

# Rule of Law in the V4: Family of Awkward Uncles at the Wedding? Comparative Study on Rule of Law Policy and Discourse in the V4



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**“Bruised but not broken: reviving the appeal of the EU in the minds of V4 citizens.”**

This project reacts to the upcoming 2024 European Parliament elections and focuses on researching and addressing the most contentious topics within the European Union, mainly focusing on its newer member states – V4 countries. These countries have been experiencing some forms of democratic backsliding, such as low participation in elections, tendencies towards Euroscepticism, high levels of distrust in authorities, or a resurgence of populism. Overall, these signals suggest a detachment from the European project.

Therefore, understanding the needs, concerns, and fears of V4 citizens is essential. It is also timely – Europe now stands on the verge of numerous transitions – chief among which is the green transformation intended to combat climate change.

The goal of the project is to gauge citizens’ attitudes and preferences towards four broad policy domains that played a pivotal role in the European Union’s quest to adapt to a new policy environment in the recent past: decarbonisation policies, migration, the COVID-19 pandemic, and debates over the rule of law.

During the project’s first phase, we have conducted qualitative and quantitative research into citizens’ attitudes to the four core topics of the project. Furthermore, we have looked into the V4 governments’ approaches to the topics via analyses of policy and discourse in the V4 countries. The project’s second phase will build on the realised research and engage with various stakeholders and policy-makers to share the findings and prepare communication- and engagement strategies before the 2024 European Parliament elections. Finally, we will disseminate the results and knowledge via public discussions, workshops, podcasts, and media outputs to the public.

The project is carried out by leading think-tank and research institutions in each of the V4 countries: EUROPEUM Institute for European Policy in Czechia; Bratislava Policy Institute in Slovakia; 21 Research Center in Hungary; The Projekt: Polska Foundation in Poland; and is supported by the European Union.



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## Introduction to the rule of law policy in the V4

For the European Union, the rule of law is one of the core values that should be respected in every member state. It fosters mutual trust among member states EU budget. In recent years, the topic of the rule of law has become pressing in the European Union due to the tendency of several Central and Eastern European countries to diverge from democratic values. As a solution, the European Union introduced the Conditionality Regulation that enables the union to withdraw funds from states breaching rule of law principles. This has sparked controversy among EU member countries, causing tensions with Poland and Hungary.

The problem of the rule of law in V4 countries was discussed thoroughly in the national reports of the RevivEU project, which analyzed both discourse and policy on rule of law in targeted countries. The aim of the following paper is to summarize these national reports and identify similarities and differences in discourse and policy in Hungary, Poland, Czechia, and Slovakia. The rule of law part of the discourse analysis was set between July and December 2020. At the time, the 2021-2027 Multiannual Financial Framework (MFF) and Next Generation EU (NGEU) negotiations were being finalized at the European Council. Hungary and Poland opposed conditioning the provision of EU funds on respecting the EU rule of law principles, and even threatened to veto the entire EU budget at one point. Simultaneously, the regulation on the protection of the EU budget in case of generalized deficiencies as regards the rule of law (the “Conditionality Regulation”) was being finalized by the European Parliament and the Council of the EU. Finally, both the EU long term budget and the regulation were approved in December 2020.

The policy analysis looks at a larger period, from 2015 to the present, which allowed the researchers to trace policy developments over a longer period. Since both the policy and discourse analyses are looking back in time, changes in government in the Czech Republic and Slovakia had to be taken into account. By contrast, the same leading party has been in office in Poland since 2015 and in Hungary since 2010. In the Czech Republic, the ANO Andrej Babiš, Prime Minister since 2017, was replaced by the right-wing coalition led by Petr Fiala’s ODS at the end of 2021, while Babiš became the leader of the opposition. Yet the critical actors in the Czech political scene have largely remained the same. In Slovakia, the SMER government of

Peter Pellegrini, in office between 2018 and 2020, was replaced in 2020 by the government of Igor Matovič (OĽaNO), and since then, there have been two more changes of prime minister. The period since the 2020 elections until today has been dominated by the disintegration of parliamentary parties. A fundamental transformation of the party-political scene is expected after the September 2023 elections.

The rule of law was an important topic among the V4 countries during the period studied. However, Poland and Hungary remained the key actors, as their difficulties with respecting the rule of law were the most pressing at the time. The subject was widely discussed among the ruling parties as well as the opposition in all countries.

This part will present a summary of V4 policy and discourse positions.

**Poland's** non-compliance with the rule of law has been ever-present in the public debate since 2015, when the Law and Justice party won the elections. The ruling party gradually introduced judiciary reforms, including changes in the Constitutional Court, the Supreme Court, and the National Council of the Judiciary or combining the function of the Prosecutor General with that of the Minister of Justice. As a result, the topic of the rule of law in Poland has become relevant not only at the national level but also internationally. Domestically, the changes made to the judiciary system sparked strong protests coordinated by the opposition. The opposition Civil Platform party accused the ruling groups that their legislative measures went beyond the existing constitutional order. The actions of Law and Justice have not escaped the attention of the European Commission, which opened proceedings of Article 7 of the Treaty on European Union (TEU). In response, Law and Justice pushed the narrative about defending the empowerment of Union member states. They questioned the legitimacy of subjecting their decision to external institutions' scrutiny. PiS argued that European institutions have no legitimate power to express an opinion on the judicial system. In their narrative, the introduced legislation was "expected by Poles" (TVP INFO 2020) and did not differ from procedures applied in other countries. During the enactment of the conditionality regulation in the second half of 2020, the Polish government announced a veto of the EU budget to oppose the procedures for control of the rule of law. However, in the end, they agreed to introduce the conditionality mechanism. At the time, the subject of the rule of law caused a clash in the ruling camp

between the Prime Minister and the leader of the Sovereign Poland party, which pursues a strongly Eurosceptic policy (Wolska 2020). Strong criticism of Law and Justice was also evident at the time in the opposition's discourse. However, the opposition's statements were not always consistent, and they didn't present any serious solutions to support EU values.

Like Poland, **Hungary** has been facing tension with the European Union regarding the rule of law and securing funds from the MFF and NGEU. Viktor Orbán, during his tenure, implemented constitutional amendments that altered the electoral system, compromising local democracy. However, the discourse analysis showed that any problems with the rule of law were denied by the local politicians. According to the ruling party, Hungary remains a bastion of democratic values, and the cause of the conflict with the EU is purely ideological and political (Orban 2022a). In the debate over the rule of law, a frequently identified enemy is George Soros, who would "fund the EP" to achieve a "population exchange" by admitting migrants (Orbán 2020a). In Orban's narrative, Hungary is punished by the EU because of its reluctance to accept Muslim refugees and for its defense of Christian values (Orbán 2020a). The European Union was portrayed as a group of dangerous elites who wanted to weaken Hungary and Poland in the fight against the enemy (Orbán 2020f). The opposition, in contrast, was critical of Orban's autocratic rule and emphasized its European values. The November 2020 Hungarian and Polish veto of the MFF and NGEU package was perceived as a harmful act against Hungarians by the opposition (Schmuck 2020). By them, Conditionality Regulation was seen as a necessary tool that can protect funds from Orban's corruption. (Donáth 2020).

In the **Czech** domestic politics, the rule of law was discussed in the context of corruption and (to a lesser extent) the efficiency of public administration and the judicial system. The European Union has never formally initiated rule of law procedures against the Czech Republic. However, the Czechs had their challenges when it came to this topic. Notably, its 2017-2021 Prime Minister Andrej Babiš was also the owner of a large agricultural corporation Agrofert, which receives subsidies from the EU (#Ťopek 2017, #Urbánek 2020). In 2018 - 2021, this conflict of interest was repeatedly addressed by the European Commission and Parliament. The Babiš government was supportive of their leader, but they were unable to stop the European Union from intervening and withholding funds from the company (ČTK 2021). Meanwhile, the opposition portrayed the Prime Minister as a threat to the Czech Republic and its international

position in Europe. On the European level, the Czechs referred to the rule of law mostly in relation to the disputes between the EU and Hungary and Poland. The European Union's conflict with Poland and Hungary has raised divided opinions among Czech politicians. In the discourse analysis, it was possible to find neutral statements as well as these supporting or openly criticizing the EU's actions. An additional challenge in Czech foreign policy was the simultaneous need to maintain good relations with the European Union and Poland. Poland was (and remains) an important neighbor for the Czechs because of the country's defense. For this reason, many politicians have refrained from forming strong opinions on the rule of law conflict between Poland and the EU.

Like in the Czech Republic, the rule of law in **Slovakia** was debated at two levels – domestic and EU. In the context of domestic politics, Slovakia discussed rule of law issues in relation to the fight against corruption. This was particularly evident during the campaign for the 2020 parliamentary elections when the OĽANO party of Igor Matovič won. After the elections, constitutional changes were introduced, including judicial reform, which resulted in the arrests of judges, prosecutors, and police forces. The arrival of right-wing conservative parties into the post-2020 parliament influenced discussions on the restriction of minority and women's rights. Addressing the topic of the rule of law in the EU politics, most Slovak politicians showed consensus. During the 2020 discussion, they emphasized the significance of upholding the rule of law between member nations. They also supported the implementation of a conditionality mechanism and taking appropriate measures to address the situation in Poland and Hungary. However, some politicians, including the leader of SMER (and the winner of the 2023 parliamentary elections) Robert Fico, defended the stance of Poland and Hungary against any interference by the European Union in the sovereignty of member states. The parallels in the rhetoric of Robert Fico and Viktor Orbán were evident, as they both stirred up conspiracy theories of George Soros' influence on the European Union and claimed that the rule of law conditionality is a punishment for Central European states not wanting to admit non-European migrants.

## 2. Comparative analysis

In the upcoming chapter, a comparative analysis of discourses and policies related to the rule of law will be conducted. Five key themes were identified that will be used as the foundation for the comparison:

- Central and Eastern Europe is tired of imitation
- Poland and Hungary as the last bastion in the fight for right-wing views and national sovereignty
- Avoiding strong opinions on rule of law conflict
- Rule of law discussion as a political tool for migration issues
- Introduction of the conditionality regulations

### 2.1. Central and Eastern Europe is tired of imitation

In the 2010s, the power of attraction of the Western European values and way of living has reached its limit in the Visegrad 4. Leading politicians like Viktor Orbán in Hungary, Jaroslaw Kaczynski in Poland, Robert Fico in Slovakia, and Andrej Babiš in Czechia have more or less openly started to antagonize the EU, its principles and values. Instead, they started to promote an alternative “Central European” identity rooted in illiberalism and “traditional values” and informed by the experience of communism and post-communism. This shift can be largely explained by local frustration at not reaching Western European standards of living, as the V4 citizens refuse to feel like second-rate EU citizens. The medicine local leaders are prescribing to this inferiority complex is nevertheless nationalist and, in many cases, incompatible with the rule of law standards of the EU. Hungary and Poland, in particular, are currently conflicted with the European Commission over access to funds due to their failure to fulfill the EU rule of law principles. Concerning trends also exist in Slovakia, where anti-democratic statements from politicians resemble those of Poland and Hungary.

In the analyzed period, the moving away from EU values is recognized as a threat by the opposition and liberal parties in all V4 countries. In the **Czech Republic**, the Pirate Party underlined the need for the European Union to protect its fundamental rights. They pointed to the threat posed by authoritative regimes, referring to both Poland and Hungary, as well as Prime Minister Babiš’s corruption problems. Similarly, the value of the rule of law was emphasized by **Slovak** politicians opposed to Fico. They accused the politicians but also the



governments of Poland and Hungary of undermining democratic principles at the national and the EU level, damaging its unity. **Poland's opposition** also stated that **political cooperation between Poland and Hungary on the subject of the rule of law was harming the entire CEE region**. **The Hungarian opposition** acknowledged that their democracy is at risk, and Orbán has “failed the test of Europeanness” (Ujhelyi 2020a).

The tendency to stop imitating Western Europe, which leads to encroaching on the EU rule of law principles, is noticeable in all the V4 countries. This trend is causing concern and protests among liberal-oriented parties, which are generally in opposition to those in power. This is because liberal parties are closer in their views to Western European countries, and thus pro-European values are more likely to be visible in their narratives. Interestingly, both Orbán's party and the Law and Justice party deny departing from democratic values, which will be discussed in more detail in the following subsection.

## 2.2. Poland and Hungary as the last bastion in the fight for right-wing views and national sovereignty

There are some politicians in Poland and Hungary, as well as in the Czech Republic and Slovakia, **who see the proposed mechanisms by the European Union as a threat to their sovereignty and views**. They are creating narratives that position the EU as the main enemy who wants to control the independent countries of Central and Eastern Europe. **However, Poland and Hungary deny that the rule of law is being violated in their countries and claim to be defenders of democracy and right-wing views**. The narratives associated with a hostile European Union vary in terms of the intensity and content of the opinions.

Specifically, **Hungarian Prime Minister** rhetoric indicated that it is the EU that does not care about democratic values but pursues imperialism (Orbán 2020e, 2020h). He compared the European Union's actions to *jihad*, which was supposed to be negatively associated with unwanted immigration and foreign influence (“For them, the rule of law is a tool that they can use to reshape us into something similar to them”) (Orbán 2022a), and his actions with *Reconquista*, as a historical analogy that suggested that he is going to win.

In comparison, representatives of **Poland's** ruling camp, although they used similar rhetoric, did so in a more gentle and measured manner. They claimed the right to defend their own right-wing and conservative views in a world where the Union would like conservatives to "have been wiped out by the wave of progress" (rlegutko.pl 2019). PiS even **explicitly advocated for continued presence in the European Union while only opposing mechanisms that would force Poland to adopt a foreign vision** (Polska Agencja Prasowa SA 2020) **or would lead to unjustified interventions in Polish autonomy.**

The Hungarian and Polish ruling party views are in turn taken over by far-right parties in other V4 states. In the **Czech Republic**, SPD President Tomio Okamura was directly critical of the EU, which he accused of blackmailing disobedient countries by using the conditionality mechanism and withholding subsidies. He pointed out that Poland and Hungary want to protect their national identity and values and are taking care of their electorate. He also compared the conditionality mechanism to the Brezhnev Doctrine, equating the European Union with the former USSR (Okamura 2020d).

Robert Fico, the **Slovak** leader of the opposition party SMER, strongly defended Poland and Hungary's veto of the NGEU and MFF negotiations in November 2020, and in Conditionality Regulation discussion. His arguments highlighted the **potential risks of punishing these countries and how it could impact the ability of less significant EU members to voice their concerns against the policies of larger members in the future.**

### 2.3. Rule of law discussion as a political tool for migration issues

Continuing the theme raised in subsection 2.2. **in Slovakia and Hungary**, one can see a **tendency to interconnect debates on migrant admission with those on the rule of law.** During the period analyzed, this matter was a highly emotionally charged topic among countries with negative attitudes toward Muslim migrants. Probably for this reason, it was easy to combine the two issues and thus strengthen anti-European attitudes among citizens, who were said to fear manipulation by the EU and George Soros. **Soros was often pointed out by Orbán and Fico as a dangerous enemy**, aiming to carry out a "population exchange" that poses a threat to traditional Christian values (Orbán 2020a). Similar theme appeared also in the Czech far-right

discourse, whose local leader Tomio Okamura similarly claimed that rule of law conditionality will serve to punish states who do not want to take in migrants. Interestingly, **the rule of law was not framed in relation to migration in the Polish discourse**, although this country was also radically opposed to the admission of migrants.

#### 2.4. Avoiding strong opinions on rule of law conflict

As mentioned in subsection 2.1, some of the more liberal-leaning parties advocated strongly for the conditionality mechanism and respect for the EU's core values. However, there were also moderate and neutral voices among politicians who did not take a side in the conflict. During the negotiations of MFF and Conditionality Regulation in 2020, the then Czech PM Andrej Babiš focused on the financial interests of the **Czech Republic**, withholding any support to Poland or Hungary (Babiš 2020c). This was in stark contrast to the praise he directed at his V4 squat during the migration crisis, showing a streak of pragmatism in Babiš's behavior.

In **Poland**, the opposition advocated for European values but mainly through the lens of self-interest. Initially, in 2018, they did not explicitly support the implementation of a conditionality mechanism. However, their stance changed in the 2020 discourse when Poland threatened to veto the MFF and NGEU. Nevertheless, they did not present a clear plan on how to proceed in this situation.

#### 2.5. Introduction of the Conditionality Regulation

The question can be asked how the introduction of the Conditionality Regulation that can block the access to EU funds has affected Polish and Hungarian actions and their approach toward the rule of law. Despite their initial disapproval of the EU's actions, both countries prioritized receiving funds for post-COVID recovery. After the 2020 MFF and NGEU negotiations, Morawiecki and Orban claimed victory. Prime Minister Mateusz Morawiecki even called it a "double victory," referring to changing the criteria of the Conditionality Regulation and saving money for Poland (Kancelaria Prezesa Rady Ministrów 2020b). However, other political figures had different reactions. Zbigniew Ziobro, from the ruling political camp, criticized the adoption of the Conditionality Regulation without legally binding safeguards (Wolska 2020), while Péter Jakab, then Chairman of Jobbik, mocked Orbán's previous fighting attitude and emphasized his failure (Jakab 2020). Nevertheless, it is essential to remember that the issue of respecting the rule of law in Hungary and Poland remains unsolved. Both Poland and Hungary have agreed to

comply with the conditions set by the European Union to receive the funds but have failed to fulfil the requirements so far.

### 3. Conclusion

This analysis aimed to give an overview of the similarities and differences in the policy and discourse of the Czech Republic, Slovakia, Poland, and Hungary regarding the EU rule of law policies. The takeaway messages are the following:

1. **Compliance with the rule of law is a present concern in the Visegrad countries.** Several countries in Central and Eastern Europe are struggling to respect the principles of the rule of law. The situation is particularly alarming in Poland and Hungary, where their governments are gradually moving away from democratic practices and embracing authoritarianism. The Czech Republic and Slovakia are also facing challenges related to corruption, although it has not reached the systemic threat as in the case of Hungary, for example. The issue of the rule of law has been widely debated in all V4 countries, especially in light of the conflict between Poland/Hungary and the European Union. The stances of the key actors in Czechia and Slovakia on the political scene varied and ranged from neighborly support to a neutral stance or harsh criticism.
2. **The rule of law is the bone of contention between conservative and liberal parties, as well as the “progressive” West and “traditional” East.** The subject of the rule of law was discussed both at the EU level and in domestic politics between the ruling parties in each country. The topic often divided politicians into two camps - one supporting EU action in restoring the rule of law, or the other – anti-EU, in which EU intervention appeared to be an unjustified interference in the independence of member states. The conflict between the “pro-EU progressive and liberal West” and “the anti-EU conservative East” may be a result of the Central European strife to stop imitating the Western Europe and create its own identity, which is nevertheless often clashing with the EU values and principles. In general, this conflict resulted in a frequent shift of the topic from the rule of law to more ideological matters.
3. **Rule of law policy is combined with other policy goals.** In the narratives of Hungary and Slovakia, the rule of law was often linked to the topic of admitting refugees. Orban and

Fico used the EU's actions against Poland and Hungary for their anti-refugee narrative. They pointed to the European Union as the main enemy funded by George Soros. The EU was to become, in the eyes of its electorate, an institution that aims to implement a mechanism of conditionality to pursue its hidden interests. Similar narrative was pursued by the far right in Czechia.

4. **The introduction of the principle of conditionality has affected the actions of countries that do not respect the rule of law but has not solved the problem.** The conflict over the rule of law and the introduction of the Conditionality Mechanism ended in 2020 with the loss for Poland and Hungary. Both countries had to adjust to the compromise and accept EU conditions to get the MFF and NGEU funds. However, as an analysis of Hungary's and Poland's current policies shows, despite the acceptance of the conditions, the situation in the said countries has not visibly improved, and the funds are still not granted.

#### 4. Implications for the 2024 European Parliament elections

What do the results mean for the 2024 **European Parliament elections**?

The RevivEU national reports and this comparative report analyzed both the discourse and practical policy of V4 states vis-à-vis the rule of law. In this final part, we draw implications of these reports towards the future, notably in relation to the upcoming 2024 European Parliament elections:

##### **Poland**

1. From Poland's perspective, one of the most significant topics that is expected to be discussed in the upcoming European Parliament elections is the rule of law and its connection to the funds from the EU budget.
2. It is expected that the current Law and Justice government will prioritize obtaining EU budget funds, possibly by taking minimal steps toward addressing issues concerning the rule of law and the judicial system.
3. It appears that the Civic Coalition is the political party that is most aligned with the EU rule of law values and opposes the actions of PiS, particularly in the context of not fulfilling the conditions set by the EU.

## Czech Republic

1. In Czechia, the EU rule of law principles are not a bone of contention and are not likely to enter the 2024 European Parliament election campaign in any significant way.
2. As he assumes a progressively more anti-EU, nationalist stance, Andrej Babiš of ANO may become more vocal in supporting Hungary and Poland in their rule of law disputes with the EU. Similar stance is to be expected by any far-right parties, including Tomio Okamura's SPD.
3. For the ruling right-wing coalition of Petr Fiala (ODS), Andrej Babiš is likely to play a scapegoat representing all Czech troubles with rule of law – be it corruption, conflict of interest or existing or presumed friendliness towards Eastern autocrats like Viktor Orbán or Vladimir Putin.
4. Hungary and Poland are likely to be painted differently in the EP elections campaign, particularly by the representatives of the ruling right-wing coalition. This coalition often sidelines Polish rule of law deficiencies, as Czech and Polish governments hold similarly conservative, anti-Russian positions. Furthermore, Poland is an important defense ally in the context of Ukraine war. Contrarily, due to its more pro-Russian stance, Hungary has lost a lot of powerful fans in the Czech Republic since the invasion of 2022.

## Slovakia

1. It is expected that the chairman of the SMER party, Robert Fico, as well as smaller parties, such as The Slovak National Party or the Republic, will continue to attack any possible concerns of the European Commission about the state of the rule of law in Slovakia even in the pre-election campaign in the elections to the European Parliament.
2. A large part of the Slovak political spectrum has a negative or lukewarm attitude toward the principles of the rule of law. Political parties defending these principles currently do not have a majority, which may worsen after the parliamentary elections in September 2023. This may also reflect in the election campaign for the European Parliament elections.
3. At the moment, the European Commission is not conducting any proceedings against Slovakia related to the rule of law. However, this may change after the parliamentary

elections in September. Therefore, the fight to protect these principles will very likely be one of the main topics of the European Parliament elections.

## Hungary

1. Rule of law related issues are likely to become central to the European Parliamentary campaign in Hungary.
2. The specific angle of the debate is likely to be shaped by whether the Hungarian government manages to secure the flow of EU funds that are currently frozen because of rule of law violations in the country.
3. The main opposition parties (with the exception of Mi Hazánk) will likely send a central message in the campaign: a successful EP elections performance will put them in a better position to demand redress from the government for its rule of law violations and secure the badly missing EU financing in the Hungarian economy. They will also attempt to frame the rule of law shortcomings of the government around the corrupt practices and enrichment of pro-government cronies (including members of Orbán's family).
4. The government in turn will try to strike a balancing act between two competing narratives: first, they will argue that they have satisfied all the EU's demands and rule of law concerns have been addressed. Second, they will continue to accuse the EU of interfering with Hungarian sovereignty and applying double standards because of historical spite and ideological disagreements.

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