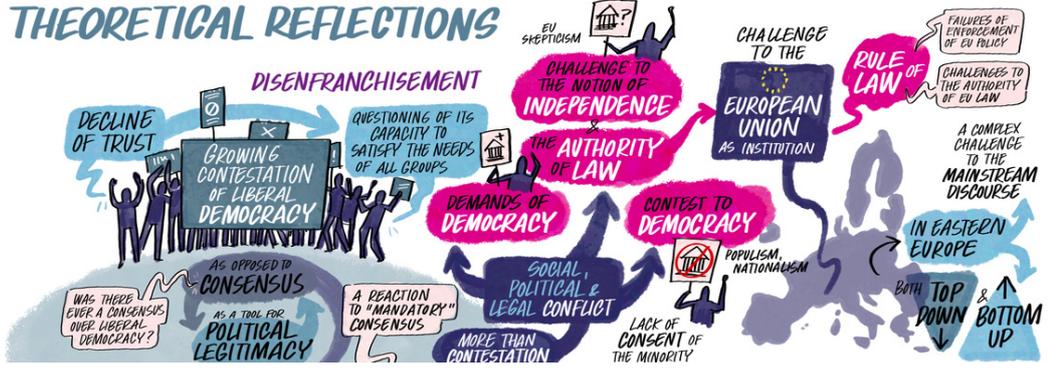




## DEBATING DISSENSUS: THEORETICAL REFLECTIONS

GEM DIAMOND RED SPINEL 20 OCT 2022



# RED SPINEL

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## Table of Contents

Foreword.....	3
What is RED-SPINEL.....	4
Changes in the RED-SPINEL Project Governance Structure.....	6
-Supervisory Board.....	7
-International Advisory Board .....	8
RED-SPINEL 2024 Annual Conference.....	9
-Meeting of the International Advisory Board.....	9
-Roundtable with Policymakers.....	10
-Public Keynote Lecture.....	12
-Opening Keynote Address.....	14
-Edited collective volume.....	15
RED-SPINEL Activities.....	16
-Conferences/Seminars/Roundtables/Events.....	16
-Publications.....	16
Available Resources.....	17

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I am excited to share with our readers the 2nd edition of the RED-SPINEL Newsletter. With the coming of 2024, we have entered the 2nd year of the implementation of the RED-SPINEL project – a year which will be dedicated to consolidating and refining the concept of “dissensus”, continue collecting data and publishing, developing strategies for dissemination, commencing with the training agenda, and strengthening the engagement with policymakers.

The RED-SPINEL community held a very successful Annual Conference at the IEE-ULB in Brussels during mid-February 2024. It was an excellent occasion to further strengthen our existing cooperation and collaboration among the 11 consortium members, and to consolidate plans for 2024.

While we live in an age of geopolitical competition and ongoing wars and conflicts, the year 2024 is also the year of elections - elections that will take place on all continents, and notably in Europa and the USA. While elections could be a useful barometer for democracy, I have no doubt that we will also see some challenges and disruptions - dissensus over liberal democracy.

Enjoy the reading of the Newsletter!



**Ramona COMAN**

Professor in Political Science  
Université libre de Bruxelles | Faculty of Philosophy and Social Sciences  
Institut d'études européennes | Centre d'Étude de la Vie Politique

Academic coordinator: Horizon Europe RED-SPINEL project (2022-2025)  
Academic coordinator: Joint Doctorate Network Marie Skłodowska-Curie GEM-DIAMOND (2022-2025)



The Respond to Emerging Dissensus: SuPranational Instruments and Norms of European Liberal Democracy” (RED-SPINEL) Project is funded by the European Union through Horizon Europe and is executed under the authority of the European Research Executive Agency (REA) of the European Commission. The 36-month long, 3.2 million euro, interdisciplinary, international, and intersectoral project started in October 2022 and the expected completion is foreseen during the first half of 2026.

RED-SPINEL seeks to shed light on the growing dissensus surrounding liberal democracy and the rule of law within and beyond the European Union. It examines how policy instruments and legal mechanisms at the EU level have evolved in response to dissensus surrounding liberal democracy and its constitutive dimensions.

RED-SPINEL aims to produce theoretically innovative understandings of the nature and implication of the present-day dissensus; examine innovative empirical findings on how the EU’s supranational instruments have fared in an environment shaped by increasing dissensus; and develop recommendations and toolkits that aim to restore the legitimacy and effectiveness of European multi-level liberal democracy.

RED-SPINEL addresses the following key transversal questions:

- What is the nature of the current dissensus and how disruptive is it to the EU?
- How have EU institutional actors and instruments contributed and responded to this increased dissensus?
- What are the implications of this dissensus for policy instruments at EU and Member State levels?



These main questions will also be explored empirically, and the work of the project is organized as follows in corresponding Work Packages:

- Conceptualizing changes to EU policy instruments in the face of mounting dissensus (Work Package 1);
- Instruments relating to the promotion of democracy and the rule of law within the EU (Work Package 2);
- Instruments relating to the promotion of democracy and the rule of law within the EU's Neighbourhood (Work Package 3);
- Legal mechanisms and technocratic instruments fostering citizen participation, defending fundamental rights, and promoting climate justice (Work Package 4);
- Instruments relating to EU economic governance, notably the European Semester (Work Package 5);
- Capacity building for the promotion of democratic deliberation and problem-solving (Work Package 6); and
- Communication and outreach (Work Package 7).

## ROADMAP RED-SPINEL



The RED-SPINEL consortium consists of 11 partners (7 academic institutions and 4 non-academic organisations), and the project is coordinated by the Institut d'études européennes (IEE) of the Université Libre de Bruxelles (ULB).

## Partners



Institut d'études européennes - Université libre de Bruxelles



Università Luiss Guido Carli



Universiteit van Amsterdam



Universitatea Babeş-Bolyai



HEC Paris



University of Warwick



Nicolaus Copernicus University

Academic Partners

Non-Academic Partners

MILIEU



Clingendael



Magyar Helsinki Bizottság



PATRIR



The governance structure of the RED-SPINEL project comprises a Supervisory Board, and International Advisory Board, and the IEE-ULB central project management team. Recently, some changes were made to the composition of the Supervisory Board and the International Advisory Board, respectively.

## Supervisory Board

The RED-SPINEL Supervisory Board consists of the Principal Investigator and 10 Institutional Representatives, thereby giving a voice to all consortium members in the management and direction of the project.

The Institutional Representative and Coordinator on behalf of the Università Luiss Guido Carli, Professor Cristina Fasone, handed over duties to Professor Marta Simoncini towards the end of 2023.



Professor Marta Simoncini is an assistant professor in administrative law at Luiss University. Marta holds a PhD in administrative law (University of Pisa), a Laurea in Political Sciences, majoring law (University of Pisa) and a University Diploma in the same area (Scuola Superiore Sant'Anna in Pisa). Prior to joining Luiss University, Marta was an FWO post-doctoral fellow at King's College London and the University of Antwerp, a fellow in EU law at University College London and a Max Weber fellow at the European University Institute. Marta is also a fellow of the UK Higher Education Academy.

Her research interests cover administrative law and governance, in particular the check-and-balances applicable to discretion, especially in the context of risk-based regulation. She published in peer-reviewed journals, such as the Yearbook of European Law, Common Market Law Review, and the European Journal of Risk Regulation. She also authored two monographs for Hart Publishing (2018) and Editoriale Scientifica (2010) and she co-edited a volume for Routledge (2017).

## International Advisory Board

The RED-SPINEL International Advisory Board comprises 6 members. With the untimely passing of Professor Mario Telò, President Emeritus of the IEE and Chairperson of the RED-SPINEL International Advisory Board, in 2023, a vacancy existed on the Board. At the beginning of 2024, Professor R. Daniel Kelemen of the McCourt School of Public Policy at Georgetown University (USA) was appointed a member of the Board. Subsequently, at its hybrid meeting on 19 February 2024, the International Advisory Board elected Professor Daniel Kelemen as its new Chairperson.

Professor R. Daniel Kelemen is McCourt Chair at the McCourt School of Public Policy at Georgetown University. He is also Professor of Law (by courtesy) at Georgetown Law. Kelemen's research interests include the politics and law of the European Union, comparative politics and law, and comparative public policy. His 2011 book - Eurolegalism: The Transformation of Law and Regulation in the European Union (Harvard University Press) won the Best Book Award from the European Union Studies Association. He is the author or editor of five other books, and author of over one hundred articles and book chapters.

Prior to joining Georgetown, Kelemen was Professor of Political Science and Law at Rutgers University, where he also served as Chair of the Department of Political Science and Director of the Center for European Studies. Previously, Kelemen was Fellow in Politics and University Lecturer at Lincoln College and the Department of Politics & International Relations of the University of Oxford. He has been a Member of the Institute for Advanced Study, a visiting fellow in the Program in Law and Public Affairs at Princeton University, and a Fulbright Fellow in European Union Studies at the Centre for European Policy Studies in Brussels.

Kelemen is a Senior Associate (Non-Resident) in the Europe, Russia, and Eurasia Program at the Center for Strategic and International Studies (CSIS). He is also a member of the Council on Foreign Relations, and a member of the Executive Committee of the European Union Studies Association. He was educated at UC Berkeley (A.B. Sociology) and Stanford (M.A. and Ph.D. Political Science).



In the discharge of his duties as Chairperson of the RED-SPINEL International Advisory Board, Professor Daniel Kelemen is supported by the following members:

- Professor Gabor Halmai (European University Institute)
- Professor Iulia Motoc (University of Bucharest)
- Dr. Laszlo Andor (Secretary-General of the Foundation for European Progressive Studies)
- Professor Tanja A. Borzel (Freie Universitat Berlin)
- Professor Vivien A. Schmidt (University of Boston)

The RED-SPINEL 2024 Annual Conference with title, "Facing dissensus: From initial research finding to ongoing policy discussion", was held at the IEE-ULB in Brussels during the period 19-20 February 2024.

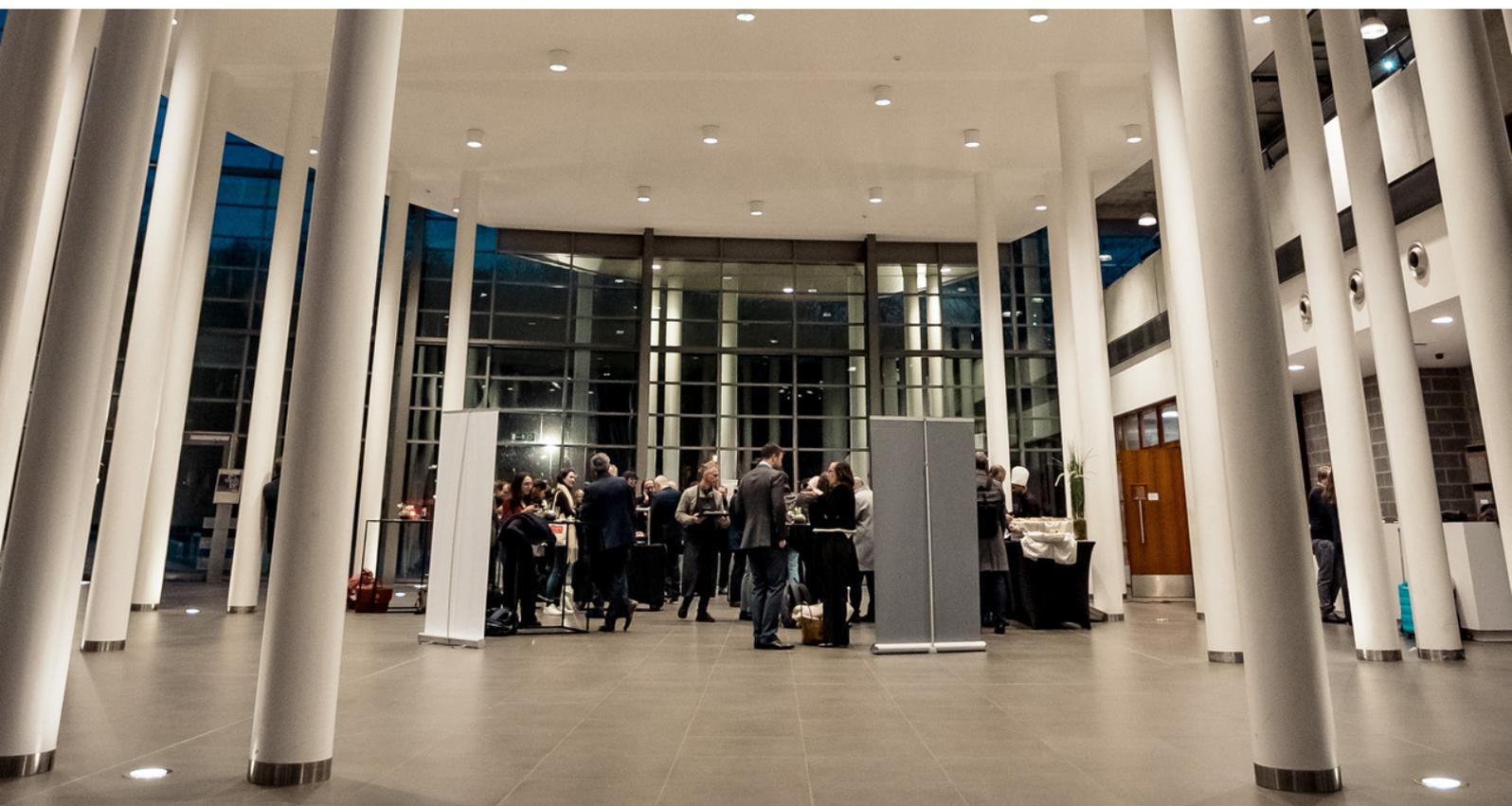
## Meeting of the RED-SPINEL International Advisory Board

Within the margins of the Annual Conference, a hybrid meeting of the RED-SPINEL International Advisory Board, chaired by Dan Kelemen, took place on 19 February 2024.

The meeting of the Board was also attended by representatives of the consortium partners. Following the election of the new Chairperson of the Board, Dan Kelemen, the IEE-ULB central project management team, supported by other consortium members, made brief presentations of the RED-SPINEL Mid-Term Review Report and the 2024 planning.

The members of the Board expressed their satisfaction with the progress made during the first year, and provided the following guidance to the RED-SPINEL partners for 2024:

- The need further unpack the the concept, dissensus, and to provide greater clarification on its distinction over other similar concepts, as well as the added value of the utilization of the concept;
- To specify the constructive vs negative effects of dissensus, and how to measure these effects;
- To identify the dissensus actors, and illustrate the differentiation amongst these actors;
- To include a deeper analysis of populism vis-a-vis dissensus;
- To analyse dissensus through the lens of liberal and illiberal democracy in Europe; and
- To further enhance the RED-SPINEL outreach, communication and outreach to policymakers.



## RED-SPINEL Roundtable with Policymakers on "The end of the permissive consensus and the EU's response to dissensus over liberal democracy".

[Contributing author - Irthe de Jong, RED-SPINEL PhD Researcher at University of Amsterdam and Université Libre de Bruxelles]

As part of the Annual Conference, a Policymakers' Roundtable took place during the afternoon of 19 February 2024. The following speakers participated in the Roundtable, chaired by the RED-SPINEL project Principal Investigator, Ramona Coman (IEE-ULB), and attended by members of the RED-SPINEL consortium:

- Pervenche Berès, former Member of the European Parliament (MEP);
- Julio Baquero Cruz, member of the Legal Service of the European Commission and a Professor of EU Law;
- Martin Martinez, référendaire at the Court of Justice of the EU (CJEU) and Professor of EU Law;
- Jacob Sjövall, permanent member of the Secretariat of the Conference of Parliamentary Committees for Union Affairs (COSAC); and
- Marta Arpio, Council of the European Union, Director for Follow-up to the Conference on the Future of Europe.

To what extent does dissensus around liberal democracy influence European Union (EU) institutions to act, what is the nature of this influence, and to what extent do the institutions have the capacity to act in response to growing dissensus? Based on these questions, Policymakers provided insights into the EU's capacity to act in the face of dissensus from five different institutional perspectives - the European Parliament, European Commission, Council of the European Union, Court of Justice of the European Union (CJEU), and the Conference of Parliamentary Committees for Union Affairs (COSAC). The Roundtable discussed the role of the EU integration project in the face of dissensus, the development of legal and institutional tools to combat antiliberal tendencies within the Member States, and the role of the various institutions and national parliaments in protecting the rule of law and democracy as a part of the European identity.



## Roundtable with Policymakers (cont.)

Salient aspects emphasized during the Roundtable, include the following:

- Anti-liberal tendencies in the EU represent an attack on European civilization and values deeply rooted in the European identity. Therefore, the importance of ensuring that the EU has a capacity to act against anti-liberal trends, and in particular to creating a strong legal basis to solidify and enforce the rule of law.
- Inadequate responses to the 2008 financial crisis, the climate and migration crises have led to negative socio-economic consequences that feed dissensus and the idea that democracy is less than optimal.
- Internal dissensus about liberal democracy in the EU has had no impact on the CJEU's ability to act, and the Court has been the main acting institution against illiberal or anti-liberal tendencies in the EU, as shown by the case law against inter alia Poland and Hungary.
- EU national parliaments are a natural arena for dissensus because they exist to channel dissensus. Further, national parliaments can be more reactive, responding to societal movements and changes.
- Stronger parliamentary engagement within the EU and with EU matters could assist in addressing illiberal developments. To this end, a stronger institutional architecture for the collaboration and involvement of national parliaments within the EU could assist in achieving a more constructive approach to the EU Member State interface, and as such contribute to less dissensus.
- Dissensus around liberal democracy is a political issue first and foremost, and a political will to combat it is more important than the institutional setup of the EU.
- Dissensus over liberal democracy has had a profound effect on the EU institutional structure, especially on institutions that are directly elected and those with an indirect link to elections, such as the Council. In this regard, the rise of dissensus has made it more difficult to reach agreements in the Council.
- The EU Treaties have strengthened the link between membership to the EU and the rule of law, making institutional/legislative adaptations to anchor the rule of law a non-negotiable condition for ascension to the EU.

The Roundtable concluded that EU institutions have not been immune to the rise of dissensus over liberal democracy, and are being confronted with the fallout of antiliberal tendencies to varying degrees. Dissensus presents a challenge for the institutions to function properly, but more importantly, it strikes at the root of modern European civilization. Despite structural challenges, dissensus among Member States and a lack of clear instruments to act, the EU institutions have adapted and developed new ways to solidify the rule of law as a non-negotiable European value. To protect that, Art. 7 TEU, Art. 2 TEU and Art. 47 CFR are the 'constitutional' expressions of the European identity through the rule of law. These articles thus form a set of treaty-based tools that EU institutions can utilize and have utilized to varying degrees to act against antiliberal developments.

Although litigation is never the preferred option, the CJEU has been a beacon of hope as a last-resort protection of the rule of law and has not displayed an incapacity to act. This, while Courts are among the main targets of antiliberal actors. The CJEU so far has withstood such challenges, and has proven to be a bastion of democracy and the rule of law in its attempts to locate the rule of law in the Treaties itself. However, there is still a need for further institutional strengthening of the rule of law and for an institutional framework that increase the capacity of the EU to act, not just in situations of dissensus around liberal democracy, but also in the myriad of crises that affect the EU right now, from the war in Ukraine and the migration crisis to the climate and biodiversity crises.

**Public Keynote Lecture**

The first day of the RED-SPINEL Annual Conference was concluded by a public keynote lecture of Dan Kelemen on "Will Europe escape its autocracy trap?". The lecture was attended by academics, civil society, policymakers and representatives of EU institutions and international organisations. See next page for a succinct report on the lecture by Claudia Bădulescu, RED-SPINEL Post-Doctoral Researcher, IEE-ULB.



## Public Keynote Lecture (Cont.)

### Succinct report of the lecture - "Will Europe escape its autocracy trap?"

#### Abstract

Dan Kelemen critically examined the European Union's (EU) struggle with autocracy within its member states. Kelemen explored the reasons behind the EU's initial passivity and the subsequent shift in its approach towards autocratic tendencies in member states.

#### Introduction

The lecture by Daniel Kelemen delved into the complex dynamics of autocracy in the EU. Kelemen sought to unravel the EU's challenges in combating autocratic regimes within the EU, focusing on the Union's policies, political dynamics, and legal frameworks.

#### Main Messages

Kelemen addressed three key questions: (i) why the EU initially failed to respond robustly to the autocracy crisis, (ii) why it became more assertive post-2021, and (iii) whether this shift indicates that the EU might escape its autocracy trap. Kelemen noted the influence of party politics, particularly within the European Parliament. For instance, the European People's Party (EPP), which included the Hungarian Fidesz Party, provided a level of protection to its members, including the increasingly autocratic Hungarian Prime Minister, Viktor Orban. This protection extended to defending autocratic actions within the EU, in particular those of Orban. The divorce between EPP and Fidesz, along with the departure of influential figures such as Angela Merkel, signalled a shift in the political dynamics within the EU.

The lecture also touched upon the EU's institutional norms and the challenges of intervention in member states' affairs, highlighting the complexities of dealing with autocratic tendencies because of intergovernmental norms and institutions. Kelemen highlighted that there is a strong norm of non-intervention in the internal affairs of member states, which limits the EU's ability to intervene directly in cases of autocratisation. Additionally, the veto power possessed by member states gives autocrats additional leverage in blocking important decisions at the European level. Moreover, autocrats have unparalleled opportunities to infiltrate EU institutions. This is primarily because each EU member state is entitled to appoint a judge or a commissioner, as well as other representatives in all EU institutions, enabling national governments to position their chosen actors within key EU institutions. This structural aspect of the EU's governance provides a significant avenue for autocrats to exert influence and advance their agendas at the European level.

Kelemen also noted the tension between the European Commission's dual role - as an integration engine and treaty guardian - which resulted in the decline of law enforcement actions by the Commission. Kelemen thus argued that the focus on integration often comes at the expense of enforcing the treaties, leading to a decline in law enforcement actions against member states violating EU norms.

However, Kelemen pointed out that the increasing audacity of autocratic regimes, such as the demonization of LGBTQ communities and refugees, made it harder for the EU to maintain its stance of forbearance. Moreover, public opinion and decisions from courts like the European Court of Justice (ECJ) put pressure on the EU to act against member states violating rule of law principles. Hence, the EU started utilizing financial tools more assertively, such as suspending funds to countries like Hungary and Poland. This was seen as a crucial method to exert influence and curb autocratic tendencies. Nevertheless, Kelemen pointed to the proliferation of new tools to combat autocracy, which take time to implement and enforce. Further, he expressed concerns about the EU's limited reliance on existing, often underutilized instruments.

#### Conclusions and Recommendations

The lecture concluded with a sombre outlook on the EU's ability to escape the autocracy trap. Kelemen suggested that financial tools, specifically the suspension of funds, are crucial in this battle. However, he expressed concern about the EU's potential reluctance to persist with these measures. While there has been a notable shift in the EU's approach post-2021, Kelemen expressed doubts about the EU's ability to completely escape the autocracy trap, pointing out systemic issues and the need for stronger enforcement of democratic principles.

For an article on topic, see <https://www.tandfonline.com/doi/full/10.1080/13501763.2024.2314739>

## Opening Keynote Address

[Contributing author - Viktor Zoltán KAZAI, RED-SPINEL Post-Doctoral Researcher, IEE-ULB]

On Tuesday, 20 February 2024 the RED-SPINEL partners convened to discuss the work programme for the year 2024, and especially to coordinate activities for the RED-SPINEL edited volume that will be published in 2026.

The opening keynote address , “Dissensus surrounding liberal democracy. How does research inform policy making?”, was delivered by Mr. Marc Tachelet, Director of the European Research Executive Agency (REA). He shared his perspectives on democracy and how research focusing on dissensus surrounding liberal democracy can inform policy making in the European Union (EU). His address was followed by an exchange of views with the RED-SPINEL members.

Salient aspects raised during the exchange of views, were the following:

i)The EU has responded to the challenges that liberal democracy is facing through the European Democracy Action Plan and the Defence of Democracy Package.

ii)Agreement that there should be a strong emphasis on translating research findings into action, and to fully exploit the potential of the RED-SPINEL project to influence the policy agenda. To this end, there is a need to:

- Gaining a proper understanding of the policymaking process, decision-making mechanisms and the key actors involved in order to identify the recipients of scientific evidence;
- Putting policymakers at the centre of policy recommendations by pointing out “what’s in it for them” and proposing concrete actions;
- Involving policymakers and stakeholders in the process to define the relevant questions, problems, needs and constraints that will lead to achievable evidence-based recommendations;
- Adopting a collaborative approach that allows researchers to communicate more effectively in both scientific and policy circles, and for policymakers to understand scholars better;
- Presenting clearly the uncertainties and limitations of recommendations to manage the policymakers’ expectations;
- Demonstrating flexibility in considering the policy impact of the work from the early stages of the project design, and adapting the research to meet the changing needs of policy actors;
- Establishing trust with policymakers through close collaboration while maintaining the researchers’ scientific integrity;
- Avoiding the oversimplification of complex scientific data just to make it more attractive for policy decisions;
- Thinking long-term and accepting that policy impact is complex and often requires a lengthy process; and
- Disseminating, exploiting and communicating the research results.



Nienke van Heukelingen (Clingendael Institute) - Member of the RED-SPINEL Supervisory Board



Louise Fromont (HEC-Paris) - RED-SPINEL Post-Doctoral Researcher

**RED-SPINEL edited collective volume (to be published in 2026)**

During the last segment of the Annual Conference, the RED-SPINEL partners exchanged views on planned edited collective volume, which will be published in 2026. The RED-SPINEL Grant Agreement foresees the submission of an edited volume manuscript on “Mounting Dissensus and the Prospects of Liberal Democracy in the 21st Century”. The aim of this collective book project is to highlight the main research findings of the RED-SPINEL project. Further, the edited volume is to gather the various findings from across the different strands of research and articulate how the different Work Packages interplay with the project’s central theme, dissensus.

At the end of the discussions, it was agreed to set up an internal Task Force/Team to determine next steps, exchange views on the content, publication strategy, work schedule, and the determination of the editorial team.



At the conclusion of the Annual Conference, the RED-SPINEL partners agreed that an exciting year lies ahead, and expressed the determination to further enhance collaboration, to adhere to output schedules, and most importantly, produce research that will be useful for policymakers and to policymaking.

The next RED-SPINEL Annual Conference will take place at the IEE-ULB during February/March 2025.

## Conferences/Seminars/Roundtables/Events

-Citizens' Forum & Innovation Lab: "Innovative practices in the fight against autocratisation in the European Neighbourhood": Brussels, 6 February 2024. Report available at:

<https://redspinel.iee-ulb.eu/wp-content/uploads/sites/2/Report-Citizens-Forum-3-1.pdf>

-Forthcoming: Podcast with Dan Kelemen and Ramona Coman on "Mounting dissensus and the prospects of liberal democracy in the 21st century".

-Forthcoming RED-SPINEL participation in panels:

- 5-7 April: Basees Conference in Cambridge
- 19-21 June: ECPR SGEU Conference in Lisbon
- 4-6 July: EPSA Conference in Cologne
- 8-10 July: ICON-S 10th Annual Conference in Madrid
- 12-15 August: ECPR General Conference in Dublin
- 24-27 September: DVPW Conference in Göttingen

-Forthcoming RED-SPINEL WP5 Seminar on "Economisation of EU Rule of Law and Democracy Mechanisms" in Paris on 28-29 March 2024.

## Publications

### Forthcoming:

-Policy Brief: "Strength and Weaknesses of EU Conditionality Regimes: The Case of Hungary" (HHC)

-Report: "Use and Potential Use of the Threat Since the Launch of the EU-level Rule of Law Alert System" (Milieu)

-Report: "Rule of Law Instruments - Country Report" (Milieu)

-Report: "EU Member State-level report on non-discrimination instruments" (Milieu)

-Working Paper: "Rule of Law and the European Semester" (Clingendael)

-Working Paper: "The State of Autocratisation in the European Neighbourhood & Case-Selection" (PATRIR)



Claudia Bădulescu (ULB) - RED-SPINEL Post-Doctoral Researcher & Sergio Miscoiu (Babeş-Bolyai University) - Member of the RED-SPINEL Supervisory Board



Dimitrios Argyroulis (ULB) - RED-SPINEL Post-Doctoral Researcher & Louise Fromont (HEC-Paris) - RED-SPINEL Post-Doctoral Researcher

## RED-SPINEL Working Papers Series

Ongoing series of **Open Access publications** covering initial findings of research accessible via the project's website.



Forthcoming

## RED-SPINEL Policy Briefs

Forthcoming on project's website

## RED-SPINEL Reports

Forthcoming on project's website

## RED-SPINEL Podcast



As part of RED-SPINEL's communication efforts, a **podcast series** was launched on the challenges liberal democracy is facing in the European Union. So far 4 episodes were published with more scheduled in the first half of 2024.

- **Is liberal democracy in danger? A new EU research project looks for answers!**
- **Making sense of EU economic governance in a context of dissensus**
- **Making Sense of Dissensus Over Liberal Democracy: Conceptualization in Research**
- **Making sense of conditionality and its use in EU governance**

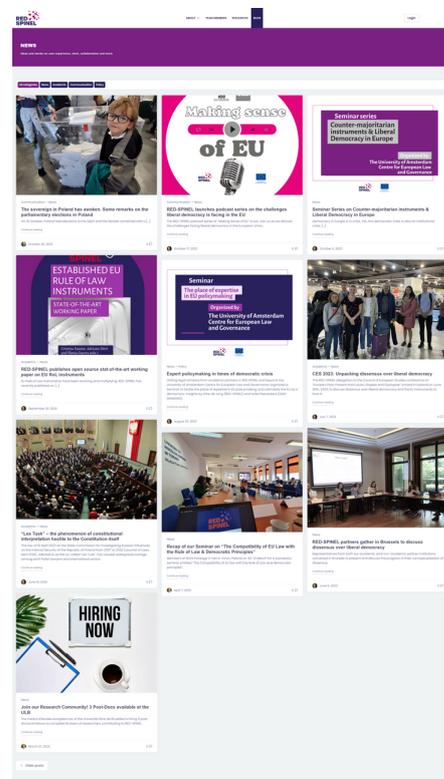
Although only in its' infancy, the Podcast series was already recognized as it was awarded the 2023 ULB Scientific Dissemination Prize

## RED-SPINEL Blog

The Blog provides updates on the implementation of the project, activities of the partners, and any relevant news related to RED-SPINEL.

## RED-SPINEL on Social Media

RED-SPINEL is active on social media via its' own X (Twitter) account. The project's handle is **@redspinel\_EU**



The project also disseminates via the IEE-ULB webpage, Facebook, Instagram, and LinkedIn accounts.

All Resources can be readily found on the RED-SPINEL website

<https://redspinel.iee-ulb.eu/>



**RED  
SPINEL**



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