

Policy Paper

Defending liberal democracy

Recommendations to the Federal Government of Germany concerning Hungarian autocratisation

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Executive Summary

Established indices show that one member state of the European Union (EU) – Hungary – is no longer a functioning democracy. For years, the EU and Viktor Orbán's government have been locked in struggle: while the EU insists on respect for the fundamental European values of the rule of law, separation of powers, democracy, and human rights, Orbán insists on Hungary's national sovereignty as an 'illiberal' democracy.

Other EU members states must also take a stand on Hungary. The Federal Government has, for a long time, taken a rather hesitant position in the conflict with Budapest, which is due in particular to intensive economic ties.

Following the *Zeitenwende* speech delivered by Chancellor Olaf Scholz on 27 February 2022 in which he outlined an epochal shift, Germany is realigning its foreign and security policy, especially towards

autocracies such as Russia or China. In the case of Hungary however, it is a European partner country that is becoming increasingly autocratic, threatening the EU's joint decision making (and in particular its foreign policy), its identity as a community based on the rule of law, and the functioning of the Single Market, which is essential for Germany.

Against this background, this Policy Paper presents the Federal Government with six policy recommendations to not only address the state of the rule of law and democracy in Hungary but also, if possible, to improve them. The recommendations refer to the national level and bilateral relations between Germany and Hungary, as well as to the EU level.

Recommendations to the German government on the relations with Hungary

National level	EU level
<p>1. Take a resolute stance: Hungary as systemic rival:</p> <p>The Federal Government should make it clear bilaterally that the Hungarian model of ‘illiberal democracy’ is fundamentally opposed to German values and interests</p>	<p>4. Biting intergovernmentalism:</p> <p>The Federal Government should network more closely with defenders of the rule of law (especially the ‘Friends of the rule of law’).</p>
<p>2. Decouple democracy promotion and development cooperation:</p> <p>The Federal Government should not only integrate democracy promotion into cooperation with non-EU states, but also promote and implement projects in the EU.</p>	<p>5. Strengthen the inter-institutional coherence of the EU’s Rule of Law Toolbox:</p> <p>The Federal Government should advocate for the further development and consistent application of the Rule of Law Toolbox.</p>
<p>3. Cross-party commitment to the rule of law:</p> <p>All democratic parties in the Bundestag should commit themselves more strongly to the defence of liberal democracy, and make the crisis of democracy the core of the European election campaign.</p>	<p>6. Engagement with Hungarian civil society:</p> <p>The Federal Government should provide targeted support to Hungarian civil society, opposition, and critical media in order to support democratisation processes.</p>

Introduction

Liberal democracy is under pressure worldwide. Global advances in democratisation over the past 35 years are now under threat: for the first time in two decades, there are more autocracies than democracies.¹ In 2022, 72 percent of the world’s population lived in an autocracy. Empirical research on the quality of democracy now speaks of a ‘third wave of autocratisation’² since around 2010: right-wing populists in particular are using formal legal structures as a façade to attack established liberal democracies from within. Central to this wave of autocratisation are the

attacks on the rule of law as one of the basic principles of liberal democracy.

Following a blueprint,³ attacks are focused on the independence of the judiciary, freedom of the media and freedom of assembly, parliamentary participation, and the rights of ethnic, religious, and sexual minorities.⁴ In both government and opposition roles, self-proclaimed ‘illiberal’ politicians attempt to undermine both democracy and the rule of law.

Within the EU, this ‘democratic regression’⁵ is especially present in Hungary and Poland. Under the

¹ V-Dem: Democracy Report 2023. Defiance in the Face of Autocratization, URL: https://v-dem.net/documents/29/V-dem_democracyreport2023_lowres.pdf (last accessed: 03.08.2023), p. 6.

² Anna Lührmann/Sebastian Hellmeier: Populismus, Nationalismus und Illiberalismus: Herausforderung für Demokratie und Zivilgesellschaft, Heinrich-Böll-Stiftung: Demokratie im Fokus 2/2020, URL: <https://www.boell.de/de/2020/03/03/populismus-nationalismus-und-illiberalismus> (last accessed: 02.08.2023).

³ Protect Democracy: The Authoritarian Playbook, 2022, URL: <https://protectdemocracy.org/wp-content/uploads/2022/06/the-authoritarian-playbook-how-reporters-can-contextualize-and-cover-authoritarian-threats-as-distinct-from-politics-as-usual-1.pdf> (last accessed: 10.07.2023), p. 10.

⁴ Aziz Z. Huq/Tom Ginsburg: How to Lose a Constitutional Democracy, in: UCLA Law Review 78 2018, pp. 78–169; York Albrecht et al.: Rechtsstaatlichkeit unter Druck: Resilienz statt Reaktion, in: integration 46 (1) 2023, pp. 4–20.

⁵ Armin Schäfer/Michael Zürn: Die demokratische Regression, Suhrkamp 2021.

leadership of Prime Minister Viktor Orbán, Hungary serves as a model for other right-wing populist and anti-democratic parties, such as the Alternative for Germany (AfD) or the Austrian Freedom Party (FPÖ), to destabilise consolidated democracies from within.⁶

Initially, the EU was hesitant in reacting to this democratic regression, yet in the meantime, it has developed a number of preventive and sanctioning instruments to exert influence on systematic rule-breakers such as Hungary.⁷ Although the blockade of EU funds is showing initial results, a rejection of autocratisation is not to be expected from Orbán.

Hungary's turn towards autocracy represents not only a challenge for the entire Union, but also for individual member states, whose companies are being put under pressure, whose contributions to the EU budget are trickling away, and whose policy proposals are being vetoed at the EU level. As the largest and economically strongest EU member state with close cultural, political, and economic ties to Hungary, the role of Germany stands out in particular.

The *Zeitenwende* proclaimed by Chancellor Scholz is therefore also highly relevant to Hungary. It replaces the long-standing 'Wandel durch Handel' (change through trade) policy approach towards autocratic systems, with a new strategy strongly guided by values and interests. This reconfiguration is all the more urgent since Germany now has to deal with autocracies not only outside the EU, but also within: autocratising partner countries such as Hungary.⁸ Against the

backdrop of the new *Zeitenwende*, how should Germany react to the violation of democratic standards in Hungary, and to Orbán's veto behaviour at the European level?

This policy paper presents recommendations to the Federal Government for bilateral relations with Hungary, and German EU policy.⁹ First, the paper examines the Hungarian autocratisation process and then outlines the measures taken by the EU to protect the rule of law. Next, the paper looks at the particular role played by Germany in Hungary's democratic regression, which also provides the Federal Government with room to manoeuvre to do more to protect the rule of law. Finally, the paper presents six policy recommendations on how Berlin can not only impose limits on Hungary's autocratisation, but also counteract it.

Hungary's democratic regression

Ever since its 2010 electoral victory, Viktor Orbán's Fidesz party has been steadily pushing ahead with its restructuring of the Hungarian state, the result of which is Hungary's democratic regression. This state restructuring has been the topic of extensive discussion in academic literature.¹⁰ Orbán himself has described its ideological foundations as an 'illiberal democracy', by which he means a state dedicated to concentrating its resources on representing the Hungarian nation as a homogenous white and Christian community of destiny.¹¹ Rather than placing individual interests, human rights, or personal freedoms above the state, as liberalism does, the 'illiberal state' prioritises the

⁶ Cathrin Kahlweit: Vorbild der Systemfeinde, in: Süddeutsche Zeitung, 21.07.2023; Nick Alipour: German far-right works for EU's 'controlled dissolution', in: Euractiv, 14.07.2023.

⁷ Maria Skóra: How to Improve the EU's Rule of Law Toolbox. FES Policy Paper, Friedrich-Ebert-Stiftung, 2023, URL: https://iep-berlin.de/site/assets/files/2509/230602_rule_of_law_toolbox_online_1.pdf (last accessed: 02.08.2023).

⁸ Michael Meyer-Resende: Demokratie muss zu einem Kerninteresse deutscher Außenpolitik werden, in: 49security, 14.11.2022.

⁹ These recommendations are based on confidential discussions and background talks with representatives from politics, economics, science, and civil society conducted within the framework of the „Ungarn neu denken – rethink Hungary“ project, supported by a grant from the Open Society Foundation gGmbH in cooperation with the Open Society Foundations.

¹⁰ See for example Licia Cianetti et al. (Hrsg.): Rethinking "democratic backsliding" in Central and Eastern Europe – looking beyond Hungary and Poland, Routledge 2019; Gábor Egry et al. (Hrsg.): Brave New Hungary: Mapping the "System of National Cooperation", Lexington Books 2019; Tímea Drinóczi/Agnieszka Bień-Kacała: Illiberal constitutionalism in Poland and Hungary: the deterioration of democracy, misuse of human rights and abuse of the rule of law, Routledge 2021.

¹¹ Eva van de Rakt: Viktor Orbán's illiberaler Staat: „Die Heimat kann nicht in der Opposition sein.“, Heinrich Böll Stiftung, 05.12.2017, URL: <https://www.boell.de/de/2017/12/05/viktor-orbans-illiberaler-staat-die-heimat-kann-nicht-der-opposition-sein> (last accessed: 12.07.2023).

interests of the national collective.¹² The Hungarian prime minister shares this understanding of politics with his Polish ally, Jarosław Kaczyński; together, they have called for a ‘cultural counter-revolution’¹³ to radically transform the EU from within.

Orbán’s model of society is deliberately directed against the pluralism essential for a democracy, which springs from civil liberties that are in turn protected by the institutions of the rule of law. His ‘illiberal democracy’ is therefore a contradiction in terms since democracy depends on both of its constitutive components: civil liberties and the rule of law.¹⁴

Briefly summarised, three central areas of democratic regression in Hungary since 2010 can be identified. First, the separation of powers has been massively curtailed by means of a largely unchecked ‘centralisation of executive power’.¹⁵ One year after coming into office, the government used its two-thirds parliamentary majority to pass the new constitution, the ‘Basic Law of Hungary,’ which severely curtailed the powers of the Constitutional Court as well as judicial independence. This radical restructuring of the political system was accompanied by the staffing of high offices with individuals loyal to the government. In the years that followed, further amendments to the Constitution were pushed through parliament without the possibility of thorough debate, which degraded and rendered the Constitution into a tool of the government.¹⁶

Second, political competition has been severely restricted, in particular through continuous amendments to the electoral law. Among other things, the number of MPs has been cut, constituencies have been redrawn in Fidesz’s favour, and hurdles have been introduced for joint electoral lists of opposition parties.¹⁷

Third, the media and civil sphere have been curtailed. In particular, this affects the activities of universities, the scientific sector, and NGOs.¹⁸ A new media law in 2011 subjected publicly-funded media to governmental control through the creation of new supervisory bodies. At the same time, economic pressure on private media also increased. On the one hand, the new law rendered outlets more dependent on the state by its preferential awarding of public advertising contracts. On the other, Fidesz-affiliated entrepreneurs bought up independent media, with the result of high concentration in the Hungarian media landscape.¹⁹

EU instruments against Hungary’s rule of law violations

The EU required considerable time before it reacted to Hungary’s democratic regression. After Orbán’s electoral victory in 2010, when the first worrying trends towards dismantling the rule of law became apparent, the EU had at its disposal only two Treaty-based instruments with which to react to such events.²⁰

First, the multi-stage *procedure under Article 7* of the Treaty on European Union (TEU) can enable the

¹² Ellen Bos: Politisches System und Demokratieentwicklung in Ungarn: Funktionsdefizite und Instrumentalisierung demokratischer Verfahren durch die Regierungsparteien, in: Ellen Bos/Astrid Lorenz (Hrsg.): Das politische System Ungarns, Springer 2021, pp. 25–55, (pp. 42–43); David Nonhoff/Julian Plottka/Julian Rappold: Wertepreferenzen und politische Trends in Mittel- und Osteuropa, Institut für Europäische Politik: IEP-Studie 2022, URL: <https://iep-berlin.de/de/projekte/zukunft-der-europaischen-integration/studie-wertedivergenz-zentral-und-osteuropa/> (last accessed: 02.08.2023), pp. 17–18.

¹³ Henry Foy/Neil Buckley: Orban and Kaczynski vow ‘cultural counter-revolution’ to reform EU, in: Financial Times, 07.09.2016.

¹⁴ Lührmann/Hellmeier 2020, p.9.

¹⁵ Ellen Bos/Astrid Lorenz: Das politische System Ungarns zwischen Parteienwettbewerb und strukturellen Zwängen: Innenpolitische Polarisierung trotz konstanter Verhaltensmuster und Konsens in den Grundlinien der Außen- und Wirtschaftspolitik, in: Ellen Bos/Astrid Lorenz (Hrsg.): Das politische System Ungarns, Springer 2021, pp. 1–23, (p. 11).

¹⁶ Bos 2021, p. 35.

¹⁷ Kim Lane Scheppele: How Viktor Orbán Wins, in: Journal of Democracy 33 (3) 2022, pp. 45-61.

¹⁸ Bos 2021, pp. 38-39.

¹⁹ Attila Bátorfy et al.: Media Pluralism Monitor 2021. Country Report Hungary, Centre for Media Pluralism and Media Freedom, URL: <https://cadmus.eui.eu/handle/1814/74692> (last accessed: 19.07.2023).

²⁰ Sonja Priebus: The Commission’s Approach to Rule of Law Backsliding: Managing Instead of Enforcing Democratic Values?, in: Journal of Common Market Studies 60 (6) 2022, pp. 1684–1700.

withdrawal of Council voting rights from the member state concerned.²¹ The proceeding was launched against Hungary in 2018. The necessary determination of a serious and persistent breach of EU values requires unanimity in the European Council. But because Poland and Hungary will cover for each other, the use of the Article 7 process is blocked indefinitely.²²

Second, *infringement procedures under Article 258 of the Treaty on the Functioning of the European Union (TFEU)* are used when different interpretations and difficulties exist in applying EU law. More than seven infringement proceedings have been initiated against Hungary since 2010, in which the rule of law plays a prominent role.²³ These concern, for example, the 2010 media law, the 2012 law on the retirement age of judges, and the 2017 'Lex CEU'. So far however, the infringement proceedings have had little disciplinary effect. Instead, the Hungarian government is instrumentalising them in constructing its victim narrative, according to which the EU has been infiltrated by NGOs – especially those funded by the philanthropist George Soros – to punish Hungary for its restrictive asylum policy.²⁴

Due to the mixed record of success in using these existing instruments, the European Commission has highlighted the need to introduce further tools to protect the rule of law. By now, it has at its disposal both preventive instruments as well as sanctioning options for violations.²⁵

The preventive measures provide closer empirical monitoring of the rule of law and possible violations.

They include various reports and instruments that serve as an early warning system to identify the risk of possible violations, and to solve potential problems by political discourse. Three examples of such are the *Justice Scoreboard*, the *Rule of Law Framework*, and the *Rule of Law Report*. While they empirically reflect the precarious situation in Hungary, they have not been able to prevent further systematic violations of the principles of democracy and the rule of law.²⁶

The Commission had hoped that linking the payment of EU funds to rule of law standards would have more coercive impact. *The Rule of Law Conditionality Regulation*, which entered into force in 2021, is currently withholding EUR 6.3 billion from Hungary under the Multiannual Financial Framework (MFF) and EUR 5.8 billion under the Recovery and Resilience Facility (RRF).²⁷

Another sanctioning instrument is the umbrella *Common Provisions Regulation*, which accompanies the 2021-2027 MFF, and makes the disbursement of EU funds conditional upon the implementation of the EU Charter of Fundamental Rights (CFR). This allows the Commission to withhold a further approximately EUR 16 billion from Hungary until, *inter alia*, the independence of the judiciary has been restored, in accordance with Article 47 of the CFR.²⁸

Given their very recent introduction, the effectiveness of freezing funds to protect the rule of law remains to be seen. It is clear that Hungary is ready to respond to external pressure from Brussels in order to free up funds, as the most recent judicial reform of May 2023

²¹ Europäisches Parlament: Pressemitteilung, Rechtsstaatlichkeit in Ungarn: Parlament fordert Rat zum Handeln auf, 20180906IPR12104, 12.09.2018.

²² Guillermo Iñiguez: The Enemy Within? Article 259 TFEU and the EU's Rule of Law Crisis, in: German Law Journal 23 (8) 2022, pp. 1104–1120, (p. 1107).

²³ Lisa H. Anders/Sonja Priebus: Does It Help to Call a Spade a Spade? Examining the Legal Bases and Effects of Rule of Law-Related Infringement Procedures Against Hungary, in: Astrid Lorenz/Lisa H. Anders (Hrsg.): Illiberal Trends and Anti-EU Politics in East Central Europe, Palgrave Studies in European Union Politics 2020, pp. 235–262, (p. 240).

²⁴ Anders/Priebus 2020, p. 249.

²⁵ Skóra 2023, p. 2.

²⁶ Priebus 2022, p. 1686.

²⁷ Kim Lane Scheppelle/John Morijn: Frozen: How the EU is Blocking Funds to Hungary and Poland Using a Multitude of Conditionalities, in: Verfassungsblog, 04.04.2023.

²⁸ Scheppelle/Morijn 2023.

shows. This reform was the Orbán government's response to the European Commission's rule of law 'super milestones'²⁹, passed by Budapest so that it could access frozen RRF funds. However, the reform itself can only be described as a sham. Instead of improving the transparency of the legislative process, as the Commission had specified, the Hungarian government did exactly the opposite. Shortly before the parliamentary vote, a bill on the rules of asset declarations was rewritten and passed under the title of judicial reform, despite the fact that its contents no longer had anything to do with asset declarations. This procedural trick violates not only the Commission's requirement of sufficient public hearing, but also the rules of procedure of the Hungarian parliament itself.³⁰ This sham reform makes it clear that the Hungarian government attaches little importance to the principles of democracy and the rule of law. Rather, it sees them only as a means to an end in order to obtain funds.

Nevertheless, it should be noted that the European Commission has, in the recent past, noticeably strengthened its efforts to protect the rule of law. In particular, the freezing of funds represents a paradigm shift. The reason for the Commission's intensified efforts is a politicisation of the rule of law debate, to which three factors have contributed significantly.³¹ First, the European Parliament has clearly increased the political pressure on the Commission by describing Hungary in 2022 as an electoral autocracy. Second, EU member states are also taking a much more active role in the debate, since they regard the dismantling of the rule of law, high-level corruption, and the Hungarian EU-level vetoes as a major problem for their national interests. Third, however, is the largest factor of all: the Russian war of aggression against Ukraine, which has conferred a geopolitical dimension to the rule of law

debate. Increasingly, Hungary is regarded by other member states as the long arm of Moscow, blocking decisions in common foreign and security policy, and spreading Russian propaganda and influence within the EU.

Germany's role in Hungary's democratic regression

The steps taken by the EU in the rule of law crisis clearly exemplify how EU action depends upon functioning inter-institutional cooperation. While the European Commission is primarily the 'guardian of the treaties', national governments also have a vital role in protecting the rule of law. They can influence how leniently or resolutely the Commission acts vis-à-vis Hungary. In addition, the adoption of instruments for the EU Toolbox requires consent from member states, and the application of many tools also requires their participation. Finally, member states can also take a much firmer line in their bilateral relations with Hungary. Here, Germany comes into special focus as the economic, cultural, and political ties between Berlin and Budapest are close.

Germany is Hungary's most important trading partner.³² In 2022, joint trade reached an all-time high of EUR 65.5 billion. Of the five private companies with the highest turnover in Hungary in 2019, three were the subsidiaries of major German concerns: Audi, Bosch, and Mercedes-Benz.³³ Hungary is an extremely attractive location for German companies, particularly in the automotive, industrial, and retail sectors. The country offers relatively low wages, one of the lowest corporate tax rates in the EU, and a dual education system similar to the German model.³⁴ Since the Russian full-scale invasion of Ukraine, Hungary has also benefited from the withdrawal of German companies from doing business in Russia: the growth of German

²⁹ Rat der Europäischen Union: NextGenerationEU: Mitgliedstaaten billigen nationalen Plan Ungarns. Pressemitteilung 1041/22, 12.12.2022.

³⁰ Erika Farkas/András Kádár: Restoring the Rule of Law By Breaching It, in: Verfassungsblog, 10.07.2023.

³¹ Daniel Hegedüs: EU-Rechtsstaatsinstrumente neu denken: Politisierung als sine qua non des effektiven Schutzes der EU-Grundwerte, presentation at a workshop of the project "Ungarn neu denken - rethink Hungary" of Institut für Europäische Politik, 22.06.2023.

³² Ost-Ausschuss der Deutschen Wirtschaft: OA-Update/01 Mittelosteuropa, 13.03.2023, URL: https://www.ost-ausschuss.de/sites/default/files/paragraphs/pdf/2023-03/OA%20Update_MOE_01final.pdf (last access: 12.07.2023).

³³ Deutsch-Ungarische Industrie- und Handelskammer: Business Guide Ungarn 2021, URL: https://www.ahkungarn.hu/filehub/deliverFile/f70e495e-def1-4bff-b84b-4bfce042f88a/1023019/Business_Guide-2021_DE_web_1023019.pdf (last accessed: 12.07.2023).

³⁴ Deutsch-Ungarische Industrie- und Handelskammer: Business Guide Ungarn 2021.

exports to the Visegrad States (Poland, Slovakia, Czechia, and Hungary) has significantly exceeded the slump in the value of exports to Russia.³⁵ At the same time however, German companies have also reported that the Hungarian government is placing them under immense pressure by means of special taxes and attempted intimidation.³⁶

These close economic ties and the interests of industry in particular have contributed to Germany's somewhat lax stance towards Hungary's violations of the rule of law and democracy. Moreover, the cultural and political ties between the two countries are also close, not least because of Hungary's role in German reunification in 1990. The Hungarian constitutional tradition has modelled itself, at least formally, since 1989 on the German Basic Law.³⁷

The Federal Government's attitude towards Viktor Orbán's regime since 2010 can be divided into three phases. First, Hungary's fiscal policy both during and after the 2008 financial crisis resembled that of Germany, which led to a level of recognition for Orbán among the liberal-conservative coalition government from 2009 to 2013. Close contacts and ideological proximity also existed between Fidesz MPs and German officials at state and federal levels, as well as in the European Parliament, where the CDU, CSU (the 'Union parties'), and Fidesz were members of the European People's Party (EPP) fraction. Party-affiliated foundations also contributed to German-Hungarian dialogue.³⁸ The close Union-Fidesz relations during this first period can also be traced back to the 'political father-son relationship'³⁹ between Orbán and Helmut

Kohl. Even today, the Hungarian prime minister still refers to this relationship and models his own policies in Kohl's tradition.⁴⁰

Deeper rifts between Berlin and Budapest came about due to the migration crisis from 2015 onwards, in which Orbán and Chancellor Merkel took opposing positions. Orbán's repeated use of the veto during EU-level foreign policy votes was already generating controversy. As early as 2021, the then foreign minister Heiko Maas (SPD) emphasised that he did not want to be 'taken hostage'⁴¹. At that time however, German foreign policy towards autocracies only applied to states outside the EU. While the Federal Government did insist on respect for democracy and human rights, it was poorly prepared for the democratic regression of a European partner country.⁴²

In this context, Hungary's high profitability as a business location meant that the Federal Government rarely expressed criticism of the process of auto-crisation in the country. Notwithstanding a great deal of criticism, the CSU maintained close ties with Orbán for a long time. In 2018, Orbán was still invited to its closed-door meetings, with party leader Horst Seehofer describing him as standing 'undoubtedly on constitutional ground'⁴³ – until Orbán stood against EPP leadership candidate Manfred Weber in 2019. In 2021, the EPP changed its procedures so that a simple majority of votes could expel a member from the parliamentary group. In order to pre-empt any such expulsion, Orbán's Fidesz party withdrew from the EPP. Notwithstanding these disputes, Germany and

³⁵ Christopher Fuß: Handel zwischen Deutschland und Polen wächst zweistellig, in: Germany Trade & Invest, 13.02.2023.

³⁶ Daniel Imwinkelried: Frust in Ungarn: „Die Regierung greift alle Firmen an, die keine Beine haben, um wegzulaufen“, in: Handelsblatt, 09.12.22; Nikolaus Neumeier: „Unfassbar, was man mitten in der EU vorfindet“, in: Tagesschau, 17.05.2023.

³⁷ Ándras Jakab/Eszter Bodnár: Agonie eines jungen Verfassungsstaates. Die ungarische Verfassung 1989 bis 2019, in: Ellen Bos/Astrid Lorenz (Hrsg.): Das politische System Ungarns, Springer 2021, pp. 57–73, (p. 59).

³⁸ Nicolai von Ondarza/Kai-Olaf Lang: Die Zukunft von Fidesz jenseits der EVP: Folgen des Austritts für das europäische Parteigefüge und für Ungarns Verhältnis zu Deutschland, SWP-Aktuell 32/2021, p. 7.

³⁹ Stephan Detjen: Der Nationalpopulist und der Altkanzler, in: Deutschlandfunk, 19.04.2016.

⁴⁰ Ost-Ausschuss der deutschen Wirtschaft: Offener Dialog mit Viktor Orbán, 10.10.2022, URL: <https://www.ost-ausschuss.de/de/offener-dialog-mit-viktor-orban> (last accessed: 01.08.2023).

⁴¹ Daniel Brössler: „Das Veto muss weg“, in: Süddeutsche Zeitung, 07.07.2021.

⁴² Meyer-Resende 2022.

⁴³ Robert Birnbaum: CSU-Klausur in Seon. Viktor Orban bei Freunden, in: Tagesspiegel, 05.01.2018.

Hungary continued to agree on a moderate pro-Russian stance, illustrated by their purchase of Russian gas.

The beginning of the third phase in German-Hungarian relations was marked by the inauguration of the new coalition government consisting of the Social Democrats (SPD), Free Democrats (FDP), and Greens (Bündnis 90/Die Grünen) in autumn 2021, and shortly thereafter, the Russian full-scale invasion of Ukraine in February 2022. With these turns of events and the new *Zeitenwende*, Germany's attitude became markedly more critical. Referring to the new German 'traffic light' (red-yellow-green) government, Orbán wrote in an essay that 'we are now preparing for battle with our eyes wide open' and claimed that the new Federal Government had a 'pro-immigration, pro-gender, federal, and pro-German agenda'⁴⁴ in Europe. Using strong words, Chancellor Olaf Scholz countered this message in a speech delivered in Prague in August 2022. Scholz stated that the EU must pursue rule of law violations more consistently, it must strengthen the rule-of-law mechanism and dialogue, and the Commission must be given new opportunities to initiate more straightforward infringement proceedings against a member state for general violations of fundamental European values.⁴⁵ Since then, bilateral political relations have reached a low point.

Action recommendations for the Federal Government

Hungary's democratic regression is not just a national issue but affects all European partners and the EU itself. On the one hand, Budapest's vetoes endanger not only the cohesion but also the legitimacy of the EU at a time when it must react to major geopolitical upheavals. On the other, Orbán and Fidesz can only be understood as

one part of a global right-wing movement, which is closely networked and tries, using similar methods, to subvert liberal democracies from within.⁴⁶

Against this backdrop, and Germany's political and economic significance for Hungary, the Federal Government faces not only great pressure but also scope for action to better defend the rule of law in the EU. In the following section, we present six policy recommendations detailing how the Federal Government can not only address the rule of law crisis in Hungary, but actively improve it. In practical terms, the recommendations concern two levels: bilateral relations with Hungary and German foreign trade policy on the one hand, and the EU level, especially cooperation with other member states, on the other.

National and bilateral level

1. Take a resolute stance: Hungary as systemic rival

In the 21st century, German political and economic weight rests on the pillars of its commitment to liberal democracy, human rights, free trade, and multilateralism.⁴⁷

For the German economy in particular, legal certainty and the smooth functioning of the Single Market are necessary conditions for profitability and investment abroad. In direct contrast to this is the state-sponsored corruption in Hungary which, according to Transparency International's 2022 Corruption Perceptions Index, ranks last among EU states.⁴⁸ Corruption is accompanied by increasing legal uncertainty and loss of trust in political negotiation.⁴⁹ The 2023 EU Justice Scoreboard indicates several reasons for companies' lack of trust in Hungarian judicial independence:

⁴⁴ Vlagyislav Maksimov: Orbán: Nach Merkel bereitet sich Ungarn mit „offenen Augen“ auf einen „Kampf“ vor, in: Euractiv, 07.12.2021.

⁴⁵ Olaf Scholz: Rede an der Karls-Universität in Prag, 29.08.2022, URL: <https://www.bundesregierung.de/breg-de/aktuelles/rede-von-bundeskanzler-scholz-an-der-karls-universitaet-am-29-august-2022-in-prag-2079534> (last accessed: 21.07.2023).

⁴⁶ Jennifer M. Ramos/Priscilla Torres: The Right Transmission: Understanding Global Diffusion of the Far-Right, in: *Populism* 3 (1) 2020, pp. 87–120; Sara Repucci/Amy Slipowitz: The Global Expansion of Authoritarian Rule. *Freedom in the World 2022*, Freedom House, 2022, URL: https://freedomhouse.org/sites/default/files/2022-03/FITW_World_2022_digital_abridged_FINAL.pdf (last accessed: 10.07.2023), p. 5.

⁴⁷ Bundesregierung: Integrierte Sicherheit für Deutschland. Nationale Sicherheitsstrategie, 2023, URL: <https://www.nationalesicherheitsstrategie.de/Sicherheitsstrategie-DE.pdf> (last accessed: 25.08.2023).

⁴⁸ Transparency International: Corruption Perceptions Index 2022, URL: https://images.transparencycdn.org/images/Report_CPI2022_English.pdf (last accessed: 19.07.2023).

⁴⁹ Sebastian Wolf: *Korruption, Antikorruptionspolitik und öffentliche Verwaltung. Einführung und europarechtliche Bezüge*, Springer VS 2013, p. 26.

political influence by the government, non-transparent and unpredictable decisions on the part of the administration, and increasingly difficult legal enforcement in court.⁵⁰

These fears are not unfounded. The Hungarian government aims to create ‘national champions’⁵¹ to reduce the influence of foreign firms in key sectors, including construction, transport, retail, energy supply and the telecommunications sector.⁵² German companies in Hungary are clearly feeling the effects of this policy, reporting instances of special taxes, house searches, and even threatened expropriations.⁵³ In a resolution of June 2023, the European Parliament declared it was appalled by the intimidation attempts by means of secret police visits to companies, and emphasised that the Hungarian government’s methods constitute violations of Single Market freedoms.⁵⁴

Orbán’s current course also damages German interests in the realm of foreign policy. In particular, he is attempting to undermine the EU’s ability to act in security and defence policy, for example by blocking Sweden and Finland’s accession to NATO and sanctions against Russia. Since his election in 2010, Orbán has been seen as a strategic ally of Vladimir Putin and is counting on a drop in support for Ukraine in Europe.⁵⁵ In addition, Orbán has tied his agreement to European aid supporting Kyiv to the disbursement of frozen funds.⁵⁶

The Federal Government must, through open dialogue with Budapest, state that the basis for trust-based

cooperation has been undermined by sham reforms and vetoes. Orbán’s ‘illiberal democracy’ means that Hungary has become a systemic revival. The *Zeitenwende* demands a more resolute stance towards states that do not share or only partly share the values of liberal democracy. The Federal Government should not be afraid of using its political and economic influence on Hungary to increase the pressure on Orbán.

2. Decouple democracy promotion and development cooperation

According to its treaties, the EU is a legal community of consolidated liberal democracies – or at least it should be. Therefore, German democracy promotion projects in the context of development cooperation focus primarily on non-EU states. However, democracy is not a status, but rather a dynamic process. It must be continually developed and also defended, both internally and externally. As the high degree of polarisation in many European states indicates, the democratic success story can be unwritten, even in consolidated democracies. Internationally, the ‘third wave of autocratisation’⁵⁷ indicates a crisis of the liberal democratic model.

The Federal Government should therefore renew its strategy for democracy promotion abroad. To date, the Federal Ministry for Economic Cooperation and Development (BMZ) has been responsible for such projects aimed at third countries. Decoupling democracy promotion and development cooperation would enable a greater role for Germany in

⁵⁰ Europäische Kommission: EU Justice Scoreboard 2023, COM(2023) 309, p. 44.

⁵¹ Ost-Ausschuss der deutschen Wirtschaft 2022.

⁵² Frankfurter Allgemeine Zeitung: Wie Ungarn Investoren gängelt, 11.11.2022.

⁵³ Amy Walker: Deutsche Unternehmen schlagen Alarm: Enteignung ausländischer Firmen in Ungarn greift um sich, in: Frankfurter Rundschau, 31.07.2023.

⁵⁴ Europäisches Parlament: Entschließung des Europäischen Parlaments vom 1. Juni 2023 zu der Missachtung der Rechtsstaatlichkeit und der Grundrechte in Ungarn und eingefrorenen EU-Geldern (2023/2691(RSP)).

⁵⁵ Zoltán Ádám: Politicizing war: Viktor Orbán’s right-wing authoritarian populist regime and the Russian invasion of Ukraine, in: Gilles Ivaldi/ Emilia Zankina (Hrsg.): The Impacts of the Russian Invasion of Ukraine on Right-wing Populism in Europe, European Center for Populism Studies 2023, URL: <https://www.populismstudies.org/ecps-report-the-impact-of-the-russia-ukraine-war-on-right-wing-populism-in-europe/> (last accessed: 25.08.2023), pp. 168–185, (p. 182).

⁵⁶ Daniel Hegedüs: The (geo)politics of sanctioning corruption and autocratization in Hungary, in: Anna Wójcik (Hrsg.): Unleashing the Power of EU Law: Assessing Innovative Solutions and Areas for Improvement in Safeguarding the Rule of Law, 2023, The Wiktor Osiatyński Archive 2023, URL: https://archiwumosiatsynskiego.pl/images/2023/07/AO_raport2023_2_EN_23.07.27.pdf (last accessed: 25.08.2023), pp. 9–17, (p. 16).

⁵⁷ Lührmann/Hellmeier 2020, p. 4.

strengthening civil society actors and oppositional forces in other European countries through democracy projects, such as in the field of cultural promotion or capacity building. In addition, targeted support could be made available for individuals and groups from the fields of science, culture, and journalism, who are deliberately pressured by their governments.

A deep breath is required at this point. While the short-term aim is to preserve democracy and fight authoritarianism, in the long term, factors must be taken into consideration that make democratic constitutional states more resilient to attacks. These include the rights of minorities, media diversity, a functioning public discourse, mutual trust, and tolerance.⁵⁸

The Federal Government's measures should not stop at promoting democracy abroad. As the example of the AfD shows, an extreme right-wing⁵⁹ party is also threatening the fundamentals of free and democratic order at home. Hungary can serve as a cautionary example of how authoritarian populist parties act when they come to power. In order to promote citizens' trust in and engagement for democracy, the planned Democracy Promotion Act and innovations such as citizens' councils are suitable approaches.

3. Cross-party commitment to the rule of law

Democratic engagement is not only hugely important for citizens but is also essential for all those who are professionally engaged in politics. This applies not only to MPs and civil servants, but also their colleagues and strategists in party headquarters and party-affiliated foundations. The third policy recommendation is therefore addressed not to the Federal Government as a constitutional body, but to the coalition of political parties and their top representatives.

For a credible commitment to the rule of law in Europe and a more decisive German stance towards Hungary,

long-term consistency is required. To this end, it is imperative that the German stance is not dependent on the parties in government at any one time. Rather, all democratic parties should be trained and willing to represent liberal democracy and the rule of law both nationally and in the EU, and to defend against autocratic attacks. The fundamental basis of the German economic and social model is to be surrounded in the heart of Europe by liberal democracies, with whom Germany can communicate and act. The parties currently in government and opposition should therefore effect change in their organisations by ensuring that their staff are educated through training, dialogue, and exchange formats, and politicised for democracy in a more sustainable way. Moreover, all democratic parties should make the rule of law, democracy, and fundamental rights the core issues of their election campaigns, particularly in view of the upcoming 2024 European Parliament elections, and the successes of right-wing populists throughout Europe. This also includes a critical self-analysis of their own shortcomings in the past.

EU Level

4. Biting intergovernmentalism

While the European Commission is officially the guardian of the treaties, member states also have instruments at their disposal to defend EU law. At the EU level, several partner countries are particularly strong defenders of the rule of law, with whom the Federal Government should intensify cooperation. Such multilateral networks could be dedicated to the defence of European values. Mention should be made here of the 'Friends of the rule of law', which includes Germany, but also in particular Belgium, Denmark, Finland, Luxemburg, Portugal, Sweden, and the Netherlands; France also supports many initiatives.⁶⁰

⁵⁸ Maria Skóra: RESILIO factsheet, Institut für Europäische Politik 2022, URL: https://iep-berlin.de/site/assets/files/2318/resilio_factsheet_nov2022.pdf (last accessed: 19.07.2023).

⁵⁹ Hendrik Cremer: Warum die AfD verboten werden könnte. Empfehlungen an Staat und Politik, Deutsches Institut für Menschenrechte 2023, URL: <https://www.institut-fuer-menschenrechte.de/publikationen/detail/warum-die-afd-verboten-werden-koennte> (last accessed: 02.08.2023).

⁶⁰ Daniel Hegedüs: Exploring the Potential and Political Feasibility of 'Biting Intergovernmentalism' in the EU Working Papers, Forum Transregionale Studien 15/2023, p. 6.

These forms of defensive intergovernmental cooperation are referred to as ‘biting intergovernmentalism’.⁶¹ Committed member states can defend the rule of law in two ways. First, the European Commission only began to take rule of law violations more seriously, and take more determined action, under increased pressure from member states and the European Parliament. Rule of law defenders can continue to support this ‘soft power’ course to keep up the pressure and incorporate more EU members. For example, 15 member states and the European Parliament have joined the infringement procedure⁶² that the Commission launched against Hungary.⁶³ The reason for the procedure is the Hungarian ‘Act LXXIX of 2021 on taking more severe action against paedophile offenders and the amending certain acts for the protection of children’. According to the Commission, the law not only violates the freedom to provide services in the Single Market and the General Data Protection Regulation but also the CFR as well as the fundamental values enshrined under Article 2 TEU.⁶⁴ Due to disagreements within the current ‘traffic light’ coalition, Germany only joined the proceedings shortly before the deadline.⁶⁵ Instead of arriving late, Germany must take a more decisive stance here. In joining proceedings with like-minded parties before the European Court of Justice (ECJ), Germany can issue a political response to Orbán’s veto threats.

Second, allies can influence Hungary by exercising more ‘hard power’. Article 259 TFEU allows one member state to initiate infringement proceedings against another, while others can join the proceeding as plaintiffs. In terms of ‘biting intergovernmentalism’, joint action is particularly desirable in order to avoid

the accusation that the proceedings concern the particular interests of one party. Moreover, a jointly coordinated approach can also mitigate the widespread fear in German foreign policy circles that Germany will be regarded by other member states as a hegemon that dictates how they should act.⁶⁶

However, research points to a whole series of problems in the application of Article 259 TFEU. First, there is the issue of free-riders, whereby the state that initiates proceedings ends up as the sole bearer of the costs – such as a deterioration in bilateral relations or investor unease – while the other states profit from any potential successes.⁶⁷ Second, Article 259 has been seen to date solely as a means of applying pressure on the Commission to act more decisively against rule of law violations. This complex political reality means that it is currently almost impossible to develop Article 259 TFEU into an independent rule of law instrument.⁶⁸

Nevertheless, the ‘biting intergovernmentalism’ approach offers great potential for committed defenders of the rule of law. The Federal Government should intensify cooperation with other ‘Friends of the rule of law,’ in order to spread the costs and risks of applying Article 259 TFEU. In addition, a determined alliance for the rule of law would also help maintain pressure on the Commission to take a more active stance against Hungary. Here, the Federal Government should act accordingly in Council votes on Hungary and provide stronger support to the Commission in its course vis-à-vis Viktor Orbán. For in the best case, the protection of EU values rests on two pillars: an active Commission and determined member states.

⁶¹ Dimitri Kochenov: Biting Intergovernmentalism: The Case for the Reinvention of Article 259 TFEU to Make It a Viable Rule of Law Enforcement Tool, in: Hague Journal on the Rule of Law 7 (2) 2015, pp. 153–174.

⁶² Europäischer Gerichtshof: Klage, eingereicht am 19. Dezember 2022 – Europäische Kommission/Ungarn (Rechtssache C-769/22).

⁶³ Jorge Liboreiro: 15 EU countries, including Germany and France, join legal case against Hungary’s anti-LGBT law, in: Euronews, 07.04.2023.

⁶⁴ Europäischer Gerichtshof 2022.

⁶⁵ Paola Tamma: Germany, France join EU lawsuit against Hungary’s anti-LGBTQI+ law, in: Politico, 08.04.2023.

⁶⁶ Simon Bulmer/William E. Paterson: Germany as the EU’s reluctant hegemon? Of economic strength and political constraints, in: Journal of European Public Policy 20 (10) 2013, pp. 1387–1405.

⁶⁷ Hegedüs 2023, p. 9.

⁶⁸ Hegedüs 2023, p. 12.

5. Strengthen the inter-institutional coherence of the EU Rule of Law Toolbox

Part of the complexity of the crisis of democracy and the rule of law in the EU is that legal and political logics merge. For instance, the European Commission has been repeatedly criticised for its reticent, dialogue-based approach to enforcing European law, which itself is based on inherently political considerations. Over the past two decades, the Commission's willingness to initiate infringement proceedings against national governments has diminished.⁶⁹ The Commission's insistence on introducing new instruments to protect the rule of law, rather than making full use of existing procedures, has also been criticised as an avoidance tactic.⁷⁰

In addition to strengthening cooperation with other member states, the Federal Government should advocate for further development of the EU Toolbox. As outlined above, the Toolbox contains certain instruments which enable the Commission to act autonomously (e.g., the umbrella regulation) as well as others which require a qualified majority Council vote (e.g., the conditionality mechanism). Article 7 proceedings, on the other hand, represent a consensual instrument. This piecemeal patchwork is accompanied by long voting processes, backroom deals, and various dilutions, limiting the instruments' efficiency. A more inter-institutionally coherent rule of law toolbox, with clear deadlines, competences, and responsibilities should be the EU's long-term goal. To this end, the Federal Government must adopt a clear stance in the Council in favour of ambitious measures, rather than softening legislative proposals.

In concrete terms, for example, the EU Justice Scoreboard is particularly relevant for the Commission, since it gathers data on all member states and thus contributes to the legitimacy of the entire Toolbox. To

date however, the Scoreboard has been somewhat descriptive and should be further developed into a robust index that forms the basis for rule of law proceedings.⁷¹

Moreover, the Commission's use of the Toolbox lacks clarity and transparency. This is particularly relevant to the use of various instruments to block Hungary's access to EU funds, whereby misleading figures have been found in the public domain and even in informed debate. This lack of transparency actually helps the Commission, in that it turns the disputes with Hungary into a topic exclusively for experts, one that is difficult for citizens to comprehend. While this may be effective, it does not meet the transparency requirements that underlie the principle of democracy. Those who want to defend democracy must pay special attention to democratic principles. Discussions over and defence of European values belong in the centre of democratic debates.

Yet even before the presently available tools have been developed, the Commission had far-reaching opportunities at its disposal to react to rule of law violations.⁷² In other words, even more important than honing the right tools is their consistent application. This also means that the Commission should maintain its current course, and not reward sham measures – such as the recent Hungarian judicial reform – with the payment of blocked funds. Only genuine reforms that allow for free and fair elections, an independent judiciary, a pluralistic media landscape, and a rollback of corruption can lead to the release of frozen EU funds. It is for this reason that the Federal Government should, in the spirit of criticism and cooperation, advocate for the Commission to implement the Toolbox more consistently.

⁶⁹ András Jakab: Three misconceptions about the EU rule of law crisis, in: *Verfassungsblog*, 17.10.2022; R. Daniel Kelemen: The curious case of the EU's disappearing infringements, in: *Politico*, 13.01.2022.

⁷⁰ Kelemen 2022, p. 177.

⁷¹ András Jakab/Lando Kirchmair: How to Develop the EU Justice Scoreboard into a Rule of Law Index: Using an Existing Tool in the EU Rule of Law Crisis in a More Efficient Way, in: *German Law Journal* 22 (6) 2021, pp. 936–955.

⁷² Kelemen 2022, p. 177.

6. Engagement with Hungarian civil society

An active civil society is the foundation of democratisation processes. There are several opportunities for the Federal Government and European partners to support the Hungarian opposition and civil society to counter the government's clientelism and media monopoly.

First, the fundamental importance of Hungarian civil society organisations should be emphasised for the defence of the rule of law. Their monitoring activities provide a crucial basis for the design of appropriate European instruments. These organisations have expertise on the impact of Hungarian government policies on the ground, the key actors, as well as local networks. By monitoring the situation on the ground, they uncover and draw attention to rule of law violations.⁷³ Bureaucrats and decision-makers in Brussels and beyond depend directly on such local civil society knowledge resources for the creation and design of EU instruments.

Furthermore, NGOs also play a fundamental role in the application of the EU Rule of Law Toolbox. The annual Rule of Law Reports provide for consultations with civil society organisations as well as proceedings before the ECJ. In addition, Hungarian civil society organisations themselves can also bring cases before the ECJ as plaintiffs, and advance the legal dispute through strategic litigation.⁷⁴ One example of such is the lawsuit brought by four European judges' associations against the milestones in the Polish recovery plan.⁷⁵

The Hungarian government is well aware of the importance of such civil society organisations and therefore restricts their funding from abroad. However, because the EU is directly dependent on such organisations in its measures against rule of law

violations, the Federal Government should help support NGOs and promote their Europe-wide networking. For instance, cultural and exchange programmes can contribute to strengthening the experience of democracy for adolescents, in particular. In tandem with the support for democracy projects abroad, outlined in Recommendation 2, the Federal Government should also support civil society organisations' bilateral projects that oppose state interference by the Hungarian government. By way of a current example, Hungarian students and teachers have been demonstrating for months over low salaries and staff shortages. In comparison to other EU countries, Hungarian teachers receive the lowest salaries, leading to enormous staff shortages in the education sector. In turn, the Hungarian government has linked any wage rises to the payment of blocked EU funds, thus blaming the EU.⁷⁶ Despite this misrepresentation, education is an issue that can mobilise even loyal Fidesz voters when, for example, the provision of schooling for their children is not assured. The ongoing demonstrations show that the potential for protest and mobilisation still exists in Hungarian society. These should be supported in order to strengthen the democratic opposition in Hungary.

Second, the promotion of civil society should go hand in hand with support for investigative media in Hungary – while, at the same time preserving the independence of the media. Therefore, the Federal Government should advocate for a European framework to provide better legal protection for journalists working in their home countries. An example of such is the directive proposed by the Commission in April 2022 against Strategic Lawsuits Against Public Participation (SLAPPs).⁷⁷ SLAPPS are deliberately used to intimidate journalists by means of baseless lawsuits, and to wear them down through sustained financial and

⁷³ Barbara Grabowska-Moroz: What can non-governmental organizations do within EU procedures for safeguarding the rule of law?, in: Anna Wójcik (Hrsg.): Unleashing the Power of EU Law: Assessing Innovative Solutions and Areas for Improvement in Safeguarding the Rule of Law, 2023, The Wiktor Osiatyński Archive 2023, URL: https://archiwumosiatsynskiego.pl/images/2023/07/AO_raport2023_2_EN_23.07.27.pdf (last accessed: 01.08.2023), pp. 33–40, (p. 37).

⁷⁴ Grabowska-Moroz 2023, pp. 38–39.

⁷⁵ Lily Bayer: European judges sue Council over Polish recovery plan, in: Politico, 28.08.2022.

⁷⁶ Euronews: Teachers in Hungary protest 'revenge' education reform bill, 17.06.2023.

⁷⁷ European Commission: Proposal for a Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation'), COM/2022/177 final.

psychological pressure. Freelance journalists are at particular risk, since they do not have access to the substantial legal resources of large media companies.⁷⁸ Although SLAPPS are now seen as a major threat to the freedom of expression and the freedom of the press in the EU, no specific national legislation yet exists.⁷⁹ The Commission's proposal only targets cross-border cases and recommends specific national regulations.⁸⁰ The Federal Government's coalition agreement supports European anti-SLAPP legislation,⁸¹ and should now push for an ambitious Council directive as well as initiating national legislation to protect press freedom. This would benefit not only German journalists but also their colleagues in Hungary and across the EU.

Conclusion

The Hungarian democratic regression impacts not just Hungary. The growing pressure on foreign companies, Viktor Orbán's obstructionism in foreign policy, and his proximity to Russia mean that Hungary's auto-cratism is a European problem – and thus also a German one.

The six recommendations we outline here present options for Federal Government action to counteract Hungarian autocratisation bilaterally, as well as in cooperation with other EU states and the European institutions. Given its close ties to Hungary and its weight in European debates, Germany can play a decisive role in defending the rule of law in Hungary and the EU as a whole.

Such a role is also in Germany's interest. The preservation of the European legal order, including a functional Single Market, are the foundation of Germany's position in Europe. In view of the increasing

autocratic threat from both within and outside the EU, the defence of liberal democracy must be at the core of Germany's EU policy.

⁷⁸ Molly Killeen: Lawmakers to start work on anti-SLAPP, stakeholders warn just 'first step', in: Euractiv, 21.10.2022.

⁷⁹ Rafał Mańko: Strategic lawsuits against public participation (SLAPPS), EPRS Briefing, 03.07.2023, URL: [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2022\)733668](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2022)733668) (last accessed: 24.07.2023), p. 3.

⁸⁰ Joschka Selinger: Die EU schlägt zurück. Zur Anti-SLAPP-Initiative der EU-Kommission, in: Verfassungsblog, 05.05.2022.

⁸¹ SPD/FDP/Bündnis90/Die Grünen: Mehr Fortschritt wagen. Bündnis für Freiheit, Gerechtigkeit und Nachhaltigkeit, Koalitionsvertrag 2021–2025, p. 124.

About the project

Relations between the EU and Hungary are currently under strain because of the poor rule of law situation in Hungary. In a resolution passed in September 2022, the European Parliament described Hungary as an ‘electoral autocracy’ on the grounds of its disintegrating democracy, deteriorating rule of law, and weak constitutional rights. On its part, Hungary is increasingly using its EU veto power to limit the EU’s room for manoeuvre. European institutions are in open conflict with Viktor Orbán’s government.

What is Germany’s role in this conflict over the rule of law? Until recently, Germany’s attitude towards Budapest was very restrained. Now however, with the *Zeitenwende*, the Federal Government is turning towards a more values-based foreign policy. What does this development mean for German-Hungarian relations, in particular for democracy and the rule of law?

With the ‘Ungarn neu denken – rethink Hungary’ project, the Institut für Europäische Politik (IEP) is creating a framework for confidential meetings between German stakeholders from the realms of politics, economics, and civil society. The aim of the project is to improve awareness in Germany of the effects of the dismantling of democracy and the rule of law in Hungary.

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About the IEP

Since 1959, IEP has been active in the field of European integration as a non-profit organisation. It is one of Germany’s leading research institutes on foreign and European policy. IEP works at the intersection of academia, politics, administration, and civic education. The opinions expressed in this publication are those of the author(s) and do not necessarily reflect the views of the IEP.

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