providing a framework for the uniform application and enforcement of EU law across all member states (Menon, 2020, p. 60). This is essential for preserving the cohesion and unity of the EU, as it ensures that all member states are held to the same standards and that the benefits and obligations of EU membership are distributed equitably (Hurd, 2014, p. 41). Moreover, the rule of law is instrumental in protecting the core values of the EU, such as democracy, human rights, and fundamental freedoms (Malby, 2017, p. 8). It ensures that these values are not undermined by the actions of individual member states or EU institutions, and that there are mechanisms in place to hold them accountable for any violations (Gelaye, 2018, p. 84).

However, the rule of law, a fundamental principle underpinning the European Union, has faced increasing challenges in recent years as several member states have taken actions that undermine democratic norms and institutions. This erosion of the rule of law within the EU is a concerning trend that threatens the Union's core values and the integrity of its legal

framework. One of the primary drivers of this development has been the rise of illiberal and authoritarian tendencies in certain member states, such as Hungary and Poland. These countries have enacted policies and legislation that concentrate power in the hands of the executive, restrict the independence of the judiciary, and limit the ability of civil society and the media to function freely. The European Union has struggled to effectively address these challenges, as its mechanisms for addressing rule of law violations are often perceived as weak or ineffective.

The impact of these developments on the European Union's democratic ambivalence has been significant. The lack of a clear and unified response from the EU has raised concerns about the Union's ability to uphold its core principles and values, particularly in the face of growing populist and nationalist movements within its borders. Furthermore, the inability to effectively address rule of law violations has fueled discussions about the possibility of expelling member states that persistently violate democratic norms, though such measures remain controversial and politically fraught. Additionally, the EU's response to crises such as the refugee crisis and the ongoing tensions with Russia have revealed deep divisions among member states, with some prioritizing national sovereignty and identity over a common, rules-based approach (Schmidt, 2017, p. 495). These developments have led to a growing crisis of politics and democracy within the EU, with questions being raised not only about the Union's effectiveness in addressing its various challenges but also its democratic legitimacy, which is its core narrative (Schmidt, 2017, p. 497).

The research question of this thesis centralizes why the EU has not been able to effectively defend the rule of law against attacks. This research argues that the failure to defend the rule of law not only weakens the EU legally but also disrupts its ontological security by eroding its identity as a union based on democratic values and the rule of law. The theory of ontological security helps explain why these violations generate anxiety within the EU and threaten its long-term stability. Ontological security theory facilitates explaining the underlying psychological and sociopolitical factors that impact the EU's ability to uphold the rule of law by providing a framework for understanding how the EU's need for self-identity and a coherent narrative influences its actions and responses. Therefore, the first objective of this thesis is to comprehend the principles underlying ontological security. Subsequently, an attempt is made to demonstrate the significance and necessity of the rule of law for the European Union by highlighting the growing number of legal transgressions in the member states and the responses that followed. In the end, it synthesizes the results and adds reactions to the undermining of principles of the rule of law at the EU and social levels. It

concludes by making the case that upholding value of rule of law, which is the cornerstone of the EU, is in jeopardy and that the EU has entered a state of ontological insecurity as a result of a lack of acceptance and adequate mechanisms to combat this threat. The ontological security theory best explains these actions of the EU because the EU's inability to adequately respond to violations of the law and its general silence about them provides a subject for study in many sub-fields of the ontological security theory, such as moving away from the biographical narrative, the Self and Other dichotomy, and anxiety, which is an indicator of the inability to cope with the unknown. While the distortion of biographical narrative looks at how existential anxiety and insecurity can result from deviating from a consistent and coherent self-narrative, the Self and Other dichotomy looks at how entities create their identities by setting themselves apart from "the Other". While the latter is helpful for understanding the EU's core identity and analyzing its interactions with polarized societies and member states, biographical narrative is useful in analyzing the actions of the EU because it emphasizes how incoherent reactions to violations of the rule of law disrupt the EU's self-identity and its public image. Lastly, anxiety is a natural reaction to an entity's inability to predict or control its surroundings. This helps to explain both the EU's actions and also its silence by implying that a deeper existential anxiety about the EU's capacity to manage the rule of law crisis may be the source of the EU's inaction. More detailed breakdown of the chapters is provided below.

In the framework of international relations, Chapter 1 explores in great detail ontological security theory, following its evolution from psychological and sociological foundations to contemporary uses. The chapter offers a thorough analysis of ontological security in international relations and subsequently it is structured into two primary subcategories. Under the lens of ontological security, the first subcategory examines well-known concepts in international relations, such as national identity, discourse and securitization. The second subcategory looks at recent issues and how they affect ontological security, such as the rise of populism and the far right. The chapter seeks to provide a comprehensive understanding of ontological security theory and its many implications across concepts in international relations by analyzing these complex discussions. It draws attention to the scarcity of content that integrates ontological security with the rule of law, laying the groundwork for a thorough examination of this intersection in the chapters that follow.

The first section of Chapter 2 examines terms associated with the rule of law and compares and contrasts their definitions in scholarly publications. The role and importance of the rule of law within the European Union (EU) are then examined in this chapter, along with how it

relates to various EU institutions, mechanisms, reports, and founding treaties. With an emphasis on persistent infractions linked to an EU crisis, the current status of relations with member states regarding the rule of law issue is assessed. A thorough examination of the declining legal conditions in Poland and Hungary is carried out, along with a historical review of their legal systems to pinpoint any noteworthy exceptions. These cases highlight the wider effects that breaches of the rule of law have on the stability and cohesion of the EU. It is important to note that this thesis focuses on developments in Poland and Hungary up to the first six months of 2023. The political and legal shifts under the Law and Justice Party (PiS) in Poland and the Fidesz party in Hungary are central to understanding the current rule of law crises in these countries. Although significant political changes have occurred recently, such as the 2023 election of Donald Tusk's Liberal Party in Poland, this chapter focuses on the period before these developments. Therefore, it does not cover these recent events, which may alter the political landscape in Poland moving forward. The discussion revolves around criticisms aimed at the European Union's response to these violations, emphasizing the latter's alleged incapacity to guarantee adherence to their core values. This chapter seeks to shed light on the EU's current crisis by investigating threats to the rule of law from the standpoint of ontological security. It emphasizes the existential threat that the weakening of legal standards poses, undermining the EU's identity and mission fundamentally.

The third chapter synthesizes insights from the previous chapters to analyze the ontological insecurity within the EU caused by rule of law violations. It begins with an institutional analysis of the EU, detailing the roles and responsibilities of key bodies such as the European Commission, the European Parliament, Council of the European Union and the European Council. This institutional framework is crucial for understanding how rule of law violations impact the EU's governance and stability. This chapter also explores the societal dimension, drawing on statistical data from surveys and polls to illustrate public perception of the rule of law within the EU. Case studies of public protests against rule of law violations are examined, highlighting the societal impact of legal transgressions. These protests reflect deep-seated dissatisfaction and anxiety among EU citizens, underscoring the disconnection between institutional agendas and public sentiment.

Ultimately, this thesis argues that the EU's departure from the rule of law has brought about a period of ontological insecurity. It aims to shed light on the underlying concerns that jeopardize the cohesion and stability of the Union by drawing a bridge between the theoretical frameworks of ontological security and the actualities of legal and political

governance within the EU. Furthermore, the EU's current state of ontological insecurity is exacerbated by its failure to prioritize the rule of law. The EU has often treated rule of law concerns as secondary to other pressing issues such as migration, economic stability, and geopolitical threats. This misalignment has contributed to a pervasive sense of disillusionment and anxiety among EU citizens. The chapter provides a nuanced understanding of the internal challenges facing the EU by utilizing ontological security theory. It makes the argument that the EU's reticent reaction to abuses of the rule of law is part of a larger effort to preserve the appearance of stability by externalizing threats and averting core concerns raised by internal divisions. This situation demonstrates how the EU has transcended its routines and that its biographical continuity is broken within the framework of ontological security theory. Additionally, it means that, in accordance with the suggestions of ontological security theory, it leaves domestic rule of law violations unaddressed and in the state of anxiety and makes external threats a distinct object that is simpler to neutralize. This strategy runs the risk of compromising the legitimacy and long-term stability of the EU. The results highlight the necessity of maintaining the rule of law with a more comprehensive and integrated strategy that takes into account both the institutional and societal aspects of security. To regain its identity and guarantee a stable, secure future for its member states and citizens, the EU must take on these challenges head-on.

CHAPTER 2

ONTOLOGICAL SECURITY AND INTERNATIONAL RELATIONS: BRIDGING THEORY AND PRACTICE

2.1. Introduction

In today's complex and interconnected world, the pursuit of security is a fundamental concern for individuals, groups, and states. However, the concept of security in international relations is highly complex and multifaceted. It involves not just military defense and protection against physical aggression, but also encompasses various dimensions such as political, economic, social, and environmental aspects. Moreover, the definition of security can vary depending on different perspectives and contexts. For instance, traditional security focuses on military capabilities and the prevention of armed conflict between states. On the other hand, human security emphasizes the well-being and protection of individuals, including issues such as economic inequality, poverty, disease, and human rights violations. Additionally, security can also include non-traditional threats such as terrorism, cyber-attacks, climate change, and pandemics. The concept of security is not static and has evolved over time. It has expanded to include not only the protection of states but also the well-being and safety of individuals and communities. This expanded understanding of security recognizes the interconnections between different dimensions and acknowledges that threats to security can arise from various sources, including both state and non-state actors. This complexity of the concept of security makes it challenging to develop comprehensive and universally agreed-upon definitions and strategies.

By drawing on the literatures on complexity and securitization, ontological security can be conceptualized as an emergent phenomenon that arises from securitizations from below. This perspective challenges the traditional focus on inter-state relations and suggests that ontological security can be understood in terms of the individual's need to construct biographical continuity, to establish a web of trust relations, to act in accordance with self-integrity, and to counter ontological insecurity (Ejdus, 2017, pp. 28-30). In this chapter, a comprehensive examination of ontological security theory within the context of international

relations is undertaken. First, the development of ontological security theory is explained, highlighting the subtle distinctions it has undergone over time from its fundamental roots in psychology and sociology. Second, the current debate over the ontological security is critically examined, with a focus on the arguments that are most frequently made regarding its classification as either primarily state-related or individual-centric. Thirdly, the conceptual distinctions between ontological security and its traditional counterpart, physical security, are delineated, elucidating the inherent dichotomy between the notions of Self and Other. Subsequently, the intricate disparities between the affective states of anxiety and fear are meticulously expounded upon, illuminating their distinctive behavioral underpinnings and manifestations. Finally, the application of ontological security theory within the realm of international relations is explored, leveraging exemplar studies to underscore its relevance and efficacy in elucidating complex interstate and geopolitical dynamics. In the portrayal of examples of ontological security in international relations, the chapter is divided into two main subcategories. Firstly, there are studies that address familiar concepts in international relations such as conflict resolution, discourse and narrative, migration and national identity through the lens of ontological security within a broader framework. Secondly, there are studies examining the concept of ontological security in relation to prevalent topics such as the rise of the far right and populism. Through these multifaceted discussions, it is intended to provide a thorough understanding of ontological security theory and its numerous implications across concepts in international relations. After examining the relationship between the concepts of ontological security and the rule of law, the chapter concludes by highlighting the paucity of literature that combines these two concepts.

2.2. Historical Development of Ontological Security Theory

The development of ontological security theory can be traced back to its origins in sociology and psychology. During the mid-20th century, sociologists and psychologists began to explore the link between individuals' sense of self and their feelings of security (Ejdus, 2018, p. 885). They recognized that individuals have a fundamental need for stability, predictability, and continuity in their lives in order to feel secure.

In order to better understand schizoid and schizophrenic people, psychologist R.D. Laing initially used the term "ontological security" in the 1950s (Krickel-Choi, 2022a, p. 5). Laing focused on the psychological effects of social and personal alienation and proposed that schizophrenia results from a profound ontological insecurity and an incapacity to cope (Krickel-Choi, 2022a, p. 5). It was later taken up and improved upon by renowned

sociologist Anthony Giddens, who made it into one of the most important sociological studies. (Rumelili, 2015, p. 10).

"Giddens borrows the concept of ontological security from Laing and elaborates on it by disaggregating the above definition into four distinct issues relating to 'time, space, continuity and identity' (1991, 37), what he also calls the 'existential dimensions of ontological security'" (Krickel-Choi, 2022a, p. 5).

Giddens argued that ontological security is a fundamental aspect of human existence, as it provides individuals with a sense of certainty and control over their lives, allowing them to navigate through the complexities and uncertainties of the world (Rumelili, 2015, p. 11). Giddens' framework centers on the idea that individuals develop a framework of ontological security based on routines, which allows them to engage in everyday activities and maintain a reflexive awareness of their actions and self-identity (Rumelili, 2015, p. 13). According to Giddens, chaos and the potential for being overtaken by anxieties that cut to the core of our cohesive sense of "being in the world" exist beyond this established "protective cocoon" of ontological security (Rumelili, 2015, p. 13). As he explained in his groundbreaking book *Modernity and Self-identity* (1991), Giddens is the father of many discourses in Ontological Security Theory, including "biographical narratives," "routines," "the Self/Other dichotomy," "the protective cocoon," and "bracking out anxiety." However, a great deal of other scholars has also discussed Giddens' work, formed various groups in the literature, and contributed to the wider understanding of the term "ontological security." Nevertheless, it wasn't until the start of the twenty-first century that it was extended to International Relations and moved past the individual level.

Some scholars laid the foundation for understanding ontological security as a socially constructed phenomenon, influenced by social norms, values, and interactions. As the field of ontological security evolved, scholars began to focus on its implications for state policy and international relations. These scholars, such as Jennifer Mitzen, Catarina Kinnvall, Brent J. Steele, Badredine Arfi, and Bahar Rumelili, shifted the focus from individual ontological security to the ontological security of states. They argued that ontological security is not only an individual-level phenomenon but also operates at the collective level, affecting the sense of security and identity of nations and states. By focusing on the ontological security of states, scholars aimed to understand how states construct and maintain a sense of security, both internally and externally.

It is important to note that this new tradition in ontological security studies at the state level differs somewhat from the intellectual origins of ontological security in sociology and

psychology. Later ones highlight the significance of individual understandings and experiences of security, emphasizing the intersubjective construction of ontological security. This perspective argues that ontological security should be understood in terms of individuals' need to create a sense of continuity in their lives, establish trust relationships, maintain self-integrity, and overcome ontological insecurity or dread (Krickel-Choi, 2022a, p. 7). In other terms, by focusing on the individual level, these early scholars emphasized the subjective experience of security and how it is shaped by social and psychological factors. However, there is an increasing recognition that ontological security operates not only at the individual level but also at the collective level, shaping the sense of security and identity within and across state boundaries (Ejdus, 2017, p. 27). This recognition highlights the need to deploy ontological security as a framework in security studies to understand the nature of collective insecurities in contemporary international relations.

According to Croft (2012), the new tradition of ontological security studies differs from its intellectual origins in sociology and psychology in several key ways. While the intellectual origins of ontological security in sociology and psychology primarily focused on individual behaviors and beliefs, the new tradition of ontological security studies expands this focus to include the construction of collective identities. This shift allows for a deeper understanding of how identities are developed and may come into conflict with each other (Croft, 2012, p. 220). Also, ontological security studies have become a multidisciplinary workspace, extending beyond traditional sociology and psychology. Scholars in fields such as museum studies, social policy, and medical disciplines have utilized the concept of ontological security to explore various aspects of identity construction and maintenance (Croft, 2012, p. 223). This approach emphasizes the importance of sociological readings of security in contemporary security studies, highlighting the role of individual insecurities in shaping broader security dynamics (Croft, 2012, p. 219). Moreover, Croft (2012) contends that the concept of 'insecuritization' is introduced to explain how dominant powers use the term 'security' to designate who should be protected and who should be controlled or feared. This process of insecuritization impacts how identities are constructed and positioned in relation to each other, leading to conflicts and marginalization (Croft, 2012, p. 220). These differences reflect the evolution of ontological security studies from its origins in individual psychology and sociology to a broader interdisciplinary framework that considers collective identities, security dynamics, and the insecuritization of marginalized groups. Similarly, this study will also seek to further the trend of integrating sociological perspectives into security studies by arguing for the inclusion of ontological security as a framework. This viewpoint acknowledges the importance of individual understandings of security, while also

recognizing the role of collective insecurities in shaping state behavior and international relations.

Pan and Hagström (2021) describes ontological security by referring to Giddens' study: "a sense of continuity and order in events" regarding self-identity or "biographical continuity" (p. 459). While physical security concerns the security of the body, "ontological security is about the 'security [...] of the self, the subjective sense of who one is, which enables and motivates action and choice, as opposed to physical security" (Pan & Hagström, 2021, p. 459). They also highlight the significance of the Self-Other dichotomy. The authors claim that during the identity-construction process, an individual assesses their identity in light of contrasts; hence, being aware of their oppositions provides them security:

"Second, insofar as identity is inherently relational, it tends to be defined in contrast to difference or who one is not. Therefore, routinised narratives of Otherness are part and parcel of the strategy to secure the ontology of the self. In particular, the securitisation of a threatening Other can mitigate anxieties by evoking fear. Unlike anxiety, fear has "a definite object" and therefore helps crystallise what the self is by identifying more clearly what it is against" (Pan & Hagström, 2021, p. 460).

According to Arfi (2020), ontological security is the sense of temporal continuity and consistency of one's identity, which goes beyond physical survival. Ontological security is not just about the physical survival of actors but also encompasses their concerns about the security of their being, including their identity and autonomy (Arfi, 2020, p. 296). It is highlighted that individuals and collectivities, such as ethnic groups and nations, can fear symbolic extinction, leading to existential anxiety. This broader understanding of security goes beyond the traditional focus on physical survival and delves into the existential aspects of identity and continuity (Arfi, 2020, p. 296). The author suggests a new interpretation of security through the framework of always becoming otherwise by emphasizing the paradoxical nature of security in relation to survival. The concept of always becoming otherwise challenges the traditional notion of ontological security as a sense of 'security of being' and instead proposes that feeling secure in one's being involves engaging in everyday practices of surviving through continual change and potential transformation, which may ultimately lead to death (Arfi, 2020, p. 291). This framework underscores the idea that to be secure is to survive while constantly evolving and facing the unknown. It introduces the concept that to survive is to be anxious, highlighting the inherent uncertainties and anxieties that come with the process of always becoming otherwise (Arfi, 2020, p. 291). Regarding the existential anxieties, Narozhna (2021) defines ontological security as the security of identity, emphasizing the importance of having a coherent sense of self to maintain cognitive and

emotional orientation in the world (p. 61). In order to achieve ontological security, individuals need to have answers to existential inquiries concerning "time, space, continuity, and identity" (Narozhna, 2021, p. 61). It is asserted that when such responses are not provided, people are overcome by the uncertainty of the contemporary world and fall victim to severe existential anxieties (Narozhna, 2021, p. 61). Additionally, the Arfi (2020) discusses the importance of attachment to one's sense of existence and the "performative leaps of faith" involved in maintaining a secure identity amidst the ever-changing nature of being (Arfi, 2020, p. 291). By reframing security in terms of always becoming otherwise, the author challenges conventional understandings of security and survival, offering a more nuanced perspective that incorporates the dynamic and evolving nature of human existence (Arfi, 2020, p. 291).

Many academics have discussed the difference between ontological and physical security; however, Mitzen (2006) offered one of the first comprehensive explanations of this issue. According to Mitzen (2006), ontological security refers to the need for individuals and states to experience a stable sense of self and identity over time (Mitzen, 2006, p. 342). It involves feeling secure in one's identity and having a continuous sense of agency. This security is achieved through cognitive and behavioral routinization in relationships with significant others (Mitzen, 2006, p. 351). States seek ontological security by maintaining stable group identities and routines in their interactions with other states (Mitzen, 2006, p. 352). Physical security, on the other hand, traditionally refers to the protection of a state's territorial integrity and the safety of its population from external threats (Mitzen, 2006, p. 342). It is often associated with military capabilities, alliances, and deterrence strategies aimed at safeguarding the state from physical harm or aggression. While physical security focuses on the external threats and survival of the state in the anarchic international system, ontological security delves into the internal need for stability, coherence, and continuity in identity (Mitzen, 2006, p. 343). Ontological security-seeking involves maintaining cognitive certainty and stable relationships to ensure a sense of self and agency, even if these routines may not always align with physical security interests (Mitzen, 2006, p. 365).

According to Rumelili (2013), the "conflation" of ontological and physical security in existing critical approaches to security has significant implications for understanding identity and desecuritization processes. According to Rumelili (2013), by merging these two dimensions of security, the literature may overlook certain possibilities for and limits to desecuritization (p. 70). When ontological and physical security are conflated, there is a risk of missing out on the potential for achieving ontological security without securitization. This

oversight can limit the exploration of alternative pathways to security that do not rely on the construction of threats or emergency measures (Rumelili, 2013, p. 70). The conflation of ontological and physical security can constrain the analysis of desecuritization processes. It may hinder the understanding of how identity construction and processes of securitization/desecuritization intersect and influence each other. This limitation can impede efforts to effectively address security concerns without resorting to securitization practices (Rumelili, 2013, p. 62). The failure to distinguish between ontological and physical security may affect how Self/Other relations are perceived and managed in security contexts. Understanding the distinct roles of ontological and physical security is essential for reconfiguring Self/Other relations in a way that promotes ontological security and facilitates desecuritization processes (Rumelili, 2013, p. 54). In conclusion, the conflation of ontological and physical security in critical approaches to security can narrow the scope of analysis and hinder the development of nuanced strategies for addressing security challenges while preserving identity and promoting desecuritization (Rumelili, 2013, p. 70). The framework proposed in the article expands the possibilities for desecuritization by highlighting the distinct but interrelated layers of ontological and physical security. This two-layered conception of security allows for a more nuanced understanding of how identity and security interact in desecuritization processes (Rumelili, 2013, p. 52). Firstly, by recognizing ontological security as separate from physical security, the framework opens up new avenues for achieving desecuritization without compromising the stability and certainty of identity (Rumelili, 2013, p. 54). It emphasizes that desecuritization processes can be successful when they not only address physical security concerns but also reconfigure Self/Other relations in a way that maintains or reinstates ontological security (Rumelili, 2013, p. 70). The framework suggests that by disentangling ontological and physical security, actors can navigate identity-related challenges more effectively, leading to sustainable desecuritization outcomes (Rumelili, 2013, p. 65). Secondly, the framework also imposes new limits on desecuritization by highlighting the complexities of maintaining ontological security in the absence of securitization practices (Rumelili, 2013, p. 71). It underscores that ontological insecurity can hinder desecuritization efforts by triggering physical (in)security, undermining trust, and accentuating perceptions of external threats (Rumelili, 2013, p. 65). The framework cautions that failure to differentiate between ontological and physical security may constrain the potential for achieving lasting desecuritization outcomes, as ontological insecurity can lead to a return to securitization practices (Rumelili, 2013, p. 65). In essence, while the framework expands the possibilities for desecuritization by offering a comprehensive understanding of security as both ontological and physical, it also introduces new challenges and limitations that must be

addressed to effectively navigate identity dynamics and security concerns in international relations (Rumelili, 2013, p. 70).

While the debate on the profound differences between ontological security and physical security continues, another related distinction that occupies space in the ontological security literature is between fear and anxiety since it helps to understand the different emotional and behavioral responses that individuals may have in relation to their sense of security and self. Very effectively, Kinnvall and Mitzen (2020) distinguish between anxiety and fear. They make clear that there is, first of all, an analytical distinction. Fear is described as a basic emotion directed at a specific object, triggering a "fight or flight" response (Kinnvall & Mitzen, 2020, p. 241). In contrast, anxiety is seen as a more general psychic condition or mood, characterized by a 'fear of fear' or unease without a clearly defined object (Kinnvall & Mitzen, 2020, p. 241). This analytical difference is crucial in understanding how individuals respond to perceived threats or uncertainties. Second, they refer to anxiety's multifinality. While fear tends to lead to specific behaviors such as fight or flight, anxiety is characterized by multifinality (Kinnvall & Mitzen, 2020, p. 241). It can result in a range of emotions and behaviors, including excitement, anticipation, compulsive repetition, acting out, paralysis, or even entrepreneurship (Kinnvall & Mitzen, 2020, p. 241). This complexity in the manifestations of anxiety highlights the diverse ways individuals may cope with or respond to feelings of insecurity. Finally, according to the authors, understanding the distinction between anxiety and fear is essential for grasping their political implications. Fear is often associated with realist perspectives in international relations, where states fear each other's intentions, leading to security dilemmas and conflict (Kinnvall & Mitzen, 2020, p. 241). On the other hand, anxiety, with its broader and less defined nature, can have different implications for subjectivity and politics, potentially allowing for social and political change (Kinnvall & Mitzen, 2020, p. 241). Rumelili (2020) differentiates between fear and anxiety in the context of international relations by drawing on insights from existentialist philosophy and Hobbesian thought. Existentialist conceptions view anxiety as an integral part of the human condition, distinct from fear. Anxiety is described as a response to the unknowable future and the limits of the human condition, rather than a reaction to a specific, present danger. It is characterized by a sense of existential dread and the realization of the uncertainty of existence (Rumelili, 2020, p. 265). In contrast, fear is projected externally towards specific threats and concrete objects. It is a response to immediate dangers and is more focused on external stimuli (Rumelili, 2020, p. 258). According to Hobbes, anxiety arises from the unknowability of the future and the limits of human condition (Rumelili, 2020, p. 258). It leads individuals into a never-ending power competition in the state of

nature. The state, through its concentration of power, can instill fear to control the power struggle induced by anxiety and shape the future to contain anxieties (Rumelili, 2020, p. 265). While fear is a component of anxiety, Hobbes distinguishes anxiety as a more agonizing emotion that individuals seek to contain (Rumelili, 2020, p. 258). Fear, on the other hand, is necessary to keep the power struggle induced by anxiety under control (Rumelili, 2020, p. 265). By exploring these philosophical perspectives, Rumelili (2020) highlights the nuanced differences between fear and anxiety in the realm of international relations, emphasizing how anxiety as a constitutive condition can shape behaviors and outcomes in the international arena (Rumelili, 2020, p. 270). The author suggests that an ontological security perspective, enriched by insights from existentialism, serves as the most appropriate theoretical venue for integrating anxiety into IR theory as a constitutive condition (Rumelili, 2020, p. 257). This perspective allows for a deeper understanding of how anxiety shapes individual and state behavior in the international arena. By incorporating ontological security into the analysis, the author contends that anxiety can be better understood as a constitutive condition that generates, rather than competes with, the concern for survival (Rumelili, 2020, p. 258). This perspective helps to refine the conception of ontological security by specifying its connection to physical security, underlying dimensions, and its relation to change. Integrating anxiety through an ontological security lens enables a more comprehensive explanation of a wide range of foreign policy behaviors and international outcomes, from securitization to humanitarian action and it also accounts for both stability and the potential for change in the international system (Rumelili, 2020, p. 258). By emphasizing the importance of ontological security in understanding anxiety, the author argues against the dismissal of ontological security as a secondary concern in conventional approaches to IR.

The concept of anxiety contributes to the understanding of whether ontological security is attainable in international relations by highlighting the complexities and challenges inherent in seeking a sense of security and stability. Scholars in ontological security studies grapple with the idea of whether individuals or states can ever truly achieve a state of complete security and certainty (Krickel-Choi, 2022b, p. 10). The search for ontological security is often seen as a quest for a complete and stable self or identity, which is considered unattainable due to the inherent nature of the self as continuously evolving and never fully certain (Krickel-Choi, 2022b, p. 10). Anxiety plays a crucial role in this discussion as it is intertwined with the pursuit of ontological security. The presence of anxiety can be both a motivator for seeking security and a barrier to achieving it. Anxiety can lead individuals or states to strive for stability and continuity in their self-identity, yet it can also create

uncertainty and fear that hinder the attainment of a secure sense of self (Krickel-Choi, 2022b, p. 9). The dual role of anxiety, as both inhibiting behavioral change and prompting adaptation, adds complexity to the question of whether ontological security is achievable (Krickel-Choi, 2022b, p. 9). Furthermore, the malleable nature of anxiety introduces ambiguity into the understanding of ontological security and its attainability. Different interpretations of anxiety among scholars can lead to divergent views on whether ontological security is a realistic goal or an elusive ideal (Krickel-Choi, 2022b, p. 1). According to Krickel-Choi (2022b), the ongoing presence of anxiety in individuals and states' lives raises questions about the feasibility of ever reaching a state of complete security and stability (p. 10).

On the flip side, some academics bypass the discussion of attaining ontological security entirely and concentrate on a different aspect of it. Certain scholars opt to completely disregard the idea that ontological security is only individually obtained, and they've already embraced the notion that it's a state-driven endeavor, thereby extending the application of ontological security theory to states. According to Subotić (2016), ontological security refers to the need for a consistent and stable sense of self or identity, which is essential for individuals and states to feel secure in their existence (p. 613). States, like individuals, seek predictability, order, and routine in their relationships to construct and maintain their identities (Subotić, 2016, p. 614). In times of crisis or trauma, such as external challenges that threaten a state's identity, ontological security becomes particularly important. States may face events that challenge their self-perception and disrupt their sense of continuity. To address these challenges, states rely on narratives to provide comfort, relief, and a sense of well-being (Subotić, 2016, p. 614). Autobiographical narratives are used to justify state actions, maintain a positive self-image, and ensure continuity with a perceived "good past" (Subotić, 2016, p. 614). When faced with crises that require policy changes, states activate specific elements of their broader narrative templates while deactivating others to explain and justify the policy shift (Subotić, 2016, p. 614). This selective activation of narratives helps bridge the gap between solving immediate security challenges and preserving the state's ontological security (Subotić, 2016, p. 615). By strategically using narratives, states can maintain a sense of routine, familiarity, and calm even in times of significant policy changes (Subotić, 2016, p. 610).

Similar to Subotić's emphasis of that states want to maintain their identity, Hom and Steele (2020) argue that ontological security studies can help differentiate between different types of anxiety in the "third-image theorizing of global politics" by focusing on the narratives,

identity formation, and temporal aspects of international relations (Hom & Steele, 2020, pp. 322-329). Ontological security studies emphasize the importance of narratives in shaping individual and state identities (Hom & Steele, 2020, pp. 322). By examining the autobiographical conceptions of international agents and the stories told about international politics, researchers can understand how these narratives contribute to the construction of 'the international' as a system or community (Hom & Steele, 2020, pp. 322). Differentiating between narratives that promote a sense of security and those that induce anxiety can provide insights into the sources of anxiety in global politics. Time plays a crucial role in ontological security studies, as it influences how individuals and states manage anxiety over time (Hom & Steele, 2020, pp. 322). By considering the temporal dimension of international relations, researchers can analyze how anxieties evolve, intensify, or diminish in response to changing circumstances. Understanding the temporal dynamics of anxiety can help distinguish between short-term concerns and long-term existential threats in the international realm. Ontological security studies highlight the interconnected coordination challenges faced by international actors (Hom & Steele, 2020, pp. 323). By examining how these challenges contribute to anxiety at the systemic level, researchers can differentiate between anxieties stemming from individual or unit-level issues and those arising from broader structural dynamics.

Ejdus (2017) is another scholar who makes the case that identity discourses are essential to preserving the stability of "ontic spaces" because they shape the meanings and narratives attached to the material environments that states view as fundamental to their collective identity. In the context of ontological security, ontic spaces are spatial extensions of the collective self that provide a sense of continuity and firmness to state identities (Ejdus, 2017, p. 27). Through identity discourses, states project or introject their self-identity onto material environments, imbuing them with symbolic significance that reinforces the state's sense of self. Projection involves extrapolating the self onto the environment, such as designing structures to represent collective identity, as seen in significant sites like government buildings or historic monuments (Ejdus, 2017, p. 27). This process allows states to anchor themselves in the material world, creating a tangible connection that helps stabilize their identity narratives and provide a sense of agency (Ejdus, 2017, p. 27). Moreover, identity discourses help states maintain biographical continuity and develop a collective sense of agency by linking the self to the material environment. By constructing narratives that align with the state's identity, discourses contribute to the creation and maintenance of ontic spaces, which serve as visible, durable extensions of the state self (Ejdus, 2017, p. 27). These discourses not only shape how states perceive their surroundings but also influence how

others interpret and interact with these spaces, reinforcing the state's identity in the international arena (Ejdus, 2017, p. 24). In times of crisis or transition, identity discourses become even more critical in preserving the stability of ontic spaces. States may resort to defensive measures, including reappropriating their material environments, "to fend off" threats to their biographical continuity and maintain a coherent sense of self (Ejdus, 2017, p. 30). By actively engaging in identity discourses that reinforce the connection between the self and the material environment, states can navigate challenges to their identity narratives and ensure the stability of their ontic spaces (Ejdus, 2017, p. 24).

Krickel-Choi (2021) also argues that ontological security theory (OST) has provided several key insights in understanding the behavior of individuals, groups, and states in international politics. OST emphasizes the importance of the security of 'the self' for actors in international relations. It suggests that individuals, groups, and states are not only concerned with physical security and material gains but also with the subjective sense of who they are (Krickel-Choi, 2021, p. 13). OST highlights that actors experience profound anxiety when their sense of self is under threat. This anxiety management becomes a significant driver behind actor behavior, influencing how they interact in the international arena (Krickel-Choi, 2021, p. 13). Scholars like Ayşe Zarakol argue that states can be seen as ontological security-seeking entities because they provide ontological security for their citizens. This perspective sheds light on how states function to maintain a sense of security and identity for their populations (Krickel-Choi, 2021, p. 22). The concept of the state as a provider of ontological security is distinct from the state as a referent object. This distinction is crucial in understanding the complex relationship between individuals and the state in terms of identity and security (Krickel-Choi, 2021, p. 23). According to the author, Mitzen's work highlights how inter-state routines impact individuals' identity and contribute to a sense of distinctiveness vis-à-vis members of other states. This insight underscores the role of routine practices in shaping identity and security perceptions (Krickel-Choi, 2021, p. 22). The mobilization of emergent properties in OST offers a sophisticated argument for the emergence of identities and group emotionality. This complexity in understanding how identities are formed and emotions are experienced adds depth to the analysis of behavior in international politics (Krickel-Choi, 2021, p. 23). These insights from ontological security theory contribute to a nuanced understanding of how individuals, groups, and states navigate the complexities of international relations by considering the psychological underpinnings of security-seeking behavior.

In short, the ontological security theory derived from sociology and psychology, has been interpreted through society, state, inter-state and system levels to such an extent that it is

possible to find every reflection of this theory on many discourses and conflicts that occupy a large place in the international relations literature, and it appears that this trend will only continue.

2.3. Case Studies

Naturally, the rapid spread and prominence of ontological security theory in the field of international relations are no coincidence. The concept of ontological security challenges traditional views of international relations—prominently realism —by emphasizing the importance of maintaining a sense of order, continuity, and identity for states and individuals. This concept suggests that actors in international politics are willing to compromise physical security and material gains in order to protect their sense of continuity in the world. Inevitably this viewpoint has sparked discussions and the concept engaged academics studying international relations. They conveyed that ontological security plays a significant role in shaping the decision-making and actions of governments in international relations. They also illustrate the interconnectedness of ontological security and physical security, highlighting that states prioritize the preservation of their sense of continuity and identity over physical security by arguing that what makes the Self secure in the Other could be a negative relationship of enmity as well as a positive one of friendship and amity. In other words, ontological security focuses on the socio-psychological needs of stability and recognition, regardless of whether threats are located in the cultural or non-cultural realms. Its application across such a wide realm has allowed ontological security theory to be taken up at many different levels in many different countries from East to West, from pole to south, and to give birth to its own research area over highly debated international relations concerns.

Grzybowski (2022), for instance, addressed separatist conflicts and approached the issue of conflict resolution from the standpoint of ontological security. According to Grzybowski (2022), the concept of ontological security plays a crucial role in understanding separatist conflicts in international relations by highlighting the deep-rooted insecurities and challenges faced by entities involved in such conflicts. In separatist conflicts, different groups or entities often have exclusive visions of national identity and seek recognition as independent states. However, the very nature of statehood and the exclusiveness of state subjectivity create a complex dynamic of fundamental ontological (in)security. Ontological security refers to the need for individuals or groups to maintain a stable sense of self and identity (Grzybowski, 2022, p. 508). In the context of separatist conflicts, the quest for statehood and recognition is

not just about physical security but also about the fundamental ontological security that comes from being recognized as a legitimate state entity. The article suggests that the constitution and recognition of states play a significant role in providing this fundamental ontological security (Grzybowski, 2022, p. 504). Separatist conflicts challenge the traditional understanding of state subjectivity by contesting the very notion of what constitutes a state. The conflicts involve competing claims to statehood, where unrecognized *de facto* states are pitted against their parent states, leading to a radical challenge to their existence (Grzybowski, 2022, p. 505). This dynamic creates a meta-security dilemma for third parties involved in resolving the conflicts, as supporting one side's claim to statehood may render the other side fundamentally insecure (Grzybowski, 2022, p. 505). Overall, ontological security in separatist conflicts goes beyond physical and traditional security concerns. It sheds light on the complex interplay of identity, recognition, and statehood, highlighting the insecurities and challenges faced by entities seeking to establish themselves as legitimate state actors in the international arena. Unrecognized *de facto* states and their parent states threaten each other's state personhood in separatist conflicts by challenging the very essence of state subjectivity and territorial integrity. Grzybowski (2022) discusses how separatist conflicts disrupt the traditional understanding of statehood and create a complex interplay of insecurities and challenges for both parties involved. Unilateral secession by *de facto* states violates the territorial integrity of the parent state, posing a direct threat to its physical security (Grzybowski, 2022, p. 511). The loss of territory to separatist entities not only undermines the parent state's control but also challenges its sovereignty and authority over the disputed region. Secession implies a rupture in the body of the state, leading to a loss of limb in terms of territory, population, and sovereignty (Grzybowski, 2022, p. 511). For the parent state, the emergence of a *de facto* state challenges its exclusive claim to statehood and questions its legitimacy as the sole representative of the population within its borders. The potential recognition of separatist entities as independent states undermines the authority and subjectivity of the parent state, creating deep-seated fears of losing both physical control and ontological security. The competition between unrecognized *de facto* states and parent states creates a meta-security dilemma for third parties involved in conflict resolution (Grzybowski, 2022, p. 508). Supporting one side's claim to statehood may inadvertently heighten the insecurity of the other party, leading to a complex web of relational tensions and challenges in the international arena. In summary, unrecognized *de facto* states and their parent states engage in a struggle that goes beyond physical security concerns. The conflicts threaten the very essence of state personhood, challenging the exclusive nature of state subjectivity and highlighting the fragility of state projects in the face of separatist aspirations.

Cash (2017) addresses this issue of confrontation and legitimacy within the state with an apt example, Northern Ireland, and talks about the emergence of a search for security that goes far beyond physical security. According to Cash (2017), the concept of emotional constellations plays a crucial role in understanding the ontological insecurity experienced by individuals in Northern Ireland. In the context of postcolonial Northern Ireland, emotional constellations refer to the interconnected network of emotions, attitudes, and responses that shape individuals' perceptions of self, others, and the world around them (Cash, 2017, p. 394). These emotional constellations are deeply intertwined with unconscious processes and are integral to maintaining ontological security. In a society marked by historical divisions, such as Northern Ireland, emotional constellations dominated by fear, anxiety, and hostility towards the "other" can become ingrained in identities and social interactions (Cash, 2017, p. 396). The routine reinforcement of these emotions over time solidifies them as the norm for how individuals perceive themselves and relate to others. This emotional landscape is further complicated by the physical barriers and spatial divisions that contribute to the construction of identities based on fear and resistance (Cash, 2017, p. 396). Moreover, the shift from friend-enemy ideological formations to adversary-neighbor ideologies in Northern Ireland has introduced more inclusive norms of recognition and complex emotional constellations (Cash, 2017, p. 387). However, this cultural transformation has not been universal, leading to a situation where the move away from past violence has paradoxically increased ontological insecurity for some individuals (Cash, 2017, p. 387). The coexistence of different emotional constellations based on conflicting ideologies adds layers of complexity to the experience of ontological insecurity in postcolonising Northern Ireland. Therefore, by examining the emotional constellations present in individuals and communities in Northern Ireland, one can gain insights into the deep-rooted emotional dynamics that contribute to ontological insecurity and shape social relations in this complex postcolonial context.

From the standpoint of social construction, the concepts of ontological security and insecurity are intimately related to another domain of construction in international relations, which is discourse. Indeed, according to Adisönmez et al. (2022), Saudi scholars' fatwas play a significant role in contributing to Saudi Arabia's ontological security narratives in the context of the rivalry with Iran. Fatwas, which are religious opinions issued by scholars, serve as powerful tools in shaping and reinforcing the collective identity, stability, and order within Saudi society (Adisönmez et al., 2022, p. 96). Fatwas act as authoritative pronouncements that restrict the range of acceptable discourse on certain issues. They set boundaries on what can be said, thereby enforcing a hegemonic reality and limiting

alternative articulations (Adisönmez et al., 2022, p. 96). Fatwas function as identity-signifiers by providing influential stories and ideas that offer a sense of security, stability, and simple answers to individuals. They contribute to creating a picture of security and order in society (Adisönmez et al., 2022, p. 96). Fatwas leave no room for alternative perspectives as they enforce the audience to accept the hegemonic reality presented in the religious narrative. This limits political activity and sustains an apolitical subjectivity (Adisönmez et al., 2022, p. 96). Fatwas reinforce the collective mode of being and provide identification opportunities for individuals. They complement ontological security narratives by reinforcing a sense of certainty, continuity, and order, especially during times of social and political crises (Adisönmez et al., 2022, p. 96). Fatwas issued by Wahhabi ulama are instrumental in maintaining, constituting, and reconstituting the political regime and ontological security narrative in Saudi Arabia. They play a crucial role in grounding the ontological security narratives in religious, political, and affective dimensions (Adisönmez et al., 2022, p. 96). Another scholar examining the security implications of inter-state discourse construction, Cherry-Smith (2021), discusses how Australia and China, other habitual rival nations, constructed an enemy narrative against one another from the standpoint of ontological security. The author contends that Colonial Australia's immigration policies and identity narratives reflected ontological insecurity in response to a rising China in several ways. The colonial governments of Australian colonies sought to create a collective identity, and the rise of China in the Indo-Pacific region threatened this desire. The fear and anxiety of losing their established identity led to a sense of ontological insecurity (Cherry-Smith, 2021, p. 209). As China rose within the international system based on the standards of civilization, it posed an ontological threat to the colonial leaders of Australia. This threat stemmed from the challenge to the existing international rules that the colonial governments sought to use to define who could enter their territories (Cherry-Smith, 2021, p. 209). The consistent implementation of immigration policies targeting Chinese immigrants by Australian colonial governments disrupted the routinized relationships that Britain had with both the colonies and China. This disruption strained the structures that Britain relied on for ontological security, leading to a sense of implosion within the British Empire (Cherry-Smith, 2021, p. 223). Unlike Britain, which could exercise sovereign power more freely within the international community, the Australian colonies derived political authority from Britain and needed the empire's approval to be recognized as sovereign. This lack of agency heightened the ontological insecurity experienced by the Australian colonies (Cherry-Smith, 2021, p. 223). The domestic desire for more restrictive immigration policies in colonial Australia fed into a growing identity narrative that sought to express sovereignty and gain greater political control. The challenge from Britain and China in 1887 and 1888 intensified

the feeling of implosion within the Australian colonies, as their attempt to become equal to Britain was undermined (Cherry-Smith, 2021, p. 224). In summary, colonial Australia's immigration policies and identity narratives reflected ontological insecurity in response to a rising China through the fear of losing established identity, the threat to sovereignty, disruptive effects on international relations, limitations in political agency, and challenges to identity narratives and self-rule.

In terms of its basic arguments, ontological security is most closely associated with the constructivist tradition in international relations. The concept of identity, which strengthens this link and whose reflections are most visible, is frequently addressed in both fields. Kočan and Zupančič (2022) have presented a highly integrating study that combines the perspectives of EU interventions and ontological security in identity construction in the Western Balkans. According to Kočan and Zupančič (2022), the ethnopolitical elite in Republika Srpska instrumentalized the activities of the EU to further antagonize the Bosniak collective and solidify the Bosnian Serb Self. This was achieved by framing the EU's reform efforts as aligned with the Bosniak agenda, thereby creating ontological asymmetry between the Bosnian Serbs and Bosniaks (Kočan & Zupančič, 2022, p. 125). The political elites in Republika Srpska, led by figures like Milorad Dodik, portrayed the EU's involvement as generating ontological insecurity for the Bosnian Serb identity narratives. They emphasized the oppression of the Bosnian Serb collective's "wants and needs," reinforcing the idea of ethnic divisions and denying the possibility of non-antagonistic narratives within the collectives in Bosnia and Herzegovina (Kočan & Zupančič, 2022, p. 125). The failure of the EU to de-intensify antagonistic identities in Bosnia and Herzegovina can be attributed to the framing of the EU's involvement by the ethnopolitical elite in Republika Srpska. By positioning the EU as serving the Bosniak cause, the Bosnian Serb collective felt ontologically insecure, leading to a lack of trust in the EU as an agent for peace in the region (Kočan & Zupančič, 2022, p. 125). These findings highlight the challenges of addressing ontological insecurity and ethnic divisions in post-conflict societies like Republika Srpska, particularly in the context of external interventions by entities such as the EU. Furthermore, according to Cupać, (2020), the concept of ontological security is crucial in understanding the anxiety dilemma in the Western Balkans. In the context of the Western Balkans, ontological security plays a significant role in shaping how different groups perceive and react to the social order and external influences. In the Western Balkans, the anxiety dilemma arises from a new social and ideological cleavage between cosmopolitans and communitarians (Cupać, 2020, p. 9). Cosmopolitans are sympathetic to globalization and the liberal international order, finding ontological security in these structures. On the other

hand, communitarians view these same structures as sources of anxiety, leading to ontological insecurity (Cupać, 2020, p. 16). The anxiety dilemma in the Western Balkans is characterized by a see-saw effect, where different groups experience anxiety due to their conflicting views on the social environment (Cupać, 2020, p. 16). This dilemma traps individuals and groups with different identities, exacerbating tensions and uncertainties (Cupać, 2020, p. 15). By examining how ontological security influences the perceptions and behaviors of various actors in the Western Balkans, we can better grasp the complexities of the region's position in the age of anxiety. The concept helps us understand why certain groups feel threatened by globalization and the liberal order while others find security in these structures, shedding light on the underlying dynamics of the anxiety dilemma in the region.

Framing the unresolved disputes between states or the uncertain behavior of actors can actually benefit from an understanding of ontological security in international relations, since doing so requires understanding many events and situations from their fundamentals. For a similar purpose, Steele (2022) discusses ontological security via society, arguing that honor flights in US culture—nonprofit organizations dedicated to transporting veterans to Washington, D.C. to visit and reflect at their memorials at no cost—are essentially an indication of ontological insecurity. First, honor flights provide a form of vicarious victory for the US by celebrating the accomplishments and sacrifices of veterans, particularly those from WWII, Korean War, and Vietnam War (Steele, 2022, p. 617). This celebration of past victories helps individuals and communities cope with existential anxieties and establish a sense of identity and security (Steele, 2022, p. 617). Second, honor flights promise a sense of closure for veterans and their families by allowing them to visit memorials and pay tribute to fallen comrades, which can contribute to a sense of closure and healing (Steele, 2022, p. 622). Third, the bonding and shared experiences during honor flights reinforce relational bonds and feelings of pride among participants, contributing to a sense of community and support (Steele, 2022, p. 622). On the other hand, it is also a symptom of ontological insecurity. Honor flights reflect US ontological insecurity during periods of unresolved wartimes, where the need to honor veterans and celebrate their service highlights underlying uncertainties and anxieties about national identity and security (Steele, 2022, p. 616). The celebratory and political aspects of honor flights reflect and reproduce US militarism, indicating a deeper societal reliance on military interventions and conflicts for defining national identity and security (Steele, 2022, p. 616). The tensions between the drive for ontological security at various levels, as seen in honor flights, reveal insecurities within

collective communities and individuals, highlighting the complexities of maintaining a stable sense of identity and security (Steele, 2022, p. 617).

Since international relations does not only deal with inter-state problems or social incidents, but also includes recent global transformations in its field of study, the fact that ontological security can respond to these developments can be read as another feature of ontological security theory that proves its compatibility with international relations. Correspondingly, Beck (2022) addresses a more recent occurrence, COVID-19, and the "heroification" discourse that the German government seeks to instill in the country's culture. Ontological insecurity is described as the persistent uncontrollable feeling of anxiety that arises when individuals face challenges to their stable self-identity and daily routines (Beck, 2022, p. 4). The pandemic, with its disruptions to normal activities and social interactions, leads to uncertainties and a rupture in trust relations and liberties, causing individuals to question their sense of self and identity (Beck, 2022, p. 4). State actors, including the German government, aim to address this ontological insecurity by constructing narratives that provide citizens with a sense of shared past, present, and future, thereby offering a form of stability and security (Beck, 2022, p. 4). The humorous heroification campaign by the German government is suggested to play a role in alleviating ontological insecurity by providing individuals with a sense of agency and significance during a paradoxical situation (Beck, 2022, p. 3). Additionally, the author discusses how humor, through its incongruity and temporal distancing, can help manage anxiety and contribute to a sense of security (Beck, 2022, p. 6). The humorous heroification of couch potatoes during the COVID-19 crisis by the German government has an impact on citizens' sense of responsibility in several ways. The campaign portrays staying at home as a heroic act, reframing the concept of heroism to include seemingly passive actions like lazing around (Beck, 2022, p. 18). By presenting individuals who stay at home as heroes, the campaign deflects responsibility from the government in case of poor pandemic management, as they can claim innocence by promoting the message of staying at home (Beck, 2022, p. 18). The campaign labels individuals who follow the stay-at-home message as heroes who self-sacrificially take risks, thereby attributing significance to their actions (Beck, 2022, p. 18). This narrative of self-sacrifice and heroism can enhance citizens' sense of responsibility towards contributing to the collective effort of combating the pandemic. The campaign, through its humorous and ironic approach, provides individuals with a sense of agency and significance in a situation where they may feel incapable of acting autonomously due to restrictions and uncertainties (Beck, 2022, p. 15). By including everyone in the heroification narrative, the campaign allows individuals to reclaim a feeling

of significance and purpose, potentially strengthening their sense of responsibility towards following public health guidelines.

To summarize, many different concepts in international relations such as conflict resolution, migration, identity, social transformations, discourses, etc. have been discussed and debated both at the societal level and at the state and inter-state level through ontological security theory. However, there is one subject that has been on the agenda of international relations recently and appears to present a good opportunity to examine it from the standpoint of ontological security: the rise of the far right and populism. The increasing amount of research on these two concerns make it abundantly evident that it provides a rich area of study for ontological security, both in terms of the societal divisions and sense of unease it causes as well as the ability of emerging anxieties to affect relations between states. Furthermore, it is considered that, in examining the issue of ontological insecurity brought about by crises in the rule of law within the framework of this thesis, it would be extremely pertinent to examine the research in populism and the rise of the far right as both are centered on the disruption of routines.

Agius et al. (2020) discuss ontological insecurity in the context of populist politics and the narratives of far-right populists. Ontological insecurity refers to a person's fundamental sense of safety in the world and the anxieties and dangers that arise when this sense of safety is threatened (Agius et al., 2020, p. 435). Populist leaders often exploit feelings of ontological insecurity by emphasizing existing grievances and the prospect of further rupture and defeat, which can manifest in a sense of loss and a desire for belonging (Agius et al., 2020, p. 438). Furthermore, the narratives of far-right populist and center-right movements often revolve around ideas of sovereignty, mastery, and the homogeneous nation as emotional resources to appeal to ontological security (Agius et al., 2020, p. 440). The concept of ontological insecurity sheds light on the fears, insecurities, and gendered dimensions that underlie populist politics and conflicts (Agius et al., 2020, p. 435).

Working on the same theme with different subject matter, Ejodus and Rečević (2021), contends that the concept of ontological security appears as an emergent phenomenon in the context of extremist political identification through a bottom-up process driven by "feedback loops" and "horizontal micro-interactions". In the case of extremist political identification, individuals seeking ontological security create higher-order patterns of ontological security communities through their interactions with significant others (Ejodus & Rečević, 2021, p. 31). Extremist political identification can lead to the formation of ontological security

communities at various scales, such as family, clan, town, alliances, or civilizations (Ejdus & Rečević, 2021, p. 31). When these communities face critical situations that challenge their established routines and identities, they may become ontologically insecure (Ejdus & Rečević, 2021, p. 31). This insecurity can manifest as doubts about the permanence of international society and its institutions, uncertainties about the past and future, concerns about relationships with significant others, and challenges to maintaining collective biographies (Ejdus & Rečević, 2021, p. 31). The emergence of ontological insecurity in the context of extremist political identification is characterized by a cascade of rumors, connective actions, and everyday securitizing acts (Ejdus & Rečević, 2021, p. 29). As individuals within these communities interact and reinforce each other's beliefs and fears, a tipping point may be reached where ontological insecurity becomes pervasive and influential at a larger scale (Ejdus & Rečević, 2021, p. 38). This process highlights the interconnectedness of individuals and groups in shaping collective ontological security dynamics (Ejdus & Rečević, 2021, p. 30). Overall, ontological security in the context of extremist political identification is not static but rather a dynamic and emergent phenomenon that evolves through interactions and feedback loops within and across communities, ultimately impacting the broader social and political landscape (Ejdus & Rečević, 2021, p. 38). In the case study of anti-immigrant mobilization in Serbia, Ejdus and Rečević (2021) provide an example of how feedback loops and horizontal micro-interactions play important roles in the development of ontological insecurity. In this context, ontological insecurity arises as an emergent phenomenon driven by interactions at the grassroots level, ultimately influencing the broader societal dynamics (Ejdus & Rečević, 2021, p. 29). Feedback loops refer to the self-reinforcing mechanisms where actions or behaviors lead to further similar actions or behaviors. In the case of anti-immigrant mobilization in Serbia, feedback loops can amplify anxieties and fears related to migration, contributing to the escalation of ontological insecurity (Ejdus & Rečević, 2021, p. 38). Positive feedback loops may exacerbate anti-immigrant sentiments, while negative feedback loops could potentially inhibit the spread of such sentiments (Ejdus & Rečević, 2021, p. 38). Horizontal micro-interactions involve interpersonal exchanges and connections at the local level, which collectively contribute to the formation of ontological security communities (Ejdus & Rečević, 2021, p. 31). In the context of anti-immigrant mobilization in Serbia, these micro-interactions among individuals, communities, and local networks play a significant role in shaping perceptions, attitudes, and responses to migration (Ejdus & Rečević, 2021, p. 39). These interactions can either reinforce existing beliefs and fears or challenge them, influencing the overall ontological security landscape. The development of ontological insecurity in the case study of anti-immigrant mobilization in Serbia is characterized by its

emergent nature, where small-scale interactions and securitizing acts at the grassroots level gradually build up to create a broader sense of insecurity (Ejdus & Rečević, 2021, p. 29). This emergent process underscores the importance of understanding how individual actions and interactions contribute to the collective experience of ontological insecurity.

Merino and Kinnvall (2022) expands on existing perspectives on the normalization of far-right discourse by incorporating the concepts of ontological insecurities and emotional governance. Their article highlights how political leaders utilize ontological insecurities among the public to expand their emotional governance over various actors. Furthermore, the article emphasizes the interplay between political psychoanalytical approaches to emotional governance, fantasy, and ontological insecurity, along with a hybrid media approach that integrates new techno-social actors and platforms. It discusses how the far-right has weaponized paranoid mindsets and narcissistic fantasies in response to perceived ontological insecurities, leading to the normalizations of far-right discourses. The role of political influencers in embodying reified ideas of desire and enjoyment in an alienating world is also highlighted, showing how they act as catalysts of emotional governance in the hybrid media ecosystem (Merino & Kinnvall, 2022, p. 68). By considering ontological insecurities and emotional governance, the article provides a deeper understanding of how far-right discourses are normalized and how fantasies play a crucial role in shaping political realities. It sheds light on the complex dynamics between media, technology, political actors, and the public sphere in amplifying far-right emotional governance and narratives of ontological insecurity (Merino & Kinnvall, 2022, p. 57). The authors discuss ontological insecurity as a key concept in understanding the normalization of far-right discourses. Ontological insecurity refers to the feelings of instability and uncertainty individuals experience in relation to their identity and existence. The article highlights how far-right leaders offer a perceived sense of ontological security through fantasies of collective belonging, often based on nativist myths of a threatened collective past. This sense of security is contrasted with fantasies of unmitigated disasters, paranoid delusions, and perceived threats from others challenging the mythical past, leading to emotional co-elaboration and the normalization of far-right politics (Merino & Kinnvall, 2022, p. 57). Additionally, the article explores how ontological insecurity is linked to desires and fantasies that individuals and groups use to temporarily close down categorical identifications in response to heightened feelings of insecurity. It is portrayed as a form of banal representational fantasy that serves to defend against emotional anxieties and traumatic experiences. The failure to maintain an ideal image through the other leads individuals to

seek security in larger narratives of nation, religion, gender, and culture within the "symbolic order" (Merino & Kinnvall, 2022, p. 58).

Numerous studies in the literature contend that the entry of marginalized groups into the race is facilitated by the creation of ontological insecurity both among the race and the spectators, which in this case is society. According to the authors Steele and Homolar (2019), the loss of faith in mainstream political parties and moderate candidates has led to a surge in populism, characterized by widespread perceptions of crises, insecurity, and alienation (Steele & Homolar, 2019, p. 214). Populist leaders, such as Donald Trump, have been able to capitalize on these insecurities by triggering voters' cognitive biases and generating ontological insecurity. This ontological insecurity is manifested in a sense of loss and a desire for belonging, ultimately widening the frame of political possibility and paving the way for outsider candidates like Trump to succeed (Steele & Homolar, 2019, p. 219). Furthermore, the authors suggest that ontological security theory (OST) provides a conceptual lens through which to understand the contemporary populist challenge. Ontological security refers to the 'security of being' and involves having confidence or trust in the natural and social worlds as they appear to be, including one's self and social identity (Steele & Homolar, 2019, p. 215). By examining the intimate relationship between routines and anxiety, ontological security studies offer insights into how individuals cope with uncertainties and anxieties in the modern world, which can be exploited by populist rhetoric that rejects facts and knowledge in favor of asserting autonomy against elites (Steele & Homolar, 2019, p. 215). In summary, ontological insecurities, rooted in feelings of uncertainty and alienation, are instrumental in fueling the rise of populism by creating a fertile ground for populist leaders to exploit and manipulate these insecurities for political gain.

Alkopher (2018) takes the post-Arab Spring migration waves, considered as the roots of recent populism, and sheds light on the populist and inward-looking implications of the disruption of national identity routines in the Visegrad countries. According to Alkopher (2018), the concept of ontological security plays a significant role in shaping the responses of the Visegrad Four countries (Czech Republic, Hungary, Poland, and Slovakia) to the refugee crisis. The Visegrad Four countries experienced ontological insecurity due to the uncertainty surrounding immigration, particularly during the Arab Spring refugee crisis. This insecurity led to the securitization of their collective self, resulting in inward-looking attitudes and the renationalization of their discourse and immigration policies (Alkopher, 2018, p. 319). The uncontrolled nature of refugee flows, especially in 2015, challenged the

Visegrad Four's competency in managing borders and maintaining security. This loss of control and the inability to exercise coercive power at their borders undermined their sense of identity and eroded their ontological security (Alkopher, 2018, p. 320). In response to feelings of ontological insecurity, the Visegrad Four sought to defend their threatened identity by securitizing their subjectivity as sovereign and nation-states. This involved reaffirming national biographical narratives and migration policies, emphasizing control and security to protect their sense of identity (Alkopher, 2018, p. 321). The refugee crisis challenged the Visegrad Four's collective identity as sovereign, national, and European states. This challenge caused cognitive dissonance and uncertainty, impacting their trust, predictability, and control in the world (Alkopher, 2018, p. 321). Furthermore, the Visegrad Four countries utilized nationalist discourse to reinforce their sense of security, stability, and control. This discourse emphasized the strength of their states, defended national boundaries from immigrants, and promoted restrictive migration policies to safeguard their legitimacy and ontological security (Alkopher, 2018, p. 321).

To summarize, in the context of ontological security, populism and the rise of the far right are among the issues frequently addressed in the literature. From the standpoint of Europe, the founding father of democracy, this signifies a major change in Europe's routine and discourse. Democracy and the rule of law are the cornerstones of European society, and adopting the rule of law, on the other hand, is one of the prerequisites for applying to be a candidate for the European Union. Recent dramatic changes of this EU's essential component bring us to the fundamental subject of this study: the continent's legal transgressions and its reflection on ontological insecurity of the European Union.

Ontological security is closely tied to the rule of law, which provides a framework of stability and predictability within a society. The rule of law ensures that there is a set of rules and regulations that govern the behavior of individuals and institutions, creating a sense of order and predictability in social interactions. This sense of order and predictability is crucial for individuals to feel a sense of ontological security. When individuals have a clear understanding of the rules and regulations that govern their society, they are better able to navigate and understand their social environment.

Moreover, the relationship between ontological security and the rule of law also highlights the significance of trust and confidence in shaping behavior and decision-making at all levels of the international system. Ontological security and the rule of law are not only interconnected but also mutually reinforcing. At the societal level, the rule of law provides a

framework for maintaining ontological security by ensuring that individuals' rights and identities are protected within the social fabric. Similarly, at the state level, the rule of law is instrumental in providing citizens with a sense of stability and continuity, thus contributing to their ontological security. On the international stage, the rule of law serves as a mechanism for promoting ontological security among states by providing a set of norms and principles that govern their interactions and mitigate potential conflicts.

Furthermore, examining the intersection of ontological security and the rule of law sheds light on the concept of legitimacy in governance. Legitimacy, both domestically and internationally, is intricately tied to the ability of authorities to provide ontological security and uphold the rule of law. When individuals perceive their government as ensuring their ontological security through the rule of law, it bolsters the legitimacy of the state. Similarly, in the international arena, adherence to the rule of law by states contributes to their legitimacy and fosters trust and cooperation among nations.

Overall, the intricate relationship between ontological security and the rule of law permeates various levels of society, state, and the international system. Recognizing the impact of ontological security in shaping behavior and decision-making at all levels is essential for fostering stability and cooperation. As the international community grapples with complex issues, such as security threats, economic disparities, and environmental sustainability, prioritizing ontological security and the rule of law is integral to addressing these challenges effectively. Acknowledging the symbiotic relationship between ontological security and the rule of law is not only crucial for understanding the intricacies of international relations but also for paving the way towards a more secure and harmonious world.

However, the interplay between ontological security and the rule of law is also complex and multidimensional. While the rule of law provides a framework for governance and legal certainty, ontological security influences individuals' and states' perceptions of their place in the social and political order. In some instances, individuals and states may prioritize their ontological security over strict adherence to the rule of law, especially in situations where their sense of identity and continuity is perceived to be under threat. This prioritization can lead to challenges in the implementation and enforcement of the rule of law, as decisions and actions are influenced by the affective dimensions of ontological security. Thus, ontological insecurity can manifest itself on various levels, igniting disputes, upsetting harmony, and producing anxieties on all fronts—from the level of the individual to that of the system.

The literature is replete with studies that frequently address the agenda of the recent EU break with the rule of law principle. For instance, Ovádek (2018), argues that the assault on the rule of law in Poland and Hungary has had significant implications for the cohesion of the EU as a community. First, the assault on the rule of law in Poland and Hungary goes against the shared values that the EU is founded upon, and this challenges the fundamental principles that bind the EU together (Ovádek, 2018, p. 406). Second, the actions in Poland and Hungary have created divisions within the EU, as some member states may view the lack of adherence to the rule of law as a threat to the unity and solidarity of the Union (Ovádek, 2018, p. 500). The EU has been expected to respond with institutional measures to signal and sanction violations of the rule of law. However, the effectiveness of these responses and the ability to address the root causes of the issues remain a challenge (Ovádek, 2018, p. 500). Finally, the developments in Poland and Hungary raise deeper questions about the internalization of EU values in these countries, especially after the enlargement process and this calls for a reevaluation of how EU values are understood and implemented in member states (Ovádek, 2018, p. 500).

Pech and Scheppele (2017) argue that the responses of EU institutions to the rule of law backsliding in Poland and Hungary have been deemed ineffective in bringing these Member States back in line with European values (p. 4). Despite the activation of mechanisms such as the Rule of Law Framework and the threat of triggering Article 7 of the Treaty on European Union, the actions of the Polish and Hungarian authorities have often been uncooperative and dismissive of recommendations made by the European Commission (Pech & Scheppele, 2017, p. 4). The lack of significant progress in addressing the systemic threats to the rule of law in these countries indicates that the responses of EU institutions have not been successful in ensuring compliance with European values.

From a different viewpoint, Müller (2015) contends that the EU is fully justified in bringing back its dissident members. Müller (2015) argues that the EU has the authority to intervene in member states to protect liberal democracy and uphold fundamental European values. The EU derives its legitimacy from member states, which are liberal democracies that have freely delegated specific tasks and powers to the EU. This delegation includes the defense of member state democracy. Therefore, the EU can claim legitimacy because national parliaments have willingly bound themselves to European rules, including sanctions for non-compliance (Müller, 2015, p. 144). Furthermore, Müller (2015) mentions the presence of the EU's legal instruments in place to address breaches of fundamental European values. For instance, Article 7 of the Treaty on European Union allows for the suspension of a member

state's voting rights in the European Council if it persistently violates fundamental European values outlined in Article 2 of the Treaty (Müller, 2015, p. 144). The EU is seen as having normative authority to act as a guardian of liberal democracy within its member states. This authority is based on the EU's commitment to upholding fundamental values such as democracy and the rule of law, which are officially recognized as core values of the EU (Müller, 2015, p. 143).

While the article of Della Sala (2018) does not extensively discuss the rule of law, it does touch upon the importance of legal and institutional instruments in enabling the EU to act in various areas such as foreign policy, macroeconomic policy, and migration management (Della Sala, 2018, p. 267). Specifically, the article mentions that in order for the EU to act effectively, it not only requires institutional and legal instruments but also "cognitive and normative maps" that provide certainty about the basis on which it acts and for whom (Della Sala, 2018, p. 268). This suggests that adherence to the rule of law and the legal framework is crucial for the EU to maintain its legitimacy, coherence, and ability to function as a political entity. While the article does not delve deeply into the rule of law as a standalone topic, it indirectly emphasizes the significance of legal frameworks and norms in supporting the EU's efforts to establish ontological security and navigate the complexities of its internal and external challenges.

It's intriguing to note that not much research has been done in the literature that examines the combination of the break with the rule of law principle and the ontological insecurity of the European Union. Since Mälksoo's work is one of the few in this field to combine the ideas of ontological security and the rule of law within a single framework, it might be worthwhile to highlight it here. According to Mälksoo (2019), undemocratic developments in Hungary and Poland have indeed contributed to the resurgence of anxieties about Eastern Europe. In Hungary, Prime Minister Viktor Orbán's praise of illiberal governance and attempts to restrict the separation of powers, rule of law, media freedom, academic freedoms, and civil society organizations have raised concerns about the erosion of democratic principles (Mälksoo, 2019, p. 375). The Law and Justice Party in Poland has been criticized for attempting to criminalize the attribution of wartime German Nazi crimes to the Polish state or nation, which has been seen as a disregard for historical truths and a lack of self-reflexivity within the country (Mälksoo, 2019, p. 375). Both Hungary and Poland have been accused of violating democratic norms by imposing considerable restraints on the separation of powers, independence of the judiciary, media freedom, opposition groups, and civil liberties, leading to concerns about the emergence of illiberal democracies or hybrid regimes

in these countries (Mälksoo, 2019, p. 372). These undemocratic developments have fueled anxieties within Europe about the adherence to liberal democratic values and principles in Eastern European states, contributing to the broader discourse on the normative threat posed by Eastern Europe to the European political order (Mälksoo, 2019, p. 374). Mälksoo (2019) argues that concerns about defending the European political order from populist upsurges intersect with the concept of 'Eastern Europe' as a subversive challenge to Europe's security of 'self' in the following ways. First, populist movements in Eastern Europe, exemplified by the actions of leaders like Viktor Orbán in Hungary, are seen as challenging the liberal democratic norms and values that underpin the European project. This challenge is perceived as a threat to the established order and stability within the European Union (Mälksoo, 2019, p. 374). Second, the reluctance of some Eastern European countries to engage in solidarity and burden-sharing during the refugee crisis has been interpreted as a failure to uphold the values of compassion and cooperation that are fundamental to the European political order. This reluctance has further exacerbated the perception of Eastern Europe as a normative threat to the solidarity and unity of the European community (Mälksoo, 2019, p. 378). Finally, the rise of illiberal politics in Eastern European countries serves as a reminder of the political potency of long-term stigmatizations and stereotypes associated with the region. These stigmatizations can be manipulated to fuel fears and insecurities within the European Union, leading to a cycle of mutual securitization and fear-mongering (Mälksoo, 2019, p. 378). Overall, the author suggests that the intersection of concerns about defending the European political order from populist upsurges and the concept of 'Eastern Europe' as a subversive challenge reflects deeper anxieties within Europe about the maintenance of liberal democratic values, solidarity, and unity in the face of internal and external threats (Mälksoo, 2019, p. 365).

The rule of law is a fundamental principle that underpins the legal and political systems of the European Union, ensuring that power is exercised in accordance with established laws and procedures (Kelly, 2020, pp. 97-102). However, recent events in certain member states, such as Poland and Hungary, have raised concerns about the erosion of the rule of law and the potential impact on the cohesion and stability of the EU. The assault on the rule of law in these countries has undermined the EU's shared commitment to common values, weakening its legal system and the trust between member states. This is particularly concerning given the broader context of the EU's ontological insecurity, which refers to the fundamental uncertainty about the EU's identity, purpose, and long-term viability. The EU has faced a series of crises in recent years, from the Eurozone debt crisis to the migration crisis, that have shaken its foundations and raised questions about its ability to effectively address the

challenges facing the bloc. The violation of the rule of law is one of these crises and one of the EU's most fundamental narratives. Hence, this study believes that the issue of the possible ontological insecurity in the EU caused by rule of law violations creates a complex and unstable situation that merits further scholarly attention.



CHAPTER 3

CORNERSTONE OF STABILITY: UPHOLDING THE RULE OF LAW IN EUROPE

3.1. Introduction

The rule of law is a fundamental principle that underpins the functioning of any just society. It ensures that laws are applied fairly and consistently, providing predictability and stability for individuals and institutions (Tamanaha, 2004, pp. 109-111). The rule of law also serves as a safeguard against abuse of power and promotes accountability and transparency in governance. Goudappel and Ballin (2016) describe the rule of law as a cornerstone of modern societies whose importance cannot be overstated (pp. 25-37). Similar to these definitions, this chapter will first look at terminology related to the rule of law and how it is defined in various academic works. Secondly, the chapter looks at the role and significance of the rule of law in the European Union (EU). It does this by analyzing how the rule of law is related to various EU institutions, mechanisms, reports, and founding treaties of the EU, as well as by evaluating the current state of relationships with member states on the rule of law issue. At the same time, the chapter also addresses when long-standing violations of the rule of law were attributed to a crisis at the level of the European Union. Then, because the crisis was shaped around the reforms taken place in Poland and Hungary, it looks at the various deteriorating occasions in these countries. The history of the Polish and Hungarian legal systems is briefly reviewed before a thorough analysis of the cases is conducted in order to identify any notable deviations from the usual pattern. This chapter concludes by discussing the criticism leveled at the European Union for its perceived lack of integrity in the wake of these crises. By delving into these issues, the chapter aims to gain a deeper understanding of the threats that the rule of law faces in contemporary society and explore potential avenues for addressing these challenges from the perspective of ontological security.

The literature presents numerous definitions of what the rule of law is. One widely accepted definition of the rule of law is provided by the United Nations (UN). According to the United Nations, the rule of law refers to a principle emphasizing that all individuals, institutions, and entities should be subject to and accountable to law that is fairly applied and enforced, and

that protects fundamental rights and freedoms (United Nations, n.d., para. 2). "Rule of law means that no one, including government, is above the law, where laws protect fundamental rights and justice is accessible to all" according to the Organization for Economic Cooperation and Development (OECD), and the rule of law has been viewed as a crucial factor in assessing a country's quality and effectiveness of governance (OECD, 2013, p. 44).

Furthermore, scholars have also offered their own interpretations of the concept. For example, legal philosopher Fuller (1969) argues that the rule of law requires that laws be prospective, clear, consistent, and applied in a non-arbitrary manner (pp. 46-65), while political scientist Tamanaha (2004) emphasizes the importance of constraints on government power and the protection of individual rights (p. 71). In fact, Drinóczi and Bień-Kacała (2022) note that there is a disagreement on the definition and constituent elements of the rule of law, ranging from a "thin" to a "thick" version in a continuum (p. 84). The "thin" understanding, embraced by states with authoritarian tendencies and utilized by scholars for analytical purposes or legal research, prioritizes procedural and formal elements, making it easier to comply with (Drinóczi & Bień-Kacała, 2022, p. 84). Conversely, the "thick" concept finds favor among social activists, international organizations, and critics of authoritarian regimes or democratically challenged states, as it provides robust support for their criticisms (Drinóczi & Bień-Kacała, 2022, p. 84).

Since 2008, the World Justice Project (WJP), an independent multidisciplinary organization dedicated to advancing global rule of law through knowledge development, public awareness campaigns, and action promotion, has kept track of more than 150 nations on its rule of law index, and the index is utilized by significant organizations like the World Bank (WB), the Organization for Economic Cooperation and Development (OECD), the International Monetary Fund (IMF), the U.S. State Department, the European Commission, and the United Nations Development Programme (UNDP) (What Is the Rule of Law?, n.d.). According to this renowned and committed organization, "accountability, just law, open government, and accessible and impartial justice" are the four universal elements that make up the concept of the rule of law (What Is the Rule of Law?, n.d.).

Despite the fact that various scholars and institutions have defined it differently and have focused on different aspects of it, the essence of the concept of the rule of law shares certain fundamental characteristics. It is evident that the basis of the idea of the rule of law includes common key terms shaped around analogous principles, such as applicability, accountability, fair application and enforcement, protection of fundamental rights and freedoms, and prospective, clear, and consistent rules.

The essence of the concept of the rule of law, with its common key terms and analogous principles, is not only recognized by various scholars and institutions but also prominently emphasized by organizations such as the European Union. The formation process of the European Union is a complex and intricate process that involves the participation and collaboration of numerous member states after the devastating world wars era (Goudappel & Ballin, 2016, pp. 50-61). After all, the presence of a rule-based mechanism above the two superpowers—France and Germany—was a facilitator of their membership in the European Coal and Steel Community (ECSC). This mechanism ensured that all member states were subject to the same rules and regulations, creating a sense of fairness and equality (Fuller, 1969, p. 47). One of the positive effects of the equality of all member states before the law in this process is that it ensures fairness and equal representation among all participating countries. By treating all member states equally before the law, the European Union creates a level playing field where each country has an equal voice and influence in the decision-making process. This equality helps to promote cooperation and solidarity among member states, as it ensures that no country is favored or disadvantaged based on its size or economic power. Furthermore, the equality of all member states before the law fosters a sense of unity and common purpose within the European Union. This unity is essential for the establishment and functioning of the Union, as it allows member states to work together towards shared goals and objectives. For all these reasons, the rule of law is accepted as a long-standing value in the European Union.

The European Commission itself states that the rule of law is a fundamental value of the EU, ensuring that all actions taken by public authorities are based on the law, that laws are clear, predictable, and applied consistently, and that everyone has access to justice and equal protection under the law. The official website of the European Union makes the following statements on the rule of law:

"The European Union is based on the rule of law. This means that every action taken by the EU is founded on treaties that have been approved voluntarily and democratically by all EU member countries...A treaty is a binding agreement between EU member countries. It sets out EU objectives, rules for EU institutions, how decisions are made and the relationship between the EU and its member countries..." (Founding Agreements, n.d., para. 1).

The EU was founded on the principles of democracy, the rule of law, and respect for human rights as enshrined in the EU founding treaties (De Witte, 2015, p. 434-437). Art. J(1) of the Treaty of Maastricht (1991), Art. 6(1) of the Treaty of Amsterdam (1997), Art. 6(1) of the Treaty of Nice (2001), and the Lisbon Treaty (2007) strengthened the constitutional role of

the rule of law in the EU legal order in successive years (Van Elsuwege & Gremmelprez, 2020, pp. 11-14). The founding treaties, such as the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), establish the legal framework and principles upon which the EU is built. These treaties specifically emphasize the importance of the rule of law as a fundamental value of the Union. It is also important to remember that the EU's constitutional values are horizontally applicable to all areas covered by EU law, even including the Common Foreign and Security Policy (CFSP), as a result of the pillar structure's elimination (Van Elsuwege & Gremmelprez, 2020, pp. 14-19). This means that the EU's core values are no longer hindered from reflecting its values into all areas, which has greatly expanded its scope and solidified its position as its cornerstone. In the Preamble of the Treaty on European Union, the signatories confirm "their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law" (Sitter & Bakke, 2019, p. 5). Article 2 of the Treaty on European Union states that "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights..." (Pech, 2022, p. 111). According to this article, the rule of law is one of the core values upon which the EU is built. Furthermore, Article 19 of the Treaty on European Union empowers individuals to bring actions before national courts in order to enforce their rights under EU law: "Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law" (Pech, 2022, p. 111). These articles highlight the importance of the rule of law within the EU and emphasize that member states have a responsibility to ensure effective legal protection for citizens in accordance with EU law.

In addition to these overarching principles, specific articles in the EU treaties further elaborate on the rule of law. For example, Article 7 of the Treaty on European Union establishes a mechanism to address the risk of a serious breach of the EU's fundamental values by a member state (Dawson & Muir, 2013, p. 1964). This mechanism allows the European Council, with the approval of the European Parliament, to determine the existence of a clear risk of a serious breach and make recommendations to the member state in question. These recommendations can include measures to address the breach and, in severe cases, the suspension of certain rights of the member state, such as voting rights in the Council (Peirone, 2019, p. 71). The articles in the EU treaties deal with the rule of law by establishing it as one of the core values upon which the EU is built and by providing mechanisms to address violations and ensure effective legal protection.

"(1) On a reasoned proposal by one third of the Member States, by the European Parliament or by the European Commission, the Council, acting by a majority of

four fifths of its members after obtaining the consent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2. Before making such a determination, the Council shall hear the Member State in question and may address recommendations to it, acting in accordance with the same procedure.

...

(3) Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of the Treaties to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council" (Consolidated Version of the Treaty on European Union, 2012).

Additionally, one essential component of a set of regulations that the candidate countries for the Union must meet is the rule of law. The Copenhagen Criteria stipulate that a potential candidate country must accomplish, among other requirements, stability of institutions ensuring democratic governance, adherence to the rule of law, protection of human rights, and respect for and safeguarding of minority groups (Sitter & Bakke, 2019, p. 5). These criteria highlight the importance placed on the rule of law as a fundamental principle for EU membership.

Over time, as threats to the rule of law have increased, the European Union has reinforced and expanded upon these pre-existing protocols. The Framework for the Rule of Law is one of the most known of them. In fact, this framework can be considered as a staged pathway to the implementation of Article 7 because it was announced that the framework is based on a three-tier system. The 2014 Rule of Law Framework outlines EU intervention to encourage the concerned member state to reverse its decline in the rule of law. This framework includes a three-step process involving dialogue between the Commission and the member state. The initial step requires the Commission to evaluate the issue through a dialogue between the Commission and the member state and then issue a Rule of Law Opinion if necessary (Sitter & Bakke, 2019, p. 7). In the second stage, if no resolution is reached, the Commission can release a Rule of Law Recommendation with an associated deadline for corrective actions (Sitter & Bakke, 2019, p. 7). Lastly, in a third stage, the Commission may commence the Article 7 procedure, provided that all member states vote in favor.

Apart from this framework, in 2020, the European Commission started publishing an Annual Rule of Law Report on member states for the first time. Despite criticism for bias, the exclusion of leading EU members, ambiguous data, lack of innovation in previous reports, etc., the annual reports were another new tool introduced by the EU to defend its values amid

the crumbling rule of law crisis (Mungiu-Pippidi, 2020). "The justice system, the anti-corruption framework, media pluralism and freedom, and other institutional issues related to checks and balances" are the four main areas that each of the Commission's rule of law reports (in present four in total), which have chapters covering all 27 countries, centers on (2023 Rule of Law Report, 2023, para.1).

Certainly, the Commission is not the only entity tasked with upholding the law. The European Commission collaborates with the European Parliament to enforce the rule of law. The European Parliament plays a crucial role in addressing and responding to rule of law violations in member states. It has the power to initiate and participate in debates on the rule of law, adopt resolutions condemning violations, and make recommendations to other EU institutions (Riddervold et al., 2021). It has adopted resolutions and reports highlighting the breakdown of the rule of law in specific countries, such as the Tavares Report on Hungary in 2013 and the resolution on the recent political developments in Poland in 2012 (Goudappel & Ballin, 2016). The Committee on Civil Liberties, Justice and Home Affairs (LIBE) plays a central role in the activities and efforts of the European Parliament concerning fundamental rights and the rule of law. It is tasked with safeguarding citizens' rights, human rights, and fundamental freedoms within the Union's territory as outlined in EU Treaties and in the Charter of Fundamental Rights. Additionally, it is responsible for identifying any clear risk of a serious violation by a Member State of principles that are common to all Member States (Rule of Law LIBE Committees, n.d., para. 1). In addition, the European Parliament has called for the establishment of independent monitoring mechanisms to ensure the respect of fundamental rights in member states. It actively monitors the rule of law situation in member states through mechanisms such as the Justice Scoreboard, which provides data on the quality, independence, and efficiency of member states' justice systems (Riddervold et al., 2021). Most importantly, the Parliament has right to urge the Council to assess the necessity of resorting to Article 7 TEU in case of noncompliance with the requirements of Article 2 TEU (Riddervold et al., 2021). Concisely, the European Parliament actively engages with rule of law breaches in member states by monitoring, adopting resolutions, reports, and recommendations. Additionally, the European Parliament has the power to launch infringement procedures against member states that violate the rule of law, as well as activate the preventive stage of Article 7 TEU against member states.

Due to its supranational nature and its role of being ultimate decision-making body with the European Parliament, the Council of the European Union is another significant actor in the rule of law enforcement processes. In order to advance and protect the rule of law within the

bounds of the treaties, the Council convenes an annual dialogue with all of its member nations. These dialogues are divided into two: first, horizontal, in which rule of law assessments are made across the EU as a whole; and second, country-specific dialogues for Member States that pose a risk in the context of evolving rule of law violations (Rule of Law, Consilium, n.d., para. 14). On December 12, 2023, a revision, Presidential Conclusions, was added to these annual dialogues by the Spanish Presidency of the Council of the EU. With the exception of Hungary and Poland (which also expressed its approval following the December parliamentary election that resulted in a change of government), 25 countries have approved the addition (Rule of Law, Consilium, n.d., para. 19). Most important, however, is the Council's role in the decision-making on Article 7:

"Pursuant to Article 7(1), on a reasoned proposal by one third of the member states, by the European Parliament or by the Commission, the Council may determine that there is **a clear risk of a serious breach** by a member state of the founding values referred to in Article 2 of the treaty.

Pursuant to Article 7(2), on a proposal by one third of the member states or by the Commission, the European Council may determine **the existence of a serious and persistent breach** by a member state of the founding values referred to in article 2 of the treaty" (Rule of Law, Consilium, n.d., para. 21).

In addition, the Council is also tasked with safeguarding the EU budget through a regulation adopted in December 2021. According to this regulation, if violations of the rule of law by a Member State affect the full implementation of the financial management of the EU budget, the Council is obliged to take such measures as it deems appropriate (Rule of Law, Consilium, n.d., para. 27). These measures may include payment suspensions. For this reason, this procedure is known as the "conditionality mechanism." The EU's most often used instrument in recent times for addressing violations of the rule of law is the conditionality mechanism. By linking access to EU funds and other benefits to respect for democratic values and the rule of law, this mechanism serves as a deterrent against any potential violations or abuses of these principles (Fisicaro, 2019, p. 719). Furthermore, it also provides a means for the EU to address and rectify any infringement on the rule of law within its member states. Despite initial opposition from the Council, discussions regarding the conditionality mechanism emerged following the approval of the Next Generation EU recovery package and the 2021–2027 Multiannual Financial Framework in 2020. Poland and Hungary have declared they will oppose any yearly budget that includes provisions pertaining to the rule of law (Zalan, 2021a). However, a legislative draft for the regulation was issued in November 2020 after an agreement was eventually reached and the deadlock was resolved during the December 2020 European Council meeting. Poland and Hungary

brought the case to the Court of Justice of the European Union (CJEU), arguing that this ruling was another way of enforcing Article 7 (Zalan, 2021b). However, the CJEU noted that the decision was legal and added that this mechanism could not only be linked to a breach of the rule of law but must also be likely to affect the lawful spending of the EU budget in the state concerned (Fleming, 2022).

In sum, although the EU's mechanisms for addressing violations of the rule of law have varying levels of success, the fact that the EU has been so cautious about this value, indicates that it is fundamentally shaken. The rule of law is meant to ensure that the exercise of public authority is constrained by laws that are clear, predictable, and applied equally to all individuals and entities. It serves as a safeguard against abuse of power and upholds the rights and freedoms of individuals within the EU. Therefore, any challenges to the rule of law within member states directly impact the cohesion and effectiveness of the EU as a whole. According to Dawson and Muir (2013), the European Union is both an economic and also a political union based on respect for fundamental rights and the rule of law and they state "that the EU is a Union of states who themselves see human rights and the rule of law as irrevocable parts of their political and legal order" (p. 1959).

Nonetheless, the disparities between these fundamental principles and how certain Member States actually apply them have been highlighted by the "crisis" surrounding the rule of law. This has led to a strain in the relationships between the EU institutions and some member states, as concerns have been raised about the erosion of the rule of law, democratic backsliding, and the weakening of checks and balances within these countries.

Although the literature no longer hesitates to characterize the repercussions of rule of law violations in member states of the Union as a "crisis," the transformation of violations into a "crisis" takes several milestones. In their valuable piece, Sitter and Bakke (2019) characterize the rule of law crisis in the EU not only as a "policy challenge" but also as an "existential crisis", noting that the democratic backsliding in the EU started in 2006, two years after eight Eastern European countries joined the EU (p. 1). They draw attention to the fact that Orbán and Fidesz Party's challenge to the electoral legitimacy when the party was defeated in the 2006 Hungarian elections marked the beginning of the rule of law's collapse, which has continued to this day in a number of different cases (Sitter & Bakke, 2019, pp. 1-2). However, the literature generally dates the escalation of events into a crisis to 2010. With two-thirds of the vote in that year, Orbán's administration was granted the authority to amend

the constitution on its own, a power it began to employ to great effect in the days that followed (Kelemen, 2020, p. 493).

Although Hungary and Poland appear to have been at the forefront of the EU's rule of law challenges, many other nations have followed the trend, which is why the situation is considered a crisis. The rule of law challenges in Hungary and Poland have not only affected these countries but also had a significant impact on other nations within the EU, creating a ripple effect of concern and instability across the entire European Union. For example, in Romania, President Traian Basescu was impeached by the parliament in 2012 after the Social Liberal Union (USL) cabinet, led by Victor Ponta, accused him of abusing his position of authority (Sitter & Bakke, 2019, p. 2). Nevertheless, insufficient attendance in a second referendum to remove Basescu led to its failure, and the impeachment was declared unlawful by the Constitutional Court. The crisis escalated with attempts by Ponta's government to limit the authority of the Constitutional Court, raising concerns about the government's respect for the rule of law. Despite EU intervention and pressure through mechanisms, Romania continued to face challenges in upholding democratic principles. Recent events have seen Romania align with Poland in rejecting proposals to link EU subsidies to adherence to the rule of law, arguing that such conditionality would violate fundamental EU principles (Gotev, 2018, para. 4). However, both countries have faced criticism from Brussels over legislation that could undermine judicial independence and the fight against corruption. The distinction, though, is that whereas rule of law infractions might be partially controlled in the early stages through EU mechanisms in other Eastern enlargement states, including Romania and Bulgaria, this was not the case for Hungary and Poland (Roos & Schade, 2023, p. 97). This disparity likely stems from a combination of factors. Firstly, the timing and circumstances of EU membership are important considerations. Romania and Bulgaria became EU members after Hungary and Poland, allowing for a longer period to develop the EU systems focused on overseeing and upholding the rule of law in these nations (Sitter & Bakke, 2019, pp. 8-9). Second, prior to EU admission, the institutional and legal structures that already existed in Romania and Bulgaria was not as strong as those in Hungary and Poland. As a result, during the early phases of expansion, these nations might have been more open to EU supervision and engagement (Roos & Schade, 2023, pp. 100-101). Thirdly, it's possible that EU influence was less successful due to the political dynamics in Poland and Hungary. Robust nationalist or populist movements in these nations have opposed foreign interference in internal matters, making it more difficult to effectively oversee violations of the rule of law through EU processes (Sitter & Bakke, 2019, pp. 8). Finally, historical and cultural variables had an

impact. Due to their decades of history and strong national identities, Poland and Hungary have felt a greater sense of sovereignty and resisted outside influence, which may have affected how they felt about EU laws and regulations (Roos & Schade, 2023, p. 34).

It is obvious that the European Union's rule of law crisis has been a topic of increasing concern in recent years. It has sparked debates and discussions about the state of democracy, transparency, and accountability within the EU member states. This crisis has strained the relationships between the EU institutions and certain member states, leading to a sense of political polarization and distrust. Emmons and Pavone (2021) argue that the rule of law crisis has highlighted a potential gap between these founding principles and their practical implementation within certain member states (pp. 1611-1613). However, the implications of the EU rule of law crisis are wide-ranging, affecting not only the member states directly involved but also the credibility and unity of the European Union as a whole. As the EU continues to grapple with the rule of law crisis, it faces the challenge of upholding its foundational principles while addressing divergent interpretations and applications of the rule of law within its member states. Thus, the resolution of this crisis seems to have the potential to significantly shape the future trajectory of the EU and its commitment to democratic governance and the protection of fundamental rights. However, it may be necessary to comprehend how the crisis evolved at the member state level particularly in Poland and Hungary and the EU's reactions to these developments before going on to the future projection of this issue that has engulfed the EU as a whole.

3.2. The Rule of Law Crisis in Poland

The rule of law crisis in the EU has become a significant concern in recent years, with particular attention given to countries like Poland and Hungary. These countries have been accused of backsliding on democratic norms and the rule of law, leading to tensions within the EU (Dawson & Muir, 2013, p. 1960). The rule of law crisis in Poland, in particular, has been a cause for concern. Poland has faced criticism for its judicial reforms, which have been seen as undermining the independence of the judiciary and weakening checks and balances. This has led to a clash between the Polish government and the EU institutions, as the European Commission launched infringement procedures against Poland and Article 7 procedures were triggered.

The rule of law means that laws are applied fairly and impartially and that there is a separation of powers between the executive, legislative, and judicial branches of government

(Tamanaha, 2004, p. 115). However, in recent years, the rule of law in Poland has been under threat, leading to a crisis that has attracted international attention and concern (Bucholc, 2022, p. 85). The crisis in Poland's rule of law has been a subject of analysis and discussion, with scholars and institutions highlighting the deteriorating state of the judiciary, erosion of judicial independence, and violations of fundamental rights as key elements of the crisis (Piszko, 2022, pp. 566-567). This crisis has been driven by controversial changes in the laws of Poland, which have raised concerns about the disregard for the rule of law within the European Union.

The crisis in Poland's rule of law can be attributed to a number of factors. These include political interference in the judiciary, changes to the appointment and dismissal processes for judges, undermining of judicial independence, attacks on the Constitutional Tribunal and other judicial institutions, and violations of fundamental rights (Piszko, 2022, p. 579). However, before turning to these fundamental deviations, it is important to bear in mind the historical transformation of Polish law.

Understanding the history and evolution of Polish law is essential for comprehending the current rule of law crisis in Poland. Poland has a rich legal tradition that dates back centuries, influenced by various legal systems including Roman law and Germanic law. Over time, the legal system in Poland has undergone significant transformations, particularly during periods of political and social change. During the communist era, from 1945 to 1989, Poland had a socialist legal system that was characterized by a lack of judicial independence and reliance on political control over the judiciary (Drinóczy & Bień-Kacała, 2022, pp. 55-57). After the fall of communism and the establishment of a democratic system in Poland, there was a push for judicial reform to ensure the independence and impartiality of the judiciary (Bucholc, 2022, p. 80). This included the adoption of a new constitution in 1997, which enshrined the principles of the rule of law and guaranteed fundamental rights and freedoms to all citizens (Drinóczy & Bień-Kacała, 2022, p. 34). Poland's accession to the European Union in 2004 marked a significant turning point in its history and had far-reaching implications for various aspects of its society, including its legal system. One of the notable effects of Poland's EU accession on its legal system is the adoption and implementation of EU laws and regulations. This has resulted in a harmonization of Polish law with EU standards and norms, ensuring conformity and compatibility with other member states. Poland's accession to the EU has brought about a stronger emphasis on the rule of law and human rights in the country. The EU membership has catalyzed the development of legal institutions and frameworks that promote the protection of fundamental rights and ensure adherence to the principles of

democracy and the rule of law. In order to comply with EU requirements, Poland had to align its national legislation with EU directives and regulations, leading to the adoption of new laws and the revision of existing ones. This has resulted in a more modern and comprehensive legal framework that reflects the standards and values of the European Union. However, in recent years, Poland has faced a rule of law crisis characterized by a significant erosion of these principles.

The Law and Justice Party (PiS) first came into power in Poland in 2005, marking the beginning of its influence on the country's political landscape. However, it wasn't until PiS regained power in 2015 that significant challenges to the rule of law emerged. Under the guise of reforms, the Law and Justice Party implemented changes that have been widely criticized for undermining the rule of law in Poland. These changes first include political interference in the judiciary. The Law and Justice Party has been accused of exerting political influence over the judiciary, including through changes to the appointment and dismissal processes for judges. These changes have raised concerns about the independence and impartiality of the judiciary, as well as the separation of powers in Poland's democratic system (Drinóczy & Bień-Kacała, 2022, p. 102). Second interference evolves around the undermining of judicial independence. The government has implemented measures that weaken the independence of the judiciary, such as reducing the retirement age for judges and granting the executive branch greater control over the appointment of judges (Roos & Schade, 2023, p. 103). The third is the politicization of judicial institutions. The Law and Justice Party has faced criticism for increasing its influence over key judicial bodies, such as the Constitutional Tribunal and the National Judicial Council (Burdziej et al., 2022, p. 574). Moreover, the government has also imposed restrictions on media freedom, including through changes to public media laws and the targeting of independent media outlets critical of the government (Drinóczy & Bień-Kacała, 2022, pp. 114-115). These actions, along with the erosion of civil society through restrictive laws and policies, have further deepened the rule of law crisis in Poland (Smith, 2019, p. 562-565). These actions have raised concerns both domestically and internationally about the erosion of democratic norms and the violation of human rights in Poland.

The EU's response to those violations in Poland became apparent in December 2015 when the European Commission launched an unprecedented rule of law procedure against Poland. This procedure was initiated under Article 7 of the Treaty on European Union, which allows the EU to determine if there is a clear risk of a serious breach of the rule of law in a member state. The European Commission's concerns were focused on the Polish government's

controversial reforms to the judiciary, which were seen as undermining the independence of the judiciary and weakening the system of checks and balances. In January 2016, the European Commission activated its Rule of Law Framework for the first time, conducting a preliminary assessment of the situation in Poland (Kochenov et al., 2016, p. 1045). This assessment was prompted by the dispute about the nomination of judges to the Polish Constitutional Tribunal and the new media law, both of which raised concerns about the rule of law, freedom of the media, and the independence of the judiciary in Poland. In July 2016, the European Commission issued a Recommendation to the Polish government, urging them to address the concerns raised and take steps to ensure the independence of the judiciary and the rule of law in Poland. The Commission's Recommendation was followed by ongoing dialogue and negotiations between the EU and Poland. In December 2017, the European Commission decided to escalate its response by triggering Article 7 of the Treaty on European Union (Smith, 2019, p. 569). This decision was a significant step, as it marked the first time that Article 7 had been triggered against a member state. The trigger of Article 7 signaled that the European Commission believed there was a clear risk of a serious breach of the rule of law in Poland. In June 2018, the European Commission issued a reasoned opinion, outlining its concerns about the rule of law in Poland, particularly regarding the independence of the judiciary. The Polish Constitutional Tribunal which is in political control of the then-governing right-wing Law and Justice Party (PiS) declared in September 2018 that some rules, as well as the Court of Justice of the European Union (CJEU)'s interpretation of them, are not in line with the Polish constitution and, as a result, are not binding on Poland. In particular, it was conveyed that Articles 1 and 19 of the EU Treaty, which provide particular guidelines for how the Polish judiciary should be organized, are incompatible with the constitution (Gremminger, 2021, para. 2). Following this, the Polish government questioned the EU's laws and principles' primacy. The European Parliament strongly denounced the statement, emphasizing that the Polish Constitutional Tribunal had evolved "into a tool for legalizing the illegal activities of the authorities" (Editorial Board, 2022, para. 5). Then, the CJEU rules that Poland's changes to its judiciary, including the lowering of the retirement age for judges, violate EU law. The ruling prompts the Polish government to amend the law. In October 2020, the European Commission released its brand-new tool, the annual Rule of Law Report, which highlights continued concerns about the independence of the judiciary in Poland. In December 2020, the European Commission invoked Article 258 of the TFEU, initiating legal action against Poland for violating EU law with its disciplinary measures against judges. The Commission is authorized by Article 258 of the Treaty on the Functioning of the European Union (TFEU) to file a lawsuit against any Member State that violates the laws of the EU (Enforcement: Frequently Asked Questions,

2022, para. 6). In an effort to deter Poland more recently, the European Commission withheld payments totaling €36 billion from the EU Coronavirus Recovery Plan (Skolimowski, 2021, para. 2). The new rule of law mechanism, or conditionality mechanism, which has the power to withhold funds from member states that breach their obligations to the EU, bolstered EU efforts to stop Poland's actions. The decision, which ties funding distribution to adherence to the law, represents a fundamental change in the EU's strategy. Poland was subsequently fined one million euros a day by the CJEU in September 2021 for failing to comply with EU obligations (Gremminger, 2021, para. 9). The use of financial extortion and the threat of penalties, particularly during the COVID-19 epidemic, were strongly denounced by Polish Prime Minister Morawiecki (Euronews, 2021, para. 3).

There has long been a confrontation between the institutions of the European Union and the Polish government led by the Law and Justice Party (PiS). Even though the outcome of the conflict is still unknown, recent events have also taken place, such as the October 2023 elections, in which PiS lost. Donald Tusk, a former president of the European Council and the European People's Parliament (EPP), succeeded in forming a coalition government, which is a true representation of the EU in Poland (Kość, 2023, para. 3). It is unclear, therefore, how the divisions in society will be impacted by this change in government. For example, international human rights organizations and advocacy groups have raised alarm about the rule of law crisis in Poland, severely affecting society. They have highlighted the infringement of judicial independence and media freedom, as well as the violation of human rights, including LGBTQ+ rights (Priebus, 2022, p. 1685). These organizations have called on the new Polish government to uphold its commitments to democratic principles and the rule of law.

The future of the rule of law in Poland remains uncertain. There is an ongoing debate and struggle between those who advocate for upholding democratic values and the rule of law, and those who champion a more nationalist and authoritarian approach. Despite the efforts of the European Commission, the European Parliament, and international organizations, such as Amnesty International and Human Rights Watch, to address the rule of law crisis in Poland, there are challenges in finding a resolution. Scholars focusing on the topic have tried to propose several solutions to the rule of law conflicts in Poland. According to Riddervold et al. (2021), one possible solution to the rule of law crisis in Poland is through increased cooperation and engagement with international bodies such as the EU (pp. 640-642). It is foreseen that this could involve strengthening oversight mechanisms and implementing stricter consequences for member states that violate democratic norms and the rule of law.

Riddervold et al. (2021), also highlight efforts that include grassroots movements, public demonstrations, and legal challenges to unconstitutional laws as means of settlement (p. 202). In a similar way, Kochenov et al. (2016) concentrate on civil society organizations and activists within Poland and suggest continuing to advocate for the protection of democratic values and the rule of law (p. 1048). It is precisely at this point that this thesis seeks to explore various perspectives that could provide interpretive frameworks for the crisis and elucidate the fundamental roots of these problems.

3.3. The Rule of Law Crisis in Hungary

The other EU country facing and being criticized often for rule of law violations is Hungary. In recent years, Hungary has experienced a radicalization of the government's position on the EU and rule of law issues, leading to actions that have raised serious questions about the state of democracy and the protection of fundamental rights in the country. The increasing concentration of power in the hands of Prime Minister Viktor Orbán and his Fidesz party has resulted in a weakening of checks and balances and a steady erosion of key democratic institutions, such as the media, judiciary, and civil society. This erosion of democratic institutions has been accompanied by the adoption of legislation and constitutional amendments that have enabled the government to further consolidate its power and limit the accountability of the executive branch. Furthermore, the Hungarian government's control over the appointment and dismissal of judges, as well as its interference in judicial processes, has raised concerns about the independence and impartiality of the judiciary. These actions have had a chilling effect on freedom of expression and media pluralism, with independent media outlets facing increasing pressure and harassment from the government. This has resulted in a narrowing of the space for dissenting voices and a stifling of public debate on critical issues. The Hungarian government has introduced laws and policies that target civil society organizations, particularly those advocating for human rights and democratic values. These civic actions have targeted a wide range of interrelated issues, from the country's new Constitution, media laws, and the undermining of the judiciary, to the firing of journalists and theater directors and the closing of a radio station (Acosta, 2023, p. 146). The overall effect of these actions has been a significant decline in democratic standards and the rule of law in Hungary.

Much like those of most other Eastern European nations, the Hungarian legal system has a wide historical context. The Hungarian legal system has its roots in the Austro-Hungarian Empire, which existed from 1867 until the end of World War I (WWI). During this period,

Hungary had its own legal system, known as the Hungarian Constitution of 1867 (Antal, 2019, pp. 9-12). This constitution provided for a bicameral parliament, with the upper house representing the nobility and the lower house representing the common citizens (Antal, 2019, p. 12). During the communist era, Hungary's legal system underwent significant changes. Under the communist regime, the rule of law was undermined as judicial independence and constitutional protections were weakened (Halmai, 2018, p. 387). Following the fall of communism in 1989, Hungary embarked on a process of political and legal transition towards democracy and the rule of law. During this transition period, Hungary adopted a new constitution in 2011, replacing the previous constitution that had been in place since 1949. The new constitution, often referred to as the Fundamental Law of Hungary, was criticized for being drafted and adopted by the ruling party without sufficient input from opposition parties and civil society organizations (Halmai, 2020, p. 104). The new constitution introduced significant changes to Hungary's legal framework, including the restructuring of the judicial system, the centralization of power in the hands of the ruling party, and the weakening of checks and balances (Rácz, 2005, p. 164).

The rule of law crisis in Hungary is multifaceted and can be attributed to various factors. It includes the historical context of Hungary's transition from communism to democracy, the adoption of a new constitution in 2011, the introduction of direct-democratic instruments with limitations, the concentration of power in the ruling party, and recent legislative changes that have undermined the independence of the judiciary and limited checks and balances. The rule of law crisis in Hungary can also be attributed to a lack of accountability and transparency in the decision-making process, as well as the erosion of civil liberties and the restriction of media freedom (Smith, 2019, p. 568). These changes raised concerns about the erosion of democratic principles and the independence of the judiciary.

To understand the rule of law crisis in Hungary, it is necessary to analyze the legislative changes that have taken place in recent years. These legislative changes have significantly impacted the independence of the judiciary and the separation of powers, undermining the foundational principles of the rule of law. Note to mention firstly that since 2010, there have been frequent amendments to the constitutional text that have delimited the powers of the Constitutional Court and centralized power in the ruling party. These changes have allowed the ruling party to gain significant control over the judiciary, leading to concerns about the impartiality and independence of the courts. Additionally, the government's adoption of laws that restrict freedom of expression, media independence, and civil society organizations has further contributed to the rule of law crisis in Hungary.

Shortly after winning more than two-thirds of the seats in the parliamentary elections of April 2010, Orbán and his Fidesz party passed a law undermining the independence of the central bank, upon which the EU launched infringement procedure (BBC News, 2011, para. 1). In the same year, the new government made the decision to implement early retirement for judges, leading to the conclusion of the term of office for the president of the Supreme Court and reducing the mandatory retirement age for judges from 70 to 62 (Sitter & Bakke, 2019, p. 9). This resulted in new vacancies being created and then filled in by people close to Orbán. After winning the 2014 Hungarian parliamentary election, Orbán incorporated the refugee crisis into his political rhetoric and proposed legislative modifications based on this rhetoric. The Hungarian government has targeted civil society organizations that receive funding from foreign sources, labeling them as "foreign agents" and has imposed burdensome reporting requirements that hinder their ability to operate effectively. He enacted the Stop Soros law, which went against Non-Governmental Organizations (NGOs) like George Soros's Open Society Foundation (OSF), accusing them of trafficking refugees to put pressure on national governments (BBC News, 2018, para. 21). The law imposes security clearance for employees, a 25% tax on foreign donations to immigration support programs, and a prohibition on any group considered a security risk (BBC News, 2018, para. 12). Furthermore, by closing the Central European University (CEU), which was established by Soros, whom he accused of being a globalist and eroding the cultural values and identity of Hungary, Orbán has also somewhat curtailed academic freedoms in the country (Coughlan, 2018, para. 15).

Following his electoral consolidation in 2014, in his famous speech, Viktor Orbán advocated for the establishment of a nationalist, "illiberal democracy" in Hungary (Tóth, 2014, para. 12). Körtvélyesi (2020) defines illiberalism as the "rejection of constitutionalist principles" which also poses a threat to political pluralism and fairness as well as the rule of law and human rights (p. 574). In the new radical period that came with this new concept and continues to this day, Orbán's government has advanced its anti-Brussels position and continued to drive further division in the country through the independence discourse. In 2016, Orbán held a referendum in the country to determine whether or not to accept the EU's proposal to relocate refugees from the very challenged southern countries to the countries further north and the outcome was remarkably high; 98% of voters supported Orbán in rejection of the EU's plan (Kingsley, 2017, para. 2). In 2018, while Hungarian government campaigns harshly criticizing Brussels' actions continued, the European Parliament voted on Article 7 for Hungary, the same Article 7 that was first applied by the European Commission to Poland a year ago (De La Baume & Heath, 2019, para. 2).

On the other hand, Hungary was still continuing to undergo dramatic social transformations. The largest illustration of this is Act LXXIX, which was passed in 2021 and explicitly condemned LGBTQ+ individuals by limiting the settings in which homosexuality can be displayed to minors, such as by changing school curricula accordingly (Adami, 2021, para. 1). As being another instance of government meddling in public life, one of the largest independent radio stations in Hungary, Klubradio, was prohibited from transmitting in 2021 for the sole reason that it did not play Hungarian contents at the level mandated by Hungarian media legislation (Cassidy & Kosztolanyi, 2021, para. 1). In the last months of 2023, Orbán came to the fore when he vetoed an urgent 50 billion euros of EU funding to ease the liquidity crisis in Ukraine (O'Carroll, 2023, para. 1). Hungary's national interests and geopolitical concerns have regularly been given priority under Orbán's administration. Considering Hungary's historically pragmatic attitude to relations with Russia, especially in light of the ongoing tensions in Eastern Europe caused by Ukraine-Russia war, Orbán was wary of antagonizing Moscow by endorsing projects deemed to be against Russian interests (Thorpe, 2023, para. 11). Furthermore, Hungary sought to assert its influence within the EU by challenging the consensus on providing financial support to Ukraine, possibly in exchange for concessions or assurances on other issues. The crisis of taking hostage of the EU's decision mechanism, triggered by the EU's initiation of candidacy negotiations with Ukraine, concluded three months later with Orbán retracting (O'Carroll, 2024, para 1). Orbán declared that he had achieved a diplomatic win by obtaining assurances that funds that were supposed to go to Hungary but were blocked by the EU owing to worries about the rule of law would not end up in Ukraine (O'Carroll, 2024, para 23). However, it seems that the bilateral tensions, manifesting in various areas between the EU and the Orbán government, will continue. All these tensions have recently manifested themselves in the European Parliament voting on the eligibility of Hungary for the 2024 Council presidency (Camut, 2023, para. 1). In a resolution passed on January 18, 2024, 345 Members of the European Parliament (MEPs) voted in favor, 104 against, and 29 abstained. The MEPs voiced great concern over Hungary's continued decline in democracy, the rule of law, and fundamental rights and they had reservations about Hungarian government's future ability to carry out its responsibilities in the second half of 2024 (European Parliament, 2024, para. 7). They issued a warning that the Hungarian Prime Minister would assume those responsibilities during Hungary's six-month Presidency of the Council if the post of President of the Council of the EU became vacant. MEPs demanded that the Council identify appropriate ways to reduce these risks and that changes be made to the way decisions are made in order to stop veto and blackmail abuses (European Parliament, 2024, para. 7).

The EU responded to the rule of law crisis in Hungary through various measures. Over time, the EU has expressed concerns about the erosion of democratic values, the concentration of power in the ruling party, and the impact on civil liberties and media freedom in Hungary. Additionally, the EU has engaged in dialogue and negotiations with the Hungarian government to address these concerns and restore the rule of law (Acosta, 2023, pp. 147-151). In 2011, the European Commission launched the "Treaty Infringement Procedure" against Hungary due to concerns about the independence of its judiciary and public administration (Acosta, 2023, p. 149). Following that, the European Parliament adopted a resolution expressing concerns about the state of democracy, the rule of law, and fundamental rights in Hungary. In 2014, the Court of Justice of the European Union (CJEU) declared that Hungary had violated EU law regarding its retirement age for judges and prosecutors (Court of Justice of the European Union, 2014, para. 4). Upon all of these new concussions, the European Parliament established a Rule of Law Framework to address systemic threats to the rule of law in member states (Rule of Law Framework, n.d.). Following these actions, the European Commission continued to monitor and address the rule of law situation in Hungary. In 2017, the European Parliament adopted a resolution calling for the activation of Article 7 of the EU Treaty against Hungary due to the serious deterioration of democratic values, the rule of law, and fundamental rights (Acosta, 2023, p. 149). However, activating Article 7 requires unanimous approval from the European Council and notably Poland and some other member states have consistently blocked such action. The reluctance of Hungary's allies to support the activation of Article 7 has underscored the challenges of achieving a unified response within the EU, even when fundamental values and principles are at stake. With the lack of progress with Article 7 is on the one hand, on the other hand, the EU has taken additional steps to address the rule of law concerns in Hungary. In 2018, the European Parliament adopted a resolution urging the Council to make use of other provisions in the EU treaties to address violations of the rule of law. The EU's handling of the rule of law crisis in Hungary has unfolded through a series of legislative and regulatory measures aimed at addressing the erosion of democratic values and the rule of law. In 2018, a new Rule of Law Toolbox was accepted, which includes controversial conditionality mechanism. Most recently, during the peak of COVID-19, the Commission announced that it would suspend rescue grants to Hungary totaling €5.8 billion and €7.5 billion unless previously demanded 27 legal amendments were put into place (Acosta, 2023, p. 148). Relations between Hungary and the EU deteriorated as a result of Hungary's denial of a €18 billion EU aid package for Ukraine, in return for his country's withheld rescue grant (Liboreiro, 2022, para. 1). Lastly, in July 2023, the fourth Annual Rule of Law Report was released by the European Commission. The report highlights a deteriorating situation in

Hungary and underscores that EU funds will be withheld if this trend continues (2023 Rule of Law Report, 2023).

On the other hand, the rule of law crisis in Hungary has had a significant impact on Hungarian society. This impact can be seen in the erosion of democratic values, the stifling of dissent and opposition, and the undermining of trust in institutions. In addition, the rule of law crisis has also led to a deterioration of human rights protections, particularly for minority groups and marginalized communities. These groups often bear the brunt of discriminatory policies and are vulnerable to abuses of power. Furthermore, the rule of law crisis has created a climate of being fearful and intimidated, leading to a reluctance to voice their opinions out against the government or challenge its actions for fear of reprisals. This has resulted in a shrinking space for civil society and a decrease in the overall democratic participation of citizens.

Moreover, the rule of law crisis has had economic implications for Hungary. It has created an uncertain business environment, as the lack of judicial independence and the concentration of power in the hands of the ruling party can lead to arbitrary business decisions and unfair competition. As a result, investors may be wary of investing in Hungary, leading to a decrease in foreign direct investment and economic growth (Drinóczi & Bień-Kacała, 2022, p. 173). This lack of trust in the legal system can also discourage domestic entrepreneurship and innovation, as entrepreneurs may fear that their property rights will not be protected or that their business interests may be undermined by political interference (Chronowski & Varju, 2016, p. 285). Furthermore, the rule of law crisis in Hungary has also undermined the country's ability to attract international aid and loans (Chronowski & Varju, 2016, p. 283). This has impeded the implementation of necessary economic reforms and hindered the country's access to financial resources that could support development projects or stimulate economic growth.

Despite the efforts of the EU and other international actors, the rule of law crisis in Hungary remains a complex and challenging issue to address. Therefore, it requires a comprehensive approach that involves addressing the historical context and legislative changes that have enabled the concentration of power in the ruling party. This approach should also focus on strengthening accountability and transparency mechanisms, protecting civil liberties and media freedom, promoting the rights of minority groups, and restoring trust in institutions (Böhle et al., 2023, p. 19). In addition, there is a need to address the erosion of democratic values and foster a culture of respect for human rights (Riddervold et al., 2021, pp. 632-635).

In other words, the rule of law crisis in Hungary has had far-reaching consequences on Hungarian society, affecting democratic values, civil liberties, media freedom, human rights protection, economic growth and general trust in institutions - all of which are fundamental building blocks affecting the Hungarian people at the level of everyday life. On the other hand, various groups have criticized the EU's response to these disruptive reforms resulted in dismantling essential structural features, characterizing the responses as either delayed, unfunctional or severe.

3.4. The EU's Rule of Law Critiques: Lofty Ideals, Flawed Implementation

On a broad spectrum, the rule of law crisis in Poland and Hungary can be seen as a threat to the European Union in two ways. First, it poses an identity crisis for the EU as their actions challenge the core values and principles upon which the Union is founded (Riddervold et al., 2021, p. 628), which falls more within the purview of this thesis, as do its repercussions. Second, it undermines the EU's ability to enforce and uphold its own laws, as both countries' disregard for the rule of law jeopardizes the implementation and legitimacy of the EU policies and regulations.

The European Union's response to the rule of law crisis has been mixed and has faced challenges. While the European Commission and the European Parliament have taken steps to address the erosion of democratic values in Poland and Hungary, there has been a lack of consensus and consistent action among EU member states (Goudappel & Ballin, 2016, pp. 17-20). Some member states, particularly those with right-wing populist governments or parties, have been hesitant to take strong action against Poland and Hungary due to political alliances or ideological sympathies. This lack of consensus and consistent action among EU member states has undermined the effectiveness of the European Union's intervention in those countries. Moreover, the incremental steps taken by the European Commission and the European Parliament, such as starting infringement proceedings and invoking Article 7 TEU, have been criticized for being too slow and insufficient to address the seriousness of the situation particularly in Hungary (Bugarič, 2016, p. 3). Despite these challenges, some other argue that the European Commission's "Framework to Strengthen the Rule of Law" and activation of Article 7 TEU are full demonstration of commitment to upholding the rule of law in these two countries and taking action against democratic backsliding in general (Böhle et al., 2023, p. 2).

Mendelski (2015) criticizes the EU's remedies against rule of law violations by highlighting several topics. Firstly, the author argues that the EU tends to support reformist change agents

regardless of how "pathologically" they conduct reforms or how undemocratically they behave (p. 337). He gives the examples of Ukraine, Georgia and Moldova cases. Also in some cases, the author draws attention to the EU having supported or cooperated with clientelistic and corrupt elites, as well as members of governments involved in organized crime such as in Kosovo efforts (Mendelski, 2015, p. 337). According to Mendelski (2015), the EU has been passive and selective in addressing serious crimes involving elites or important interests in certain countries, undermining the rule of law (p. 337). The EU's inconsistent and partisan behavior reflected a "dilemma of reform ownership", where narrow ownership by a few domestic political change agents with vested interests in the status quo can weaken the rule of law efforts (Mendelski, 2015, p. 337). The author conveys that the EU's approach may empower certain elites and provide them with a "honeymoon" period to bolster their power, leading to potential undermining of the rule of law and anti-corruption efforts (Mendelski, 2015, p. 337).

Pech (2020) and Mavrouli and Van Waeyenberge (2023) directed their criticism more towards the EU's rule of law mechanisms. Pech (2020) confronts the EU Commission's 2020 Rule of Law Annual Report, saying that it is "just an after-the-event reporting mechanism" and that it appears to be "paper tigers with flaws," hinting that no improvement would result from the report (para. 12). The author refers to Professor Kelemen's argument highlighting that the language used in reports risks normalizing clear violations of the rule of law, such as referring to sustained attacks on judicial independence as "reforms" (Pech, 2020, para. 14). In addition, according to the author, expressing mere "concerns" over blatant violations, like Orbán's Supreme Court decision, instead of outright condemnation, obscures the seriousness of the situation (Pech, 2020, para. 14). The Hungarian Supreme Court had requested the Court of Justice of the European Union to refrain Hungary from complying with EU rule of law requirement. Similarly, Mavrouli and Van Waeyenberge (2023) argue that the EU's response to the rule of law crisis relies heavily on economic and fiscal instruments such as the European Semester and the Multiannual Financial Framework, which were not originally designed for dealing with the rule of law violations (p. 421). This "techno-managerial approach", with indicators, scoreboards, and peer reviews, may not effectively address the underlying issues related to the rule of law since they are not "subject to a real EU democratic deliberation" (Mavrouli & Van Waeyenberge, 2023, p. 422). The lack of involvement of the European Parliament and national parliaments in the development of this "new rule of law toolbox" is criticized by the authors (Mavrouli & Van Waeyenberge, 2023, p. 422). The other topic of concern according to the authors is that the EU intervention's original purpose of harmonizing national economic, fiscal, and social policies was altered by

the conditionality mechanism, which made it de facto binding by tying it to adherence to the rule of law (Mavrouli & Van Waeyenberge, 2023, p. 422). This indicates a departure by the EU from the fundamentals of the agreed-upon degree of intervention.

"In other words, the instruments put in place by the EU to fight the rule of law backsliding in certain Member States are problematic on two levels: they do not meet the democratic standards expected from a Union de droit and as a result they contribute to reinforcing the EU crisis of legitimacy" (Mavrouli & Van Waeyenberge, 2023, p. 422).

Critics of the EU's reactive —not pre-emptive— approach have stated that other, more manageable crises have been disregarded and overlooked as the EU has concentrated too much on particular member states in an attempt to resolve the rule of law crisis. Monciunskaitė (2022) draws attention to the Lithuanian case in which he argues that this is the case. According to the author, the Commission's first two annual rule of law reports indicate failure in properly addressing the problems in Lithuania and this could have significant consequences in a broader aspect (Monciunskaitė, 2022, pp. 66-67). First, by turning a blind eye to threats to judicial independence in Lithuania, the Commission risks creating a precedent for politicians to undermine the rule of law and fundamental values without consequences (Monciunskaitė, 2022, pp. 66-67). Second, inaction by the Commission may be interpreted as permission for further attacks on the rule of law and judicial independence in Lithuania (Monciunskaitė, 2022, pp. 66-67). Lastly, politicians observing this inaction may learn from each other's tactics, potentially leading to systemic challenges to the rule of law similar to those seen in Poland and Hungary (Monciunskaitė, 2022, pp. 66-67). In a similar way, Buras (2022) criticizes the domino effect of legal collapse in the member states that would spread across the Union as follows: "If there is nothing to prevent politicians in EU countries from pressuring judges into certain decisions, trust-based cooperation between the union and its member states will break down" (para. 2). Additionally, the author calls the conditionality mechanism "wishful thinking" and contends that, although it would be effective in nations like Hungary where there is evident budget misuse, it would fall short in nations like Poland where there is less obvious budget misuse but a high likelihood of legal breakdowns (para. 4). The author also refers to this mechanism's 6-month minimum operating term as "empty threat" and condemns it (para. 4).

Those who adopt a more comprehensive perspective bemoan the absence of a plan for EU member countries who choose for the autocratic path. This criticism often includes the EU's unanimous decision-making process. A unanimous decision must be made by the Council of

the European Union on a number of delicate issues, such as common foreign and security policy, citizenship rights for EU citizens, EU membership, harmonization of national indirect taxation laws, EU finances, justice and home affairs provisions, and harmonization of national social security and protection laws (Unanimity, Consilium, n.d, para. 1). In the process of triggering Article 7, unanimous decision-making is particularly prominent because all remaining Member States must agree upon that there have been abuses of the rule of law, with the exception of the abuser country in question. Nevertheless, given its identical motives, Poland has disrupted this consensus in the current context, making unanimous decision-making impossible. In August 2022, German Chancellor Olaf Scholz hinted at the abolition of the unanimity rule, saying that the enlargement of the EU would be possible if changes in the Union's decision-making mechanism were realized (Barigazzi & Vela, 2022, para. 12). The Commission's President Ursula von der Leyen had already remarked in her 2020 State of the Union speech, "Be courageous and finally move to qualified majority voting - at least on human rights and sanctions implementation" (Fox & La Fauci Belponer, 2022, para. 1). In 2023, after the visible effects of the Ukraine-Russia war, nine member states of the European Union have united to change the voting procedures that now govern the bloc's decisions on foreign and security policy (Liboreiro, 2023, para. 6). Belgium, Finland, France, Germany, Italy, Luxembourg, the Netherlands, Slovenia, and Spain make up the recently established "Group of Friends on Qualified Majority Voting" (Liboreiro, 2023, para. 6). As expected, there has been strong criticism of this change from Hungary and Poland and a change in the decision-making mechanism seems unlikely in the near future as there are those in the European Union who argue that countries cannot be stripped of their right to veto.

The EU's rule of law violations are criticized by a wide range of parties, including member states and their institutions, populist actors, marginalized groups, human rights organizations, and others; however, it is the criticisms leveled at EU candidate countries that have international resonance and cast doubt more on the EU's legitimacy. EU candidate countries closely observe and assess how EU member states handle rule of law crises because these candidate countries recognize the importance of a strong rule of law framework in the EU and understand that any deficiencies or crises in this area could have implications for their future accession to the EU. Candidate countries argue that the EU's development of a unique interpretation of the rule of law has weakened its fidelity to the original constitutional norm and has turned it into an expedient policy tool. This has resulted in a perceived or real crisis in the rule of law, where certain member states' conduct is not effectively addressed by the EU institutions. The Western Balkan candidate countries, in

particular, which have been trying for years to achieve the rule of law as part of the Copenhagen criteria through various reforms, are strongly critical both of the Union's failure to properly manage the crisis and turn a blind eye to rule of law violations within it, and of the fact that countries like war-torn Ukraine, which are not expected to meet the rule of law criteria any time soon, have achieved the same candidate status as them (Economides, 2020, pp. 9-13). Two days prior to the June 2022 European Council Summit, where it was suggested that the EU will offer candidate status to Ukraine and Moldova; Albania, North Macedonia, and Serbia first vowed to boycott the gathering (De Jong, 2022, para. 1). Prime Minister Dimitar Kovačevski of North Macedonia criticized the EU's unanimity decision-making mechanism over Bulgaria's veto of the accession of North Macedonia and commented "What is happening now is a serious problem and a serious blow to the credibility of the European Union" (De Jong, 2022, para. 12). Serbian President Aleksandar Vučić expressed his frustration in his comments: "I have nothing against Ukrainians. But the EU's level of support for Ukraine, granting it EU candidate status within a year from its application and potentially starting membership talks next year, shows to us [such political support] has never been there for us" (Johnston & Dunai, 2023, para. 2). Leading the opposition from Balkans is Serbian President Vučić, who has often expressed his views that the EU is acting in a self-serving way. "Balkan countries are deluding themselves in order to join the EU," Vučić stated, adding that the concept of the rule of law became adaptable based on the objectives of the EU:

"There are no others who can be so-called net contributors, they cannot accept new ones at present, of course, they are pushing for Ukraine because it is at war and doing work for all of them and must get some incentive, but as soon as I hear remarks about rule of law, I see where it's all going" (Öztürk, 2023, para. 4).

Mujanovic (2019) argues that fair treatment between candidate countries has ended, and that the EU is acting hypocritically. The author has read Serbia's numerous violations of the rule of law, along with its positive relations with China and Russia, and the fact that other Western Balkan candidate states that have advanced more have not been accorded the same treatment, as evidence of a waning commitment to the rule of law at the Union level (Mujanovic, 2019, para. 11). On the other hand, Türkiye, which has been an EU candidate for the longest period of time—25 years—has often been criticized by the EU for serious deviations from the rule of law. In its November 2023 report on Türkiye, the EU described the rule of law in Türkiye with severe words such as "serious deficiencies" and "deterioration of human and fundamental rights", (Samson, 2023, para. 2). In its comments on this report, Republic of Türkiye Ministry of Foreign Affairs (MoFA) stated that "Although the 2023

Report on Türkiye is the 25th report prepared by the Commission for our country, the fact that the EU maintains its unfair and prejudiced approach towards our country is worrying for the future of our continent, which faces many threats” (BBC News, 2023, para. 6).

To sum up, the European Union's battle against rule of law violations in member states such as Poland and Hungary jeopardizes not only its core principles but also its ontological security, which is vital to its global legitimacy and identity. As several academics have pointed out, the EU institutions' fluctuating and delayed reactions expose a concerning discrepancy between the ideals of the Union and how it is actually put into practice. There is now a wider crisis of legitimacy as a result of this disparity, drawing criticism from both inside and outside the Union. Candidate countries doubt the legitimacy and effectiveness of the EU's rule of law mechanisms in light of how it has handled these crises, which calls into question their own aspirations of joining the EU. In order to ensure that its actions are consistent with its principles, the EU must prioritize maintaining democratic values in a transparent and consistent manner. Upholding the EU's credibility and building trust among member states and potential members will depend on strengthening ontological security by addressing rule of law violations fairly and decisively. The Union's ability to preserve its integrity and adhere to its position as a bulwark of democratic governance will depend on how committed it is to its core values as it navigates these challenges.

CHAPTER 4

SYNTHESIS OF ANXIETY: INTERSECTION OF ONTOLOGICAL SECURITY AND THE RULE OF LAW IN THE EUROPEAN UNION

4.1. Introduction

The European Union (EU) is often perceived as a single, monolithic entity, but in reality, it is a complex web of interconnected institutions that work in harmony to govern the economic and political affairs of its member states and its citizens. The EU is not a standalone organization, but rather a collection of dozens of institutions that collaborate to shape the policies and directives that guide the Union. At the core of the EU's institutional framework are the European Commission, the European Council, Council of the European Union and the European Parliament, each with its own distinct responsibilities and powers.

The European Commission is the executive arm of the EU, responsible for proposing legislation, implementing decisions, and upholding the Union's treaties. The Commission's role is to act in the collective interest of the EU, initiating policies and programs that address a wide range of issues, from economic affairs to social welfare and environmental protection (Eriksen & Fossum, 2000). It is led by a President and a team of Commissioners, who are appointed by the member states and the European Parliament. After winning a second term in the June 2024 EU elections, Ursula von der Leyen, the current President of the Commission, will hold the position until 2029. Her first term has run from December 2019 to October 2024. As President, she is responsible for leading the Commission's work in implementing EU policies, calling and presiding over meetings of the College of Commissioners, providing political advice to the Commission, and participating in important discussions between EU governments in the European Parliament and the Council of the European Union (Presidents of the European institutions, n.d.). Being the public face of the executive branch, the President of the Commission uses all EU communication channels with professionalism and frequency, making him or her the most identifiable and first person that comes to mind when Europeans and other international actors think of the EU. Naturally, she/he does not work individually and the College of Commissioners, a group of

senior officials akin to ministers in national governments, is in her corner. Over the course of its tenure, the current Commission has had about thirty commissioners (The commissioners, n.d.). Two of them work directly with the task of advocating for the rule of law within the Union: Vera Jourová, Commissioner for Values and Transparency; and Didier Reynders, Commissioner for Justice (The commissioners, n.d.). Together with the leadership of the President, they oversee the Commission's efforts to preserve the rule of law and promote values and transparency.

The European Parliament, as the only directly elected EU institution, serves as the voice of the people. Its members, known as Members of the European Parliament (MEPs), are elected by citizens of the member states every five years. The Parliament plays a crucial role in the legislative process, sharing power with the Council of the European Union to approve, amend, or reject proposed laws (Eriksen & Fossum, 2000). The political groups that European Parliament members sit in are determined by their political affiliation rather than their nationality (The political groups, n.d.). In the current European Parliament, there are seven political groups. Regretfully, just two of this groups have included the rule of law in their agendas for 2019–2024 (The political groups, n.d.). The President of the European Parliament also has an array of authority: She/he oversees the various activities of the Parliament and its committees, guarantees that Parliamentary procedures are followed correctly, represents the Parliament in all legislative matters and international relations, and grants final approval for the EU budget (Presidents of the European institutions, n.d.). Two different Presidents of Parliament held two-and-a-half-year terms between 2019 and 2024: David Sassoli (2019–2022) and Roberta Metsola (2022–2024). Another important actor within parliament is the committees. The parliamentary committees have responsibilities and missions that are comparable to those of commissioners in the Commission. There are 24 standing committees in Parliament, although this number can increase with sub-committees formed in response to inquiries (List of committees, n.d.). The Civil Liberties, Justice, and Home Affairs Committee (LIBE) is responsible for holding hearings, making inquiries, and disseminating reports related to the rule of law (List of committees, n.d.).

The European Council, on the other hand, is the institution that represents the member states. The leaders of the 27 EU member states, as well as the president of the European Commission and the president of the European Council form the three pillars of the European Council. It establishes the general political priorities and directions of the EU as well as the short- and long-term policy agenda (How the European Council Works, n.d.) During meetings of the European Council, it usually adopts conclusions that list matters of

concern and recommended courses of action (How the European Council Works, n.d.). Conclusions of the European Council may also establish a deadline for presenting a legislative proposal or for reaching consensus on a specific matter (How the European Council Works, n.d.). The current President of the European Council is Charles Michel. December 1, 2019, was the first day of his first term. He received another term to the presidency on March 24, 2022, for a further two and a half years (The President's Role, n.d.). According to Article 15 of the Treaty on European Union (TEU), the President of the European Council has a number of important responsibilities. In coordination with the President of the Commission, the European Council president preside over meetings of the European Council and directs their work forward (The President's Role, n.d.). In addition, the President reports to the European Parliament following each meeting and strives to promote unity and consensus within the European Council (The President's Role, n.d.). Furthermore, the President is responsible for guaranteeing the external representation of the European Union among heads of state or government, specifically concerning matters of the EU Common Foreign and Security Policy (CFSP). (The President's Role, n.d.). Within this institution's internal structure, there are numerous distinct entities and the European Council's decisions are made through a complex system of voting, with the balance of power often shifting depending on the policy area under consideration (Eriksen & Fossum, 2000). For instance, decisions on foreign affairs require unanimity and so does the implementation of Article 7 under the rule of law procedure. One of the most contentious aspects of the European Council in recent years, there has been an increasing demand for its reform as opponents contend that this arrangement stifles the EU's decision-making process.

Another organization representing member states is the Council of the European Union. The Council of the EU, also known as "the Council," is a key decision-making body that is composed of ministers from each of the EU's 27 member nations (What the Council Does, n.d.). The EU budget is adopted by the Council, which also negotiates and approves legislation, coordinates policies, signs international treaties, and formulates the foreign and security policies of the EU (What the Council Does, n.d.). Most legislation is proposed by the European Commission and requires joint adoption by the Council and the European Parliament, following negotiations among ministers, the Commission, and the Parliament (What the Council Does, n.d.). This process, known as the 'ordinary legislative procedure' or 'codecision', treats the Council and the Parliament as equal co-legislators (What the Council Does, n.d.). The Council also develops policy frameworks and recommendations and coordinates the policies of member states in areas such as employment, culture, youth, sport, economic and fiscal governance, and education (What the Council Does, n.d.). The EU

member states take turns every six months to assume the presidency of the Council of the EU since the 2009 Lisbon Treaty (The presidency of the Council of the EU, n.d.). In order to maintain continuity of the EU's work in the Council, the rotating president preside over meetings at all levels of the body during this six-month period (The presidency of the Council of the EU, n.d.). The presiding member states collaborate closely in so-called "trios" groups, which consist of three members (The presidency of the Council of the EU, n.d.). Together, the three create a shared agenda that outlines the main concerns and subjects that the Council will cover in its eighteen-month session (The presidency of the Council of the EU, n.d.). Every one of the three nations creates a more elaborate six-month program based on this one.

In summary, the European Commission serves as the executive branch of the EU, responsible for proposing legislation, implementing decisions, and upholding the Union's treaties, working under the leadership of its President and a team of Commissioners. Meanwhile, the Council of the European Union and the European Parliament function as the legislative branches, collaborating through the 'codecision' process to debate and approve new policies. Additionally, the European Council, comprising the heads of state or government of the member states, the President of the European Council, and the President of the European Commission, sets the EU's overall political direction and priorities. This system ensures that the Commission acts in the EU's collective interest, while the Council, Parliament, and European Council jointly shape and ratify legislation, balancing the Union's executive and legislative responsibilities. However, these three main institutions are just the tip of the iceberg, as the EU also encompasses a myriad of specialized agencies, advisory bodies, and judicial institutions that play crucial roles in the day-to-day functioning of the Union (Eriksen & Fossum, 2000). From the Court of Justice, which ensures the uniform interpretation and application of EU law, to the European Central Bank, which manages the monetary policy of the Eurozone, the EU is a highly complex and interconnected system of governance. Each institution serves a specific purpose, yet they all work in concert to uphold the fundamental principles and objectives of the European Union.

However, in addition to the institutional frameworks, citizens and civil society serve as the most fundamental components for the European Union's identity as the "center of democracy". The EU's ultimate authority and democratic legitimacy are intrinsically tied to the active engagement and participation of its citizens, who hold the power to directly shape the direction and policies of the Union through voting in elections, advocacy efforts, and grassroots initiatives (Eriksen & Fossum, 2000). This direct citizen involvement is essential

for ensuring that the EU remains responsive and accountable to the needs and aspirations of the people it represents. Without the active civic engagement of its citizenry, the Union would risk becoming a detached, undemocratic entity, divorced from the very population it aims to serve. Thus, the active political participation of European citizens is a crucial pillar that underpins the democratic foundations and legitimacy of the European project as a whole. Furthermore, in the event that a state of insecurity arises—and this study contends that the EU has entered an era of ontological insecurity as a result of its drift away from the rule of law—it follows that citizens will inevitably be the ones most impacted by this unstable environment.

Due to all of these considerations, the first part of this chapter will look at how the European Union addresses the rule of law through the discourses of institutions and individuals that have immense impact on the strategic policies and daily operations of the EU. Then, to examine it from a different perspective, that of society, it will evaluate a range of statistical data obtained from surveys and polls and examine protests in support of the rule of law, which are among the most significant markers of the deterioration of social harmony. Ultimately, it will offer a thorough evaluation of the European Union's ontological security status.

4.2. Rule of Law at the EU Level

4.2.1. European Commission

When the European Commission started its next term, every European would be tuned in to the new President's State of the Union (SOTEU) address because the President outlines the priorities for the next five-year term in this speech and their performance is assessed based on how well they accomplish these goals at the conclusion of their term. While the incoming Commission president is expected to discuss her/his five-year plans during her/his first SOTEU, these yearly SOTEUs include goals for the upcoming year under the guidance of the priorities declared at the outset. Therefore, after the addresses of the Commission presidents, every word in the content of the speech is scrutinized and various criticisms are directed to different points of the speech. In this particular context, the rule of law procedures had been started in one way or another during the two previous commission periods. Because of this, it would be reasonable to read between the lines of the Commission President Ursula von der Leyen's speeches to find out how they plan to handle the rule of law crisis.

At the beginning of her first term, President von der Leyen addressed the European Parliament's plenary on November 27, 2019, soon after her election, to present the College of Commissioners and the program's five-year roadmap (European Commission, 2019a). In her speech after her victory, she made reference to the rule of law as well, albeit in a passing manner. Introducing commissioners Margaritis Schinas and Ylva Johansson, who will be in charge of "enhancing internal security" in the EU, Ursula von der Leyen said that the migration problem will not go away and therefore "Europe, which prides itself on its values and the rule of law" can solve it in a humane way (European Commission, 2019a). Von der Leyen stated, "The rule of law is our foundation and can never be compromised," adding that all nations should be treated equally and that this rule must be upheld everywhere (European Commission, 2019a). She emphasized that it is important to continue dialogue with violators through soft tools, but that it is a matter of such importance that "all measures must be taken" if a solution is not reached (European Commission, 2019a).

In President von der Leyen's 2020 State of the Union (SOTEU) address, the topic of rule of law was reiterated under the heading of migration and it was reemphasized that the rule of law is one of the core values of the EU by stating that "It is anchored in our founding values, our democracies and in our Community of Law...The rule of law helps protect people from the rule of the powerful" (European Commission, 2020a). Later in her speech, von der Leyen announced for the first time the publication of the annual Rule of Law Report, which will cover all countries (European Commission, 2020a). After stating that it is Europe's responsibility to uphold and protect the rule of law at all times, she said that no violation of rule of law will be allowed and added that "European values are not for sale" (European Commission, 2020a).

In SOTEU 2021, the topic of "rule of law" was covered in this speech under the heading "democracy and common values," not "migration" (European Commission, 2021a). It was also addressed as an anxious development that occurs within the EU rather than as a disorder brought on by outside interventions like migration. Von der Leyen stated in his 2021 speech that "societies that build on democracy and common values stand on stable ground" (European Commission, 2021a). This statement suggests that upholding European values is necessary for stability and order, or for being in a "secure" ontological position. "They [European values] are part of our soul, part of what defines us today" is based on the assumption that rule of law is recognized as one of the constitutive building blocks of EU identity (European Commission, 2021a). Furthermore, von der Leyen said that specific recommendations to Member States will be included in the Rule of Law reports starting in

2022, indicating that the EU will substitute "decisive actions" for the previous strategy of dialogue on rule of law violations (European Commission, 2021a). For the first time, von der Leyen declared so forcefully that efforts will be undertaken to restore the previous order and routine and that violations of the rule of law in Member States have turned into an irreversible wound. Nevertheless, this strong speech produced the opposite effect of the desired assurance, and in the post-speech criticisms, von der Leyen was made aware of the Union's shortcomings in the unanimous decision-making process (Liboreiro, 2021). Launched by the then-Commission prior to the von der Leyen, Article 7 can be characterized as a "decisive action" that ultimately came to a stall when member state unanimity was not reached. Von der Leyen has not taken any novel actions that could alter the direction of this proceeding, and it appears that the legal order prevents her from doing so (Liboreiro, 2021). Naturally, this leads to a state of anxiety in political elites and a decline in trust in political discourse, which in turn generates concern about the EU's future (Liboreiro, 2021).

The declining democratic and legal systems were acknowledged in the 2022 speech, and the emphasis shifted to repair and the rhetoric became louder. Member states that disobey the law were explicitly singled out for criticism and a clear statement was made under the heading "strengthening our democracies": "We will not allow any autocracy's Trojan horses to attack our democracies from within" (European Commission, 2022a). Von der Leyen's statement "We must protect them both from the external threats they face, and from the vices that corrode them from within" signaled that the rule of law crisis, which has been increasingly voiced in the EU, has started to resonate at the EU level and that the "threat elements" have been defined and the control process has begun (European Commission, 2022a). It was intended to assure the society and international actors that the EU would reassert its dominance on this issue and restore order. "Democracy, one of the core EU narratives, is a prerequisite", she said in her speech, explaining the rationale behind the emergence of the conditionality mechanism: "If we want to be credible when we ask candidate countries to strengthen their democracies, we must also eradicate corruption at home" (European Commission, 2022a). In fact, it is a response to the criticisms of "EU hypocrisy" that have been made repeatedly in the international community and among the candidate countries and this statement indicates that the EU will not give up on its core principles of democracy and the rule of law and may even launch a war with its own member states in order to maintain its routine (European Commission, 2022a). Given that the EU is unwilling to publicly engage in open conflict with its member states, this attitude is consistent with the theory that ontological security can occasionally exist independently of physical security.

The 2023 speech was overshadowed by Ukraine's candidacy for the EU, and the values of rule of law and democracy were discussed under the umbrella of the "prosperous Union" provided by the EU, and "enlargement" was mostly addressed by mentioning that other deserving states could also enter under this umbrella (European Commission, 2023a). The sentence "In a world where size and weight matters, it is clearly in Europe's strategic and security interests to complete our Union" is a familiar expression that ignores the ontological insecurity created by the cracking of the rule of law in the EU society and among the member states and it is the construction of a new narrative that tries to fill the lost trust with physical security discourses (European Commission, 2023a). From this point on, it would not be incorrect to assume that the EU has reverted to its previously criticized behavior which is choosing instead to respond to crises in a "reactive" rather than a "preventive" manner, and that other crises have made it impossible for the EU to address issues pertaining to the rule of law. Yet, in November 2022, the EU had decided to implement Disaster Risk Reduction in order to respond to significant crises affecting the EU more proactively (Council of the European Union, 2022). The interpretation of this situation in terms of the EU's ontological security would be an actual delay in the EU's rise to "secure" status.

The 2024 EU elections were another eclipse in the speech for 2023. Some groups blamed the speech's omission of the rule of law principles on the fact that election year was coming, and critics pointed out that von der Leyen also needed the votes of Hungary and Poland to be re-elected (Vinocur, 2023). From a broad standpoint, this represents the principle of the rule of law being ceded to another five-year period, which was unable to be resolved during this Commission period. Stated differently, each new Commission references the rule of law in its inaugural speech in an attempt to instill confidence in society and member states, but at the end of its term, it is left with an inadequate "toolbox" (Vinocur, 2023). Nevertheless, the level of mistrust and anxiety this situation has created within the EU community is steadily rising, potentially to the Union's future detriment.

As of this writing, Ursula von der Leyen has collected sufficient votes in the Parliament to be granted a second term, meaning she will continue to lead the Commission for an additional five years. Although the 2024 SOTEU has not yet taken place, a 2024-2029 Political Guideline has been published to guide those who will vote during the election period. In the foreword to the Guideline, von der Leyen assessed the 2024 elections and listed the lessons learned (Political Guidelines 2024-2029, n.d.). "...We are in an era of anxiety and uncertainty. Europeans have real doubts and concerns about the instabilities and insecurities we face...", von der Leyen said, pointing out that they are aware of the unrest in society due

to insecurity (Political Guidelines 2024-2029, n.d.). Von der Leyen emphasized that in order to effectively address these concerns, responses must take into account their specific dimensions. Failure to do so, she claimed, will lead to a divided society and resentment, which will serve as an incubator for populist discourses that "destabilizes the society" (Political Guidelines 2024-2029, n.d.). After that sentence, whether it was an unfortunate choice of words or not, von der Leyen stated that we are entering a period of "profound change" that could be "destabilizing" (Political Guidelines 2024-2029, n.d.). By putting herself in the spotlight and establishing a Self/Other dynamic, von der Leyen genuinely intended to highlight to the electorate why she should be elected through comparisons. "A choice to either face up to the uncertain world around us alone. Or to unite our societies and unite around our values": The uncertainty of external threats is otherized in this sentence, and as always, coming together around values is reflected in "Self" (Political Guidelines 2024-2029, n.d.). From this statement, it is also possible to infer that the perception of threat comes from unknown external threats rather than internal ones. The intention is to instill an element of fear so that it is evident who the new Commission will be battling.

Following the headings "competitiveness," "security," "strengthening societies," and "sustaining the quality of life," the title "democracy and rule of law" appears in the guideline (Political Guidelines 2024-2029, n.d.). The chapter begins with discussing how to protect democracy. The guideline, which states that disinformation and information manipulation will be prevented with the "European Democracy Shield" law to be proposed in the new period, could not help but emphasize that freedom of speech will be adhered to, because this is the part that will receive the most criticism, depending on how intrusive the law will be (Political Guidelines 2024-2029, n.d.). Secondly, the rule of law was mentioned, and an assertive sentence was included, stating that strengthening the rule of law will be the new Commission's daily duty (Political Guidelines 2024-2029, n.d.). It has been stated that they are now more "equipped" and that the Rule of Law reports will be expanded to a wider range of companies and accession countries (Political Guidelines 2024-2029, n.d.). It has been pointed out that the conditionality mechanism will be strengthened and continued ambitiously and that the Article 7 and infringement procedures will continue to be implemented "effectively" (Political Guidelines 2024-2029, n.d.). In summary, it appears that the new political guidelines are just an extension of the earlier processes, which will inevitably be impacted by the election of the same person, Ursula von der Leyen who will strive to prove herself with ambition and uphold the same political goals of her with regard to the rule of law.

Since SOTEUs and political guidelines draw the road map, however SOTEUs are annual events and the guideline is for the next five-years-term, statements regarding the day-to-day operations of the EU can be found in Commissioners who have a great deal of autonomy to make official statements. Despite not deviating from the pre-established discourses disseminated across all EU communication channels, the Commissioners' remarks can also hold significance in assessing the circumstances. At von der Leyen's College of Commissioners, Commissioner Didier Reynders oversees making sure the rule of law is maintained, particularly through the European Rule of Law Mechanism (Didier Reynders. The Commissioners, n.d.). He is also in charge of preventing and identifying rule of law violations, encouraging early problem-solving, and, as a last resort, suggesting a strong, appropriate, and deterrent response (Didier Reynders. The Commissioners, n.d.). He focused on the advancement of the Commission in his speech on "Protecting and strengthening the Rule of Law in the European Union" at Humboldt University in Berlin in 2022 (European Commission, 2022b). However, the threat that rule of law infractions pose to the EU's future is made clear by his statement, "To be clear: the rule of law is of existential importance for the European Union. Without it, the European Union - which is a community of law - will no longer be able to exist as we know it" (European Commission, 2022b). "These are unprecedented steps in the history of our Union," Reynders declared, confirming that the EU is in crisis and claiming that Article 7 was being used to intimidate Poland and Hungary, not to solve the issue (European Commission, 2020c). Simultaneously, he pointed out that the rule of law report is "not a formal recommendation" and that it is merely a soft tool without any enforcement authority (European Commission, 2020c).

Věra Jourová, the Commissioner for Values and Transparency, is in charge of overseeing the Commission's work on values and transparency, defending the rule of law, and making sure the democratic system is free from external interference and open to the public (Věra Jourová. The Commissioners, n.d.). To commemorate the 30th anniversary of EU citizenship since the Maastricht Treaty, the Commission unveiled a set of new regulations in December 2023 that aim to reinforce rights pertaining to EU citizenship (European Commission, 2023e). The following startling statistics were provided when the package was announced: Merely half of the EU citizens is "well-informed" regarding their rights as EU citizens (European Commission, 2023e). On top of this, "a guide to EU citizenship" was introduced as part of the package (European Commission, 2023e). Although it is reported that half of the citizens are informed about their rights, Jourová described it as "impressive" that the majority of Europeans are informed about EU citizenship (European Commission, 2023e). Speaking on the topic of the rule of law at a high-level Catholic University of Leuven event

in 2021, Jourová stated that while it is excellent that "researchers, academics, government officials, and activists" discuss the rule of law, if the conversation stays at this expert level and excludes the citizens, no resolution will be reached (European Commission, 2021c). According to Jourová, "Democracy, rule of law and fundamental rights are the three pillars forming the bedrock of the European Union" and they cannot exist separately (European Commission, 2021c). While detailing the EU's tools for upholding the rule of law, Jourová said, "Article 7 was conceived as a nuclear option, more a threat than an instrument designed for real use" (European Commission, 2021c). With those words, she rendered Article 7, which has been repeatedly criticized for its dysfunctionality due to unanimity, ineffective (European Commission, 2020b). Jourová brought up a news article that claimed that rather than being defined by what it is, Europe is frequently defined by what it is not (European Commission, 2020b). She clarified that this is untrue, calling the EU an "unfinished adventure" and asserting that identity is determined by values (European Commission, 2020b).

When discussing the Commission, it is also worth to mention the EU Justice Scoreboard, a component of the EU's toolkit for the Rule of Law, offering an annual summary of indicators pertaining to "the efficiency, quality, and independence of justice systems" (EU Justice scoreboard, n.d.). It provides comparable data with the intention of assisting Member States in enhancing the efficacy of their national justice systems (EU Justice scoreboard, n.d.). The EU Justice Scoreboard's data is utilized in the preparation of the annual Rule of Law Report (EU Justice scoreboard, n.d.). European Commissioner for Values and Transparency, Vera Jourová, summarizes the 2019 EU Justice Scoreboard report by including the sentence "Still too many EU citizens don't trust their justice systems and wait too long for justice to be served" in the preface of the report (European Commission, 2019c). Nonetheless, Jourová's statement, "We are working on increasing the trust in justice. Providing sufficient financial resources to the justice system is not a cost, [it] is an investment. [...] The country with a well-functioning judiciary is more likely attracting investors" is included on the first pages and this illustrates how regrettably the EU views rule of law issues as not at the center but a financial investment (European Commission, 2019c). "The guarantee of judges' status and position, and consequently their independence," may be in jeopardy, the report's conclusion stated (European Commission, 2019c). Up until 2022, the conclusion section of every published Scoreboard has contained the same sentence (EU Justice scoreboard, n.d.). The sentence "challenges remain to ensure full trust of citizens" was added in 2022; in other words, the sentences regarding judges' status were removed (European Commission, 2022c).

The same omitted statement was included in the 2023 and 2024 reports (EU Justice scoreboard, n.d.).

The Scoreboard has some serious flaws. It is criticized for not being able to identify the most serious infractions; as a result, it analyzes individual components without providing a qualitative evaluation of the entire (Committee on Civil Liberties, Justice and Home Affairs (LIBE), 2019, p. 72). Where an EU Member State is perceived to be performing poorly on the aforementioned indicators, the Scoreboard does not anticipate any coercive action or sanctions/penalties (Committee on Civil Liberties, Justice and Home Affairs (LIBE), 2019, p. 72).

4.2.2. European Parliament

In the Parliament, instead of prominent figures compared to the Commission, MEPs and discussions in plenary sessions come to the fore. Although it is not possible to analyze the parliament in a holistic way, where hundreds of issues are discussed every day, it is possible to access the publications of the LIBE committee dealing with the rule of law. The 69-member Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament is in charge of most laws and policy supervision that allow the EU to provide a free, secure, and just environment for its citizens (About LIBE Committees, n.d.). In the process, it guarantees that the European Convention on Human Rights and the EU Charter of Fundamental Rights are fully respected and adhered to (About LIBE Committees, n.d.). The report "Disinformation and propaganda - impact on the functioning of the rule of law in the EU and its Member States", prepared by the LIBE Committee upon the Parliament's request, is a wealth of information about the state of rule of law in the EU (Committee on Civil Liberties, Justice and Home Affairs (LIBE), 2019). The report addressed the growing Self-Other divide within the Union, arguing that while some Member States see the EU's instruments as the product of "militant democracy", they are in fact internal instruments (Committee on Civil Liberties, Justice and Home Affairs (LIBE), 2019, p. 69). It suggests that citizens will suffer as a result of the EU abandoning the importance of the rule of law, and that this will have a spillover effect on other member states:

"First, a state's departure from the European consensus on rule of law standards will ultimately hamper the exercise of individuals' rights EU-wide. All EU citizens in the given state will be detrimentally affected; furthermore, a lack of limits to illiberal practices may encourage other Member State governments to follow, so that rule of law violations become contagious" (Committee on Civil Liberties, Justice and Home Affairs (LIBE), 2019, p. 69).

The LIBE committee has maintained that a "sunshine policy" that "includes, not paralyzes and excludes" and where value control, "equally owned by all actors", can be pursued if core values are upheld, deficiencies are fixed through nationally embedded correction mechanisms, and the obligations and recommendations of international forums are honored (Committee on Civil Liberties, Justice and Home Affairs (LIBE), 2019, p. 73). The "sunshine policy" of the LIBE Committee revolves around an all-encompassing and proactive strategy for monitoring and ensuring Member State adherence to the principles of democracy, the rule of law, and fundamental rights as stated in Article 2 of the Treaty on European Union (TEU). This policy suggests that a cooperative and engaging strategy should be used when Member States respect these core values, address deficiencies through their own correction mechanisms, and adhere to recommendations and obligations from international fora (Committee on Civil Liberties, Justice and Home Affairs (LIBE), 2019, p. 73). This strategy seeks to promote an atmosphere of shared accountability and cooperation rather than isolation and paralysis by involving all actors in value control equally (Committee on Civil Liberties, Justice and Home Affairs (LIBE), 2019, p. 73). Nonetheless, the "sunshine policy" would not be applicable if a Member State consistently threatened free and fair elections by undermining democracy and the rule of law. More severe measures are advised in such situations to guarantee compliance and protect democratic values. These measures may include systemic infringement procedures, Article 7 procedures, and effective sanctions (Committee on Civil Liberties, Justice and Home Affairs (LIBE), 2019, p. 73). The report uses a very harsh tone, emphasizing that the "sunshine policy" cannot be applied to actors who implement the opposite and that even a sign of good intention should not be displayed to those violators (Committee on Civil Liberties, Justice and Home Affairs (LIBE), 2019, p. 73).

An even more specialized subcommittee, the LIBE Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG), operates under the committee and established after the murder of journalist Daphne Caruana Galizia and of journalist Ján Kuciak and his fiancée Martina Kušnírová in September 2019 (LIBE Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG), n.d.). Threats to democracy, the rule of law, and fundamental rights are the Group's main areas of focus. Additionally, they tackle the battle against corruption in all EU member states. Its purpose is to suggest particular measures to the LIBE Committee, like stakeholder meetings, hearings, and missions, in addition to offering ideas for resolution proposals and report proposals (LIBE Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG), n.d.). The Group maintained its slightly accusing tone in its activity report for 2023, highlighting the

Commission's responsibility to enforce infringement procedures and pointing out that certain infringement proceedings have been dragged out for years, if not longer (Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG), 2023, p. 7). It was criticized in the report that the Commission had given country-specific recommendations to all countries in addition to the Rule of Law Report and suggested only the necessary countries be included in the report (Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG), 2023, p. 7). Finally, the report makes a strong case for the Commission to use the results of current monitoring and recommendations for proactive and efficient implementation of EU law with less hesitation (Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG), 2023, p. 7).

Just like any other institution, the European Parliament also has a president. For the term 2022-2024, Roberta Metsola is heading the office. Even though the Parliament presidents do not have any statements meant to guide the public, their opinions are nonetheless significant because of their position as legislators. Roberta Metsola, the current President of the European Parliament, declared in her first speech following her election victory that she wished to change the Parliament's negative perception and enhance its positive image (De La Baume, 2022, para. 14). According to her, a time will soon come when some Europeans will look to the European institutions for leadership, while others will put European ideals to the test (De La Baume, 2022, para. 13). She declared that in order to prevent these discourses from becoming ingrained in Europe, a response to these developments is necessary: "We must fight back against the anti-EU narrative that takes hold so easily and so quickly" (De La Baume, 2022, para. 13). She underlined in her speech that the EU must stay true to its core values, saying, "For the European Union to remain credible and exert its influence globally, we have to remain principled" (In full: Roberta Metsola's first speech, 2022, para. 22)

Parliament has taken such a strong stance against violations of the rule of law that even the Commission's actions have been subject to criticism and legal action. Due to violations of human rights and rule of law, the Commission had halted Hungary's receipt of billions of funds in December 2023 (Vela & Chiappa, 2024). However, a few months later, when funds were dubiously re-authorized in advance of a meeting on Ukraine's EU candidacy, the Parliament took a stand (Vela & Chiappa, 2024). Members of the European Parliament (MEPs) have responded to this by criticizing that the rule of law cannot be compromised and definitely cannot be employed as a bargaining chip in certain agreements (Vela & Chiappa, 2024).

On other occasions, though, and concerning different matters, the reputation of the Parliament itself is damaged when the Parliament appears to hesitate on the rule of law. Greece was engulfed in a wiretapping scandal involving Prime Minister Mitsotakis at the very beginning of 2023 (Wiretapped Greek Member of European Parliament, 2023).

The European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) requested meetings to look into the scandal, but none of the authorities agreed to convene (Michalopoulos, 2023, para. 2). The heads of the secret services and police, the chief prosecutor, the prime minister of Greece, and even the politically impartial Greek president declined to meet with LIBE Committee (Michalopoulos, 2023, para. 1). On top of this, Metsola faced harsh criticism not only for her silence and lack of response, but also primarily for her trip to Greece to visit Mitsotakis just after the scandals (Michalopoulos, 2023).

The Qatargate scandal, which also raised doubts about the Parliament's commitment to upholding the rule of law, shook Brussels in the latter months of 2022. Following a corruption scandal that involved a number of MEPs and the former President of the Parliament, the Parliament has unveiled a number of new measures aimed at enhancing transparency within the organization (Wax & Wheaton, 2023, para. 3). But the delay in putting these mechanisms in place in addition to declining to initiate its own investigation, refusing to make MEPs declare their assets, and refusing to take away any convicted MEPs' lavish pensions caused accusations that Parliament itself was not acting in accordance with the rule of law (Wax & Wheaton, 2023, para. 6).

4.2.3. The European Council and the Council of the European Union

Given that she/he has the authority to determine the Union's overall political direction, the President of the European Council genuinely possesses significant guiding power. These organizations are the most well-established within the EU, and because the Treaties give them authority, it is unattainable to alter their structures. However, because they execute EU policies, one could also argue that they are political structures in and of themselves. Nonetheless, in public discourses historically, the importance of cooperation and unity among this head structures has been highlighted. On the other hand, it seems that the issue of the rule of law has drastically changed the order of the EU's top institutions. Charles Michel, President of the European Council, accused von der Leyen, the President of the European Commission, of setting up "a political Commission" in 2019 and lamented that "political

unity" was the real need (Nicolás, 2024). He claimed that because the conditionality mechanism has been politicized, member states now have "strong reservations" (Nicolás, 2024). Moreover, he asserted that the Commission was becoming less interested in the infringement procedures it had started (Nicolás, 2024). Implying that the EU's reputation abroad had suffered, Michel said, "we paid the bill" (Nicolás, 2024).

On the other hand, Charles Michel's announcement that he will run as an MEP candidate in the June 2024 elections caused great reactions because in the absence of the President of the Council of the European Union, the control passes to the current Council Presidency until a new one is elected and as of July 1, 2024, the new Council Presidency will be transferred to Hungary (Henley, 2024). This includes a wide range of leadership, from chairing Council meetings to a key role in the creation of the new Commission, and means that Hungary's Prime Minister Orban, who has often said that Brussels is unfair to his country, has entered the EU executive at the Council of the EU level (Henley, 2024). Although some people accuse Michel of being weak and inconsiderate for this, the issue is far more serious when taken as a whole. Critics from within the European society position one member state as a threat and in return complain that the career change of the President of the Council, out of dozens of high-level EU institutions, is important enough to influence the course of events (Henley, 2024). This is just one indication that the "secure" European Union, which is made up of a union of impartial institutions that watch out for member states that enjoy equality and prosperity, is starting to show cracks in its foundation.

However, there is also another significant component which is the Council of the EU presidencies, chosen from the member states for every six months. There have been eleven council presidencies in the Council of the EU since the previous election year of 2019, which will continue until the June 2024 election year (List of presidencies of the Council of the European Union, n.d.). It is highly unanticipated to see that only four out of eleven presidencies have included the rule of law in their presidential programs: Finland, Slovenia, Sweden, Belgium (List of presidencies of the Council of the European Union, n.d.).

In the Finnish presidency program (1 July – 31 December 2019), the rule of law is linked to the economy. Namely, that adherence to the rule of law will not only protect European citizens but will also have implications for the functioning of the European economy (Finland's Presidency Programme, n.d.). In a novel move, Finland unveiled the Multiannual Financial Framework (MFF) negotiating box, a collection of recommendations for resolving political issues pertaining to the defense of the EU budget in circumstances where there are

general shortcomings with regard to the rule of law in Member States (Summary of Presidency, n.d.). This package, though, is self-constrained because it focuses on the areas where the EU's economy is stagnating rather than on insecurity in general.

According to Slovenia's program (1 July–31 December 2021), there are "misunderstandings" regarding the rule of law principle because "the hearts and minds of younger democracies have not yet been transformed" (Slovenian Presidency of the Council of the EU, 2021a). The program states that these "younger democracies" are focused on preserving their pre-transformation undemocratic "culture operation", whereas the real goal should be to preserve European values (Slovenian Presidency of the Council of the EU, 2021a). Slovenia has suggested holding an international conference and establishing an international rule of law monitoring institution with its headquarters located in Slovenia during its mandate in order to clear up these misconceptions (Slovenian Presidency of the Council of the EU, 2021a). It was underlined that upholding the rule of law principle is crucial because it guarantees equality and mutual trust amongst Member States (Slovenian Presidency of the Council of the EU, 2021a). On the other hand, only that discussions have continued, the Article 7 procedure has been maintained, and the circumstances in Poland and Hungary have been "noted" are the mentioned outcomes in the presidency achievement report (Slovenian Presidency of the Council of the EU, 2021b).

Sweden's program (1 January - 30 June 2023), in comparison, placed greater emphasis on the fact that democratic backsliding is a global issue, and that Europe needs to demonstrate its commitment to democracy and the rule of law more forcefully (Swedish Presidency of the Council of the European Union, 2023a). Rule of law is considered an important element of the EU's long-term cooperation with non-EU countries (Swedish Presidency of the Council of the European Union, 2023a). Also, under the topic of adherence to law in digitalization and green transformation, it was pointed out that there should be a system of rule of law for all members to move forward at the same pace (Swedish Presidency of the Council of the European Union, 2023a). Results of the Presidency, on the other hand, included the continuation of Council hearings throughout the term and the Stockholm International Conference organized to protect and sustain democracy and the rule of law (Swedish Presidency of the Council of the European Union, 2023b).

In the Belgian presidential program for the first month of 2024, the issue of rule of law is mostly addressed through European elections and building trust among citizens (Belgian Presidency of the Council of the European Union, 2024a). It made a passing reference to the improvement of the current Article 7 procedures, while emphasizing the utmost importance

of ensuring free and fair elections throughout Europe (Belgian Presidency of the Council of the European Union, 2024a). Moreover, the Programme also includes a sentence under the enlargement section, saying that rule of law will be a significant topic in the informal meetings of the European Affairs ministers (Belgian Presidency of the Council of the European Union, 2024a). When key achievements were released at the end of the term, it is highlighted that the Belgian presidency "exemplified Belgium's cooperative and compromise-oriented culture" by completing 74 legislative files in trilogue and moving forward with roughly 60 more in the Council (Belgian Presidency of the Council of the European Union, 2024b). It was also mentioned that by completing the Anti-SLAPP Directive and the European Media Freedom Act, which shield journalists from unjust lawsuits, it improved press freedom (Belgian Presidency of the Council of the European Union, 2024b). Among the achievements, in the context of democracy and unity, the launch of accession talks with Ukraine and Moldova under this presidency is highlighted, while there is not the slightest reference to Article 7 for Hungary and Poland (Belgian Presidency of the Council of the European Union, 2024b). Therefore, it is safe to assume that neither the EU's center of gravity, Belgium, nor any of its predecessors have added any new action items to their programs or visibly altered this process.

When examining discourses at the EU level holistically, this accusatory tone between institutions, their representatives and member states is very evident. This state of affairs indicates that a major dispute has emerged between EU institutions regarding the rule of law, that irregular behaviors have been noticed, and that interinstitutional trust has been severely eroded. Although this is the current situation among EU institutions, it is considered appropriate to examine the situation against institutions and the situation itself as well, which entails taking the social pulse. Given that a democracy mature enough to listen to its citizens and act appropriately should be the cornerstone of the EU's governance framework, it may be useful to assess public opinion on how the fundamental value of the rule of law is handled by institutions and member states in order to gauge the pulse and identify concerns. Because it may take a long time for harmony to break down in societies, but it may only be a matter of time before it breaks out. In the second part of this section, the reactions of European citizens to the rule of law over the years will be interpreted through statistics. After that, the protests—the times when society breaks out—will be scrutinized, and the European society's level of opposition to legal transgressions will be gauged. Although societies are expressing this manifestation because they feel insecure, it can be argued that European citizens appear to have reached a point of insecurity that could have more severe impact on the EU's future insecurity.

4.3. Rule of Law at the Society Level

4.3.1. Surveys and Polls

The erosion of the rule of law can have a profound impact on the ontological security of European citizens, threatening their fundamental sense of stability and trust in the political and legal systems that govern their lives. As the suspicion and disappointment towards core democratic principles and practices grow, the very foundations of European societies can become destabilized, leaving citizens feeling increasingly insecure and disconnected from the institutions that are meant to protect their rights and liberties. This insecurity can, in turn, fuel further erosion of the rule of law, as citizens lose faith in the ability of the system to uphold justice and the principles of good governance.

In this part it is aimed to leverage different instruments to gauge the pulse of European citizens on the rule of law violations occurring in the European Union. The findings will shed light on the public's awareness, perceptions, and attitudes towards these concerning developments, which have the potential to undermine the EU's cohesion and the integrity of its legal system. By exploring the views of European citizens through sources such as surveys, polls and statistics, this paper will provide valuable insights into the public sentiment surrounding the erosion of the rule of law in certain member states, and the implications this may have for the future of the European project. The analysis will also consider how these public views may vary across different member states and demographic groups, offering a nuanced understanding of the broader European sentiment on this topic.

Founded in 1974, the Eurobarometer, an institution tasked with surveying EU citizens on a range of topics and the reports derived from these responses are then forwarded to the European Commission (About Eurobarometer, n.d.). In a survey titled "Perceived independence of the national justice systems among the general public (2024)" that was released in June 2024 by Eurobarometer, participants were asked to rate the quality of the justice system in their own country (European Commission, 2024). When it comes to the independence of courts and judges, 52% of EU citizens think their nation's justice system is good, while 37% think it is bad (European Commission, 2024). For every Member State, at least 50% of respondents who give the independence of courts and judges a low rating cite the status and position of judges as a reason for their low opinion of the independence of the justice system in their nation (European Commission, 2024). For a structure like the European Union, which is based on the values of democracy and the rule of law, the fact that

37 percent rate their country's justice system as bad is quite high, while 52 percent is too low for an indicator of satisfaction.

Moreover, individuals in the 25–39 and 40–54 age groups are more likely than those in other age groups to attribute their unfavorable opinion of the justice system to political and governmental meddling or pressure (77% vs. 73%–74%) (European Commission, 2024). This indicates that the young segment of the EU population who will be able to influence EU policy in the future is dissatisfied with the course the Union is taking. Besides, compared to 61% of manual laborers and 72% of unemployed people, 80% of employees and 79% of self-employed people claim that pressure or intervention from politicians and the government explains their low rating (European Commission, 2024). Put another way, the business community has also felt the effects of values eroding and has started to express concerns that this decline may potentially cause financial markets to disrupt.

Regarding the independence of courts and judges, only 16 EU member states have a majority rating of good; respondents in Austria (82%), Denmark (83%) and Finland (83%) are most likely to give a favorable assessment (European Commission, 2024). From an EU standpoint, the problem that might destabilize the EU is that half of its members think they do not have an independent legal system.

Eurobarometer's June 2023 data is similar to 2024: 53% of EU citizens rate the justice system in their country – in terms of the independence of courts and judges – as good, while 36% say it is bad (European Commission, 2023b). The percentages remain relatively stable in 2019 and the next two years, with 50–55% of Europeans believing that their nation's justice system is independent. It is important to note that for the last five years, only half of the European public think that their judicial system is independent, and while this percentage speaks volumes about the need to change the system, the authorities have either disregarded the data or failed to find adequate solutions. Either way, the dissatisfaction of European citizens has not been alleviated and it is not hard to imagine the anxiety of the public when we consider that even if the rates remain the same, year after year the dissatisfaction grows exponentially.

The same survey was conducted with the candidate Western Balkan countries as well, and the results were unexpected: 54% of respondents in Serbia and Albania, 60% of respondents in Montenegro, and 75% of respondents in North Macedonia thought their countries' justice systems were poor (European Commission, 2024). The candidate Western Balkan

countries—which the EU frequently criticizes in every report and discussion on reforms to the rule of law—are essentially no different from the EU average, set aside North Macedonia. Candidate countries, some other countries outside the Union and even some critics within the Union often refer to the EU as "hypocritical" for this reason, and candidate countries have often stated that they are not on a level playing field. The EU is thus weakening its democracy advocacy power in its sphere outside the Union level, and this is reflected internally in an exacerbation of internal turmoil.

Numerous other surveys on a wide range of subjects pertaining to the rule of law have been published by Eurobarometer. According to a survey, 47% of EU citizens say they are "very satisfied" or "somewhat satisfied" with how democracy operates in their country. Poland and Hungary are 26% "somewhat satisfied" (European Commission, 2023c). The surveys are interesting because they are based on thirty thousand respondents and are very up to date (European Commission, 2023c). This survey indicates that over 70% of the people living in the two member states are not happy with how democracy is performing in their nations. The EU's silence towards its own citizens in these countries is another indication that the EU is anxious about not knowing what steps to take for the future.

According to July 2023 data, seven out of ten respondents think that corruption is common in their country, and 64% of Europeans find corruption to be unacceptable (European Commission, 2023d). 96% of Hungarians think it is common (European Commission, 2023d). This statistic, in particular, makes it harder for the EU to fight "rotten from within" criticisms of the EU because, for instance, Hungary has bolstered its populist rhetoric by accusing Brussels of being corrupt. While such high rates of corruption throughout the EU would leave citizens unsure of what is right or wrong, this could lead to a snowball effect of mistrust among society.

In 2021, sixty-five percent of respondents in the EU concur that the EU's fundamental values are adequately safeguarded (European Commission, 2021b). However, a national-level analysis reveals that the different EU countries differ significantly from one another: In Sweden, 91% of respondents think their country sufficiently defends the fundamental principles of the EU, while in Bulgaria, the percentage is 34% (European Commission, 2021b). It follows that the EU is on the way to becoming a Union with member states going in two opposite directions. It may become increasingly difficult to stop this trajectory, which could lead to a major disruption of harmony.

The 2019 Rule of Law Survey identified 17 main principles of the rule of law under 3 headings: the prohibition of arbitrariness, effective judicial protection by independent courts, and equality before the law and separation of powers (European Commission, 2019b). Of the participants, 85% believe that these principles are essential or important (European Commission, 2019b). Eighty percent of them said that their nation needs to improve on these principles (European Commission, 2019b). EU citizens have made it clear that they want to protect their values and that the institutions at the EU level are not acting as safeguards.

In Poland, the perception of judicial independence has significantly decreased. According to a 2016 Eurobarometer survey, only 30% of Poles believed their judicial system was independent, compared to 40% in 2012, reflecting the impact of the Law and Justice Party's (PiS) reforms (Flash Eurobarometer 435, 2016). Similarly, in Hungary, public trust in the judiciary has been declining since 2010, with only 28% of citizens rating the system as independent in 2019, compared to 46% in 2010 (European Commission, 2019d). In Poland, the number of citizens who believed that political interference in the judiciary was the main issue jumped from 52% in 2015 to 71% by 2023 (European Commission, 2023b). Similarly, in Hungary, the percentage of people who think that judicial independence is undermined by political influence rose from 47% in 2012 to 73% in 2023 (European Commission, 2023b). This drastic rise reflects increasing public anxiety and dissatisfaction with their legal systems, mirroring the ontological insecurity felt across these societies. The growing dissatisfaction in Poland and Hungary regarding the erosion of the rule of law is not only reflected in these surveys but is also indicative of a deeper societal anxiety. As ontological security theory suggests, this perceived instability and unpredictability in core institutions have contributed to a growing sense of existential insecurity. The steady decline in trust, as evidenced by the Eurobarometer surveys, illustrates how citizens in these countries increasingly feel that their identities and futures are at risk due to weakening democratic structures. These statistics reveal that, in Poland and Hungary, the erosion of the rule of law has not only damaged the integrity of their legal systems but has also fueled an increasing sense of anxiety among their citizens. The decline in public trust in these institutions underscores how difficult it is for the EU to maintain cohesion, as the very principles that define its identity are under threat.

Societies express their dissatisfaction in different ways and the opportunities for self-expression are also highly developed in Europe. Based on these statistics, it can be concluded that European society has long been dissatisfied with the chain of events in their countries that contradicts the rule of law and has reflected this in every survey they have

been asked, yet no change has been observed for years. Furthermore, through civil society organizations, rule of law has been addressed from many angles and citizens have tried to make their voices heard through webinars, high-level discussions, press releases, working groups, etc. Ultimately, European society has moved toward collective expression as a means of self-expression and has used protests to press for effective reforms.

4.3.2. Public Protests

Peaceful protests have become a prominent feature of European society, lately often used as a means to address various rule of law issues, such as corruption, judicial independence, and media freedom. These protests serve as a way for citizens to voice their discontent with the status quo and to push for reforms that align with their democratic values. Protest behavior is increasingly viewed as a democratic potential, as it allows citizens to actively participate in the political process and influence decision-makers. Institutions of representative democracy, political elites, and policymakers should recognize the importance of these protest movements and work to address the underlying issues that drive them, as they reflect the prodemocratic orientation of the public. Unfortunately, this is not the attitude of the political elites towards rule of law protests. Protests calling for a return to rule of law values of various sizes have been taking place in many European member states for years, but they either lead to a few ineffective political steps or are ignored without causing any change.

The Carnegie Endowment for International Peace, an international non-governmental organization, has implemented a project called Global Protest Tracker since 2017 (Global Protest Tracker, n.d.). The project keeps data on the protests taking place in different countries around the world and reveals the reasons behind the protests, their size, participants and political consequences, if any (Global Protest Tracker, n.d.). Since its inception, the platform has recorded 700 protests of different sizes and taking place all over the world (Global Protest Tracker, n.d.). Eighteen of these have been recognized as protests centered on issues pertaining to the rule of law that occur in the member states of the European Union, such as media freedom, corruption, and legal reforms (Global Protest Tracker, n.d.). For instance, thousands of people protested against the government in Bulgaria in July 2020, calling for the resignation of prosecutor general Ivan Geshev and the government, which was led by prime minister Boyko Borisov (Comms, 2020). In addition to the fight against corruption and mafia connections among those in positions of power, the reason behind the protest was recent judicial reforms and freedom of expression (Global Protest Tracker, n.d.). The protest led to the resignation of the head of the National Security Service and four

ministers, and a proposal for constitutional reforms by the government (Global Protest Tracker, n.d.).

In September 2020, more than 5,000 people took part in a two-month long protest in Hungary against the University of Theater and Film Arts' privatization and the takeover of its management by a prime minister Orban ally (Global Protest Tracker, n.d.). Orban and his allies have argued that because the university is controlled by liberals and left wings, the privatization is required and will increase the university's competitiveness (BBC News, 2020). However, those who participated in the protest chanted slogans expressing the erosion of academic freedom and that this was unacceptable. Because the violations of the rule of law in Hungary are so blatant and values are violated in so many ways, protests are correspondingly frequent and sometimes aggressive. In December 2018, after the Orban government's "slave law," which permits employers to demand overtime work and postpone paying overtime wages for up to three years, was passed, almost 15,000 people had staged a protest (Walker, 2018). Unfortunately, at the government level, these and similar protests have had no substance and society has been unable to put a stop to the trend as the government continues to destroy the rule of law one by one in the name of national interest.

In Poland, tens of thousands of people participated in a protest in January 2024 in response to Donald Tusk's appointment as prime minister (Global Protest Tracker, n.d.). Tusk was a former president of the European Council and, in the eyes of his opponents in Poland, had a negative reputation of the EU (Minder & Tamma, 2024). With the influence of the Law and Justice (PiS) party, which was indeed the primary actor in initiating the rule of law debate with the EU during their term before losing Donald Tusk, Tusk was reflected as a political figure who defended the interests of the EU rather than the interests of Poland (Minder & Tamma, 2024). Actually, this protest had two legs. Before the protest that broke out with Tusk's appointment, Poland was shaken by the arrest of two opposing lawmakers, and small-scale demonstrations were held condemning this decision and Tusk's rhetoric was against these unlawful arrests. (Minder & Tamma, 2024). With the appointment of Tusk, the wind of this heated society was reversed by the Law and Justice (PiS) party, and this time anti-EU supporters took to the streets (Minder & Tamma, 2024). In other words, although the protest was initiated by those defending the freedom of speech of those with opposing views, it turned into an event where anti-EU rhetoric was thrown through the figure of Tusk. In another protest in October 2021 in Poland, about 100,000 people gathered in Warsaw, the country's capital, that took place in about 100 towns and cities (BBC News, 2021). Pro-EU demonstrators held marches while carrying signs reading "A European Poland" following the

ruling of the Polish court that EU laws were incompatible with Polish law (BBC News, 2021). In this very large-scale protest, the Polish people were protesting against the decision of the Polish court and chanting slogans that reflect their identity as European citizens. The two protests that took place in 2021 and 2024 can be interpreted as follows: in the first, Polish citizens, who identified themselves as Europeans, protested against the government and demanded that the EU enact stronger regulations pertaining to the rule of law; in the second, the government, beholden to populist policies, altered the social climate and exploited the EU's inefficiency to amplify the anti-EU crowd, shattering social harmony in the process (Kość, 2024). It should be noted here that Polish citizens initially complained about the lack of adherence to rule of law values by their national governments and wanted to make their voices heard as European citizens, but unfortunately, ineffective mechanisms at the EU level have left them with double frustrations.

Another protest where the frustration of the society was tangibly felt took place in Serbia. One of the longest protests in Serbian history, the "1 out of 5 million" protests began in December 2018 and lasted for almost a full year (RFE/RL's Balkan Service, 2019). The cynical response of President Aleksandar Vucic to the demands of the early protesters for free and fair elections and the resignation of all parliament members—"I will not make concessions even if 5 million of you come"—fueled the fire in society and resulted in large-scale demonstrations that spread from city to city (RFE/RL's Balkan Service, 2019). The people are trying to continue democracy under a president whose rhetoric completely disregards them. While this situation has the risk of completely severing the bond between the society and the government at first, secondly, and worse in the long run, as the young generations in the country grow up following democracy from these examples, the member states and therefore the EU will likely face with the generations that lack a fundamental sense of EU values.

In December 2023, the people of Slovakia protested when the government of populist leader Fico shifted the role of the central prosecutor's office, which handles cases of graft, organized crime, and extremism, to regional prosecutor's offices (Euronews, 2023). Protester's concern was because mafia relations and corruption had become more prevalent in the nation (Euronews, 2023). On the EU side, a shallow response was given at the Commission level to these protests, and the change of prosecutor's regulations was condemned by saying "it is far-reaching and touches on a lot of EU law", and that was the entire response (Euronews, 2023).

4.4. "Protective Cocoon" of the European Union versus Ignorance of Internal Insecurities

As is evident from the data given above, the countries where protests have occurred frequently rank low on the rule of law scale. There are two implications to take into consideration when analyzing this situation. First, there is a response to the erosion of the rule of law among citizens in nearly half of the member states. Since anxiety is frequently the source of social reactions, it would be reasonable to assume that in this particular context, people in half of the member states of Europe are feeling anxious about the breakdown of the rule of law in their country. Second, there is no information available regarding widespread protests or demonstrations against violations of the rule of law in member states that have high scores on the rule of law scale, either within their own nations or abroad. Considering the results of Eurobarometer's survey on the safeguarding of fundamental values—65% said they were safeguarded, but there were significant variations between countries, ranging from 30 to 90— it is feasible to draw certain conclusions about society across the Union. European society coexists in two different orders, disconnected from each other. While one side makes full use of and promotes the principle of the rule of law, the other side tries to convey that the principle of the rule of law in its country is fundamentally violated through various means. And these two sides seem unaware of each other.

The European Union has long been hailed as a beacon of democratic values, rule of law, and economic prosperity, but in recent years, it seems to be challenged by a growing sense of ontological insecurity within the Union. The concept of ontological insecurity describes a profound sense of uncertainty and instability in the foundations of one's social and political identity. This insecurity can arise from a perceived threat to the continuity and coherence of an individual or collective's sense of self, and it can have far-reaching consequences for the stability and functioning of social and political institutions. In the context of the European Union, this ontological insecurity has become increasingly palpable. The rule of law violations and inadequate solutions to address this problem have led to a crisis of identity and purpose, manifesting in the strained relations between the Union's institutions, the dysfunctional mechanisms in place, and the rising unrest among European citizens, totally fueling the ontologically insecure society of the EU.

One of the key challenges highlighted in this chapter is that the rule of law does not appear to be at the top of institutions' agendas at the EU level. Despite the fact that the EU is departing from its basic principles and breaking from its established order on many fronts,

the issue of the rule of law appears to be long treated as a subheading under "big problem headings" like migration, the physical threat of war, or the rise of the far right and populism. The EU does not make the issue its primary focus, but rather maintains its sweet-tempered rhetoric with numerous recently established mechanisms to address it. Furthermore, the second problem is the disconnect between the EU's rule of law agenda and the realities of domestic governance in many member states. The promotion of rule of law reforms has often failed to mobilize politically autonomous constituencies capable of driving meaningful change and ensuring democratic accountability. As a result, the rule of law reforms introduced in Central and Eastern Europe have yielded only modest results, with administrators and judges continuing to struggle with the application of international legal norms and procedural safeguards.

The increasing politicization of EU institutions and the erosion of constructive inter-institutional cooperation have further compounded the challenges in upholding the rule of law across the Union. The discourses and narratives of senior officials have increasingly taken precedence over the established institutional structures and processes, and the monitoring mechanisms introduced by the EU have proven incapable of providing a lasting and effective solution to the persistent problem of rule of law backsliding in certain member states.

At the societal level, according to regular statistical data, there is great dissatisfaction with the long-standing deviation from the rule of law principle that has been going on for years. The very existential values of the European Union, such as the independence of their national justice system, the defense of fundamental values, absence of corruption, and the nature of democracy, are hardly believed in or accepted by the citizens of the EU. The EU has become unable to endorse the rule of law requirements that it imposes on candidate countries and has been criticized for hypocrisy in terms of democracy, which is its core value. Moreover, the fact that most of the citizens with this negative belief are young Europeans who will have a say in the future of the EU may indicate that future projections of the EU may be in an unfavorable trend. Lastly, societies have made efforts to use protests as a means of voicing their disapproval of the erosion of the rule of law, but there are very few instances in which it is successful in bringing about change. The European Union appears incapable of recognizing the division among certain segments of its society, who feel let down by the inadequate attention to their concerns and the bloc's failure to meet their expectations.

According to ontological security theory, the actor defines the Other in order to enter the identity formation process. The development of the Self depends critically on the Other. In

this regard, the EU developed its identity following World War II by defending democracy against authoritarian regimes. Later, when the national authority of the member states started to become the "Other", it defined the "Self" as a set of values that everyone harmonized under equal conditions. Today, the EU is in an ontologically insecure period, late to enter the war against the values that are the foundation of its "Self", slowed down after entering and is now forced to deal with the anxiety that comes with not being able to see the horizon. On the other hand, many member states are trying to build their "Self" in their national identities independently of the EU's set of values, and the EU has demonstrated that it lacks the instruments to solve this problem radically. Since the weakening of the rule of law is demonstrated by various examples, the EU should take a more centralized approach to resolving the issue and restoring harmony by providing a clearer explanation to the public about the potential consequences of violations and by listening to the voices of its citizens who express the dissatisfaction in different ways.

According to a different viewpoint, the EU wants to maintain its sense of self-integration and routine; it desires to feel ontologically secure by responding to outside developments with the same old common sense while remaining silent about the EU's growing and evolving rule of law issues inside. The European Union has been facing criticism for so long that its enlargement has reached the point of exhaustion (Szolucha, 2010). The EU believes that the candidate countries outside its maximum borders are inferior to the EU average in all areas, particularly the rule of law and democracy (New Growth Plan for the Western Balkans, 2024). This is another Self/Other reflection of EU identity. Nonetheless, as some sections of this thesis have made clear, the discontent of candidate countries' societies with the rule of law in general and its manifestation in particular is comparable to that of many EU member states. Or the refusal to accept that granting candidacy status to war-torn Ukraine would be characterized by critics as hypocrisy in its advocacy of the rule of law shows the EU's adherence to its routine of projecting its ontologically secure identity as a former champion of democracy (Bayer, 2022). Because the EU seeks to continue its international relations in the hope that the domestic rule of law regression, which it ignores and remains silent about, will not turn into an anxiety that will affect its international power. Alternatively, it could be the case that it is remaining silent so as not to undermine its global influence. In any case, suppressed anxieties have a significant influence on the political agenda of the EU.

In sum, the European Union's muted response to rule of law violations has significant implications when viewed through the lens of ontological security theory. In order to ensure its ontological security, the EU has made eliminating "more visible and urgent" threats the

top priority of its political agenda in order to ensure its ontological security. The EU's strategy makes sense when considering the possible presence of multiple threats to biographical continuity, but many of the more apparent and pressing threats—like migration, the conflict between Russia and Ukraine, and growing competition—appears to originate from without. From an ontological security theory perspective, we can observe that the EU is blind to internal and existential threats. Put another way, in an effort to maintain its security routine, the EU labels external threats as "fear factors" while refusing to designate internal threats as the same. The most fundamental values of the EU are targeted by internal threats, which pose an existential crisis. However, because the Treaties do not address the issue of effectively dealing with such violations in detail, these internal threats are either ignored and accompanied by anxiety stemming from the unknown, or the anxiety is subdued by actions that have been known from the start to be ineffective in light of the decision-making mechanisms currently in place. Rather than taking a bottom-up approach to solving this seemingly intractable problem, the EU prefers to remain anxious internally and postpone the problems by channeling the elements of fear externally. This is where ontological security comes into play, which implies that fear can be easily addressed, unlike the anxiety caused by the unknown. In other words, the EU prioritizes and securitizes the problems that it has already experienced for centuries in various contexts—migration, war, epidemics, etc.—and remains silent about the problems that cause it fundamental anxiety. Therefore, the EU has entered its ontologically insecure period, possibly jeopardizing its future as a Union.

CHAPTER 5

CONCLUSION

The European Union has faced significant challenges in recent years regarding the rule of law, with various violations occurring across its member states. These violations, which range from the reduction of press freedoms to the weakening of judicial independence, have raised grave doubts about the EU's capacity to preserve its fundamental values. In member states like Poland and Hungary, where governmental influence over the judiciary has grown, judicial independence has been compromised, raising concerns about politically motivated decisions. Democratic norms have been further jeopardized by the curtailment of press freedoms through measures like government takeovers of media outlets, restrictive media laws, and intimidation of journalists. These problems have been made worse by the emergence of populist and authoritarian tendencies in some EU member states, which puts the EU's fundamental commitment to democracy, human rights, and the rule of law in jeopardy. Discussions concerning the necessity for stronger enforcement measures as well as the efficacy of the EU's current systems for guaranteeing adherence to its basic principles have been spurred by these events.

With a similar rise, the ontological security theory has gained prominence in the study of international relations. This theory offers a framework for comprehending the necessity for states to preserve continuity in their external environment and a steady sense of self. It suggests that states, akin to individuals, aim to maintain a coherent identity and ensure their continued existence by means of consistent and reliable interactions with the outside world. Because of this continuity, entities can navigate the complexity of their existence without experiencing existential disorientation. For the EU to remain stable and retain its common identity, a consistent narrative of democratic principles and shared values must be upheld. Second, the division between the Self and the Other is essential to ontological security. States differentiate themselves from one another in order to construct their identities in relation to "the Other." This process helps states to establish a sense of security and predictability in their interactions. The European Union's identity construction process no longer sees the undemocratic "Other" outside the Union in comparison to the rule-based,

value-committed democratic "Self." Instead, the Other now refers to member states that depart from EU values, and the Self is the contradictory remainder of the Union that is unable to effectively respond to this disruption of routine. Lastly, the ontological security theory makes a distinction between fear and anxiety. Anxiety is a more pervasive, existential worry about the stability and coherence of one's identity, whereas fear is a reaction to particular, recognizable threats. The weakening of the rule of law in EU member states could cause the bloc to feel more deeply anxious regarding its long-term survival and fundamental identity than just fearing immediate repercussions. The EU's capacity to communicate its ideals to the outside world may be hampered by this anxiety.

Despite the clear link between rule of law violations and ontological security, few research have looked at ontological security and violations of the rule of law together in the context of the EU. Since it undermines the Union's reputation as a champion of democratic governance and human rights, the weakening of the rule of law in member states can be considered as a threat to the ontological security of the EU. The EU may feel unstable and anxious as a result of this upheaval, which could harm both the organization's internal cohesiveness and standing internationally. Thus, this research aims to address this gap by examining the relationship between violations of the rule of law and the pursuit of ontological security within the EU. It seeks to explore how the EU's identity and stability are impacted by rule of law crises in member states and to what extent these crises challenge the Union's ability to project its values both internally and externally. By analyzing case studies and employing theoretical frameworks from both rule of law and ontological security literatures, this study provides a comprehensive understanding of the interplay between these critical issues.

Ontological security theory provides a compelling framework for analyzing the insecurity that can arise from violations of the rule of law within the European Union. This theory, which focuses on the need for individuals and states to maintain a stable sense of self and environment, highlights how breaches of legal norms can undermine the predictability and coherence that are crucial for ontological security. Ontological security is fundamentally about the assurance of continuity and order, allowing states and individuals to function with a sense of trust and stability in their interactions and institutions.

In the context of the European Union, ontological security theory emphasizes that the rule of law is not merely a technical or legal matter but a foundational element of the social and psychological fabric that underpins the EU's stability and cohesion. The rule of law ensures that all actions within the Union are predictable, transparent, and consistent with established

norms and principles. This predictability fosters a sense of trust and reliability among member states and their citizens, which is essential for the EU's collective identity and functionality. When the rule of law is violated, whether through the erosion of judicial independence, the suppression of media freedoms, or the infringement of civil liberties, it disrupts this sense of predictability and coherence. Such violations create an environment of uncertainty and distrust, not only within the affected member state but across the Union as a whole. This uncertainty can lead to ontological insecurity, where the foundational beliefs and expectations that support the EU's collective identity are called into question. The ontological security lens thus reveals that rule of law violations have profound implications beyond the immediate legal and political spheres. They threaten the EU's identity as a union of democratic states committed to upholding fundamental rights and the rule of law. This threat to identity can result in a loss of cohesion and solidarity among member states, weakening the Union's ability to function effectively and project its values externally.

The promotion of stability and order among its member states and citizens is largely dependent on the rule of law, as the European Union is a supranational organization based on shared institutions and laws. The foundation of the EU system, guaranteeing that all member states uphold the same standards of justice, governance, and fundamental rights, is the rule of law, which is more than just a collection of legal precepts. Deep levels of anxiety and uncertainty may result when this legal framework is jeopardized, either as a result of member state actions or the incapacity of EU institutions to enforce compliance. Within the bounds of the EU treaties, member states are guaranteed the preservation of their national sovereignty by the rule of law, which creates a stable framework for economic and political cooperation. For citizens, it ensures that their rights are protected, and that they can rely on the impartiality and independence of their legal systems. A sense of unpredictability and insecurity is engendered by violations of the rule of law, such as compromising judicial independence, limiting press freedoms, or violating civil liberties. These acts have the potential to undermine confidence in national governments as well as EU institutions, which could result in a crisis of faith in the EU's capacity to uphold its core values. The general public's view of the EU's efficacy and legitimacy is also being eroded, in addition to the immediate consequences of such violations. The problem is made worse by the EU institutions' incapacity to deal with and correct these violations. When the European Commission, the European Parliament, or the European Court of Justice appear powerless or slow to act, it undermines the authority and credibility of the EU. This inaction or perceived ineffectiveness can embolden member states to further deviate from EU norms, creating a vicious cycle of declining adherence to the rule of law. The resulting anxiety and uncertainty

affect not only the internal dynamics of the EU but also its external relations. The EU's image as a promoter of democracy and human rights is tarnished, weakening its influence on the global stage. As a result of these developments, candidate countries might begin to doubt the EU's commitments and their significance, which could undermine the EU's strategic objectives and destabilize the enlargement process.

By comprehending the relationship between ontological insecurity and violations of the rule of law, scholars and policymakers can more effectively address the underlying causes of instability within the European Union. It emphasizes the necessity of all-encompassing plans that include actions to rebuild confidence and predictability in the Union's institutions and procedures in addition to those that merely enforce the law. Furthermore, by embracing an ontological security viewpoint, the EU can create more complex and potent responses to crises involving the rule of law. In addition to correcting legal infractions, such actions would work to reestablish the general sense of stability and security that is necessary for the Union's cohesiveness. This strategy can ensure that the EU stays a strong, integrated organization that is able to handle upcoming difficulties and assist in preventing the erosion of trust.

In the “crisis” phase of the rule of law crisis in the European Union, the literature traces its beginnings back to Eastern enlargement, but most argue that the crisis spread in a series of episodes in Hungary in 2010 when the Orban government secured a majority to amend the constitution (Kelemen, 2020, p. 493). Moreover, Poland has become one of the nations most often brought up in this crisis due to violations on the independence of the judiciary. The political sympathies of certain member states with violator nations delayed the European Union's response to these crises occurring within its borders, and the Union was poorly equipped to deal with the issue. Therefore, when action became imperative, mechanisms such as annual rule of law reports, justice scoreboard and conditionality mechanism were first developed within the EU to protect the rule of law. The new mechanisms were mostly bureaucratic, more motivated by condemnation, correction and persuasion than prevention, and therefore “toothless” against violating member states that were increasingly empowered by populist rhetoric. However, the European Union already had a regulation to deal with these kinds of fundamental principle infractions: Article 7 of the TEU. Article 7 is an instrument that can have severe and dissuasive effects, including depriving member states that violate the fundamental principles of their ability to vote. The contradictory part, though, is that it calls for unanimity. Although the regulation effectively covers what should happen when a member state violates the core principles, it is regrettably ineffective in the face of a

community of member states that strengthen their ties to one another and broaden their national rhetoric against the Union.

Both inside and outside the EU, these fruitless attempts have drawn harsh criticism and accusations of hypocrisy from the EU. As the defender of democracy, the EU has come under fire for acting hypocritically when it comes to legal transgressions—a very routine disruptor development for a union of this kind. Yet at the EU level, this image-damaging development has been met with silence. Ursula von der Leyen, who won again in the June 2024 elections, had pledged to bolster the rule of law throughout the Union during her previous term (2019–2024). However, the annual State of the Union (SOTEU) speeches demonstrate that the rule of law is addressed as a sub-heading of other agenda items. Physical threats like the tension between Russia and Ukraine reclaimed their top spot on the agenda just as the rule of law crisis was starting to receive significant attention. The EU ignores the escalating state of internal insecurity while calibrating its security to counter physical threats. The rhetoric coming from other Commission officials has also been similarly harsh at times, while at other times it has been simply condemning the incidents and carrying on with the process. However, the Commissioner for Values and Transparency, Věra Jourová, ironically provides a hint as to the direction in which the organization with which herself is associated, the European Commission, should not remain silent: "Although it is great that experts talk about the rule of law, no resolution will be reached if the discourse remains at this expert level and leaves out the general public" (European Commission, 2021c). On the other hand, even though the European Parliament has numerous committees and hearings that deal directly with the rule of law, the fact that the media frequently covers irregularity cases (i.e. Qatargate) involving the Parliament—that is, the MEPs—damages the institution's reputation from the beginning. Furthermore, the fact that the Parliament is vehemently denouncing the Commission's actions suggests that the issue of the rule of law has become politicized and that the narrative between the cooperating EU institutions has changed. In a similar harsh manner, but on a more individual level, Charles Michel, the President of the European Council, accuses Ursula von der Leyen of the ineffectiveness of the rule of law initiatives. This is actually quite unusual for the EU, a union that places a strong emphasis on its institutions and actively works to prevent the elevation of any individual, who represents the institutions, in the political sphere. The Council of the EU Presidencies, which rotate among member states every six months and direct the political agenda of the Union, have included improvements in the rule of law in their programs, but their final declarations have all been content to carry on past efforts without adding anything innovative. Put another way, it is acknowledged that failing to prevent violations of the law

is a problem and is addressed in the programs; however, each new authority that takes over either ignores it out of anxiety or fails to act because they are unsure of how to address the issue. Upon analyzing the EU's disregard and lack of response in light of ontological security theory, first of all, it becomes evident that the biographical continuum of the EU is at jeopardy. By remaining silent about the breakdown of the rule-based order it has established since the end of World War II, the EU is moving away from its own routine and is unable to adequately respond to the violations against its foundation. It also denies that it is experiencing an existential crisis.

Secondly, the dichotomy of Self and Other is increasingly turning into opposite poles and becoming widespread within the EU. While the crises arising from the violation of the rule of law at the EU level are being dealt with irresolutely, the EU society is expressing itself in more active and groundbreaking ways. First of all, the fact that only half of EU society believes their justice system is good is a very startling statistic that is highlighted in the surveys. Since the same rate exists in some EU candidate nations, the EU is unable to differentiate itself through its core principles harming its democratic identity. The poll's findings also highlight how the EU is made up of member states that are heading in two different directions. As an illustration, the two-tiered Union idea is reinforced by the fact that only one-third of Bulgarians uphold core values, compared to 90% of Sweden, Finland, Denmark, and other Nordic nations. This duality makes it difficult for the EU to continue its life in harmony under a shared identity based on its values and makes it ontologically insecure. The "Self," that is the Union, is struggling to uphold the status quo and is entering into conflict within itself, while the "Other" is developing into a community of member states that are gradually drifting away from the EU's ideals.

Third, while it eliminates some threats by turning them into elements of fear, it continues an anxious policy series by remaining silent against internal threats originating from the rule of law, that is, it cannot get out of its own "protective cocoon" specifically in terms of the rule of law. The European Union is roiled by demonstrations against legal transgressions. Over the past ten years, it seems that small-scale and large-scale protests in favor of the rule of law have spread throughout EU society. On the other hand, when protests are considered as a whole, a low score on the rule of law scoreboard is correlated with the frequency of protests. The unexpected aspect is that the protests and incidents in the low-scoring nations have not elicited any significant response from the high-scoring member states. Even though the public is responding in such a clear manner, the European Union is working to eradicate external threats because they can quickly transform into a cause of fear, and since fear has

boundaries and has been around for centuries, it is easier to deal with. From a different angle, failing inside the "protective cocoon" is a more existential source of anxiety than failing outside, so the EU is looking outward to prevent itself from seeing its "protective cocoon" breached.

In conclusion, the European Union has devolved into an ontologically insecure entity that struggles to preserve its biographical continuity due to the inadequate defenses it has created against departures from its core principles. This insecurity manifests as the EU is increasingly split into opposing poles and dualities within itself, largely due to distortions in the dichotomy between the idealized democratic Self and the undemocratic Other. These internal conflicts undermine the EU's coherence and exacerbate its inability to project a unified identity. Furthermore, the EU attempts to suppress its internal anxiety by prioritizing external threats, thus avoiding a confrontation with its internal challenges. This strategy, while temporarily alleviating immediate concerns, ultimately hinders the Union's ability to address and resolve the root causes of its ontological insecurity. Acknowledging and embracing this anxiety, though potentially damaging in the short term, is essential for the EU to reestablish its foundational values and strengthen its overall ontological security.

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APPENDICES

A. TURKISH SUMMARY / TRKE ZET

Giriř

Uluslararası İliřkiler alanında gvenlik kavramı merkezi bir neme sahiptir ve bu alanda eřitli teorik yaklařımlar gvenlięin deęiřen doęasını ve nemini anlamaya alıřmaktadır. Geleneksel realist ve neorealist perspektifler uzun sredir devlet gvenlięinin ncelięine vurgu yapmıř ve askeri g ile g dengesi, ulusal gvenlięi saęlamanın ana yolları olarak grlmřtir. Ancak Soęuk Savař'ın sona ermesi ve yeni gvenlik tehditlerinin ortaya ıkması, gvenlik kavramının daha incelikli bir řekilde ele alınmasını saęlamıř ve liberalizm, konstruktivizm ve eleřtirel teori gibi alternatif yaklařımlar bu alana katkıda bulunmuřtur. Soęuk Savař'ın sona ermesi ve terrizm, iklim deęiřiklięi ve pandemiler gibi yeni gvenlik tehditlerinin ortaya ıkması, geleneksel gvenlik paradigmalarını daha fazla zorlamıřtır. Eleřtirel teorisyenler, gvenlięi yalnızca geleneksel tehditler zerinden deęil, bireylerin ve toplulukların gvenlięini de kapsayacak řekilde daha kapsamlı bir anlayıřla ele almayı savunmuřlardır.

Bu baęlamda, ontolojik gvenlik teorisi, son yıllarda devletlerin fiziksel tehditlerin tesindeki gvenlik ihtiyalarını kavramsallařtırmanın bir yolu olarak ne ıkmıřtır. Ontolojik gvenlik teorisi, devletlerin bireyler gibi, kimliklerinde ve dięerleriyle olan iliřkilerinde bir istikrar ve sreklilik aradıęını ileri srer. Bu teori, realist ve neoliberal gvenlik anlayıřlarına meydan okuyarak, devletlerin fiziksel topraklarını ve ıkarlarını koruma ncelięinin tesine gemektedir. Ontolojik gvenlik teorisi, devletlerin tutarlı ve istikrarlı bir z kimlik srdrme ihtiyacını vurgular ve bu kimlięin hem dıř evredeki hem de i dinamiklerdeki deęiřikliklerle tehdit edilebileceęini savunur.

Bu teori, zellikle Avrupa Birlięi'nin hukukun stnlę konusunda yařadıęı krizleri anlamak iin nemli bir ereve sunmaktadır. AB'nin demokratik kimlięi, hukukun stnlę ihlalleriyle tehdit edilmekte ve bu durum, Birlik iinde varoluřsal bir kaygıya neden olmaktadır. Ontolojik gvenlik teorisinin kkenleri, sosyolog Anthony Giddens'in,

bireylerin ve sosyal varlıkların etkili bir şekilde işlev görebilmek için ontolojik güvenliğe ihtiyaç duyduklarını ileri süren çalışmalarına dayanmaktadır. Bu kavram, uluslararası ilişkiler alanına da uyarlanarak devletlerin ontolojik güvenlik arayışlarının dış politika ve güvenlik arayışlarını nasıl şekillendirdiği üzerine çeşitli çalışmalarla geliştirilmiştir.

AB, Avrupa kıtasında barış, refah ve istikrarı sağlamada kilit bir rol oynayan uluslararası bir örgüttür. AB'nin başarısının merkezinde, Birliğin siyasi ve hukuki yapısının temel taşı olarak kabul edilen hukukun üstünlüğü ilkesi yer almaktadır. Hukukun üstünlüğü, tüm bireylerin, kurumların ve devletin kendisinin kamuya açık, eşit şekilde uygulanan ve bağımsız bir şekilde denetlenen yasalara tabi olmasını zorunlu kılan bir ilkedir. Bu ilke, gücün keyfi kullanımını sınırlayarak, vatandaşların hukukun güvence altına alınmasını sağlar. AB bağlamında, hukukun üstünlüğü, Birliğin yasal düzeninin bütünlüğünü korumak, AB vatandaşlarının hak ve özgürlüklerini güvence altına almak ve AB hukukuna uyum kültürünü teşvik etmek için hayati önem taşımaktadır.

Ancak, hukukun üstünlüğü ilkesi son yıllarda bazı üye devletlerin demokratik norm ve kurumları zayıflatan eylemleri nedeniyle artan tehditlerle karşı karşıya kalmıştır. Bu durum, özellikle Macaristan ve Polonya gibi ülkelerde ortaya çıkan illiberal ve otoriter eğilimlerin yükselmesiyle daha da belirgin hale gelmiştir. AB, bu ihlallere karşı etkili bir şekilde yanıt vermekte zorlanmış ve hukukun üstünlüğü ihlallerini ele alma mekanizmaları genellikle zayıf ya da etkisiz olarak algılanmıştır.

Bu tez, AB'nin hukukun üstünlüğünü savunmadaki yetersizliğini ontolojik güvenlik teorisi bağlamında inceleyerek, hukukun üstünlüğü ihlallerinin Birlik içindeki varoluşsal kaygıları nasıl derinleştirdiğini ve AB'nin uzun vadeli istikrarını nasıl tehlikeye attığını ortaya koymayı amaçlamaktadır. Tezin araştırma sorusu, "Avrupa Birliği neden hukukun üstünlüğü ilkesine yönelik saldırılara karşı etkili bir savunma yapamamıştır?" olarak belirlenmiştir. Bu soruya yanıt olarak, ontolojik güvenlik teorisi üzerinden bir hipotez geliştirilmiştir. AB'nin hukukun üstünlüğünü savunmadaki yetersizliği, ontolojik olarak güvensiz bir döneme girmiş olmasından kaynaklanmaktadır. Hukukun üstünlüğü krizleri, AB'nin kimliğini, bütünlüğünü ve sürekliliğini tehdit ederek, ontolojik güvenliğin bozulduğuna işaret etmektedir.

Bu çalışma, nitel araştırma yöntemine dayanmaktadır. AB'ye ait kamu belgeleri, raporlar ve AB liderlerinin açıklamaları incelenmiş, ayrıca Macaristan ve Polonya vakaları üzerinden iki örnek olay incelemesi yapılmıştır. Örnek olaylar bölümünde, 2023'ün ilk yarısına kadar olan verilerden yararlanılmıştır. Güncel tartışmalar ve kamuoyunun hissiyatını yansıtabilmek için

çevrimiçi haber makalelerinden faydalanılmıştır. Ayrıca, teorik bir temel oluşturmak ve literatürdeki boşlukları belirlemek amacıyla kapsamlı bir literatür taraması yapılmıştır. Literatürde, ontolojik güvenlik ve hukukun üstünlüğü krizleri üzerine yapılan çalışmaların genellikle ayrı ayrı ele alındığı, ancak bu iki alanın birleştirilmesiyle ilgili boşluk olduğu tespit edilmiştir.

Bölüm 1: Ontolojik Güvenlik ve Uluslararası İlişkiler: Teori ve Pratiğin Birleşimi

Günümüzde güvenlik arayışı bireyler, gruplar ve devletler için temel bir endişe kaynağıdır. Ancak, güvenlik kavramı oldukça karmaşık ve çok boyutludur. Sadece askeri savunma ve fiziksel saldırılara karşı korunma değil, aynı zamanda siyasi, ekonomik, sosyal ve çevresel boyutları da içerir. Bu genişleyen güvenlik anlayışı, tehditlerin sadece devletlerden değil, devlet dışı aktörlerden de gelebileceğini kabul eder. Dolayısıyla güvenlik, zamanla gelişmiş ve statik olmayan bir kavram haline gelmiştir.

Bu karmaşık güvenlik anlayışı göz önüne alındığında, ontolojik güvenlik bireylerin ve devletlerin öz kimliklerine dair istikrar ve süreklilik arayışını temel alır. Ontolojik güvenlik kavramının gelişimi, psikoloji ve sosyolojideki köklerine dayanır. 20. yüzyılın ortalarında psikolog R.D. Laing, ontolojik güvenliğini ilk kez bireylerin kimliklerine dair güvenlik arayışı olarak tanımlamıştır. Laing, bireylerin kendilerini ve çevrelerini anlamlandırmalarındaki süreklilik arayışını vurgulayarak, kimlik ve güvenlik arasındaki bağlantıya dikkat çekmiştir. Daha sonra sosyolog Anthony Giddens, bu kavramı daha da geliştirerek bireylerin rutinleri aracılığıyla kimliklerini nasıl oluşturduklarını ve koruduklarını açıklamıştır. Giddens'a göre, bireyler ve toplumsal yapılar, "koruyucu koza" olarak adlandırılan bir güvenlik çerçevesi oluşturur. Bu çerçevenin dışına çıkıldığında, bireyler kaos ve anksiyete ile karşı karşıya kalırlar. Giddens'in çalışmaları, bu kavramı uluslararası ilişkilerde devletlerin kimliklerini nasıl koruduğunu anlamada önemli bir teori haline getirmiştir.

Giddens'in ontolojik güvenlik teorisi, bireylerin ve devletlerin sadece fiziksel güvenlik değil, aynı zamanda kimliklerini ve devamlılıklarını koruma arayışında olduklarını vurgular. Ontolojik güvenlik, fiziksel güvenlikten farklı olarak kimliğin sürekliliğini ve bireylerin kendilerini anlamlandırma süreçlerini koruma arayışındır. Fiziksel güvenlik genellikle askeri tehditlere ve devletin varlığını sürdürmesine odaklanırken, ontolojik güvenlik bireylerin ve devletlerin kimliklerine dair süreklilik arayışını ve duygusal istikrarlarını koruma ihtiyacını ele alır. Ontolojik güvenlik teorisi, "Öteki" ve "Ben" arasındaki dikotomiye dayalı olarak, devletlerin kimliklerini tehdit eden dış unsurlara karşı nasıl tepki verdiğini açıklar.

Kaygı ve korku arasındaki ayrım da ontolojik güvenlik literatüründe önemli bir yer tutar. Korku, belirli bir nesneye yönelmiş bir tepkiyken, kaygı daha genel bir belirsizlik duygusudur ve bireylerin veya devletlerin kendilerini güvende hissetmediklerinde verdikleri tepkiyi açıklar.

Teori, devletlerin güvenlik politikalarını kimlik ve rutine dayalı olarak nasıl şekillendirdiğini açıklamaya çalışır. Ancak bu yaklaşım zamanla bireylerden devletlere ve devletlerarası ilişkilere genişletilmiş, kimlik inşası ve güvenlik arayışı devlet politikalarının temel bir parçası haline gelmiştir. Jennifer Mitzen, Brent J. Steele ve Bahar Rumelili gibi akademisyenler, ontolojik güvenliğin sadece birey düzeyinde değil, devletler düzeyinde de işlediğini savunarak bu teoriyi uluslararası ilişkilere uyarlamışlardır. Mitzen, ontolojik güvenliğin devletlerin kimliklerini ve ilişkilerini sürdürme ihtiyacını vurgulayarak, devletlerin dış tehditlerden çok kendi kimliklerine yönelik tehditlere nasıl odaklandığını açıklamıştır. Brent J. Steele ve Bahar Rumelili gibi akademisyenler, devletlerin ontolojik güvenlik arayışının uluslararası ilişkilerdeki karar alma süreçlerini nasıl etkilediğini tartışmışlardır. Devletlerin istikrarlı bir kimlik arayışı, onların dış politikalarındaki süreklilik ihtiyacını açıklar. Örneğin, devletlerin tarihsel kimliklerini korumak adına bazı riskleri göze alarak dış tehditlerle nasıl başa çıktıkları incelenmiştir. Bu çalışmalar, ontolojik güvenlik teorisinin uluslararası ilişkilerde nasıl geniş bir kullanım alanına sahip olduğunu ve devletlerin kimlik inşası ile güvenlik politikaları arasındaki bağlantıyı derinlemesine anlamamıza nasıl katkıda bulunduğunu göstermektedir.

Bölüm 2: İstikrarın Temel Taşı: Avrupa'da Hukukun Üstünlüğü İlkesi

Bu bölümde, hukukun üstünlüğü ilkesinin, bireyler ve kurumlar için istikrar ve öngörülebilirlik sağlayarak adil ve dengeli bir toplumun işleyişi için nasıl temel oluşturduğu ele alınmaktadır. Hukukun üstünlüğü, gücün kötüye kullanımına karşı bir güvence sağlarken, aynı zamanda hesap verebilirlik ve şeffaflığı da teşvik eder. Hukukun üstünlüğünün Avrupa Birliği içindeki önemi ve bu ilkenin AB'nin kurucu antlaşmaları, çeşitli mekanizmaları ve üye devletlerle ilişkisi detaylı bir şekilde incelenmiştir. Ayrıca, Polonya ve Macaristan'daki hukukun üstünlüğü ihlalleri, AB'nin uzun süredir devam eden bir krizi olarak değerlendirilmiş ve bu iki ülkenin hukuk sistemlerindeki bozulmalar ayrıntılı olarak analiz edilmiştir.

Hukukun üstünlüğü, Birleşmiş Milletler tarafından, herkesin ve her şeyin, insan haklarını koruyan adil uygulanan ve yürürlüğe konan yasalara tabi olması ve bu yasalardan sorumlu

tutulması olarak tanımlanır. AB'nin kurucu antlaşmaları olan Maastricht, Amsterdam, Nice ve Lizbon Antlaşmaları ile hukukun üstünlüğü AB'nin temel bir değeri olarak kabul edilmiştir. Bu antlaşmalar, AB'nin her üye devletin eşit temsil edildiği ve herkesin yasalar önünde eşit olduğu bir sistem üzerine inşa edilmesini sağlamıştır. AB'nin kurucu antlaşmaları, hukukun üstünlüğünün tüm üye devletler için bağlayıcı bir ilke olmasını sağlamıştır.

Polonya'daki hukukun üstünlüğü krizi, yargı bağımsızlığını zayıflatan ve denge denetim mekanizmalarını aşındıran yargı reformlarıyla başlamıştır. Bu reformlar, AB'nin Polonya'ya karşı ihlal prosedürlerini başlatmasına ve AB'nin temel değerlerinin ihlal edilme riskine karşı bir dizi tedbir almasına yol açmıştır. Polonya Anayasa Mahkemesi'nin AB hukuku ile çelişen kararları, AB ile Polonya arasında ciddi bir gerilime neden olmuştur. Bu süreçte AB, Polonya'ya mali yardımları durdurma gibi yaptırımlar uygulamıştır.

Macaristan'da Viktor Orbán liderliğindeki hükümet, yargının bağımsızlığını ve medya özgürlüğünü zayıflatan bir dizi anayasal değişiklik yapmıştır. Orbán, 2010 yılından itibaren güçler ayrılığı ilkesini zayıflatmış ve medya özgürlüğünü sınırlandırmıştır. AB, Macaristan'a karşı hukukun üstünlüğü ilkesinin ihlali gerekçesiyle çeşitli mekanizmalarla müdahalede bulunmuş ve mali yaptırımlar uygulamıştır.

Avrupa Birliği, hukukun üstünlüğü krizine karşı farklı araçlar ve mekanizmalar geliştirmiştir. Bu mekanizmalar, üye devletlerin hukukun üstünlüğüne uygun hareket edip etmediğini izlemeyi, değerlendirmeyi ve gerektiğinde yaptırım uygulamayı amaçlamaktadır.

7. Madde, AB'nin hukukun üstünlüğü ihlallerine karşı en sert mekanizmasıdır ve üye devletin oy hakları gibi belirli haklarının askıya alınmasına kadar varabilecek yaptırımlar öngörür. Ancak bu mekanizmanın uygulanması için oy birliği gerektiği için çoğu durumda etkinliği sınırlı kalmaktadır. Macaristan ve Polonya ve Macaristan gibi ülkelerin birbirini destekleyerek bu süreci bloke etmesi, 7. Madde'nin uygulanmasını zorlaştırmıştır.

2014 yılında kabul edilen Hukukun Üstünlüğü Çerçevesi, hukukun üstünlüğüyle ilgili bir üye devletteki sorunların ele alınmasında erken aşamada müdahaleyi amaçlayan bir önleyici mekanizmadır. Bu mekanizma, üç aşamalı bir süreç öngörür:

1. İlk aşamada, Avrupa Komisyonu üye devletle diyaloga girer ve sorunu değerlendirir.
2. İkinci aşamada, çözüm bulunamaması halinde Komisyon, resmi bir tavsiye kararı yayınlar.

3. Son aşamada ise, 7. Madde sürecinin başlatılması gündeme gelir.

2020 yılında başlatılan Yıllık Hukukun Üstünlüğü Raporu, AB genelindeki hukukun üstünlüğü durumunu değerlendiren ve her üye devletin hukukun üstünlüğüne ilişkin gelişmelerini inceleyen bir mekanizmadır. Rapor dört temel alana odaklanır:

1. Yargı sistemlerinin işleyişi
2. Yolsuzlukla mücadele çerçeveleri
3. Medya çoğulculuğu ve özgürlüğü
4. Demokratik denge ve kontrol mekanizmaları

Rapor, hukukun üstünlüğüne yönelik tehditleri önceden tespit etmeyi ve gerekli tedbirlerin alınmasını sağlamayı amaçlamaktadır. Ancak, raporun bağlayıcı bir etkisi olmaması eleştirilere neden olmuştur.

AB Adalet Karnesi, üye devletlerin yargı sistemlerinin kalitesi, bağımsızlığı ve etkinliği hakkında karşılaştırmalı veri sağlayan bir araçtır. Adalet sistemlerinin performansını ölçen bu karnede, üye devletlerin mahkemelerinin işleyişi ve vatandaşların adalete erişimi gibi faktörler değerlendirilir. Bu değerlendirme, yargı bağımsızlığı ve hukukun üstünlüğü alanlarındaki sorunları tespit etmeye yardımcı olur. Karnenin sunduğu veriler, Komisyon ve üye devletler tarafından reform önerileri ve politikalar geliştirilirken dikkate alınır.

2021 yılında kabul edilen Koşulluluk Mekanizması, hukukun üstünlüğü ihlallerinin AB bütçesi üzerindeki etkilerine odaklanır. Bu mekanizma, bir üye devletin hukukun üstünlüğü ihlali nedeniyle AB fonlarının yanlış yönetilmesi ya da risk altında olması durumunda, bu devletin AB fonlarına erişimini sınırlandırma yetkisi tanır. Özellikle Macaristan ve Polonya gibi ülkelerde bu mekanizmanın devreye sokulması, AB'nin mali yaptırım araçlarını hukukun üstünlüğü krizlerine karşı kullanmasının önemli bir örneği olmuştur.

AB'nin hukukun üstünlüğü krizine karşı geliştirdiği bu mekanizmalar, üye devletlerdeki demokratik gerilemelere karşı bir dizi önlem sunmaktadır. Ancak bu mekanizmaların etkinliği, uygulamada yaşanan zorluklar ve oy birliği gibi karar alma süreçlerindeki tıkanıklıklar nedeniyle sınırlı kalmıştır. AB, hukukun üstünlüğü ihlallerine karşı yeterince hızlı ve etkili tepki verememekle eleştirilmektedir. Bazı eleştirmenler, AB'nin hukukun üstünlüğünü savunma çabalarının kağıt üstünde kaldığını ve üye ülkelerdeki demokratik gerilemeleri tam anlamıyla ele alamadığını savunmaktadır. Özellikle Macaristan ve Polonya

örneklerinde, AB'nin yavaş tepkisi ve bazı ülkelerin vetoları, hukukun üstünlüğü krizinin çözümünü zorlaştırmıştır.

Bölüm 3: Bir Anksiyete Sentezi: Ontolojik Güvenlik ve Hukukun Üstünlüğünün Avrupa Birliğinde Kesişimi

Avrupa Birliği, dışarıdan bakıldığında tek bir monolitik yapı gibi algılansa da aslında üye devletlerin ekonomik ve siyasi meselelerini yönetmek üzere birbirine bağlı çok sayıda kurumdan oluşan karmaşık bir sistemdir. AB'nin temel kurumları arasında Avrupa Komisyonu, Avrupa Birliği Konseyi ve Avrupa Parlamentosu yer alır; her biri farklı sorumluluk ve yetkilere sahiptir.

Avrupa Komisyonu, hukukun üstünlüğü ihlallerine karşı çeşitli araçlar geliştirmiştir. Başkan Ursula von der Leyen, hukukun üstünlüğünü AB'nin temel değeri olarak tanımlamış ve 2020'de Hukukun Üstünlüğü Yıllık Raporu'nun yayımlanacağını duyurmuştur. Bu rapor, tüm üye ülkelerdeki hukukun üstünlüğü durumunu izlemeyi amaçlamaktadır. Ayrıca, 2021'de AB'nin daha kararlı adımlar atacağını belirten von der Leyen, ihlallerin kabul edilmeyeceğini vurgulamıştır.

Komisyon'un iki önemli üyesi, Vera Jourová (Değerler ve Şeffaflık) ve Didier Reynders (Adalet), hukukun üstünlüğünü koruma çalışmalarında öncüdür. Reynders, hukukun üstünlüğünün AB'nin varlığı için hayati olduğunu belirtmiş, ancak mekanizmaların yeterli olmadığını da kabul etmiştir.

Avrupa Parlamentosu'nun hukukun üstünlüğü konusundaki denetleyici görevlerinden biri, Sivil Özgürlükler, Adalet ve İçişleri Komitesi (LIBE) tarafından yerine getirilir. LIBE, AB'nin temel değerlerinin korunmasını sağlar. Parlamentonun, hukukun üstünlüğü konusunda eleştirileri ise AB'nin ihlallere karşı daha sert adımlar atmaması yönündedir.

Avrupa Birliği Bakanlar Konseyi, AB'nin siyasi yönelimlerini belirler. Ancak, oy birliği gerekliliği ve karar alma süreçlerindeki tıkanıklıklar, özellikle hukukun üstünlüğü ihlalleriyle ilgili olarak AB'nin etkinliğini sınırlamaktadır. Charles Michel, Avrupa Birliği Bakanlar Konseyi başkanı olarak, hukukun üstünlüğü mekanizmalarının politize edildiğini belirtmiş ve reform ihtiyacını vurgulamıştır.

Avrupa Birliği Konseyi'ndeki dönüşümlü başkanlık sistemi, her üye devletin altı aylık sürelerle AB Konseyi'ne başkanlık yapmasını öngörür. Bu sistem, üye devletler arasında iş

birliğini ve devamlılığı sağlamak amacıyla kurulmuştur. Ancak, bu yapının hukukun üstünlüğü krizine yönelik etkisi, daha çok söylemde kalmış ve somut eylemler noktasında yetersiz kalmıştır. Hukukun üstünlüğü, özellikle son yıllarda AB'nin temel kriz başlıklarından biri olmasına rağmen, dönüşümlü başkanlık yapan ülkelerin çoğu bu konuda etkin adımlar atamamış ve genellikle söylemsel düzeyde kalmıştır. 2019-2024 döneminde, AB Konseyi'nin başkanlığını üstlenen on bir üye devletten sadece dört tanesi (Finlandiya, Slovenya, İsveç ve Belçika) hukukun üstünlüğü konusunu başkanlık programlarına dahil etmiştir.

Avrupa Birliği'nin hukukun üstünlüğü krizi, sadece kurumsal yapılar düzeyinde değil, toplumsal düzeyde de derin etkiler yaratmaktadır. Avrupa Komisyonu'nun düzenli olarak gerçekleştirdiği Eurobarometer anketleri, AB vatandaşlarının adalet sistemlerine ve hukukun üstünlüğüne dair algılarını ortaya koymaktadır. 2024 Eurobarometer Anketi sonuçlarına göre, AB vatandaşlarının %52'si ülkelerindeki adalet sisteminin bağımsız olduğunu düşünmektedir. Ancak bu oran, bazı üye devletler için oldukça düşük kalmaktadır. Örneğin, Polonya ve Macaristan gibi hukukun üstünlüğü konusunda sürekli eleştirilen ülkelerde, halkın %70'den fazlası adalet sisteminin bağımsız olmadığını belirtmektedir. 2023 Temmuz ayı verilerine göre, AB vatandaşlarının %70'i ülkelerinde yolsuzluğun yaygın olduğunu düşünmektedir. Macaristan'da bu oran %96'ya çıkmaktadır. Yolsuzluk algısı, hukukun üstünlüğüne olan güvenin azalmasına neden olmakta ve AB içindeki sosyal huzursuzluğu beslemektedir. 2021 Eurobarometer sonuçları, AB vatandaşlarının %65'inin AB'nin temel değerlerinin yeterince korunduğuna inandığını göstermektedir. Ancak, ülkeler arasında ciddi farklılıklar mevcuttur; İsveç'te bu oran %91, Bulgaristan'da ise sadece %34'tür. Bu durum, AB içinde hukukun üstünlüğü ilkesine duyulan güvenin üye devletler arasında ciddi şekilde farklılık gösterdiğini ortaya koymaktadır. Polonya'da, 2016 Eurobarometer anketinde halkın sadece %30'u adalet sisteminin bağımsız olduğunu düşünmekteydi. Bu oran, 2023'te daha da düşerek %26'ya inmiştir. Macaristan'da ise, 2010 yılında adalet sistemine güvenenlerin oranı %46 iken, 2023'te bu oran %28'e kadar gerilemiştir. Bu düşüş, hukukun üstünlüğüne yönelik halkın duyduğu güvenin hızla erozyona uğradığını ve toplumun bu konuda giderek artan bir endişe taşıdığını göstermektedir.

AB içinde hukukun üstünlüğü krizine karşı duyulan toplumsal rahatsızlık, sadece anketlerle sınırlı kalmamış, büyük çaplı protestolarla da kendini göstermiştir. Toplumlar, yargı bağımsızlığının zedelenmesi, yolsuzluklar ve hükümetlerin otoriter eğilimleri gibi nedenlerle sokaklara dökülmüş ve hukukun üstünlüğüne sahip çıkma taleplerini yüksek sesle dile getirmişlerdir. 2020 yılında Bulgaristan'da yaklaşık binlerce kişi hükümete karşı protestolar düzenlemiştir. Protestocular, Başbakan Boyko Borisov'un ve Başsavcı Ivan Geshev'in

istifasını istemiş, yolsuzluk ve yargı bağımsızlığı konularında reform çağrısında bulunmuşlardır. Protestolar sonucunda bazı bakanlar ve ulusal güvenlik servisinin başkanı istifa etmiş, hükümet ise anayasa reformu yapmayı teklif etmiştir. Ancak, bu adımlar krizi tamamen çözmekte yetersiz kalmıştır. Sırbistan’da, 2018 yılında başlayan ve bir yıl süren “1 of 5 million” protestoları, vatandaşların adalet, demokrasi ve hukukun üstünlüğü taleplerini ortaya koymuştur. Başkan Vucic’in “5 milyon kişi de gelse taviz vermem” sözü, protestoların büyümesine yol açmıştır. Bu protestolar, Sırbistan’da genç kuşağın hukukun üstünlüğüne dair taleplerini güçlü bir şekilde dile getirdiği bir hareket olarak tarihe geçmiştir.

Hukukun üstünlüğü konusunda protestolar, AB toplumunun bu ilkenin ihlal edilmesine karşı büyük bir hassasiyet taşıdığını göstermektedir. Ancak, protestolar çoğunlukla etkili reformlara yol açmamış ve AB kurumları, hukukun üstünlüğü ihlallerine karşı yeterli ve etkin yanıtlar verememiştir. Protestoların başarısızlığı, AB içindeki toplumsal huzursuzluğun ve güvensizliğin derinleşmesine neden olmuş, bu durum da AB’nin geleceği için bir tehdit olarak algılanmaktadır.

AB, uzun zamandır demokratik değerler, hukukun üstünlüğü ve ekonomik refahın kalesi olarak kabul edilmekteydi, ancak son yıllarda Birlik içinde artan bir ontolojik güvensizlik hissiyle karşı karşıya kalmıştır. Bu güvensizlik, bireyin ya da topluluğun kendilik algısının sürekliliğine ve bütünlüğüne yönelik bir tehdit olarak algılanabilir ve sosyal ve siyasi kurumların istikrarı üzerinde geniş kapsamlı sonuçlar doğurabilir. AB bağlamında, bu ontolojik güvensizlik giderek daha belirgin hale gelmiştir. Hukukun üstünlüğü ihlalleri ve bu sorunu ele almak için yetersiz çözümler, bir kimlik ve amaç krizine yol açmıştır; bu durum, Birlik içindeki kurumlar arası ilişkilerde gerginlik, işlevsiz mekanizmalar ve artan toplumsal huzursuzluk olarak tezahür etmektedir. Sonuç olarak, AB toplumu ontolojik olarak güvensiz bir hale gelmiştir.

Bu bölümde vurgulanan temel zorluklardan biri, hukukun üstünlüğünün AB düzeyinde kurumların gündeminin en üst sıralarında yer almamasıdır. AB’nin pek çok cephede temel ilkelerinden uzaklaştığı ve yerleşik düzenini bozduğu bir dönemde, hukukun üstünlüğü meselesi uzun süre göç, savaş tehdidi veya aşırı sağın ve popülizmin yükselişi gibi daha “büyük” sorun başlıklarının alt başlığı olarak ele alınmıştır. AB, bu sorunu ana odak noktası haline getirmek yerine, yeni kurulan çeşitli mekanizmalarla sorunu ele almaya çalışmıştır. İkinci sorun ise, AB’nin hukukun üstünlüğü gündemi ile üye devletlerdeki iç yönetim gerçekleri arasındaki kopuştur. Hukukun üstünlüğüne yönelik reformların teşviki, siyasi olarak özerk grupları harekete geçirmekte ve bu reformların demokratik hesap verebilirlik

ilkelerine göre sürdürülmesini sağlamada başarısız olmuştur. Bunun sonucunda, Orta ve Doğu Avrupa'da uygulanan hukukun üstünlüğü reformları sınırlı sonuçlar doğurmuş, yöneticiler ve yargıçlar uluslararası hukuki normların uygulanmasında zorlanmaya devam etmiştir.

AB kurumlarının artan şekilde siyasallaşması ve yapıcı kurumlar arası iş birliğinin aşınması, hukukun üstünlüğünün korunmasındaki zorlukları daha da karmaşık hale getirmiştir. Üst düzey yetkililerin söylemleri ve anlatıları, giderek yerleşik kurumsal yapıların ve süreçlerin önüne geçmiş, AB'nin getirdiği izleme mekanizmaları, belirli üye devletlerde hukukun üstünlüğü gerilemesi sorununa kalıcı ve etkili bir çözüm sunamamıştır.

Toplumsal düzeyde ise, düzenli istatistiksel verilere göre, yıllardır süregelen hukukun üstünlüğü ilkesindeki sapmaya karşı büyük bir memnuniyetsizlik vardır. AB'nin varoluşsal değerleri olan ulusal adalet sistemlerinin bağımsızlığı, temel değerlerin savunulması, yolsuzluğun yokluğu ve demokrasinin doğası, AB vatandaşları tarafından zor kabul edilmekte ve inandırıcı bulunmamaktadır. AB, aday ülkelere dayattığı hukukun üstünlüğü gerekliliklerini yerine getiremez hale gelmiş ve demokrasi konusunda "ikiyüzlülük" ile suçlanmaktadır ki bu, AB'nin temel değeridir.

Ontolojik güvenlik teorisine göre, aktör, kimlik oluşturma sürecine girmek için "Öteki"ni tanımlar. Öz kimliğin gelişimi, büyük ölçüde Öteki'ne bağlıdır. Kriz bağlamında birçok üye devlet, ulusal kimliklerini AB'nin değerler setinden bağımsız olarak inşa etmeye çalışmakta ve AB, bu sorunu kökten çözmek için gerekli araçlardan yoksun olduğunu göstermektedir. Hukukun üstünlüğünün zayıflaması çeşitli örneklerle ortaya konduğuna göre, AB'nin bu sorunu çözmek ve uyumu yeniden sağlamak için daha merkezîyetçi bir yaklaşım benimsemesi, kamuoyuna ihlallerin potansiyel sonuçları hakkında daha net bir açıklama yapması ve farklı yollarla memnuniyetsizliklerini ifade eden vatandaşlarının sesini dinlemesi gerekmektedir.

Farklı bir bakış açısına göre, AB kendini entegrasyon içinde tutmak ve rutini korumak istemektedir; içte büyüyen ve gelişen hukukun üstünlüğü sorunları karşısında sessiz kalırken dışarıdaki gelişmelere aynı eski sağduyu ile yanıt vererek ontolojik güvenlik hissetmek istemektedir.

Sonuç

Avrupa Birliği, üye devletlerinde yaşanan hukukun üstünlüğü ihlalleri nedeniyle son yıllarda ciddi zorluklarla karşı karşıya kalmıştır. Bu ihlaller, basın özgürlüğünün kısıtlanmasından

yargı bağımsızlığının zayıflatılmasına kadar uzanan geniş bir yelpazede yer almakta ve AB'nin temel değerlerini koruma kapasitesine ilişkin ciddi şüpheler doğurmaktadır. Polonya ve Macaristan gibi üye devletlerde hükümetlerin yargı üzerindeki etkisinin artması, yargı bağımsızlığını tehlikeye atarak, politik olarak yönlendirilmiş kararlar alınabileceğine dair endişelere yol açmıştır. Demokratik normlar, medya organlarının hükümet tarafından ele geçirilmesi, kısıtlayıcı medya yasaları ve gazetecilere yönelik baskılar gibi önlemlerle daha da zayıflamıştır. Bu sorunlar, bazı AB üye devletlerinde popülist ve otoriter eğilimlerin ortaya çıkmasıyla daha da kötüleşmiş, AB'nin demokrasiye, insan haklarına ve hukukun üstünlüğüne olan bağlılığını tehlikeye atmıştır. Bu olaylar, AB'nin temel ilkelerine bağlı kalınmasını sağlamak için daha güçlü yaptırımların gerekliliği ve mevcut sistemlerin etkinliği konusunda tartışmalara yol açmıştır.

Bu gelişmelerle eş zamanlı şekilde, uluslararası ilişkiler çalışmalarında ontolojik güvenlik teorisi de önem kazanmıştır. Bu teori, devletlerin dış çevrelerinde sürekliliği koruma ve kendilerini istikrarlı bir şekilde tanımlama ihtiyacını anlamak için bir çerçeve sunar. Devletlerin, bireyler gibi, tutarlı bir kimlik oluşturma ve dış dünya ile güvenilir ve istikrarlı ilişkiler sürdürme amacıyla olduklarını öne sürer. Bu süreklilik, devletlerin varoluşlarını anlamlandırmalarını ve karmaşık bir dünya içinde yön bulmalarını sağlar. AB'nin istikrarını sürdürmesi ve ortak kimliğini koruması için demokratik ilkeler ve ortak değerler çerçevesinde tutarlı bir anlatının devam ettirilmesi gerekmektedir.

AB'de hukukun üstünlüğü ihlalleri ve ontolojik güvenlik arasındaki açık ilişkiye rağmen, bu iki kavramın birlikte ele alındığı araştırmalar sınırlıdır. Hukukun üstünlüğünün zayıflaması, AB'nin demokratik yönetim ve insan hakları savunucusu olarak sahip olduğu itibarı sarsmakta ve Birlik'in ontolojik güvenliğini tehdit etmektedir. Bu tür ihlaller, AB içinde istikrarın bozulmasına ve uluslararası alanda saygınlığının azalmasına yol açarak, iç bütünlüğü zayıflatabilir. Bu araştırma, hukukun üstünlüğü ihlalleri ile AB'nin ontolojik güvenlik arayışı arasındaki ilişkiyi incelemeyi hedeflemektedir. Bu krizlerin, AB'nin hem içerde hem de dışarıda değerlerini yansıtmak kabiliyetini nasıl etkilediğini analiz ederek, bu kritik meselelerin birbirleriyle olan etkileşimlerine dair kapsamlı bir anlayış sunmaktadır.

Ontolojik güvenlik teorisi, AB içinde hukukun üstünlüğü ihlallerinden kaynaklanan güvensizliği anlamak için güçlü bir çerçeve sunmaktadır. Hukukun üstünlüğü, tüm eylemlerin öngörülebilir, şeffaf ve yerleşik normlara uygun olmasını sağlar ve bu öngörülebilirlik, AB'nin toplu kimliği ve işleyişi için gerekli olan güven ve güvenilirlik duygusunu teşvik eder. AB'de hukukun üstünlüğü ilkesine yönelik ihlaller, sadece yargı

bağımsızlığının zayıflaması, medya özgürlüklerinin kısıtlanması ya da sivil özgürlüklerin ihlali ile sınırlı kalmayarak, Birlik genelinde öngörülebilirlik ve uyum duygusunu da tehdit etmektedir. Bu tür ihlaller hem ilgili üye devlette hem de tüm Birlik genelinde bir belirsizlik ve güvensizlik ortamı yaratır. Böyle bir ortam, AB'nin kimliğini destekleyen temel inançların sorgulanmasına neden olabilir ve Birlik içindeki dayanışmayı zayıflatabilir. Bu bağlamda, ontolojik güvenlik perspektifi, hukukun üstünlüğü ihlallerinin sadece yasal ve siyasi alanlardaki sonuçlarını değil, aynı zamanda AB'nin kimliği ve bütünlüğü üzerindeki derin etkilerini de ortaya koymaktadır. Bu ihlaller, AB'nin demokratik devletler birliği olarak kimliğine yönelik bir tehdit oluşturmaktadır.

Tezde hukukun üstünlüğü krizi, AB düzeyinde ve toplumsal düzeyde ontolojik güvenlik bağlamında ele alınmıştır. AB düzeyindeki bulgulara göre, AB kurumları hukukun üstünlüğü ihlallerine birincil önem atfetmemektedir. Bu ihlaller gündeme geldiğinde bile, günlük uygulamalarda yeterince yer bulmadığı gözlemlenmektedir. Hukukun üstünlüğü ile ilgili tartışmalar, AB kurumları arasındaki iş birliği imajını zayıflatmış ve bu kurumlar arasındaki çatışmaları daha görünür hale getirmiştir. Bu durum, AB'nin rutininden ve kendi kimlik anlatısından uzaklaştığını göstermektedir. Hukukun üstünlüğü gibi temel bir ilkenin korunması konusunda kurumların yetersiz kalması, AB'nin kendi değerleriyle çeliştiğini ortaya koymaktadır.

Toplumsal düzeyde ise, AB genelinde yapılan anketler, vatandaşların yalnızca %52'sinin yargı sistemlerinin iyi olduğunu düşündüğünü, %37'sinin ise olumsuz bir değerlendirme yaptığını göstermektedir. Özellikle genç nüfusun hukukun üstünlüğü ile ilgili olumsuz görüşleri, AB'nin geleceği açısından önemli bir tehdit oluşturmaktadır. Son on yılda hukukun üstünlüğü ihlallerine karşı birçok protesto gerçekleşmiş olmasına rağmen, AB bu tepkilere karşı sessiz kalmıştır. Bu sessizlik, AB'nin demokratik değerlerine zarar vermekte ve hukukun üstünlüğüne yönelik tehditler karşısında AB'nin kendi içine kapanmaya devam ettiğini göstermektedir.

Yapılan araştırmalar sonucunda, AB'nin hukukun üstünlüğü ile ilgili karşılaştığı krizleri anlamaya yönelik üç temel bulguya ulaşılmıştır. İlk bulgu, AB'nin biyografik anlatısının bozulmasıdır. AB, kuruluşundan bu yana demokrasi, hukukun üstünlüğü, iş birliği ve birlik gibi temel değerler üzerine inşa ettiği bir anlatıya sahiptir. Ancak son yıllarda, politik sempatiler, yeni ancak işlevsiz araçların devreye girmesi, karar alma mekanizmalarındaki tıkanıklıklar ve demokratik ilkeler konusundaki çelişkiler bu anlatının tutarlılığını bozmuştur. Özellikle hukukun üstünlüğü ihlalleri karşısında AB'nin yeterli ve tutarlı bir

yanıt verememesi, bu biyografik anlatının zayıflamasına neden olmuş ve AB'nin kendi kimliğini korumakta zorlandığını göstermiştir.

İkinci bulgu, AB'nin "Kendi" ve "Öteki" dikotomisinin değişimidir. Geçmişte AB, kendisini demokrasi ve hukukun üstünlüğü savunucusu olarak konumlandırırken, "Öteki"ni demokratik olmayan ülkeler olarak tanımlamıştır. Ancak günümüzde, bu dikotomi içsel bir dönüşüm geçirmiştir; "Öteki", artık AB içindeki demokratik olmayan üye devletler haline gelmiştir. Polonya ve Macaristan gibi ülkelerde yaşanan hukukun üstünlüğü ihlalleri, bu duruma somut örnekler sunmaktadır. Bu değişim, AB'nin kendisini tanımladığı temel değerlere tehdit oluşturmakta, Birliğin içindeki demokratik olmayan eğilimler, AB'nin kendi kimliğini zayıflatmaktadır.

Son bulgu, korku ve kaygı arasındaki ayrımın AB'nin mevcut durumunu açıklamada önemli bir rol oynadığıdır. Ontolojik güvenlik teorisine göre korku, belirli ve bilinen tehditlere karşı verilen bir tepkidir; buna karşın, kaygı daha belirsiz, bilinmeyen tehditlere karşı hissedilen bir endişedir ve yönetilmesi daha zordur. AB, iç sorunlarını çözmek yerine, aşına olduğu dış tehditlere odaklanarak, bu tehditlerle daha kolay başa çıkmaya çalışmaktadır. Ancak hukukun üstünlüğü ihlallerini göz ardı etmek, AB içinde derin bir kaygıya neden olmaktadır. Bu kaygı, AB'nin kendi içinde çözüm bulamadığı yapısal sorunların bir yansımasıdır ve Birliğin uzun vadeli istikrarını tehdit eden bir unsur olarak ortaya çıkmaktadır.

Özetle, AB, hukukun üstünlüğünü korumakta zorlanmakta, üye devletlerdeki ihlaller yargı bağımsızlığını zedelemekte ve Birliğin demokratik kimliğini tehdit etmektedir. Ontolojik güvenlik teorisi, bu krizlerin neden kötü yönetildiğini açıklamaya yardımcı olmaktadır. AB, biyografik anlatısından uzaklaştıkça ve iç bölünmeler arttıkça, Kendi ve Öteki dikotomisi daha da radikalleşmekte ve bu da Birliği ontolojik olarak güvensiz bir hale getirmektedir.

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