Partisanship, Pragmatism, or Idealism? Evaluating Public Support for Backlashes Against International Courts in Backsliding Democracies

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Abstract

With democratic backsliding spreading globally, international courts increasingly find themselves serving as democratic guardrails. This task poses a challenge, as national governments may attempt to punish international courts for trying to constrain their backsliding agendas. Since a government's calculus for attacking a court is likely influenced by public opinion, we consider the impact of partisanship on the extent of public support for backlash against international courts in backsliding democracies. We theorize that support for backlash is driven by more than partisanship alone. For government partisans, support for backlash decreases with support for the international organization to which the court belongs, while for opposition partisans it depends on their commitment to the democratic norms the court's decision defends. We support our expectations by analyzing original survey data collected from Hungary in March 2022, immediately following a major pro-democracy decision by the Court of Justice of the European Union.

Introduction

Democracy is under attack across the globe. In both young and old democracies alike, political leaders have sought to consolidate their own political power by weakening democratic guardrails and undermining their citizens' faith in political institutions (Levitsky and Ziblatt 2018). These attacks have contributed to a democratic recession, with the number of democracies at its lowest since the end of the Cold War (Repucci and Slipowitz 2021).

In response to this retreat, a new potential champion in the defense of democracy has emerged: international courts. With domestic legal institutions often captured or their independence compromised (Helmke, Kroeger and Paine 2022), supporters of liberal democracy are turning with growing regularity to international legal institutions as a venue for challenging the anti-democratic actions of would-be authoritarians on the grounds that they are violating international law. As a result, fundamental questions of what is—and is not—consistent with democracy and democratic norms have increasingly become the purview of international courts from Europe to Africa to Latin America (Ginsburg 2019).

While this trend of adjudicating anti-democratic policies in international courts presents an opportunity for stemming the weakening of democratic guardrails, it can also place these institutions into direct conflict with national governments (Krehbiel and Cheruvu 2022). Where international courts are strong thanks to compelling incentives for governments to obey their decisions, such confrontations may not be problematic (Carrubba 2009). However, in countries experiencing democratic backsliding, illiberal governments often promote attacks against international court decisions by depicting them as illegitimately interfering in domestic politics (Blauberger and Kelemen 2017). Importantly, such backlash can go beyond simply criticizing the court, but rather often aims to "curb or reverse the authority of an international court" (Voeten 2020, 408). As a consequence, international courts may face the steepest political costs for defending democracy in precisely those contexts in which such defense is needed the most.

Yet while scholars have examined both the causes of backlashes against international courts and their consequences for international courts' subsequent behavior (Alter 2009; Voeten 2020), we know much less about *citizens'* appetite for reprisals against an international court that issues a decision on the state of their country's democracy (but see Madsen, Cebulak and Wiebusch 2018 and in this volume Stiansen et al. 2024 and Toshkov et al. 2024). The extent of such support constitutes an important aspect of a government's calculus when responding to a court decision, as making or following through on threats of a backlash become all the more credible when public support for doing so is strong across a wide swath of the citizenry (Caldeira and Gibson 1995; Gibson and Caldeira 1995). If, however, citizens' desire for such actions is limited or they even oppose a backlash, then governments may be more reluctant to attack a court or defy its decision (Gibson, Caldeira and Baird 1998; Staton 2010; Vanberg 2005). As such, the contours of public support for backlash can have direct consequences for an international court's ability to serve as a credible and effective democratic guardrail.

In this paper, we investigate the nature of public support for punishing an international court for ruling on critical questions of domestic democracy. Building on recent research from both the international courts and comparative judicial politics literatures (Bartels and Kramon 2020; Cheruvu and Krehbiel 2024; Madsen et al. 2022; Staton and Moore 2011), we develop a generalized theory that citizens' reactions to such decisions are motivated by partisanship, with government supporters more likely to approve of a backlash than opposition supporters. We further argue, however, that this relationship is not simply driven by partisanship *alone*. Rather, we contend that government co-partisans' approval of a backlash is conditioned by the benefit they perceive coming from the international organization that empowers the court. We then go on to hypothesize that opposition supporters' unwillingness to support a backlash depends on their commitment to the broader democratic norms the court's decision is meant to protect. Taken together, our theoretical account depicts support for an anti-international court backlash as having multiple interacting sources that speak

to the increasingly multifaceted nature of the politics of international law, particularly with respect to democratic backsliding.

To empirically examine our theoretical expectations, we apply our framework to the context of the European Union (EU) and its ongoing rule of law crisis. Article 2 of the Treaty on the Functioning of the European Union describes the rule of law as one of the EU's fundamental values. Nonetheless, the deterioration of this democratic norm in several member states is a defining—if not existential—crisis (Kelemen 2017). Member state governments, particularly those in Hungary and Poland, have undermined the rule of law by, among other actions, weakening judicial independence and limiting LGBT rights. While the Commission's response to member states' backsliding is uneven at best (Kelemen and Pavone 2023), a key component of its strategy is using litigation at the EU's highest court, the Court of Justice of the European Union (CJEU) (Pech and Kelemen 2020; Pech, Wachowiec and Mazur 2021). Indeed, the CJEU's president, Koen Lenaerts, has emphasized the Court's important role in protecting the rule of law, stating, "It is our duty to say: We are all bound by these same basic values laid down in Article Two" (van Dorpe 2021). With the response to democratic backsliding in the EU increasingly finding its way onto the CJEU's docket, how EU citizens react to the Court's rulings on the rule of law links directly to the politics of member state government's following these rulings and, consequently, the efficacy of these efforts to counter assaults on the rule of law.

Our empirical approach uses data from an original, nationally-representative survey of 2000 respondents fielded in Hungary from March 17-31, 2022. We surveyed respondents shortly after a high profile decision by the EU's highest court, the Court of Justice of the European Union (CJEU),[1] regarding the legality of the so-called "rule of law mechanism" that allows the EU to withhold funds from member states that violate democratic standards. Previewing our findings, we present evidence of a substantial partisan difference in support

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[1]The CJEU is made up of two courts: the Court of Justice and the General Court. References to the CJEU here are to the Court of Justice unless otherwise stated.

of a backlash against the CJEU for its decision between supporters of the governing Fidesz party and those preferring the United Opposition party. This difference, however, dissipates with greater support for the EU, as pro-EU Fidesz voters lack the desire to punish the CJEU. Conversely, United Opposition supporters' willingness to protect the Court decreases as their commitment to democratic values weakens. In addition to providing insights into the dynamics of public support for backlashes against international courts, these findings are relevant for a real-world, highly salient decision that has significant implications for Hungary, the CJEU, and the EU more broadly.

We organize the remainder of the paper in the following way. In the next section, we discuss the state of the relevant theoretical and empirical literature, after which we present our theoretical account of partisanship's impact on support for a backlash and the conditioning effect of citizens' attitudes toward international organizations and democratic values. We then discuss our empirical approach, detailing our use of the Hungarian case in the wake of the CJEU's decision on the EU's rule of law mechanism and the design of our survey instrument. The subsequent section presents the results of our empirical analyses, after which we conclude with a discussion of our findings' implications for the role of an international court in buttressing democracy both in general and in the EU in particular.

Determinants of Public Support for Backlash

A growing literature has identified public support as a critical tool for international courts seeking to avoid political "backlash" for decisions (Chilton and Linos 2021).[2] Unlike their domestic counterparts, however, international courts generally lack the benefit of national

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[2]By backlash we follow the conceptualization proposed by Voeten (2020, 408): "government actions that aim to curb or reverse the authority of an international court." Such backlash is conceptually distinct from noncompliance with a court's rulings, as it takes the form of general court curbing mechanisms (Clark 2011). It can target a court's general authority, a court's authority over a single country, and, most powerfully, takes the form of a country leaving a court's jurisdiction (Voeten 2020).

constitutions or long political histories to rely on for public support. As a result, scholars have long viewed international courts as being at a disadvantage vis-a-vis national courts when it comes to the strength of their public support (Gibson and Caldeira 1995). Whether international courts can overcome these disadvantages and develop public support, or acceptance, for their role in regulating domestic politics is an open question.

One such policy area in which international courts are likely to confront such backlash is on cases related to the state of a country's democracy. Although international court decisions frequently confront the tension between national sovereignty and international cooperation (Carrubba 2005), adjudicating the democratic quality of a country's political system is among the most politically salient. Such cases often bring the court into conflict with national governments, as they frequently revolve around either a contested election or the incumbent government's implemented policy (Alter, Gathii and Helfer 2016). Moreover, the democratic backsliding at issue is often a reflection, either directly or indirectly, of the weakening of domestic legal institutions, making those institutions less viable alternative venues for protecting democratic procedures and norms.

Public support for backlash following international court decisions is not, however, guaranteed. While citizens may respond to the critical statements made by political leaders and embrace efforts to punish an international court, they may also value the system represented by the court or the values promoted in its decisions, and, thus, be less willing to see the court damaged (Gibson and Caldeira 1995). Consequently, the relative extent of these effects—and the segment of citizens they influence—has implications both for the efficacy of an international court's decision and its viability as a democratic guardrail. To properly theorize about the dynamics driving citizens' support for backlash against domestic democracy, we derive hypotheses drawing from three groups of scholarly arguments: partisanship, support for the international agreement, and the policy area of the decision.

Partisanship. International law scholars have provided substantial evidence that support for international law may differ among subnational constituencies (Chapman and Chaudoin 2020; Krehbiel and Cheruvu 2021). Partisanship, in particular, is one such predictor of international law acceptance. Cope and Crabtree (2020) find that reminding Turkish citizens of their obligation under international law to accept refugees causes considerable backlash among supporters of the ruling party. Lupu and Wallace (2019), furthermore, provide evidence of a similar backlash effect in Israel when they informed survey respondents of the government's obligations under international law, but find that support among government supporters in India, in fact, decreases. Co-partisanship is also found to positively affect endorsement of policies that violate international law in the United States (Strezhnev, Simmons and Kim 2019).

Additionally, recent comparative judicial politics research suggests that partisanship may influence citizens' support for backlash (Bartels, Horowitz and Kramon 2023; Bartels and Kramon 2020). These studies link support for judicial power—the ability of a court to "cause by its actions the outcome that it prefers" (Staton 2010, 9)—with citizens' partisan attachment or opposition to the incumbent government. By these accounts, dynamics of public support with respect to courts, including support for backlash, are a function of partisanship, as citizens view court decisions through the lens of their partisan policy priorities (Christenson and Glick 2015). As such, citizens may view courts as instrumental vehicles to attain partisan political advantages and, thus, differ in their support for a court's authority and jurisdiction depending on which political party holds power.

Applied to the context of democratic backsliding and support for backlash, this logic suggests that citizens will see an international court's decision through a partisan lens. With democratic backsliding in the contemporary era predominantly occurring through the subversion of institutional checks and balances within the bounds of the legal and electoral order (Bermeo 2016), pro-democracy international court decisions often involve the rejection of the governing party's policy. Likewise, these decisions are likely to be contrary to the

preferences of government supporters, who, subsequently, may be more likely to consider an international court as engaging in judicial overreach that warrants political sanction. Importantly, this relationship should stand in contrast to the behavior of opponents of the government, who are more likely to see an international court's decision as a positive action that provides an additional avenue for challenging—and potentially blocking—government policies. Together, this theorizing leads us to our first hypothesis:

Hypothesis 1 *Support for backlash against an international court that issues a pro-democracy decision is greater among government supporters than opposition supporters.*

Support for the international agreement. Partisanship *alone*, however, may not tell the full story of public support for backlash against an international court. Rather, citizens may have further considerations that temper their partisan motivations. Consider first supporters of the governing party. If some portion of government supporters are willing to look beyond their partisanship and back international legal institutions over their own partisan interests, then a backlash may become too costly for the government to pursue. One such reason that government supporters may look beyond their partisanship and not support backlash against an international court is *pragmatism*: they view the court as providing benefits that would be jeopardized by a backlash.

The model from Carrubba (2009) provides a useful starting point in this regard by formalizing the conditions under which the public can come to support a court. In this model, the public's preferences are correlated with, but not perfectly reflected by, the government 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 may come to view the court as protecting their own interests – even in cases in which the court rules against their preferred outcome. Since they are benefiting from the court's decisions, the public is willing to

punish elected officials for noncompliance. The public's support of the international court, therefore, is purely instrumental – pragmatic as opposed to idealistic – 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, each citizen may internalize the benefits of the international agreement differently and, thus, have differing levels of support for the agreement itself.

Research on support for international law has also found agreement support as a substantial moderator (Chilton and Linos 2021). Scholars provide evidence that simply providing information that a given policy violates a government's treaty commitments reduces support for the policy (Chilton 2014; Kreps and Wallace 2016; Tingley and Tomz 2014; Wallace 2013). Chaudoin (2014), similarly, finds that informing survey respondents that an import restriction violates international agreements and would lead to litigation at the World Trade Organization reduces support for the policy. Furthermore, studies have provided evidence that citizens in a number of different contexts are more likely to support a policy when told that the United Nations supports it (Anjum, Chilton and Usman 2021; Linos 2011; Wallace 2019). Anjum, Chilton and Usman (2021) critically find, however, that such support is restricted to those that already have confidence in the United Nations. These accounts suggest that citizens can come to view an international legal system, and the court that enforces it, as sufficiently valuable as producers of desirable policies or politics to warrant acceptance even in the face of the occasional politically undesirable decision.

Such effects, nonetheless, are not uniform across citizens. In fact, existing scholarship finds that the positive effects of informing citizens of international law commitments are stronger among those that have lower preexisting support for the policy. In the American context, studies find that while Republicans are less supportive than Democrats on policies such as solitary confinement reform (Chilton 2014) and upholding the laws of war (Chilton 2018), informational treatments about international law have greater effects on Republicans.

Strezhnev, Simmons and Kim (2019) similarly find that informing Indian citizens about their government's obligation to accept refugees positively affects support among BJP supporters – which have low baseline support for refugee acceptance – and has no effect for opposition party Indian National Congress supporters.

Applying this insight to the context of democratic backsliding, we might then anticipate that the willingness of government supporters to favor a backlash weakens as they come to increasingly see the practical policy value afforded to them and their country by being part of the international legal regime. The same may be less prominently the case, however, for opposition supporters, as they ought to be predisposed to back a pro-democracy international court decision irrespective of their views of the international system on which the decision is based, thus creating a higher floor of support that mutes the influence of one's support for the international legal system. Therefore, even opposition supporters that dislike the international organization should not support backlash as long as the decision suits their partisan interests (Madsen et al. 2022). Such a high floor of support for a pro-democracy decision suggests that opposition backers should be less inclined to condone a backlash regardless of their attitudes toward the international legal regime upon which the decision is predicated. This logic of a differential conditioning effect leads to the following hypotheses:

Hypothesis 2a *Among government supporters, support for backlash against an international court that issues a pro-democracy decision decreases with support for the international organization to which the court belongs.*

Hypothesis 2b *Compared to government supporters, opposition supporters' support for backlash against an international court that issues a pro-democracy decision is less likely to change with support for the international organization to which the court belongs.*

Policy area. Opposition supporters may similarly not be fully unified in their defense of the institution. Whereas government supporters may temper their support for backlash based on *pragmatic* concerns, we theorize that for opposition backers their partisan-driven

resistance to backlash may be contingent on *idealism*: the valuing of democracy, the rule of law, and judicial institutions. As opposed to the pragmatic benefits from international agreement membership Carrubba's (2009) model describes, an individual's idealistic commitment to democratic values largely derives from factors like childhood socialization. From schooling, to parenting, and other general societal interactions, scholars argue these value orientations are primarily developed early in life (Cheruvu 2023; Tyler and Trinkner 2017). Such support for institutions originating from one's democratic value orientations is largely thought to be durable and unaffected by a court's specific decisions (Gibson and Nelson 2014).

For those opposition supporters with a strong commitment to democratic values, a pro-democracy international court decision provides a clear benefit by standing up for the norms and values in which they believe. Moreover, democratic values can entail support for the court's role as a legitimate component of the political system that should be shielded from political retribution for its decisions (Bartels and Johnston 2020; Gibson, Caldeira and Baird 1998). Opposition supporters, however, may not derive nearly as much gain from a pro-democracy decision if they do not share the court's commitment to democratic values. In short, if the desire for backlash is driven at least in part by individuals' perceived benefit of a decision, then, among opposition voters, a key component of that utility is the extent to which the court's defense of democracy aligns with their own attachment to the democratic values the decision promotes. Put differently, if the floor effects we theorized in hypothesis 2b are true, it is necessary to ascertain "whether [opposition supporters] already had policy positions more consistent with international law (and thus had less room to move)" (Chilton and Linos 2021, 273). An implication of this explanation is that as commitment to the policy position increases, support for backlash should be attenuated among opposition supporters. This logic leads to the first part of our third hypothesis:

Hypothesis 3a *Among opposition supporters, support for backlash against an international court that issues a pro-democracy decision decreases with support for democratic values.*

Democratic value orientations, alternatively, may not as strongly attenuate support for backlash among government supporters. For one, when democratic values come into conflict with partisan positions, including anti-democratic ones, scholars have demonstrated that citizens often revert to the latter (Svolik 2020). Thus government supporters may simply be more likely to prioritize support for their party's position and punishment for institutions that challenge those positions over fealty to democratic values. For another, even when the government is engaging in actions that undermine democracy, supporters may rationalize that such actions are, in fact, a defense of democracy. When an incumbent acts undemocratically, supporters muster up arguments for considering it democratic. Government supporters align their perceptions of democracy with their partisan political views "by ignoring undemocratic behavior and transmitting their policy agreement into their perceptions of democracy (democratic transmission) and/or by elevating their understanding of democracy from procedural rules and norms to being about what is good for the country (democratic elevation)" (Krishnarajan 2023, 477). This rationalization leads government supporters to consider an undemocratic behavior with which they agree to be more democratic than even an ordinary policy proposal – i.e., one on social spending that does not affect the efficacy of democratic institutions – with which they disagree (Krishnarajan 2023). This logic aligns with recent findings in comparative judicial politics suggesting that attachment to democratic principles does not attenuate partisan backlash towards domestic judicial institutions (Bartels, Horowitz and Kramon 2023). We might expect this dynamic to extend to international courts (Staton and Moore 2011), which leads to our final hypothesis:

Hypothesis 3b *Compared to opposition supporters, government supporters' support for backlash against an international court that issues a pro-democracy decision is less likely to change with support for democratic values.*

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

Scholars face two related constraints in evaluating public reactions to international court decisions. The first is a dearth of data on public opinion towards international courts, particularly beyond questions of public confidence or trust. Useful for evaluating general public sentiment towards a court, such measures are nonetheless limited in their ability to capture public support for a backlash against a court (Gibson 2011; Gibson and Nelson 2014; Gibson, Caldeira and Spence 2003; Voeten 2022). Second, surveys seldom ask respondents about specific court decisions, much less ones issued by international courts (Madsen et al. 2022). As a result, scholars have primarily relied on hypothetical decisions or questions that abstract away from any specific case. These approaches have inferential advantages by enabling scholars to implement experimental methods (Chapman and Chaudoin 2020; Cheruvu and Krehbiel 2024) for causal inference. We build upon this scholarship by asking whether corroborating results can be found regarding an actual international court decision.

Our research design leverages a real-world case in which an international court issued a ruling regarding democratic backsliding. On February 16, 2022, the CJEU issued a highly anticipated ruling on the EU's "Rule of Law Conditionality Mechanism." This mechanism, which was created after the EU allocated 750 billion euros in 2020 to help facilitate recovery for the European economy from the Covid-19 pandemic, allows the EU to withhold certain EU funds from member states that breach democratic standards (Bayer 2022a). Hungary, along with Poland, challenged the legality of the mechanism at the CJEU, which dismissed their claims.[3] This decision, widely viewed as "a milestone in the battle for the rule of

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[3] Case C-156/21 and C-157/21; the Polish government also challenged the policy. Notably, the CJEU had found Hungary and Poland to have violated democratic standards in previous cases addressing judicial independence (Bayer 2022c).

law in the EU" (Rankin 2022), thus opened member states up to potential legal and fiscal consequences for breaches of rule of law principles.

To take advantage of the opportunity created by the CJEU's decision, we fielded a 2000 respondent, nationally-representative, survey in Hungary in March 2022.[4] Hungary presents several advantages for examining public support for international courts' involvement in democratic backsliding. Hungary, for one, has become one of the most prominent contemporary examples of democratic backsliding. In 2014, Hungarian Prime Minister Viktor Orban stated, "We have abandoned liberal methods and principles of organizing society, as well as the liberal way to look at the world [...] We are [...] parting ways with Western European dogmas, making ourselves independent from them" (Tóth 2014). Starting with the Fidesz party's 2010 victory and subsequent constitutional reforms, the government has weakened minority rights, insulated its electoral vulnerability through systematic gerrymandering, and limited judicial accountability by expanding and packing the courts with loyalist judges. Despite Fidesz's supermajority that allowed it to pass these policies through *legal* legislative means (Epperly 2019), many of the government's backsliding policies regarding the judiciary, media, and other aspects of democracy have been the subject of several legal challenges in international courts, particularly the CJEU and the ECtHR (Blauberger and Kelemen 2017).[5] This experience has placed the Hungarian case directly in line with contemporary conceptualizations of democratic backsliding (Bermeo 2016), with organizations like *Freedom House* rating Hungary as "partly free" and a "hybrid regime" rather than a democracy (Freedom House 2022).

A further advantage of our research design is that the CJEU issued its decision in the immediate run-up to Hungary's highly contentious and salient national election, held on April 3, 2022. A key issue in the election, particularly before Russia's invasion of Ukraine,

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[4]The survey was fielded in partnership with YouGov; see appendix for technical details.

[5]By one count (as of July 2023), since 2012 Hungary has been involved in at least 16 such cases at the CJEU and another 11 at the ECtHR (Meijers Committee N.d.).

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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 (Bayer 2022b). With confronting the backsliding of Hungarian democracy at the center 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. Indeed, "Democracy and the Rule of Law" was the most significant election issue for nearly 1/3rd of respondents in our survey, making it the most frequently selected option ahead of the "economy and taxes" (25%) and "foreign policy and Russia's invasion of Ukraine" (22%).[6] Combined, these features make Hungary an intrinsically important context for understanding the role of international courts in addressing democratic backsliding and a compelling case for empirically investigating the dynamics of public opinion in backsliding democracies.[7]

As such, to properly map our theoretical framework to the Hungarian case, we argue that individual Hungarian citizens are weighing the benefits of backlash against the CJEU against the costs of leaving the jurisdiction of the CJEU. Individuals may internalize the value of the CJEU differently – some may more strongly support EU cohesion funds sent to Hungary, the free movement of goods, and the free movement of people among other EU policies, and view foregoing these profitable policies altogether by leaving the CJEU's jurisdiction as too costly. Others may, instead, more strongly value the ability of the Fidesz government to make decisions without the CJEU's interference and, thus, believe that their government's freedom from supranational constraints is worth more to them than any practical benefits that CJEU jurisdiction—and EU membership more broadly—provides.

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[6]Other options included "immigration and refugee policy" (7%); "European Union" (6%); "Environment and Climate Change" (3%); "Coronavirus Pandemic" (2%); "Other" (3%).

[7]Nonetheless, as we note later in the paper we are cautious here about making concrete claims of causality. Rather, we see these factors related to the timing and context of our study as buttressing the validity of our measures and subsequent observational analyses.

With these factors in mind, our survey included questions specifically asking respondents about the CJEU's rule of law mechanism decision. As our theoretical account emphasizes support for backlash against an international court like the CJEU, rather than support for the decision, per se, we sought to elicit respondents' views on their desire to see political retribution levied against the Court for its decision.[8] To do so, we followed the example of Madsen et al. (2022) and asked respondents about their support (on a five point scale) for withdrawing the country from the Court's jurisdiction: "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?" We see this question as appropriate for three reasons. First, leaving a court's jurisdiction is perhaps the most prominent and universally available means of backlash available to a government, making it more generalizable across contexts.[9] Second, it is a form of backlash easily understood by respondents, particularly in comparison to other kinds of backlash like holding up judicial appointments or pushing institutional reforms. Third, exiting a court's jurisdiction is a strong form of backlash, making it a more difficult test of our theory, as we would expect it to only garner support from the most committed of the Court's opponents.[10] The resulting measure and our dependent variable, *Support for Backlash*, is scaled from 0 and 1 where higher values indicate more support for backlash.

Important to note is that while the timing of the survey allows us to take advantage of the Rule of Law Mechanism decision, we unfortunately cannot disentangle whether *Support for*

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[8]Before our questions about the decisions, we told 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." We then asked respondents first about their familiarity with the decision and then whether they supported or opposed the decision; we include these as control variables in our analyses. See appendix for full wording of key questions used in our analyses.

[9]Voeten (2020) finds 28 episodes of backlash against international courts, of which 20 either involved exiting a court's jurisdiction or threatening to do so.

[10]Our survey responses conform with that expectation, with only 18% strongly or somewhat opposed to continuing to accept the CJEU's jurisdiction compared to 44% strongly or somewhat supportive of doing so; 38% neither agreed nor disagreed with the statement.

Backlash results from the decision itself or is simply reflective of preexisting attitudes towards the CJEU. It is plausible that even without the CJEU's ruling in this case, citizens may already have had well-formed about leaving the CJEU's jurisdiction. As such, we proceed with caution below as we interpret the correlations between our independent variables and citizens' willingness to support backlash.

Our key independent variable is designed to capture respondents' partisanship. Here, again, the Hungarian context is uniquely well suited to this analysis, as at the time of the decision the country effectively had a two party system thanks to the coalition formed by most of the major opposition parties.[11] This fact allowed us to ask respondents to indicate whether they would vote for Fidesz, the United Opposition, or would not vote.[12] 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 and, accordingly, code the variable *Partisanship* as 0 for Fidesz supporters and 1 for United Opposition supporters.[13]

For our second hypothesis we require a measure of respondents' support for the international organization undergirding the CJEU, the European Union. We use the following wording used in Eurobarometer surveys and a number of previous studies (Gabel and Whitten 1997; Hobolt and De Vries 2016): "In general terms, Hungary's membership of the European Union is..." Respondents then have five choices ranging from "Very good" to "Very bad." In all, 39% said EU membership was "Good" or "Very good" and 17% rated it as "Very bad" or "bad," with the remaining 44% considering membership in the EU as

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[11]The governing Fidesz party is formally in a coalition with a minor party, the Christian Democratic People's Party (KDNP). However, Fidesz is by far the dominant party with the KDNP often considered a satellite party. In addition, the far-right party *Mi Hazank* ran in the 2022 election.

[12]In the run-up to the election, the United Opposition changed its official name to United for Hungary; we do not have any immediate reason to believe the difference in name caused confusion for respondents.

[13]In all, 782 chose Fidesz, 804 the United Opposition, and 378 neither. We present analyses in the appendix that include those who chose neither party.

Figure 1: Density Plot of Support for EU by Party
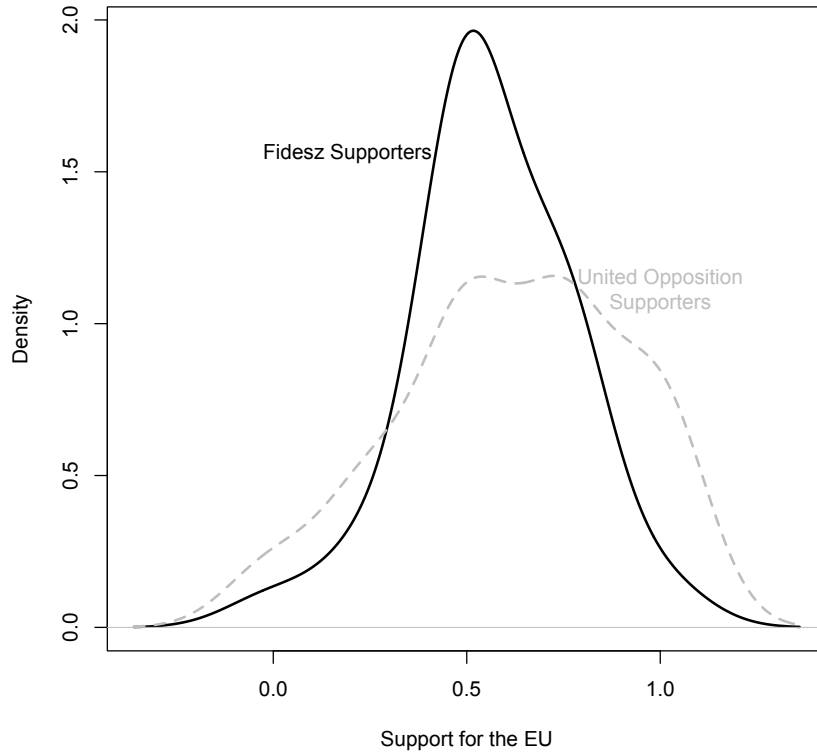
"neither good nor bad." Our expectation is that *Support for Backlash* will decrease among Fidesz voters with a more positive view of EU membership. This variable, *Support for the EU*, is scaled from 0 to 1 with higher values indicating more support for EU membership. Figure 1 presents the distribution of this variable for both parties.

Lastly, we turn to the third hypothesis, for which we require a variable for respondents' support for democracy, a notoriously complex and difficult concept to measure (Teorell et al. 2019). Rather than rely on a single question, we average respondents' answers to four questions designed to tap into distinct aspects of democracy, specifically one's preference for democracy over stability, demand for a strong leader, the importance of government accountability, and support for the rule of law. Each question asked respondents to select

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which of two statements was closest to their view, with the second statement considered the "pro-democratic values" option.[14]

- "Ordered society is preferable, even if that means limiting democracy" vs. "Democracy is preferable, even if it is sometimes unstable" (62%)

- "We need a strong leader who does not have to be elected by the vote of the people" vs. "Although things may not always work, electoral democracy, or the popular vote, is always best" (83%)

- "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" (74%)

- "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" (58%)

For each question, we assigned a value of 1 if a respondent chose the second, pro-democracy statement and 0 if they chose the first statement. We then average across the four pairs of statements, with the resulting variable, *Democratic Values*, ranging from 0 to 1 where higher values indicating stronger attachment to democratic norms. Figure 2 plots the distribution of this variable for both parties.

We include four sets of control variables to account for both attitudinal and demographic factors. The first group measures respondents' familiarity and agreement with the CJEU's decision, as familiarity (or unfamiliarity) and specific support for a particular decision may be closely linked with one's willingness to attack a court (Bartels and Johnston 2020; Christenson and Glick 2015). To measure the former, respondents indicated their level of familiarity with the decision on a four point scale (none; a little; some; a lot). Notably, less than 15% of

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[14]The percentage of respondents selecting this option is noted after each pair of statements.

Figure 2: Density Plot of Support for Democratic Values by Party
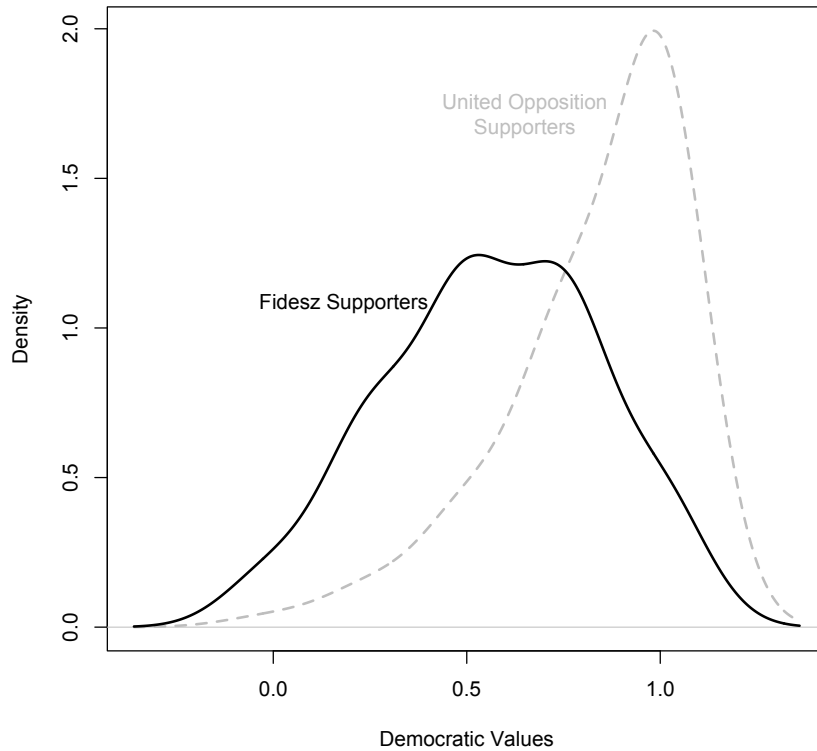
respondents indicating having no familiarity with the decision, while 24.45% said they heard "a little" about it and 37.35% and 23.55% had heard "some" and "a lot", respectively.[15] To measure agreement with the CJEU's decision, we asked respondents whether they support or oppose the ruling. The variable, *Support for CJEU Decision*, is measured on a five-point scale from strongly support to strongly oppose. Interestingly, and consistent with research distinguishing agreement with a decision from support for engaging in institutional backlash (Gibson and Nelson 2014), approximately 40% somewhat or strongly supported the decision, while 34% strongly or somewhat opposed it, a far higher number than those who supported a backlash against the CJEU.

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[15]Our results are robust to the exclusion of those respondents who had not heard of the decision; see appendix for details and results.

A second, related, set of variables control for respondents' attitudes toward the CJEU. As extant research consistently finds that awareness makes one more supportive of a court (Gibson and Caldeira 1995; Gibson, Caldeira and Spence 2003), we include the variable *CJEU Awareness* based on whether respondents said they were very aware, somewhat aware, not very aware, or had never heard of the CJEU. Similarly, trust in a court may correlate both with support for a backlash and our independent variables, thus introducing the potential for omitted variable bias. To address this concern, we include the variable *CJEU Confidence*, which is based on respondents' stating that they either have "A great deal of confidence," "Only some confidence," or "Hardly any confidence" in the CJEU.

Third, we account for respondents' broader political attitudes. Accounting for respondents' ideology is one such control variable. While the focus of our theoretical framework— and the majority of discourse surrounding the Court's decision—was on the issue of democracy, other salient social and political questions such as LGBT rights, migration, and education likely correspond to the government-opposition divide at the center of our analyses. Moreover, ideology likely corresponds to partisanship as well as attitudes towards the EU and potentially the CJEU. By including a measure of respondents' ideology—here a 10-point scale where higher numbers indicate more right-wing positions—we confront the potential confounding effect that would stem from respondents viewing the Court's decision through the lens of these other issues rather than democracy or government vs opposition. Additionally, we control for respondents' satisfaction with democracy, which scholars have generally characterized as a measure of citizens' specific support for democracy (Booth and Seligson 2009; Canache, Mondak and Seligson 2001; Claassen 2020) and, thus, may correspond with reactions to the CJEU's decision. We asked respondents, "In general, how satisfied are you with the way that democracy works in Hungary?" with responses measured on a four-point scale from "Very satisfied" to "Very dissatisfied." We label this variable *Democratic Satisfaction*. We also control for how respondents identify themselves, as past research has linked attitudes towards European institutions with whether one perceives themselves based on

their national or European identity ([Hooghe and Marks 2005](#); [Madsen et al. 2022](#)). To this end, we asked the question, "Which option best characterizes how you identify yourself?" Respondents were given five options: Hungarian only; Hungarian and European; European and Hungarian; European only or Neither Hungarian nor European. Since our primary concern here is distinguishing nationalist respondents, we collapse the responses into the dichotomous variable *National Identity* where those who responded "Hungarian only" are coded as 1 and all others as 0.[16]

The fourth set of controls account for respondents' gender, age, education, and region. *Gender* is a dichotomous variable, with females coded as 1. For *Age*, we grouped respondents into four categories: 18-29 years, 30-44 years, 45-64 years, and 65+ years. *Education* is a dichotomous variable taking the value of 1 if a respondent had a college education or higher and value of 0 otherwise.[17] Lastly, we include fixed effects for the seven statistical regions in Hungary. Descriptive statistics for all variables is available in the appendix.[18]

Results

We estimate linear regressions for each of our hypotheses, both with and without controls. For hypothesis 1, we anticipate a negative coefficient for *Partisanship*, which would indicate less support for a backlash from United Opposition supporters vis-a-vis Fidesz supporters. We interact *Partisanship* with *EU Support* for hypotheses 2a and 2b and with *Democratic*

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[16]A majority (83%) chose one of the first two options; 13% chose the third option.

[17]This includes those whose education stopped at or before secondary school, as well as those who completed vocational training.

[18]To account for potential concerns regarding how the distribution of our support variables might influence the results of our interaction models ([Hainmueller, Mummolo and Xu 2019](#)), we demonstrate in the appendix that our findings are robust to using trichotomous versions of these measures.

**Effect of Partisanship and Support for EU
on Support for Backlash**
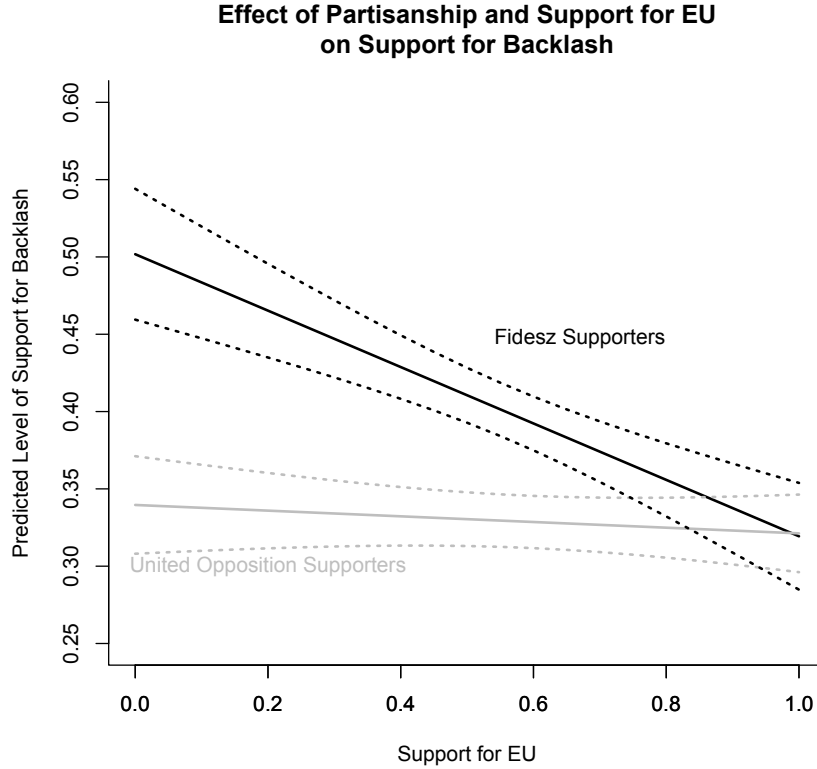
Figure 3: Based on results of Model 4. Lines indicate 95% confidence intervals.

Values for 3a and 3b. We anticipate a positive interaction term for hypotheses 2a and 2b, and negative interaction term for hypothesis 3a and 3b.

The results of our analyses are presented in Table 1.[19] Consider Hypothesis 1, which predicted greater support for backlash among government supporters than opposition supporters. We find strong evidence of just such a relationship in Models 1 and 2, where the variable *Partisanship* indicates that United Opposition supporters were considerably less supportive of a backlash than Fidesz supporters. Even after including our battery of controls, a respondents' partisanship is a powerful predictor, with support for backlash decreasing from 0.4 for Fidesz respondents to 0.328 for United Opposition supporters, a shift of nearly 1/4th of a standard deviation of our DV, *Support for Backlash*.[20]

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[19]While we do not use survey weights in the analyses presented here, we do report in the appendix robustness analyses in which we include survey weights.

[20]The standard deviation for *Support for Backlash* is 0.295.

Table 1: Partisanship, Values and Support for Backlash

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Partisanship	-0.372***	-0.0699***	-0.512***	-0.203***	-0.0628*	-0.0109
	(0.0120)	(0.0148)	(0.0442)	(0.0366)	(0.0361)	(0.0301)
Support for the EU		-0.0671***	-0.296***	-0.1824***		-0.0659***
		(0.0196)	(0.0426)	(0.035)		(0.0196)
Partisanship × Support for the EU			0.18***	0.164***		
			(0.0426)	(0.0413)		
Democratic Values		-0.0955***		-0.0939***	-0.113***	-0.0632**
		(0.0202)		(0.0201)	(0.0300)	(0.0248)
Partisanship × Democratic Values					-0.335***	-0.0882**
					(0.0466)	(0.0393)
CJEU Decision Awareness		-0.00177		-0.00257		-0.000995
		(0.00563)		(0.00560)		(0.00563)
Support for CJEU Decision		-0.0982***		-0.0979***		-0.0970***
		(0.00453)		(0.00451)		(0.00455)
CJEU Awareness		-0.00685		-0.00737		-0.00661
		(0.00807)		(0.00804)		(0.00806)
CJEU Confidence		0.0628***		0.0593***		0.0614***
		(0.00790)		(0.00792)		(0.00792)
Ideology		0.00488**		0.00495**		0.00474**
		(0.00224)		(0.00223)		(0.00224)
National Identity		0.0392***		0.0391***		0.0393***
		(0.0110)		(0.0110)		(0.0110)
Democratic Satisfaction		-0.0244***		-0.0286***		-0.0229***
		(0.00714)		(0.00718)		(0.00716)
Gender		-0.00806		-0.00798		-0.00870
		(0.00967)		(0.00963)		(0.00966)
Age		-0.0134***		-0.0136***		-0.0121**
		(0.00513)		(0.00511)		(0.00515)
Education		-0.0239**		-0.0252**		-0.0229**
		(0.0114)		(0.0114)		(0.0114)
Constant	0.551***	0.809***	0.792***	0.922***	0.616***	0.783***
	(0.00854)	(0.0519)	(0.0357)	(0.0590)	(0.0188)	(0.0531)
Region Fixed Effects?	No	Yes	No	Yes	No	Yes
N	1586	1576	1586	1576	1578	1576

Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

We turn next to our hypotheses 2a and 2b, which predicted that Fidesz supporters become particularly less supportive (as compared to opposition supporters) of backlash as their approval of the EU increases. Models 3 and 4 in Table 1 present the results of our analysis of this hypothesis. As anticipated, the interaction term for *Partisanship* and *Support for the EU* is positive and statistically significant, indicating that the effect of EU support on support for a backlash against the CJEU is greater for Fidesz supporters compared to

those who back opposition. To see this, in Figure 3 we plot predicted values of *Support for Backlash* based on the interaction estimated in Model 4. We note three observations from the figure. First, support for a backlash against the CJEU is highest among those *Fidesz supporters* who have a poor opinion of the EU, as one might expect given these respondents see neither partisan nor pragmatic value in refraining from a backlash against the CJEU. Second, and as expected by our hypothesis, we see a clear downward slope in support for a backlash among Fidesz supporters as they become more supportive of the EU. Indeed, no statistically significant partisan difference exists for those respondents who indicated the strongest support for Hungary's EU membership. Third, consistent with hypothesis 2b we find that support for the EU has a much weaker—in fact here an essentially null—effect among United Opposition supporters; these respondents remain effectively just as opposed to a backlash against the CJEU regardless of their opinion of the EU. As we argued in our theory and demonstrate empirically, this finding may be due to opposition supporters' emphasis on the state of domestic democracy rather than support for international organizations like the EU.

Lastly, Models 5 and 6 provide the results of our analysis of hypotheses 3a and 3b. Recall that we anticipate support for backlash to decrease at a faster rate among United Opposition voters (as compared to Fidesz voters) as commitment to democratic values increases. As the interaction term in the models indicate, this correlation is precisely what we find. For opposition supporters, democratic values exerts a clear influence on support for backlash, while among Fidesz supporters there is a much weaker, albeit nonetheless present, effect. To illustrate this finding, Figure 4 plots the predicted level of support for backlash based on partisanship and democratic values. Again, three observations stand out. The first, as we just noted, is the similar level of support for backlash among respondents with low levels of support for democratic values, regardless of partisan attachment; a partisan-driven differ-

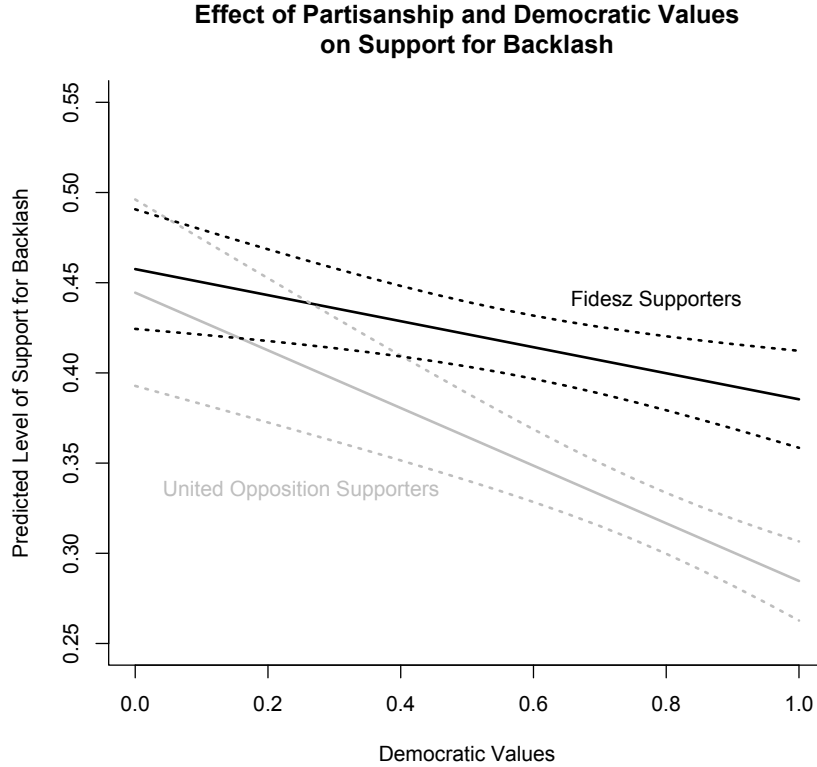**Effect of Partisanship and Democratic Values
on Support for Backlash**

Figure 4: Based on results of Model 6. Lines indicate 95% confidence intervals.

ence is only discernible among those with at least moderately strong democratic values.[21]
Second, democratic values exert a clear conditioning effect on United Opposition voters as
support for backlash decreases markedly when support for democratic values increases among
these respondents. In particular, and consistent with our argument, support for backlash
is weakest among those opposition voters who exhibit the strongest commitment to liberal
democracy. Third, providing support for hypothesis 3b, the slope for Fidesz supporters,
while still negative, is substantially flatter than it is for United Opposition supporters, in-
dicating that democratic values have a much weaker, if any, conditioning effect on their
support for backlash.

Before concluding, we note another set of potential interpretations of our findings. While
we have emphasized here how support for the EU and democratic values exert different

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[21]The 95% CI bands diverge at approximately one standard deviation below the mean
value of *Democratic Values*.

degrees of influence on the attitudes of government and opposition supporters, our results similarly present potential insights into the extent to which some citizens might share political attitudes even in as polarized of a society as Hungary. In observing Figures 3 and 4, we see at extreme values of support for the EU and democratic values a striking similarity in support for backlash among opposition and government supporters. For instance, those opposition supporters with weak support for democratic values are not all that different than Fidesz supporters when it comes to supporting a backlash against the CJEU. This could, for instance, suggest that this portion of the opposition shares a broader set of attitudes with Fidesz voters with their opposition to the government stemming from a source other than values or democracy based disagreement with the governing party. Conversely, the strongest EU supporters with Fidesz's camp may actually share important views with the opposition. While outside the scope of the present study, further investigation of such potential overlapping attitudes may yield important insights into the role of such values in shaping Hungarian citizens' partisanship and subsequent political attitudes.

Conclusion and Discussion

As democratic backsliding spreads globally, international courts have increasingly found themselves tasked with protecting democracy. Yet this task brings with it the threat of a backlash for trying to constrain a government's backsliding agenda. In this paper, we argued that partisanship alone does not determine public support for backlash, but, rather, it is conditioned by citizens' attitudes toward an international organization and attachment to democratic values. Evidence based on original survey data collected in Hungary immediately after a major pro-democracy decision by the CJEU demonstrates the limits these considerations place on partisanship's impact on support for attacking an international court. With these findings in mind, we conclude by first discussing the paper's implications for the role of international courts in addressing democratic backsliding broadly speaking and then turn

to reflecting on what our results mean specifically for the EU and its rule of law crisis. We then close by considering the limitations of our study and avenues for further research.

We highlight three broad contributions and implications of our study for the general connection between international courts and democratic backsliding. This study is, to our knowledge, the first to systematically assess citizens' support for backlash against an international court following a decision regarding democratic backsliding. While previous studies have examined support for international court decisions and backlash (Alter 2009; Voeten 2020), our study is unique in that it explicitly examines these highly salient—and increasingly frequent—cases involving fundamental democratic norms. Second, the paper links insights from comparative judicial politics with research on international courts (Cheruvu and Krehbiel 2024; Chapman and Chaudoin 2020; Krehbiel and Cheruvu 2022; Staton and Moore 2011). In doing so, our account highlights the politicization of international law along party lines and the potential avenues available to international courts to effectively promote democratic norms without suffering a heavy political backlash. Third, our results suggest that some international legal regimes—and the courts that enforce them—may be better suited than others at addressing democratic backsliding. In particular, those arrangements that bring tangible benefits to citizens, such as economic integration and development, may be better positioned than those based on more abstract principles such as human rights. As we have only considered one court here, the CJEU, we cannot assess this possibility but suggest it for future research.

Our findings have implications for the prospects of the EU's efforts to bolster democracy in Hungary and throughout the bloc. As perhaps the most prominent modern example of democratic backsliding, the Hungarian case has become a bellwether for the trajectory of democracy in the EU (Kelemen 2017; Kovács and Scheppele 2018). As we find limited appetite—even among Fidesz supporters—for a backlash against the CJEU, it suggests that the Court may have some capacity to place further pressure on the Orbán government to rescind policies that violate democratic norms like the rule of law. While the clear partisan

divide over reactions to the CJEU's decision raises the specter of the Court becoming politicized, finding that factors beyond partisanship influence these attitudes indicates that other values, such as attachment to the EU and democratic values, may be able to successfully sway European publics in their efforts to safeguard democracy. Thus, even with the defeat of PiS in Poland in the country's 2023 national election, our findings continue to have potential implications for the EU as member states from Greece to Spain experience possible threats to the rule of law.

While our empirical focus is on the politics surrounding support for backlash against the CJEU, our findings are suggestive of the political calculations taken from the perspective of domestic political actors, particularly political parties. Decisions such as the CJEU's can represent a political opportunity, particularly during an election campaign. For governing parties, this opportunity might include using the Court and its decision as a foil to motivate voters, although our findings suggest that such a strategy should be taken with caution to avoid challenging the country's continued participation in the international regime. That is, attacking the CJEU for its decision may appeal to some government supporters, but importantly it appears that there are some who might be less receptive to such critiques. Likewise, our results regarding the United Opposition suggest that not all who oppose the government are likely to mobilize or otherwise be motivated by this type of decision. In short, the CJEU's decision—and potential future decisions like it—appear to be political gold for neither government nor opposition parties, but rather opportunities to motivate and mobilize certain constituents rather than others.

Taken together, these points speak to the importance of understanding the attitudes of citizens—especially those in backsliding democracies—toward international courts functioning as referees of democracy. Focusing on our empirical case of Hungary and the EU, we can observe the politics of backlash at both levels. Within Hungary, an increased acceptance or support for backlash against the CJEU could not only further undermine the Court's capacity to constrain the Hungarian government from continuing to weaken democratic in-

stitutions, but could also undermine the Court's ability to compel the government to comply with the wide range of other issues that come before it. That is to say, challenging Fidesz on issues related to Hungarian democracy could have knock-on effects into the other issues of European integration critical for the Court's and the bloc's broader success.

With respect to implications for the Court beyond Hungary, we note two considerations. First, it may well be the case that resistance from Hungary has little negative bearing on the Court's image in other member states, and could even enhance it insofar that the Court is seen as attempting to promote democracy rather than being a silent bystander as the country experiences further democratic backsliding. Such a dynamic may be particularly pronounced in member states where citizens hold highly robust levels of support for the democratic values being protected by the Court's jurisprudence. A second possibility, however, is that the effects on support for backlash in Hungary could yield valuable lessons to those in other member states who might seek to engage in democratic backsliding in their own country. If strategies appear to political elites that might allow them to sidestep electoral or domestic political punishment for confronting the Court, it could open door to more such efforts. Alternatively, if backlash against the CJEU remains muted thanks in part to factors like citizens' valuing membership in the EU and democratic values, then the CJEU may represent a more credible guardrail for the rule of law.

We close by noting two important limitations to our research design and proposing potential paths forward for work on this topic. First, we must take caution when considering the generalizability of our findings. The Hungarian case is unique in important respects when compared to other backsliding contexts, particularly as it pertains to the extent to which backsliding has already taken place. Moreover, the importance of democratic values like the rule of law have become so highly salient in the country's politics that it is decisive for many voters, particularly the opposition. As such, our conclusions are constrained to the extent that such aspects of the Hungarian political environment are unique to that country rather than more generalized features of a backsliding democracy. Second, our analyses rely

on observational data, thus limiting our ability to draw any causal inferences. With this in mind, we are careful to not overclaim in the interpretation of our results, but rather see them as a reflection of citizens' attitudes in the aftermath of the CJEU's landmark ruling. We believe that the timeliness of our data and the real-world significance of the case we study allows the paper to make an important contribution to understanding of the dynamics of support for backlash.

Future research is well-positioned to address these limitations and further our understanding of citizens' reactions to democracy-related decisions by international courts like the CJEU. While there is no doubt a number of avenues for such research, we highlight three here. First, further research is needed in other backsliding contexts, such as Poland (Stiansen et al. 2024; Toshkov et al. 2024). Not only are such cases substantively important, as they represent the settings where the battle of democratic backsliding is raging most intensely, but they also would allow scholars to distinguish between factors that travel across countries and those that are unique to specific contexts. Second, and relatedly, we suggest that this research not limit itself to backsliding democracies but instead also consider the reactions of citizens in stable, established democracies as well. International courts like the CJEU have many audiences, which includes not only the citizens and governments of the country involved in a case but also those same actors in the other countries within the international legal system. In the EU, for example, the response of citizens in countries like France and Germany has potential implications for the political willingness of those member-state governments to push enforcement of CJEU decisions. Indeed, that the CJEU issued its decision on the rule of law mechanism immediately *prior* to Hungary's elections might suggest that it was less concerned with backlash in Hungary than it was concerned about looking weak or overtly strategic to the rest of the EU. With the focus of this article and others on the backsliding countries themselves, this international aspect of the politics involved in countering democratic backsliding has gone understudied. In particular, survey experimental

approaches may provide a means of addressing issues of causality and expanding the reach of analyses in terms of both geography and issue area.

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Supplemental Appendix for "Partisanship, Pragmatism, or Idealism? Evaluating Public Support for Backlashes Against International Courts in Backsliding Democracies"

Appendices

Table of Contents

A 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.

B   Wording of Key Survey Questions

Support for Backlash: In light of this ruling, to what extent do you agree that Hungary should continue to accept the authority of the European Court of Justice?

- Strongly agree

- Somewhat agree

- Neither agree nor disagree

- Somewhat disagree

- Strongly disagree

Support for the EU: In general terms, Hungary's membership of the European Union is. . .

- Very good

- Good

- Neither good nor bad

- Bad

- Very bad

CJEU Decision Awareness: ...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?

- A lot

- Some

- A little

- None

CJEU Decision Support: Regardless of how much you know about it, what is your level of support for the European Court of Justice's decision allowing the European Union to withhold funds from Hungary for flouting democratic standards?

- Strongly support

- Somewhat support

- Neither support nor oppose

- Somewhat oppose

- Strongly oppose

CJEU Confidence: As far as the people running these institutions and organizations are concerned, how much confidence would you say you have in them?

- A great deal of confidence

- Only some confidence

- Hardly any confidence

- No opinion

CJEU Awareness: We would now like to get your views on the European Court of Justice. Based in Luxembourg, the European Court of Justice is the highest court of the European Union. Its role is to ensure that EU law is interpreted and applied the same in every EU country and that governments abide by EU law. What is your level of awareness of the European Court of Justice?

- Very aware

- Somewhat aware

- Not very aware

- Have never heard of

C Descriptive Statistics

Table A1: Descriptive Statistics

Variable	N	Mean	Std. Dev.	Min	Pctl. 25	Pctl. 75	Max
Support for Backlash	2000	0.375	0.296	0	0.25	0.5	1
Support for the EU	2000	0.572	0.251	0	0.5	0.75	1
Democratic Values	1991	0.695	0.282	0	0.5	1	1
CJEU Decision Awareness	2000	2.698	0.988	1	2	3	4
CJEU Decision Support	2000	3.055	1.407	1	2	4	5
CJEU Confidence	1998	1.974	0.686	1	2	2	3
CJEU Awareness	2000	2.445	0.654	1	2	3	4
Democratic Satisfaction	2000	2.909	0.891	1	2	4	4
Gender	2000	1.515	0.5	1	1	2	2
Ideology	2000	5.733	2.499	1	5	8	10
Age	2000	2.356	0.951	1	2	3	4
Education	2000	0.218	0.413	0	0	0	1
National Identity	2000	0.322	0.467	0	0	1	1

Table A2: Partisan Breakdown of Survey Respondents

Party	N
Fidesz	782
United Opposition	804
Would Not Vote	378

Table A3: Respondents by Statistical Region

Region	N
Southern Great Plain	272
Southern Transdanubia	167
Northern Great Plain	288
Northern Hungary	224
Central Transdanubia	193
Central Hungary	676
Western Transdanubia	180

D   Robustness Analyses

D.1   Survey Weights

Table A4 presents the results of analyses ran using sample weights based on ideology, gender, age and education.

Table A4: Main Results (with Weights)

	Model 1A	Model 2A	Model 3A	Model 4A	Model 5A	Model 6A
Partisanship	-0.406*** (0.0159)	-0.0854*** (0.0218)	-0.577*** (0.0617)	-0.228*** (0.0552)	-0.0744 (0.0589)	0.00103 (0.0476)
Support for the EU		-0.0392*** (0.0142)	-0.1802*** (0.0375)	-0.109*** (0.0348)		-0.0387*** (0.0141)
Partisanship × Support for the EU			0.1244*** (0.0422)	0.1026*** (0.0363)		
Democratic Values		-0.0797*** (0.0307)		-0.0793*** (0.0306)	-0.0660 (0.0488)	-0.0409 (0.0380)
Partisanship × Democratic Values					-0.377*** (0.0751)	-0.125** (0.0605)
CJEU Decision Awareness		0.00368 (0.00816)		0.00244 (0.00813)		0.00486 (0.00819)
Support for CJEU Decision		-0.0970*** (0.00745)		-0.0965*** (0.00735)		-0.0950*** (0.00722)
CJEU Awareness		-0.00506 (0.0124)		-0.00608 (0.0124)		-0.00428 (0.0123)
CJEU Confidence		0.0723*** (0.0129)		0.0678*** (0.0132)		0.0706*** (0.0130)
Ideology		0.00535 (0.00344)		0.00527 (0.00344)		0.00523 (0.00340)
National Identity		0.0196 (0.0162)		0.0206 (0.0161)		0.0193 (0.0161)
Democratic Satisfaction		-0.0257** (0.0105)		-0.0306*** (0.0107)		-0.0238** (0.0105)
Gender		0.0126 (0.0130)		0.0118 (0.0129)		0.0120 (0.0130)
Age		-0.00906 (0.00706)		-0.00939 (0.00710)		-0.00750 (0.00713)
Education		-0.0373*** (0.0142)		-0.0383*** (0.0140)		-0.0346** (0.0139)
Constant	0.573*** (0.0119)	0.725*** (0.0721)	0.825*** (0.0527)	0.851*** (0.0891)	0.613*** (0.0259)	0.691*** (0.0747)
Region Fixed Effects?	No	Yes	No	Yes	No	Yes
N	1586	1576	1586	1576	1578	1576

Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

D.2 Nonpartisan Respondents

Our theoretical framework and accompanying empirical analyses focused on the attitudes of partisans—that is, those who either support the government or opposition. Yet even in a highly polarized context, a nontrivial segment of the population does not identify with either partisan camp. As the contribution to this special issue by Stiansen et al. argues, however, the views of non-polarized citizens may be pivotal for determining the trajectory of democratic backsliding, particularly in closely contested electoral arenas. It is worth, therefore, considering how this segment of a polity's citizens might react to a decision on democratic backsliding.

Without a strong partisan motivation driving them to view such rulings through one lens over the other, nonpartisan voters may instead respond based on *both* their views of the international agreement and democratic values. The benefits brought by being part of the international system may lead nonpartisan citizens to oppose a backlash against its institutions. In this sense, these citizens are not balancing their valuing of the system against potentially competing partisan interests. A similar dynamic may hold for democratic values, which for this set of voters may be less a reflection of partisan identity, especially where the opposition has at least in part built its platform and identity around democracy. Without the incentive to deprioritize democratic values in favor of partisan ones, as we saw with government supporters, nonpartisans' support for backlash against a pro-democracy court ruling can reflect the strength of their support for democracy.

While our theoretical framework, thus, provides some expectations for the dynamics of support for backlash among nonpartisans, it is less clear how nonpartisans' support differs from their partisan counterparts. These citizens may, for instance, fall in between the two partisan camps, with less support for backlash than government partisans but more support for such a response than those who support the opposition. Alternatively, nonpartisans may differ more from opposition supporters than government supporters, as the former tend to hold particularly strong views on democracy, given opposition parties emphasize it as a core

issue. A further possibility is that nonpartisans' views on backlash are broadly distributed such that they are not systematically different from either partisan side. Our theory, however, is not well positioned to differentiate between these possibilities.

To probe the attitudes of nonpartisans, we conduct two exploratory analyses using our survey's 378 respondents who expressed support for neither Fidesz nor the United Opposition. First, we compare this group of respondents' support for backlash against the CJEU to that of Fidesz and United Opposition supporters. Second, we examine the relationship between support for backlash and *Support for the EU* and *Democratic Values*. To simplify the interpretation of our analyses, we estimate models using only the subset of respondents who identified as supporting neither party. As identifying as nonpartisan likely corresponds with a number of other political attitudes, both analyses include the full set of control variables used in our previous analyses.

Table A5 reports the results of these analyses. Consider first Model 7, which compares support for backlash among partisan and nonpartisan respondents. After controlling for a range of political and demographic characteristics, nonpartisans exhibit slightly greater support for backlash against the CJEU than United Opposition supporters but no statistical difference when compared to Fidesz supporters. While our interpretation of this finding is speculative, one possible explanation is that United Opposition supporters are so opposed to a backlash that nonpartisans simply cannot match them. That is, nonpartisans may not be especially in favor of a backlash, but they, nonetheless, are not as vehemently against one as opposition voters. Alternatively, it could be that Fidesz's effective control of the media may mean that nonpartisans are vulnerable to internalizing the government's narrative and, therefore, are not differentiating their reaction to the Court's decision.

Models 8 and 9 report the results of analyses explaining variation in support for backlash among nonpartisans. The results indicate that support for the EU and democratic values both correspond to substantially lower levels of support for backlash. That is, nonpartisan respondents' support for backlash appears linked with their views of how beneficial the EU

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Table A5: Nonpartisan Support for Backlash

	Model 7	Model 8	Model 9
Fidesz Supporter	0.00773		
	(0.0135)		
United Opposition Supporter	-0.0501***		
	(0.0134)		
Democratic Values	-0.108***	-0.283***	-0.148***
	(0.0181)	(0.0465)	(0.0407)
Support for the EU	-0.0919***	-0.194***	-0.206***
	(0.0180)	(0.0528)	(0.0456)
CJEU Decision Awareness	-0.00541		-0.0214*
	(0.00509)		(0.0120)
Support for CJEU Decision	-0.101***		-0.114***
	(0.00413)		(0.0103)
CJEU Awareness	-0.00589		0.000388
	(0.00729)		(0.0170)
CJEU Confidence	0.0592***		0.0541***
	(0.00728)		(0.0186)
Ideology	0.00613***		0.0148**
	(0.00213)		(0.00663)
National Identity	0.0357***		0.00879
	(0.00993)		(0.0236)
Democratic Satisfaction	-0.0240***		-0.0287*
	(0.00640)		(0.0148)
Gender	-0.00768		0.00449
	(0.00885)		(0.0218)
Age	-0.0130***		-0.0166
	(0.00471)		(0.0119)
Education	-0.0119		0.0363
	(0.0107)		(0.0303)
Constant	0.814***	0.714***	0.924***
	(0.0478)	(0.0417)	(0.117)
Region Fixed Effects?	Yes	No	Yes
N	1953	377	377

Nonpartisan is the reference category in Model 7.
Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

has been for Hungary as well as their commitment to democracy. Notably, the substantive magnitude of these relationships is considerable; a shift from the minimum to maximum in support for democratic values, for example, is equivalent to going from the most right-wing respondent to the most left-wing respondent, while the magnitude of *Support for the EU* is even greater. While we do not endeavor here to further unpack these possible dynamics, the findings do suggest that the politically unaffiliated may be persuadable, but not guaranteed, defenders of the Court.

As a form of robustness, we also report the results of a model in which we interact these variables with the full range of partisanship (e.g. Fidesz, United Opposition, and nonpartisan). The results of these analyses are presented in Table A6.

Table A6: Main Results (with Nonpartisan Respondents)

	Model 1B	Model 2B	Model 3B	Model 4B	Model 5B	Model 6B
Partisanship (United Opposition)	-0.295*** (0.0141)	-0.0513*** (0.0154)	-0.370*** (0.0531)	-0.132*** (0.0439)	-0.0405 (0.0405)	0.00946 (0.0342)
Partisanship (No Preferred Party)	-0.0907*** (0.0160)	-0.000196 (0.0144)	-0.124** (0.0585)	0.0668 (0.0478)	0.0207 (0.0381)	0.0611* (0.0321)
Support for the EU		-0.0515*** (0.013)	-0.1341*** (0.0286)	-0.0665*** (0.0238)		-0.0506*** (0.013)
Partisanship (United Opposition) × Support for the EU			0.0571 (0.0363)	0.0579* (0.0296)		
Partisanship (No Preferred Party) × Support for the EU			0.014 (0.424)	-0.0523 (0.0343)		
Democratic Values		-0.0988*** (0.0201)		-0.0998*** (0.0200)	-0.0979*** (0.0342)	-0.0457 (0.0286)
Partisanship (United Opposition) × Democratic Values					-0.293*** (0.0538)	-0.0961** (0.0453)
Partisanship (No Preferred Party) × Democratic Values					-0.156*** (0.0559)	-0.103** (0.0462)
CJEU Decision Awareness		-0.0108 (0.00694)		-0.0106 (0.00691)		-0.0105 (0.00693)
Support for CJEU Decision		-0.101*** (0.00473)		-0.102*** (0.00472)		-0.0999*** (0.00474)
CJEU Awareness		-0.00609 (0.00857)		-0.00662 (0.00854)		-0.00638 (0.00857)
CJEU Confidence		0.0567*** (0.00846)		0.0557*** (0.00846)		0.0564*** (0.00847)
Ideology		0.00729*** (0.00245)		0.00713*** (0.00244)		0.00704*** (0.00245)
National Identity		0.0232** (0.0110)		0.0215* (0.0109)		0.0234** (0.0110)
Democratic Satisfaction		-0.0170** (0.00732)		-0.0188** (0.00732)		-0.0166** (0.00732)
Gender		0.00125 (0.0101)		0.00285 (0.0101)		0.000245 (0.0101)
Age		-0.0157*** (0.00560)		-0.0160*** (0.00558)		-0.0146*** (0.00562)
Education		-0.00733 (0.0129)		-0.0105 (0.0129)		-0.00619 (0.0129)
Constant	0.531*** (0.00944)	0.824*** (0.0554)	0.718*** (0.0408)	0.855*** (0.0628)	0.587*** (0.0211)	0.791*** (0.0568)
Region Fixed Effects?	No	Yes	No	Yes	No	Yes
N	1586	1576	1586	1576	1578	1576

Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

D.3 Awareness of CJEU Decision

Table presents the results of analyses that exclude respondents who indicated they had never heard of the CJEU's decision. We ran this robustness test to ensure that these respondents, who in effect were only learning about the decision through the intervention of our survey, were not driving our results.

Table A7: Main Results (Excluding Respondents Unaware of CJEU Decision)

	Model 1C	Model 2C	Model 3C	Model 4C	Model 5C	Model 6C
Partisanship	-0.295*** (0.0138)	-0.0605*** (0.0160)	-0.370*** (0.0523)	-0.140*** (0.0434)	-0.0405 (0.0398)	0.00722 (0.0337)
Support for the EU		-0.0275* (0.0147)	-0.134*** (0.0282)	-0.0637*** (0.0236)		-0.0257* (0.0147)
Partisanship × Support for the EU			0.0244 (0.0152)	0.0244* (0.0124)		
Democratic Values		-0.0797*** (0.0231)		-0.0801*** (0.0231)	-0.0979*** (0.0336)	-0.0427 (0.0282)
Partisanship × Democratic Values					-0.293*** (0.0529)	-0.102** (0.0446)
CJEU Decision Awareness		-0.00683 (0.00792)		-0.00699 (0.00791)		-0.00641 (0.00791)
Support for CJEU Decision		-0.100*** (0.00526)		-0.0999*** (0.00525)		-0.0988*** (0.00528)
CJEU Awareness		-0.0101 (0.00981)		-0.0101 (0.00980)		-0.00943 (0.00980)
CJEU Confidence		0.0633*** (0.00935)		0.0616*** (0.00938)		0.0620*** (0.00935)
Ideology		0.00558** (0.00260)		0.00568** (0.00260)		0.00531** (0.00260)
National Identity		0.0314** (0.0124)		0.0315** (0.0123)		0.0315** (0.0123)
Democratic Satisfaction		-0.0161* (0.00835)		-0.0178** (0.00838)		-0.0149* (0.00835)
Gender		0.00297 (0.0113)		0.00352 (0.0113)		0.00145 (0.0113)
Age		-0.0156** (0.00630)		-0.0156** (0.00629)		-0.0141** (0.00633)
Education		-0.0222 (0.0142)		-0.0230 (0.0141)		-0.0205 (0.0141)
Constant	0.531*** (0.00929)	0.772*** (0.0611)	0.718*** (0.0402)	0.829*** (0.0677)	0.587*** (0.0207)	0.744*** (0.0621)
Region Fixed Effects?	No	Yes	No	Yes	No	Yes
N	1154	1147	1154	1147	1148	1147

Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

D.4 Trichotomous Support Measures

One potential concern regarding our results is that our interaction results may be driven by a skewed distribution of our key variables, particularly as a result of a few outlier observations (Hainmueller, Mummolo and Xu 2019). Following the general advice of Hainmueller, Mummolo and Xu (2019), we seek to confront this concern by replicating our analyses using variables based on the respective terciles of our measures of support for the EU and democratic values. For *Support for the EU*, this led to a variable coded (for supporters of both parties) as 0 for scores below 0.5, 1 for scores between 0.5 and 0.74. and 2 for scores at 0.75 and greater. For *Support for Democratic Values*, respondents were first sorted by partisanship and then according to the terciles calculated for each party. Thus, with the higher level of support for democratic values among opposition supporters, this led to respondents being coded as 0 if *Support for Democratic Values* was below 0.75, 1 if between 0.75 and 1, and 2 if *Support for Democratic Values* was 1. For Fidesz supporters, respondents being coded as 0 if *Support for Democratic Values* was below 0.5, 1 if between 0.5 and 0.74, and 2 if *Support for Democratic Values* was at 0.75 or greater. By assigning values in this way, the variables account for the notably different distribution of *Support for Democratic Values* based on partisanship. The results of these analyses, which includes models both with and without controls, are presented in Table A8, while Figures **??** and A2 plot the resulting predicted levels of support for backlash based.

Table A8: Results Using Trichotomous Support Measures

	Model 3D	Model 4D	Model 5DC	Model 6D
Partisanship	-0.437***	-0.131***	-0.177***	-0.0492**
	(0.0246)	(0.0222)	(0.0267)	(0.0228)
Support for the EU (Trichotomous)	-0.0879***	-0.0540***		
	(0.0133)	(0.0109)		
Partisanship × Support for the EU (Trichotomous)	0.0540***	0.0493***		
	(0.0170)	(0.0136)		
Democratic Values (Continuous)		-0.0953***		
		(0.0201)		
Democratic Values (Trichotomous)			-0.0326***	-0.0188**
			(0.0102)	(0.00832)
Partisanship × Democratic Values (Trichotomous)			-0.122***	-0.0269*
			(0.0171)	(0.0143)
CJEU Decision Awareness		-0.00288		-0.00165
		(0.00560)		(0.00564)
Support for CJEU Decision		-0.0979***		-0.0980***
		(0.00451)		(0.00455)
CJEU Awareness		-0.00790		-0.00653
		(0.00804)		(0.00808)
CJEU Confidence		0.0601***		0.0626***
		(0.00790)		(0.00792)
Ideology		0.00503**		0.00495**
		(0.00223)		(0.00224)
National Identity		0.0392***		0.0409***
		(0.0110)		(0.0110)
Democratic Satisfaction		-0.0281***		-0.0237***
		(0.00718)		(0.00716)
Gender		-0.00747		-0.00738
		(0.00964)		(0.00967)
Age		-0.0132***		-0.0135***
		(0.00510)		(0.00515)
Education		-0.0255**		-0.0236**
		(0.0114)		(0.0114)
EU Member Support (Continuous)				-0.0671***
				(0.0196)
Constant	0.660***	0.840***	0.590***	0.754***
	(0.0186)	(0.0520)	(0.0146)	(0.0508)
Region Fixed Effects?	No	Yes	No	Yes
N	1586	1576	1581	1579

Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$
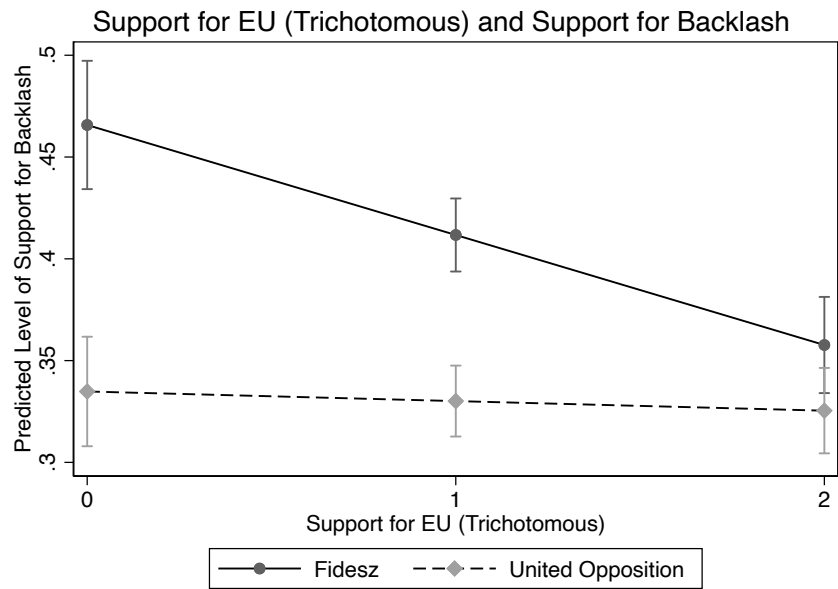
Figure A1: Based on results of Model 4D. Lines indicate 95% confidence intervals.
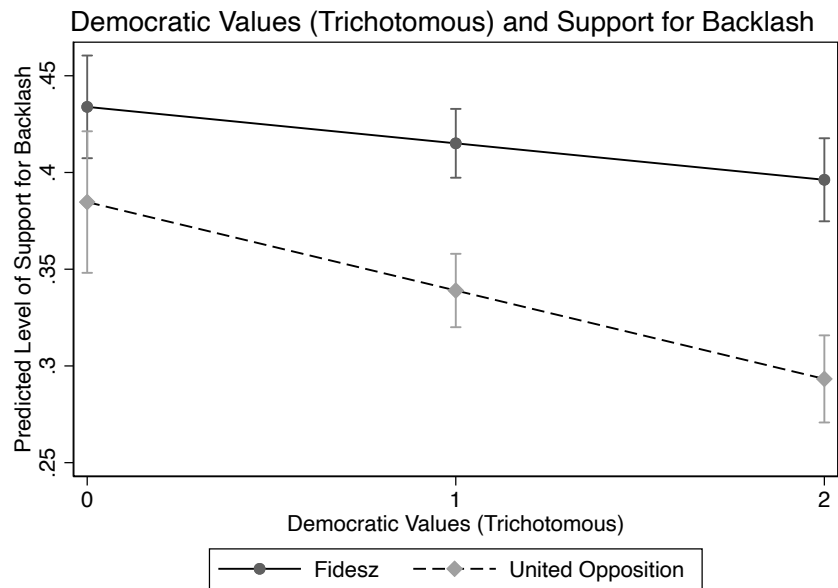

Figure A2: Based on results of Model 6D. Lines indicate 95% confidence intervals.