

How does the public view international court decisions against democratic backsliding? Evidence from Hungary

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Abstract

International courts are increasingly becoming a venue for challenging democratic backsliding around the world. Yet as these courts often are seen as weak, particularly as compared to their domestic counterparts, it is unclear whether they can effectively halt or otherwise prevent would-be authoritarians from enacting policies that undermine democratic norms and institutions. If, however, citizens see international courts as legitimate venues for evaluating the conformity of domestic policies with democratic standards, then these courts may be able to apply sufficient pressure to compel reluctant governments into compliance. We argue that such support for international court decisions regarding domestic democracy is a function of both pragmatism and idealism, with the former manifesting as support for the international legal regime and the latter as support for democratic values. Moreover, we contend that the influence of these attitudes is conditioned by one's partisanship, with supporters of the government motivated solely by pragmatic concerns while opposition supporters are influenced by both pragmatic and idealistic attitudes. We test our argument with original data collected in a nationally-representative survey of 2000 Hungarians fielded in March 2022. **This is a very early draft of the paper; we welcome all comments and suggestions!**

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Introduction

Democratic backsliding in the contemporary era predominantly occurs through the subversion of institutional checks and balances within the bounds of the legal and electoral order, as opposed to the overt military coups that categorized the majority of the 20th century (e.g., [Bermeo 2016](#)). A recent scholarship attempts to explain this phenomena by microfounding the conditions under which traditional democratic checks and balances are expected to fail in upholding the rule of law against a powerful executive (e.g., [Ginsburg and Huq 2018](#); [Levitsky and Ziblatt 2018](#)). In particular, politicians that are willing to discard norms of self-enforcing democracy will exploit constitutional loopholes to subvert electoral competition and entrench their power (e.g., [Helmke, Kroeger and Paine 2022](#)). They, moreover, take advantage of their supporters' willingness to trade off democratic principles for instrumental partisan policy considerations (e.g., [Graham and Svobik 2020](#)), which undermines the very institutions that serve as coordination mechanisms for citizens to limit arbitrary state power (e.g., [Reenock, Staton and Radean 2013](#); [Weingast 1997](#)).

The systematic erosion of domestic institutions has led observers to increasingly call upon international institutions – specifically, international courts – to serve as a bulwark of democracy (e.g., [Blauberger and Kelemen 2017](#)). International courts such as the Court of Justice of the European Union (CJEU), European Court of Human Rights, the Inter-American Court of Human Rights, and the African Court on Human and Peoples' Rights have the means, motive, and opportunity to address such questions of democratic backsliding (e.g., [Ginsburg 2019](#)). The efficacy of such courts in doing so, however, may be critically dependent on how citizens view such engagement (e.g., [Madsen et al. 2022](#); [Stiansen and Voeten 2020](#)). In this paper, we build upon the scholarship on judicial legitimacy (e.g., [Bartels and Johnston 2020](#); [Nelson and Gibson 2019](#)) to develop a theoretical account of public support for international courts taking on the role of monitoring the quality of a country's democracy. We test our theory's expectations using original survey data on the views of Hungarians both in general

towards the CJEU having the power to evaluate Hungarian democracy and specifically in regard to a February 2022 CJEU decision.

We organize our paper as follows. First, we provide a general theory about partisan reactions to the decision-making of international courts as a function of support for international courts and support for democratic values. Second, we evaluate the Hungarian public's reactions to the CJEU's decision in February 2022 on the use of the EU's Rule of Law Mechanism against Hungary. Finally, we conclude by examining our theory's implications for the role international institutions can play in limiting democratic backsliding in the future.

Pragmatic and Idealistic Bases of Judicial Support

Lacking the ability to directly enforce their decisions against a reluctant executive through the power of the purse or sword, courts require tools to overcome this constraint to compel compliance. One potential tool courts can leverage in their pursuit of judicial power – which [Staton \(2010, 9\)](#) defines as a court's ability to “cause by its actions the outcome that it prefers” – is the support of the mass public for its decision-making (e.g., [Carrubba 2009](#); [Gibson, Caldeira and Baird 1998](#)). This public support is vital because citizens can leverage their ability to punish politicians at the ballot box to hold accountable those that ignore the rulings of courts (e.g., [Vanberg 2015](#)).

Critical to this account is that citizens have a fundamental commitment to democratic principles and the rule of law, which lends support for courts and facilitates their legitimacy, or the public's belief in the court's rightful authority to make decisions for the country (e.g., [Caldeira and Gibson 1992](#); [Gibson, Caldeira and Spence 2003](#); [Gibson and Nelson 2015](#)). Recent scholarship, nonetheless, provides evidence that partisan divisions over court decisions substantially limits public support for judicial power, suggesting that citizens may see courts as an institution they can use to obtain instrumental partisan and policy advantages (e.g., [Bartels and Johnston 2013](#); [Christenson and Glick 2015](#)). While approval for these specific

decisions (specific support) may be affected by partisanship, the effects on diffuse support for the institution and its exercise of judicial power should be relatively limited (e.g., [Gibson and Nelson 2014](#)). These effects should be further curtailed by fundamental commitments to democratic values and protect courts from partisan backlash.

[Bartels, Horowitz and Kramon \(2021\)](#), however, find that commitment to democratic values does not attenuate partisan differences in support for judicial power. While some partisans may value democratic checks and balances, they may so strongly detest the alternative that they would rather tolerate the manipulation of democratic institutions by the incumbent than allow the opposition to gain power (e.g., [Svolik 2020](#)). The public, as a result, may no longer serve as legitimate check against democratic manipulation or, more specifically for our purposes, a guardian of judicial power (e.g., [Vanberg 2001](#)). Therefore, although the public may serve to enhance judicial power, they similarly may serve as enablers of court curbing (e.g., [Clark 2011](#)) and the eroding of institutions that are constitutionally tasked to limit executive power.

With domestic institutions unable to safeguard democracy, a potential alternative is international institutions and their affiliated international courts. Scholars theorize that international organizations can be an effective vehicle for democratization (e.g., [Mansfield and Pevehouse 2006](#); [Moravcsik 2000](#)). In particular, states that do not have well functioning domestic legal institutions have strong incentives to join international institutions in order to protect investor and human rights (e.g., [Simmons and Danner 2010](#)). These international agreements can serve as credible commitments around which civil society actors can mobilize and hold their governments accountable (e.g., [Simmons 2009](#)). A critical assumption of these arguments is that civil society will mobilize in favor, as opposed to against, these agreements.

Public support for such international institutions and courts, however, is not guaranteed. International courts have recently faced considerable “backlash”, which [Voeten \(2020, 408\)](#) defines as “government actions that aim to curb or reverse the authority of an international court.” Such backlash can target a court’s general authority (e.g., [Alter, Gathii and Helfer](#)

2016) or a court’s authority over a single country (e.g., [Peinhardt and Wellhausen 2016](#)). Backlash against international courts most powerfully takes the form of a country leaving a court’s jurisdiction. In an earlier scholarship with regards to citizens support for transnational legal institutions (or international courts), [Gibson and Caldeira \(1998, 77-80\)](#) define diffuse support as, “The willingness to protect the institution against threats to its basic structure and function. One such attack often levelled against courts is the manipulation and restriction of the jurisdiction of the institution, although the very existence of courts is occasionally at stake as well.” We, thus, see such a state’s action to remove itself from the jurisdiction of an international court as reflective of the public’s diffuse support for the regime altogether. If international courts can serve as a bulwark of democracy when domestic courts fail, it is necessary to motivate why the public would be willing to hold a government accountable to its international commitments – despite its unwillingness to hold an incumbent to its own domestic constitutional commitments – and serve as a guardian of international legal obligations against a backsliding government.

The model from [Carrubba \(2009\)](#) provides a useful starting point. Consistent with other models of international cooperation (e.g., [Carrubba 2005](#); [Downs, Rocke and Barsoom 1996](#)), [Carrubba \(2009\)](#) argues that states form international agreements to resolve collective action problems. States have incentives to deviate from the agreement that vary over time, but, over the long term, cooperation is mutually beneficial. Since states cannot perfectly monitor each other’s compliance, they create a court to adjudicate compliance with the agreement. Building upon other models of judicial power (e.g., [Staton 2010](#); [Stephenson 2004](#); [Vanberg 2005](#)), each state has a domestic public that cares about how the agreement affects their interests. Importantly, the public’s preferences are correlated with, but not perfectly reflected by, the governments they elected. This slack between the public and the government means that the government will sometimes not comply with the agreement’s rules when the public would prefer compliance. Over time, if the public observes their government complying with an international agreement’s rules and benefits from this compliance, the public comes to

view the court as protecting their own interests. When their government does not comply with the court’s rulings, as a result, the public is willing to punish their government for noncompliance because they believe the court’s rulings are in their interest. Thus, in Carrubba’s (2009) model, the public’s support of the international court is purely instrumental and can develop endogenously. In other words, “publics are backing the court because doing so protects their policy interests, not because they come to believe in the intrinsic value of the supremacy of the rule of law, or of judicial institutions” (Carrubba 2009, 66).

Extending this argument, citizens – irrespective of their partisanship – may internalize the benefits of the international agreement differently. Although supporters of the incumbent may be inclined not to support an international court decision against an incumbent’s democratic backsliding, those that have internalized the benefits of the international agreement may be willing to tolerate this unappealing decision. In other words, they recognize the long term value of sustaining the agreement and believe that noncompliance with the decision may deny them benefits. Opposition supporters that have internalized the benefits of the agreement, similarly, should also be more likely to support such a decision by the international court. This theorizing leads to the following hypothesis:

Hypothesis 1 *Support for an international agreement increases support among both government and opposition supporters for an international court’s decision on domestic democracy*

This instrumental support for the benefits that an international agreement provides is conceptually distinct from individual’s intrinsic commitment to democratic values. As opposed to pragmatic benefits from international agreement membership, an individual’s commitment to democratic values largely derives from childhood socialization. From schooling, to parenting, to the presence of siblings, and other general societal interactions, scholars argue these value orientations are primarily developed early in life (e.g., Cheruvu 2022; Healy and Malhotra 2013; Jennings and Niemi 1968). For international court decisions on domestic democracy, thus, it may be straightforward to expect that those with higher democratic

value orientations would be more likely to support such decisions, assuming those decisions are aiming to preserve domestic democracy.

Alternatively, we also may expect that this relationship is conditional on partisanship. Democratic value orientations may be correlated with education levels, political knowledge, and political engagement that may, in turn, amplify partisan reactions. Higher educated citizens may be more likely, for example, to vote for a specific political party (e.g., [Cavaille and Marshall 2019](#); [Marshall 2016](#)), engage in the political system (e.g., [Larreguy and Marshall 2017](#)), or disengage altogether because they view their political participation as legitimizing autocrats (e.g., [Croke et al. 2016](#)). Citizens that are more engaged in the political process may be more likely to be invested in partisan outcomes and view their opposition as threatening (e.g., [Graham and Svulik 2020](#)). Taken together, these characteristics may facilitate motivated reasoning, that may lead citizens approving of a decision protecting democracy to argue that the court is, in fact, protecting legally guaranteed rights, but lead citizens disapproving of the decision to argue that the court is acting politically (e.g., [Badas 2016](#)). This theorizing leads to the following hypothesis:

Hypothesis 2 *Support for democratic values only increases support among opposition supporters for an international court's decision on domestic democracy*

The previous two hypotheses are concerned with specific support for a court's decision, but do not make any predictions about a court's institutional legitimacy, or the public's diffuse support. Returning to [Carrubba \(2009\)](#), the public's support for an international agreement builds over time as it observes its government complying with the agreement and subsequently internalizes the benefits of the agreement. Facilitating compliance with the agreement is an international court. As the public realizes that an international court is acting in its interest over time, it starts to build diffuse support for the court as an institution and is willing to tolerate its decisions against the government. If we, once again, extend this model and imagine that members of the public internalize such benefits differently, then

those that have internalized such benefits of an international agreement should have higher diffuse support for the court. This theorizing leads us to the following hypothesis:

Hypothesis 3 *Support for an international agreement increases diffuse support for an international court among both government and opposition*

Although support for democratic values may have differing support for a specific international court decision based on partisanship, we may not have the same expectation with regards to diffuse support for a court. Although partisan considerations may have strong effects on specific support, such decisions may not cause a precipitous drop in diffuse support for a court (e.g., [Gibson and Nelson 2015](#)). As [Mondak and Smithey \(1997, 1124\)](#) contest, “a person’s confidence in [a court] can be shaken by controversial rulings, but the eventual reassertion of democratic values means that the individual’s confidence in the [c]ourt may be restored.” In particular, we expect that this relationship should hold true among those that have higher support for democratic values. Citizens that have lower support for democratic values, alternatively, should have lower diffuse for the court when encountering decisions that go against their partisan biases. This theorizing leads to the following hypothesis

Hypothesis 4 *Support for democratic values increases diffuse support for an international court among both government and opposition*

Empirical Application: Hungary and the Court of Justice of the European Union

We test our hypotheses using data from a 2000 respondent, nationally-representative survey fielded in Hungary in March 2022.¹ The timing and setting of our survey present several advantages for examining public support for international courts’ involvement in democratic

¹The survey was fielded in partnership with YouGov. See appendix for technical details.

backsliding. For one, Hungary has become one of the most prominent contemporary examples of democratic backsliding as Prime Minister Viktor Orban’s government has enacted a number of measures undermining the rule of law and the overall quality of democratic governance in the country (e.g., [Kelemen 2017](#)).² For another, the Hungarian government’s policies regarding the judiciary, media, and other aspects of democracy have been the subject of several legal challenges in international courts, particularly the Court of Justice of the European Union (CJEU), and the European Court of Human Rights ([Blauberger and Kelemen 2017](#)). Of particular consequence for our study was the CJEU’s decision in February 2022 regarding the European Union’s so-called “rule of law mechanism.”³ In this case, the CJEU dismissed challenges by the governments of Hungary and Poland that the EU’s proposal to make certain EU funds conditional on country’s meeting rule of law standards was illegal. While the decision did not speak directly to the state of democracy in either country, it did allow the EU to move forward with the regulation and thereby open member states up to potential legal and fiscal consequences for breaches of rule of law principles. Notably, the Court did this having in recent decisions ruled against Poland and Hungary’s governments in cases involving breaches of the rule of law, particularly with regards to judicial independence (e.g., [Bayer 2022](#)).

Moreover, our survey was fielded in the immediate run-up Hungary’s highly contentious and salient national election held on April 3rd. A key issue in the election, particularly before Russia’s invasion of Ukraine, was the state of Hungarian democracy. Indeed, so significant was this issue that nearly all of the major opposition parties formed a united coalition to run against Fidesz in the election. The resulting party, United for Hungary, held a nationwide primary to select its candidate for Prime Minister and coordinated the running of candidates across the country. With confronting the backsliding of Hungarian democracy at the center

²In future iterations of the paper we plan to provide a more extensive accounting of Hungary’s democratic backsliding experience.

³Case C-156/21 and C-157/21.

of the new party’s platform, the electorate was uniquely positioned to be both aware of the issue and view it as an electorally-salient one.

Our survey allows us to take advantage of these unique conditions, which we did by asking respondents three questions specifically about the CJEU’s decision regarding the rule of law mechanism. This makes our study particularly unique, as scholars seldom are able to ask respondents about individual cases, much less those issued by an international court (e.g., [Madsen et al. 2022](#)). The first question, which was included after an experimental component of the survey, asked respondents “...as you may know, the European Court of Justice recently issued a ruling that allows the European Union to withhold funds from Hungary for flouting democratic standards. How much would you say you have heard about this decision?” with responses on a four point scale (none; a little; some; a lot). While CJEU decisions - and those of international courts more generally - are often largely overlooked by the public, that was not the case here. As one might expect given the salience of the decision and the issue, the CJEU’s ruling was widely known among our respondents. In fact, less than 15% of respondents indicating having no familiarity with the decision; 24.45% said they heard “a little” about it, while 37.35% and 23.55% had heard “some” and “a lot”, respectively. Since we want our analysis to reflect citizens’ attitudes towards the CJEU’s decision, we remove those who said they had not heard anything about the decision from our analyses.⁴

To measure respondents’ support for the CJEU’s decision, we asked (using a five point scale) “Regardless of how much you know about it, do you support or oppose European Court of Justice’s decision allowing the European Union to withhold funds from Hungary for flouting democratic standards?” Overall, our respondents were fairly evenly split in their view of the decision, with 35% somewhat or strongly disapproving and 32% somewhat or

⁴Of the 293 respondents removed, 119 were Fidesz supporters and 69 opposition supporters; the remainder expressed no preference between the parties.

strongly approving (32% neither approved nor disapproved).⁵ Similarly, to measure respondents’ support for the CJEU’s continued jurisdiction in Hungary, we asked (using a five point scale) “In light of this ruling, do you agree or disagree that that Hungary should continue to accept the authority of the European Court of Justice?” In contrast to the distribution of the previous questions, respondents were much more supportive of remaining under the CJEU’s jurisdiction, with 44% strongly or somewhat supportive of doing so and only 18% opposed (with 38% neither agreeing or disagreeing with the statement).

Turning to the explanatory variables for our analyses, we measure support for the European Union using the question (borrowed from the European Social Survey): “Thinking about the European Union, some say European unification should go further. Others say it has already gone too far. Which best describes your position?” Respondents had three options to choose from when answering the question: “unification has already gone too far”; “unification has gone as far as it should”; and “unification should go further.” Of the respondents included in our analyses, 20% said EU unification has already gone far, 42% as far as it should, and 38% that unification should go further.⁶ We anticipate that support for the CJEU’s decision, as well as its continued jurisdiction in Hungary, will be higher among those who support greater EU unification.

We measure support for democratic values by constructing a variable using a factor analysis of four questions designed to tap into distinct aspects of democracy. Each question asked respondents to select which of two statements was closest to their view. The first pair of statements was “Democracy is preferable, even if it is sometimes unstable” vs. “Ordered society is preferable, even if that means limiting democracy;” the second was “We need a strong leader who does not have to be elected by the vote of the people” vs. “Although

⁵Percentages are based on the respondents used in our analyses; e.g. it does not include those with no familiarity with the CJEU’s decision.

⁶For robustness we also use an alternative question commonly used for evaluating support for the EU: “In general terms, Hungary’s membership of the European Union is...” with five options ranging from “very bad” to “very good.” See appendix for details.

things may not always work, electoral democracy, or the popular vote, is always best;” the third was “It is more important to have a government that can get things done, even if we have no influence over what it does” vs. “It is more important for citizens to be able to hold government accountable, even if that means it makes decisions more slowly;” and the fourth was “In some cases the government should be able to ignore the law in order to solve important social or economic problems” vs. “The government should always follow the law, even if it causes some harm to society.” We scale the responses onto a single dimension with values from 0 to 1, with higher values indicating higher support for democratic values. Following our second hypothesis, we anticipate that this variable will predict support for the CJEU’s decision only among opposition supporters, while it will correspond to support for the CJEU’s continued jurisdiction among both opposition and government supporters.

To discern whether a respondent was a likely supporter of the government or opposition, we asked the following question: “As you may know, there is a national parliamentary election scheduled for April 3rd. Competing in this election will be Fidesz and the United Opposition, which is a coalition of several opposition political parties including Jobbik, MSZP, Momentum Mozgalom and Demokratikus Koalíció. If this election were held next week, which party would you be most likely to vote for?” Respondents could either select Fidesz, United Opposition, or “I would not vote.”⁷ Of those respondents included in our analyses, 42% indicated support for Fidesz, 35% for the United Opposition, and 23% would not vote. Since our theory and subsequent hypotheses specifically identify partisanship as a key factor, we focus our analyses on those respondents who selected one of the two parties.

We include four control variables in each model.⁸ The first two, age and gender, account for these core demographic factors. Third, we include fixed effects for the seven statistical

⁷The United Opposition changed its official name to United for Hungary; we don’t have any immediate reason to believe the difference in name caused confusion for respondents.

⁸We welcome suggestions for additional controls; for now we have limited ourselves to these controls for the sake of keeping our models parsimonious.

regions in Hungary.⁹ Lastly, we include a measure of diffuse support for the CJEU, which accounts for the possibility that respondents are deferential to courts even if they are not keen on the EU. While past scholarship has suggested that attitudes towards the EU are more likely to feed into views of EU institutions than the other way around (e.g., [Hobolt and De Vries 2016](#)), it is possible that citizens are simply deferential to courts—including the CJEU—and so our primary explanatory variable is simply reflecting support for the Court rather than for the broader European project. To measure diffuse support for the CJEU, we construct a scale using a factor analysis of responses to the following five questions (each on a five point scale of agree/disagree):

- If the European Court of Justice started making a lot of decisions that most people disagree with, it might be better to do away with the European Court of Justice altogether.
- The right of the European Court of Justice to decide certain types of controversial issues should be reduced
- Judges on the European Court of Justice who consistently make decisions at odds with what a majority of the people want should be removed from their position as judge
- The European Court of Justice ought to be made less independent so that it listens a lot more to what the people want.
- It is inevitable that the European Court of Justice gets too mixed up in politics; therefore, we ought to have stronger means of controlling the actions of the European Court of Justice.

⁹The seven statistical regions are: Southern Great Plain, Southern Transdanubia, Northern Great Plain, Northern Hungary, Central Transdanubia, Central Hungary, and Western Transdanubia.

We estimate linear regressions for each of our hypotheses. Since our hypotheses distinguish between government and opposition supporters, we split the data accordingly and run separate models for each group.¹⁰

Results

Table 1 presents the results of our analyses for the first hypothesis, which expects support for the EU to correspond to higher support for the CJEU's decision regardless of partisanship. We find support for this expectation across all four of the models in the table, indicating that both Fidesz and United Opposition supporters were more likely to support with the CJEU's decision regarding the EU's rule of law conditionality mechanism as their support for the EU increased. Notably, there appears minimal difference across the two parties in terms of the coefficients' magnitude, suggesting that pragmatic views on the importance of the EU are similarly powerful in both political camps. Moreover, the magnitude of the coefficients suggests a substantively significant relationship, with a shift from anti-EU to pro-EU corresponding to an increase in support for the CJEU's decision of more than one-third of a standard deviation in the dependent variable.

¹⁰This approach allows for more a straightforward interpretation of the results, although for robustness purposes we estimate models with an interaction of partisanship and our key variables.

Table 1: Attitudes toward EU Unification and Support for CJEU Ruling

	Model 1	Model 2	Model 3	Model 4
	Fidesz	Fidesz	Opposition	Opposition
	Supporters	Supporters	Supporters	Supporters
Support for EU Unification	0.394*** (0.0624)	0.299*** (0.0610)	0.386*** (0.0627)	0.242*** (0.0615)
CJEU Diffuse Support		0.533** (0.250)		1.099*** (0.182)
Age		0.0235*** (0.00302)		-0.0131*** (0.00220)
Female		-0.0732 (0.0880)		-0.152** (0.0735)
<i>N</i>	663	663	735	735

Region fixed effects included in Models 2 and 4. Standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

We turn now to our second hypothesis. Here we anticipate a difference between government and opposition supporters when it comes to the influence of democratic values on support for the CJEU’s decision. As shown in Table 2, we find precisely this as democratic values made Fidesz supporters no more or less likely to support the Court’s decision while for opposition supporters these values correspond strongly with support for the decision. In other words, among Fidesz voters there is no statistical relationship between their attachment to democratic values and support for the CJEU’s decision; this suggests that these respondents may be less likely to see the value of the Court’s decision in terms of democratic backsliding but rather more with regard to its implications for Hungary’s place in the

EU. In contrast, there is a clear relationship between democratic values and support for the CJEU decision among United Opposition supporters. As our measure of democratic values is scaled from 0 to 1 with a mean of 0.72 and standard deviation of 0.28, it appears that the substantive magnitude of the relationship found here is not exceedingly different from that found in Table 1; in further analysis we might seek to disentangle the two and evaluate their comparative strengths.

Table 2: Democratic Values and Support for CJEU Ruling

	Model 5	Model 6	Model 7	Model 8
	Fidesz Supporters	Fidesz Supporters	Opposition Supporters	Opposition Supporters
Democratic Values	0.0333 (0.174)	0.247 (0.168)	1.707*** (0.174)	1.163*** (0.182)
CJEU Diffuse Support		0.602** (0.257)		0.958*** (0.181)
Age		0.0269*** (0.00310)		-0.0106*** (0.00224)
Female		-0.0613 (0.0896)		-0.127* (0.0725)
<i>N</i>	660	660	730	730

Region fixed effects included in Models 6 and 8. Standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Tables 3 and 4 present our results the analyses of Hypotheses 3 and 4. Recall that these hypotheses predict that support for the CJEU’s continued jurisdiction—that is support for the Court’s institutional role—is a function of both support for the EU and democratic val-

ues among government and opposition supporters. Or, put another way, we expect that the partisan differences found in the previous tables will not manifest when analyzing respondents’ support for a backlash against the Court’s institutional power. This is precisely what we find; supporters of both parties were more likely agree that “Hungary should continue to accept the authority of the European Court of Justice?” as their support for EU unification and democratic values increase. This suggests that citizens distinguish between support for a specific decision and support for a backlash against the court issuing that decision, particularly as it relates to the importance of democratic values (e.g., [Gibson and Nelson 2014](#)).

Table 3: Attitudes toward EU Unification and Support for CJEU Jurisdiction

	Model 9	Model 10	Model 11	Model 12
	Fidesz	Fidesz	Opposition	Opposition
	Supporters	Supporters	Supporters	Supporters
Support for EU Unification	0.422*** (0.0529)	0.364*** (0.0529)	0.421*** (0.0496)	0.298*** (0.0480)
CJEU Diffuse Support		1.339*** (0.217)		0.987*** (0.142)
Age		0.00568** (0.00262)		-0.0128*** (0.00172)
Female		0.00842 (0.0764)		-0.0485 (0.0574)
<i>N</i>	663	663	735	735

Region fixed effects included in Models 10 and 12. Standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Table 4: Democratic Values and Support for CJEU Jurisdiction

	Model 13	Model 14	Model 15	Model 16
	Fidesz	Fidesz	Opposition	Opposition
	Supporters	Supporters	Supporters	Supporters
Democratic Values	0.407*** (0.149)	0.387*** (0.148)	1.827*** (0.134)	1.388*** (0.139)
CJEU Diffuse Support		1.389*** (0.226)		0.832*** (0.139)
Age		0.00999*** (0.00273)		-0.00960*** (0.00171)
Female		0.0259 (0.0789)		-0.0239 (0.0554)
<i>N</i>	660	660	730	730

Region fixed effects included in Models 14 and 16. Standard errors in parentheses.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Conclusion and Discussion

International courts are increasingly finding themselves as arbiters of disputes over democratic backsliding. Despite this increasingly important role, scholars have devoted limited attention to examining public reactions to this expanded judicial involvement in questions of domestic democracy. We seek to speak to this limitation of the extant literature by arguing that both pragmatic concerns, specifically views on the international legal regime, and idealistic concerns, particularly attachment to democratic values, influence citizens' support for international court decisions involving domestic democracy. We further argue, however, that the impact of these two sources of support depend on partisanship, with pragmatic

concerns influencing both government and opposition supporters while idealistic concerns only influence opposition supporters. We use original survey data from Hungary regarding a recent ruling by the Court of Justice of the European Union on the EU's so-called rule of law mechanism to test our argument.

References

- Alter, Karen J, James T Gathii and Laurence R Helfer. 2016. “Backlash against international courts in West, East and Southern Africa: causes and consequences.” *European Journal of International Law* 27(2):293–328.
- Badas, Alex. 2016. “The Public’s Motivated Response to Supreme Court Decision-Making.” *Justice System Journal* 37(4):318–330.
- Bartels, Brandon L and Christopher D Johnston. 2013. “On the Ideological Foundations of Supreme Court Legitimacy in the American Public.” *American Journal of Political Science* 57(1):184–199.
- Bartels, Brandon L and Christopher D Johnston. 2020. *Curbing the Court*. Cambridge University Press.
- Bartels, Brandon L, Jeremy Horowitz and Eric Kramon. 2021. “Can Democratic Principles Protect High Courts from Partisan Backlash? Public Reactions to the Kenyan Supreme Court’s Role in the 2017 Election Crisis.” *American Journal of Political Science* (Forthcoming).
- Bayer, Lili. 2022. “In major first, EU triggers power to cut Hungary’s funds over rule-of-law breaches – POLITICO.”
URL: <https://www.politico.eu/article/eu-european-commission-rule-law-mechanism-hungary-funds/>
- Bermeo, Nancy. 2016. “On Democratic Backsliding.” *Journal of Democracy* 27(1):5–19.
- Blauberger, Michael and R. Daniel Kelemen. 2017. “Can courts rescue national democracy? Judicial safeguards against democratic backsliding in the EU.” *Journal of European Public Policy* 24(3):321–336.

- Caldeira, Gregory A and James L Gibson. 1992. "The Etiology of Public Support for the Supreme Court." *American Journal of Political Science* 36(3):635–664.
- Carrubba, Clifford J. 2005. "Courts and Compliance in International Regulatory Regimes." *Journal of Politics* 67(3):669–689.
- Carrubba, Clifford J. 2009. "A Model of the Endogenous Development of Judicial Institutions in Federal and International Systems." *Journal of Politics* 71(1):55–69.
- Cavaille, Charlotte and John Marshall. 2019. "Education and Anti-Immigration Attitudes: Evidence from Compulsory Schooling Reforms across Western Europe." *American Political Science Review* 113(1):254–263.
- Cheruvu, Sivaram. 2022. "Education, public support for institutions, and the separation of powers in new democracies." *Political Science Research and Methods* (Forthcoming).
- Christenson, Dino P and David M Glick. 2015. "Chief Justice Roberts's Health Care Decision Disrobed: The Microfoundations of the Supreme Court's Legitimacy." *American Journal of Political Science* 59(2):403–418.
- Clark, Tom S. 2011. *The Limits of Judicial Independence*. Cambridge University Press.
- Croke, Kevin, Guy Grossman, Horacio A Larreguy and John Marshall. 2016. "Deliberate Disengagement: How Education Can Decrease Political Participation in Electoral Authoritarian Regimes." *American Political Science Review* 110(3):579–600.
- Downs, George W, David M Roche and Peter N Barsoom. 1996. "Is the Good News about Compliance Good News about Cooperation." *International Organization* 50(3):379–406.
- Gibson, James L and Gregory A Caldeira. 1998. "Changes in the Legitimacy of the European Court of Justice: A Post-Maastricht Analysis." *British Journal of Political Science* 28(1):63–91.

- Gibson, James L, Gregory A Caldeira and Lester Kenyatta Spence. 2003. "Measuring Attitudes toward the United States Supreme Court." *American Journal of Political Science* 47(2):354–367.
- Gibson, James L, Gregory A Caldeira and Vanessa A Baird. 1998. "On the Legitimacy of National High Courts." *American Political Science Review* 92(2):343–358.
- Gibson, James L and Michael J Nelson. 2014. "The Legitimacy of the US Supreme Court: Conventional Wisdoms and Recent Challenges Thereto." *Annual Review of Law and Social Science* 10:201–219.
- Gibson, James L and Michael J Nelson. 2015. "Is the U.S. Supreme Court's Legitimacy Grounded in Performance Satisfaction and Ideology?" *American Journal of Political Science* 59(1):162–174.
- Ginsburg, Tom. 2019. "International Courts and Democratic Backsliding." *Berkeley Journal of International Law* 37(2):265–288.
- Ginsburg, Tom and Aziz Z Huq. 2018. *How to Save a Constitutional Democracy*. University of Chicago.
- Graham, Matthew H and Milan W Svobik. 2020. "Democracy in America? Partisanship, Polarization, and the Robustness of Support for Democracy in the United States." *American Political Science Review* 114(2).
- Healy, Andrew and Neil Malhotra. 2013. "Childhood Socialization and Political Attitudes: Evidence from a Natural Experiment." *Journal of Politics* 75(4):1023–1037.
- Helmke, Gretchen, Mary Kroeger and Jack Paine. 2022. "Democracy by Deterrence: Norms, Constitutions, and Electoral Tilting." *American Journal of Political Science* 66(2):434–450.

- Hobolt, Sara B and Catherine E De Vries. 2016. "Public Support for European Integration." *Annual Review of Political Science* 19:413–432.
- Jennings, M Kent and Richard G Niemi. 1968. "The Transmission of Political Values from Parent to Child." *American Political Science Review* 62(1):169–184.
- Kelemen, Katalin. 2017. *Judicial Dissent in European Constitutional Courts*. New York: Routledge.
- Larreguy, Horacio A and John Marshall. 2017. "The effect of education on civic and political engagement in nonconsolidated democracies: Evidence from Nigeria." *Review of Economics and Statistics* 99(3):387–401.
- Levitsky, Steven and Daniel Ziblatt. 2018. *How Democracies Die*. Crown.
- Madsen, Mikael Rask, Juan A Mayoral, Anton Strezhnev and Erik Voeten. 2022. "Sovereignty, Substance, and Public Support for European Courts' Human Rights Rulings." *American Political Science Review* 116(2):419–438.
- Mansfield, Edward D and Jon C Pevehouse. 2006. "Democratization and international organizations." *International Organization* 60(1):137–167.
- Marshall, John. 2016. "Education and Voting Conservative: Evidence from a Major Schooling Reform in Great Britain." *Journal of Politics* 78(2):382–395.
- Mondak, Jeffery J and Shannon Ishiyama Smithey. 1997. "The Dynamics of Public Support for the Supreme Court." *Journal of Politics* 59(4):1114–1142.
- Moravcsik, Andrew. 2000. "The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe." *International Organization* 54(2):217–252.
- Nelson, Michael J and James L Gibson. 2019. "How Does Hyperpoliticized Rhetoric Affect the US Supreme Court's Legitimacy?" *Journal of Politics* 81(4):1512–1516.

- Peinhardt, Clint and Rachel L. Wellhausen. 2016. "Withdrawing from Investment Treaties but Protecting Investment." *Global Policy* 7(4):571–576.
- Reenock, Christopher, Jeffrey K Staton and Marius Radean. 2013. "Legal Institutions and Democratic Survival." *Journal of Politics* 75(2):491–505.
- Simmons, Beth A. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge: Cambridge University Press.
- Simmons, Beth A and Allison Danner. 2010. "Credible Commitments and the International Criminal Court." *International Organization* 64(2):225–56.
- Staton, Jeffrey K. 2010. *Judicial Power and Strategic Communication in Mexico*. Cambridge University Press.
- Stephenson, Matthew C. 2004. "Court of Public Opinion: Government Accountability and Judicial Independence." *Journal of Law, Economics, & Organization* 20(2):379–399.
- Stiansen, Øyvind and Erik Voeten. 2020. "Backlash and Judicial Restraint: Evidence from the European Court of Human Rights." *International Studies Quarterly* 64(4):770–784.
- Svolik, Milan W. 2020. "When Polarization Trumps Civic Virtue: Partisan Conflict and the Subversion of Democracy by Incumbents." *Quarterly Journal of Political Science* 15(1):3–31.
- Vanberg, Georg. 2001. "Legislative-Judicial Relations: A Game-Theoretic Approach to Constitutional Review." *American Journal of Political Science* 45(2):346–361.
- Vanberg, Georg. 2005. *The Politics of Constitutional Review in Germany*. Cambridge University Press.
- Vanberg, Georg. 2015. "Constitutional Courts in Comparative Perspective: A Theoretical Assessment." *Annual Review of Political Science* 18:167–185.

Voeten, Erik. 2020. "Populism and Backlashes against International Courts." *Perspectives on Politics* 18(2):407–422.

Weingast, Barry R. 1997. "The Political Foundations of Democracy and the Rule of Law." *American Political Science Review* 91(2):245–263.

Supplemental Appendix for “How does the public view international court decisions against democratic backsliding? Evidence from Hungary”

Technical Appendix for Survey

YouGov interviewed 2007 respondents from March 17 to March 31 who were then matched down to a sample of 2000 to produce the final dataset. The respondents were matched to a sampling frame on gender, age, and education. The frame was constructed by stratified sampling from the 2019 Eurobarometer sample with selection within strata by weighted sampling with replacements (using the person weights on the public use file).

The matched cases were weighted to the sampling frame using propensity scores. The matched cases and the frame were combined and a logistic regression was estimated for inclusion in the frame. The propensity score function included age, gender, education, and region. The propensity scores were grouped into deciles of the estimated propensity score in the frame and post-stratified according to these deciles.

The weights were then post-stratified on political ideology (10-categories), and a four-way stratification of gender, age (4-categories), and education (4-categories), to produce the final weight.