**The European Union as a Target: When do democratic backsliders**

**challenge the EU?**

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**Introduction**

The rise of populism throughout Europe has provoked extensive scholarship among academics. Two related topics specifically, democratic backsliding and euroscepticism, have become especially relevant. The populist actors who conduct democratic backsliding incrementally eat away at institutional checks on their power, making it easier to maintain their positions (Bermeo 2016; Levitsky and Ziblatt 2018). While they largely focus on domestic institutions, those whose countries are member states of the European Union have an international democratic institution to take into account as well.

Populists are also often associated with euroscepticism. New populist parties on both the left and right took advantage of the economic and cultural changes occurring in Europe to gain support through adopting an anti-EU position (Hobolt and de Vries 2016; Norris and Inglehart 2019; de Vries and Hobolt 2020). However, scholars have observed that this populist movement is not monolithic. Left- and right-wing populists have different motivations for their skepticism (Plaza-Colodro et al 2018), with the left wing adopting ‘soft’ euroscepticism, which entails being skeptical about the regime or policies, but not about the European integration project, and the right wing adopting ‘hard’ skepticism, which is against the idea of integration in its entirety (Szczerbiak and Taggart 2008; de Vries 2018).

The different stances on the EU among populists is further highlighted when we consider populist backsliders. While they often claim a position of euroscepticism, their interactions with the European Union are complicated. This complication is conveyed through a mixture of both negative and positive sentiments in the rhetoric of these leaders (Winzen 2022). Leaders in Eastern Europe especially have been known to tamper down anti-EU rhetoric due to funding concerns, even though their nationalist views would suggest the opposite should be true (Bakker et al 2020). At times, they praise the EU for its dedication to preserving a European identity or strengthening the European economy, and at other times, reprimand the EU for overreach and unfair policies. Sometimes, these come within the same speech. In a 2018 speech to the European Parliament, Hungarian Prime Minister Viktor Orbàn first expressed full support for the EU, saying, “I would like to make it clear that the commitment of Hungary and the Hungarian government towards the European Union cannot be questioned” (Orbàn 2018). Within the same speech, however, he also criticized the EU for its “bad and inefficient operation” (Orbàn 2018). The sentiment of these speeches also changes over time.

In this paper, we present and test a theory to explain changes in rhetoric toward the EU. We build from the extensive work others have done identifying backsliders’ rhetoric toward the EU and the consequences of intervention in backsliding states by the EU (Schlipphak and Treib 2017). These scholars have warned about the potential negative impacts of EU intervention in backsliding states, but we want to see a fuller picture. Which actions within the EU, specifically, lead to rhetorical backslash from backsliders? Do backsliders take public opinion into account when deciding the rhetoric they use toward the EU? Most evidence presented in the literature thus far to answer these questions is anecdotal. In this paper, we provide a more systematic analysis of backslider rhetoric toward the EU and identify whether changes in rhetoric are related to changes in public opinion and in the actions of EU actors. This contributes to our understanding of backslider responses to the EU. As others have warned, the EU should be careful in intervening in backsliding states due to possible backslash (Schlipphak and Treib 2017). We add details to this argument, determining which specific actions taken by the EU are likely to result in a change in rhetoric by backsliders. Normatively, this means actors within the EU should be able to better identify consequences of institutional change before they changes are enacted and may be able to preempt the negative rhetoric they will face from backsliders.

Based on public opinion, institutions, and democratization literature, we argue that anti-democratic actors consider public perception of the EU and the likelihood of punishment by the EU when deciding what type of rhetoric to use. We test hypotheses regarding these factors, determining how public opinion and institutional threat impact rhetoric.

**Theory**

We theorize that public opinion about the EU should affect the type of rhetoric backsliders use when talking about the institution. Because elites are concerned with electoral goals and staying in office (Strom 1990; Devinney and Hartwell 2020), they should take their voters’ opinions into account when deciding whether or not to rhetorically target the EU. While earlier literature views public opinion of the EU as a consequence of national circumstances and elite cues (Kritzinger 2003), more recent studies have shown that public opinion about the EU does affect European integration and the actions of elites (Spoon 2012; Hobolt and de Vries 2016). According to Hobolt and de Vries (2015), elites are aware of public opinion about the EU and behave accordingly, with some elites forming parties based on the possibility of attracting voters who care about the EU. In addition, elites were responsive to public opinion during the Eurozone crisis when it came to negotiations within the EU. This is an indication that while the public used to pay little attention to EU matters in favor of national matters, the EU has become much more salient during the aftermath of crises such as the Eurozone crisis and the migration crisis. Williams and Spoon (2015) confirm the impact of public opinion, finding that shifts in public opinion of the EU result in shifts in parties’ positions on the EU. This evidence suggests that public opinion does affect the strategic decisions of elites, and thus, we expect public opinion of the EU to matter for populists in their decisions about what tone to adapt while talking about and to the EU.

However, there is no consensus about the direction in which public opinion should affect elite rhetoric. Therefore, we test three competing hypotheses. In each, the backslider’s interests are pulling them in two directions. They have incentive to admonish the EU for punishing backsliding behavior because they want to continue backsliding, and do not want to risk their power being taken away. On the other hand, they need to stay in the good graces of voters who like the EU because voters determine whether they stay in power. In each hypothesis, the backslider weights these factors differently. We draw from Meguid’s (2005) three strategies related to position-taking; accommodative, adversarial, and dismissive.

First, we hypothesize that *when a backslider’s supporters have a positive view of the EU, the backslider’s rhetoric will be more positive*. This is an accommodative strategy, and taking this position benefits the backslider because adopting the position of the voters makes it more likely that the backslider will maintain power. Elites have shown themselves to be attentive to public opinion data and to adopt positions based on those data (Hager and Hilbig 2020). Spoon and Klüver (2014) and Klüver and Spoon (2016) provide evidence that parties are responsive to public opinion, showing that parties are more likely to include issues in their platforms that the public cares about. Similarly, Bernardi et al. (2021) find that public opinion affects which issues legislators prioritize. We extend this theory to test whether public opinion affects rhetoric in a similar way.

Alternatively, we hypothesize that *when a backslider’s supporters have a positive view of the EU, the backslider’s rhetoric will be more negative*. In this case, the backslider decides it is more advantageous to convince voters to dislike the EU than it is to adopt their position. This is akin to the adversarial position. Extensive research shows that elites have a large impact on public opinion via framing and agenda setting. Especially in polarized settings, voters look toward partisan elites to form their opinions and those elites frame the issue to appeal to the voters (Slothuus 2010). Voters respond quickly to these elite frames, updating their own position to match those of their party leaders (Slothuus and Bisgaard 2020). Therefore, we might expect backsliders to use negative rhetoric to convince voters to turn against the EU.

Finally, we follow the literature on party position-taking to hypothesize that *when a backslider’s supporters have a positive view of the EU, the backslider will blur their position*. Drawing from Meguid’s (2005) dismissive strategy, we test whether changes in public opinion leads to avoidance of the issue altogether. Because we know that backsliders have continued to talk about the EU, avoidance comes in the form of position blurring. Position blurring is when a politician “present(s) seemingly contradictory arguments on a given issue” (Han 2022, p 62), leading to uncertainty among the electorate about the politician’s actual position on the issue. This uncertainty can benefit the politician if they are at odds with the position of their voters. They want to avoid losing support by taking the adversarial position while also avoiding accommodating a positive EU position because it does not serve their policy or electoral goals. Blurring can also be helpful because it forces voters to evaluate elites based on other issues. If the elite is at odds with the stance of voters, they risk losing votes, but if nobody knows the elite’s position, they have to rely on other issue positions to make their decisions (Rovny 2012; Han 2022). These are likely issues on which the elite and voters agree on, which would make the voters more likely to vote for the elite. Research shows that some populists have taken this approach on economic and social issues (Zulianello and Larsen 2023), and in this paper, we test whether this is also the case for backsliders with the issue of the EU.

*Institutional Threat*

The second factor we argue affects rhetoric toward the EU is backsliders’ perceptions about institutional threat. Scholars point out that most incidents of democratic backsliding are conducted by actors who incrementally weaken democratic institutions and concentrate power in their own hands (Bermeo 2016). Because of limited time and the risk of creating a large backlash against their actions, those conducting backsliding cannot target every institution all of the time. Therefore, these actors must make strategic decisions.

As we mentioned, backsliders have electoral goals and will act strategically to achieve them (Strom 1990), and there is evidence that they have policy goals as well. Devinney and Hartwell (2020) argue that there is no monolithic policy or political agenda for all populists, but that each populist party has its own policy goals. Others have shown that not only do populists have policy goals, but that they also actively work to achieve them (Caiani and Graziano 2022). Rinaldi and Bekker (2020), for example, find that populists have been able to implement significant changes in welfare policy once they are in office. Given this, we should expect that although populist parties may not have the same goals as one another, they still care about policy. As actors who care about policy, populists should also pay attention when institutions can and are likely to block their policy goals. Based on the literature about checks and balances and the incentives facing political actors, we hypothesize that changes in the threat level of an institution, made up of both the ability and willingness to use its powers over the executive, should affect rhetoric toward the EU (Call 2022 Working Paper).

To demonstrate this, we use an example of how institutional threat affects populist behavior in reference to a domestic institution, courts. Backsliders often try to capture the courts early on– a loyal court means populist policies will not be judged as unconstitutional (Koncewicz 2019; Sato et al 2022 working paper). In Hungary, the courts held a great deal of power when Orbán came to power in 2010, with the Constitutional Court specifically holding extensive judicial review that could block any of Orbán’s policies (Spuller, 2014). The court did so by blocking one of Orbán’s tax policies in 2010 (Curia of Hungary, Decision 184/2010) and a law criminalizing homelessness in 2012 (HRW Report 2013). Clearly, the court was a threat to Orbán and he acted accordingly, hollowing out the judiciaries by passing an age restriction law for judges. Hundreds of judges were forced out of office immediately, giving Orbàn the chance to fill the very empty bench with loyalist who would back his policies (Halmai 2017). Removing courts’ powers makes it easier for a populist to advance their ideological beliefs and policies–there’s one less institution that could stop them.

The second component of institutional threat is the willingness to use these checks on the populist. Again, in the case of Hungary, when the Constitutional Court was balanced between ideologically left and right judges, they often struck down Orbán’s anti-democratic policies (Szente, 2015). After the Court was expanded and unfriendly judges were replaced, though, most judges were ideologically in sync with Orbán and rarely, if ever, voted against his policies (Szente et al., 2015; Szente, 2016). From this, we see that the institution was a larger threat when its actors were willing to use its checks, which affected the backslider’s behavior.

We argue that this translates into the international sphere as well, specifically in reference to international organizations. The EU has continuously touted its commitment to democracy since the signing of the Single European Act, within which representatives from members states “determined to work together to promote democracy on the basis of...fundamental rights” (Single European Act Preamble 1986, 5). This has been reaffirmed over time in EU treaties and resolutions (Treaty of Nice 2001; EU Council Conclusions and Agenda for Action on Democracy Support 2009; Agenda for Change 2011).

States including Hungary, the Czech Republic, and Poland all achieved the level of democracy necessary to be made members of the EU in the 2000s, fulfilling the requirements for accession, including “stability of institutions guaranteeing democracy” (European Council in Copenhagen 1993, Sec. 7 Para A Section iii; O'Brennan 2006). For several years following accession, these states continued their democratic trajectory. However, the rise of populism and illiberalism have changed the relationship these states have with democracy. With Orbán’s becoming Prime Minister of Hungary in 2010, Duda becoming the President of Poland in 2015, and Babiš becoming Prime Minister of the Czech Republic in 2017, these states saw a turn away from democracy and toward the concentration of power in the hands of the executive.

As these actors continued their backsliding, other member states became increasingly concerned. The actions of backsliders have many potentially harmful effects, including weakening the EU’s stance when dealing with external illiberal regimes and making it more difficult to conduct trade (Meunier and Vachudova 2019). Scholars point out that the EU was unprepared for these eventualities and lacked sufficient punishment mechanisms. Kovács and Scheppele (2018) note that the members found many ways to protect their individual states from actions taken by the EU, but fewer tools were put in place to protect the EU from actions taken by member states (190).

Although the EU was slow to adjust to the increasing prominence of backsliders within its ranks, especially in regard to their delayed response to Hungary’s illiberal turn, it did recognize the shortcomings of its punishment mechanisms and worked to create new ones. We argue that these changes within the European Union increased its threat level and, in turn, should impact the rhetoric of the populist. To test this, we track rhetoric of backsliders over time and test three hypotheses. Once again, we use the position-taking strategies popularized by Meguid (2005) to formulate these hypotheses.

First, we test the hypothesis that *when the threat level of the EU increases, backsliders will use more negative rhetoric*. In this case, the backsliders are responding defensively to the hinderance of their electoral or policy goals, which Meguid (2005) identifies as an adversarial strategy. Using negative rhetoric will potentially influence public perception of the EU, making the backslider’s voter base less supportive of it. If the populist leader can successfully decrease public support for the EU, their own leverage will increase because the EU will be hesitant to risk further alienating people by punishing their government. Although concerns about member states leaving the EU have largely dissipated over time due to the political mess of Brexit and the EU’s efforts to prevent others from leaving, that possibility still exists (Hix and Sitter 2018). Even beyond exit, lack of public support for the EU could lead backsliders to feel increasingly bold.

This is also addressed in literature on elite cues and public opinion. Because the public does heavily draw from partisan elites to form opinions in polarized settings, (Ginsburgh et al. 2021; Roberts 2021; Haggard and Kaufman 2021), backsliders might be able to turn their supporters against the EU. This is especially true because backslider rhetoric already focuses on calling out the corrupt elite and othering those who are different or come from a different place (Mudde 2017; Mudde 2021), a strategy that has worked to turn the public against the EU in the past (Norris and Inglehart 2018; Smith et al. 2020).

The alternative hypothesis we test is *when the threat level of the EU increases, backsliders will use more positive rhetoric*. In this case, we would see the backslider use positive rhetoric in an attempt to assuage the EU and make it less likely to use punishment mechanisms. This is similar to accommodation, in which a party adopts the same position as another party in order to maintain their own support (Meguid 2005; Spoon and Klüver 2020). Backsliders could potentially use this strategy, responding positively to concerns of the EU. Even if they do not follow through on any democratic changes, the positive rhetoric may signal to the EU that the backslider is an ally and make punishment less likely and can signal to voters that the backslider has a positive relationship with the EU. This would be beneficial especially in cases where public opinion of the EU is positive (de Vries 2018).

Although Meguid (2005) does identify a third strategy, dismissive, this is evidently not the case among the backsliders studied here. All mention the European Union consistently in their statements and the EU is often too salient to ignore. Instead, if a politician wishes to avoid taking a position without ignoring the issue altogether, they may take part in position blurring. According to Rovny (2012), radical right parties may try to “project vague, contradictory or ambiguous positions” (p. 5) with the goal "to either attract broader support, or at least not deter voters on these issues” (p. 6). We extend this theory to backsliders, testing the hypothesis that *when the threat level of the EU increases, backsliders will blur their position*.

**Data and Methods**

*Dependent Variable*

The dependent variable of interest is backslider rhetoric toward the EU, more specifically, the type of rhetoric used. When do populist authoritarian leaders attack the EU? We select the three most prominent examples of backsliding states within the EU in recent years, Hungary, Poland, and the Czech Republic. Because these cases are recent, there are many statements, including speeches, press releases, and occasional social media posts, available in English on the official websites of their respective governments. Viktor Orbán’s statements are compiled through archived versions of the Hungarian government website (2010-2014.kormany.hu/en, [2015-2019.kormany.hu/en](https://2015-2019.kormany.hu/en)) and the English language version of the About Hungary website ([abouthungary.hu/speeches-and-remarks](https://abouthungary.hu/speeches-and-remarks)). Each has a section containing speeches, posts, statements, and interviews given by Orbán. Similarly, Duda’s statements are compiled from the English language version of the official website of the President of the Republic of Poland (<https://www.president.pl/>) and Babiš’ statements are compiled from the English language version of the “Press Advisories” section of the Czech government’s official website (vlada.cz/scripts/detail.php?pgid=103).

Through keyword searches[[1]](#footnote-1), we identified which statements referenced the EU. Within each actor’s corpus, we also identified statements that were primarily about the EU, which in most cases were made directly to the European Union, or about European Parliament elections. We conducted a sentiment analysis for each leader’s statements referencing the EU, along with separate analyses for statements primarily about the EU and non-EU statements. For each, we identify the proportion of content that was positive, and the proportion that was negative.[[2]](#footnote-2) To measure sentiment, we used the Lexicoder Sentiment Dictionary, a term-based dictionary designed for the analysis of political communication (Young, and Soroka, 2012). The dictionary includes 2,858 words indicating negative sentiment, and 1,709 words indicating positive sentiment, and has been validated; using the dictionary produces sentiment codes in political communication similar to those of expert human coders (Young and Soroka 2012). It has been used in several recent studies about the sentiment of political speeches (Liu, and Lei, 2018; Proksch et. al, 2019), including the sentiment of EU speeches (Rauh, Bes, and Schoonvelde 2020).[[3]](#footnote-3)

*Independent Variables*

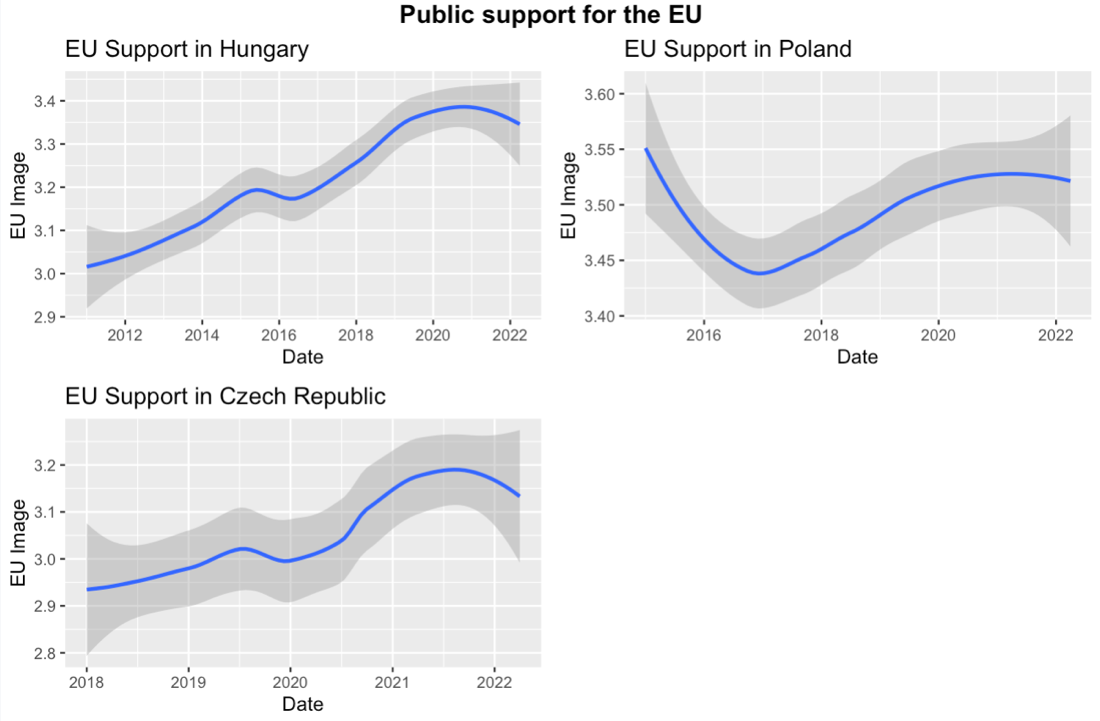
We take a qualitative approach to determine when institutional threat changed. Due to the nature of our research questions and theory, a measure of overall threat is unnecessary. Rather, we are interested in relative threat. In other words, when changes are made within the EU, do those changes make the institution more or less of a threat than it was previously. Based on our theory of institutional threat, we expect that when a new punishment mechanism is introduced or when the Commission becomes more willing to use mechanisms, we should see a change in sentiment.

We largely rely on documents published by the EU and on the work of scholars to identify when new punishment mechanisms were put into place. Through the literature, we find the following mechanisms; Article 7, infringement procedures, the Rule of Law Framework, and the strategic withholding of funds. We will discuss these with further detail later in this paper, but we argue that with every new mechanism introduced, there is a greater chance that the EU can prevent backsliders from achieving their goals. Due to this increased threat, when more new punishment mechanisms are introduced, we expect rhetoric to change. We also expect rhetoric to change when the EU shows its willingness to use these mechanisms. As will be detailed further in the following sections of this paper, the mechanisms were introduced but not implemented until several years later in some cases. For example, although the Rule of Law Framework was introduced in 2014, it was not used in earnest until 2017. When the EU becomes more willing to use the mechanism, as signaled by its implementation, threat level also increases, which we expect will change the sentiment of backsliders’ rhetoric toward the EU.

# The other variable we theorize should affect the rhetoric of backsliders is public opinion. To measure opinion toward the EU, we created and index from two measures: a Eurobarometer survey question, and support for Eurosceptic parties from CHES (Jolly et. al. 2022).

# The first part of our index comes from the Eurobarometer. Because it has asked in all of the years the backsliders have been in power, we use the question, “In general, does the EU conjure up for you a very positive, fairly positive, neutral, fairly negative or very negative image?”[[4]](#footnote-4) We compare trends in responses to this question to determine whether rhetoric changes in the expected direction when public opinion changes. As seen in the figure below, public support for the EU has varied over time in all three countries. Citizens and Hungary and the Czech Republic have largely become more supportive over time, and citizens in Poland less so. However, public support for the EU exhibits dips and inclines in all three states, providing enough variance in the independent variable to test whether changes in public opinion affect the type of rhetoric backsliders use.

**Figure 1: EU support measured by the Eurobarometer**



The second part of our index comes from the CHES 1999-2019 trend dataset. Following Rauh et. al. (2020), we use three indicators to create a measure of country level Euroscepticism. In order to be classified as a Eurosceptic party, parties must meet two requirements. First, opinions on EU integration must be part of a party's stance. Relative EU salience is measured on a 0-10 scale, with 0 meaning European integration is not important, to 10, when European integration is most important. Like Rauh et. al. (2020) in order to be included, parties must score at least a 3.5 on the EU salience measure. The second measure is EU position, measured on a scale of 1 (strongly opposed to the EU) to 7 (strongly in favor). If a party has a measure lower than 3.5 they were included. If both requirements were met, we used the percent of seats held by these parties in their national parliaments.

We combined the measures by first normalizing each indicator so scores ranged from 0-1. Because the Eurobarometer survey scale is positive (higher numbers reflect more EU support), and the CHES measure was negative (more Euroscepticism the higher the value), we subtracted the Eurobarometer image score from the CHES score. This means that in our index, higher values are more Euroskeptic than lower values.

**Institutional Threat and Punishment Mechanisms in the EU**

*Article 7*

The first punishment tool that can be used against member states is Article 7 of the of the Treaty on European Union (TEU), to be used if there is a “clear risk of serious breach of EU values.” Article 7 can theoretically threaten backsliders but in practice, high thresholds make it virtually impossible for member states to be held fully accountable.

The law has two stages, the first of which is preventive. When the European Parliament, the Commission, or one-third of member states notice a breach in EU law, they can propose the opening of an Article 7 case. Once proposed, the Council enters formal discussion with the member state, and determines whether a breach did occur (European Parliament 2022). The second stage is punitive–member states can have their membership suspended and lose the right to vote in the EU Council. Known as the “nuclear option”, there is a very high threshold for the second stage–it can only be proposed with the support of one-third of the member states, two-thirds of the Parliament, and a unanimous vote in the EU Council. With 27 member states, it is difficult to get unanimous support for anything (Sedelmeier 2014). Furthermore, as both Hungary and Poland have seen substantial declines in liberal democracy, they will not vote to suspend the other (De Búrca 2022). Orbán made this explicit in a radio interview, saying, “when someone attacks Poland – as Brussels is doing now – they attack the whole of Central Europe. So we must stand by the Poles” (Orbán 2017).

For these reasons, historically, the EU has been reluctant to use Article 7, but this seems to be evolving due to an addition of a new provision to widen the scope of what can be covered. By the end of Orbán’s 2010-2014 term, it became evident that backsliding would continue if left unchecked. The Commission stated this explicitly, admitting that “the EU had to find ad hoc solutions since current EU mechanisms and procedures have not always been appropriate in ensuring an effective and timely response to threats to the rule of law” (Rule of Law Framework, Introduction). Their solution was to introduce the Rule of Law framework, meant to prevent incidents from reaching the level of needing to use Article 7. Instead, persistent affronts to the Rule of Law go through a three-step process in the Commission. First, the Commission investigates the member in question, determining whether there is a “systemic threat to the rule of law” (Rule of Law Framework, section 4.2). If a systemic threat is found, the Commission will send the member state a “rule of law opinion,” allowing the member state to engage in a dialogue with the Commission and potentially alleviate concerns. If the problems persist and the first step does not help to end the threats to the rule of law, the Commission moves on to sending a “rule of law recommendation,” which provides more specifics about what the member state must do to come into compliance. Finally, the Commission monitors for compliance, and if the member state has not made the necessary changes, the Commission can start Article 7 proceedings. While the ending mechanism is still Article 7, the Rule of Law Framework extends the possibilities for using it against democratic backsliding.

The EU signaled its willingness to start using these tools starting in January 2016, when the Commission triggered the Rule of Law Framework against Poland. It was the first (and currently only) use of the Framework in the EU. In another first, the European Parliament triggered Article 7 in December 2017, using it to warn Poland about the threats to judicial independence. This was a very significant event because Article 7, even the preventative stage, had never been used before. Then, in September 2018, the European Parliament triggered the warning phase of Article 7 against Hungary. In their resolution they list twelve concerns about Hungary, including threats to freedom of expression, association, and religion. The EP resolution also cites instances for discrimination of minorities including the Roma and Jews (European Parliament 2018). The use of the Framework and Article 7 signaled that the EU was more willing to use these tools than before.

In another example, the Commission also warned Romania that an Article 7 proceeding could be launched in 2019, as the EU was growing increasingly concerned about government corruption. The Romanian Prime Minister Dăncilă responded by stating that the use of Article 7 against them would be, “a dangerous thing” (as cited in Grabowska-Moroz 2019), providing further evidence that as the EU becomes more willing to use the Rule of Law Framework and Article 7, backsliders perceive an increase in threat level. Therefore, we have two expectations surrounding the Rule of Law Framework and Article 7. First, we expect backslider rhetoric to change when the Rule of Law Framework is introduced because it is an enhancement of the checks and balances imbued in the Article 7 mechanism. Second, we expect backslider rhetoric to change when the Commission begins uses the Framework and Article 7 starting 2016 because it signals a willingness to use these checks.

*Infringements*

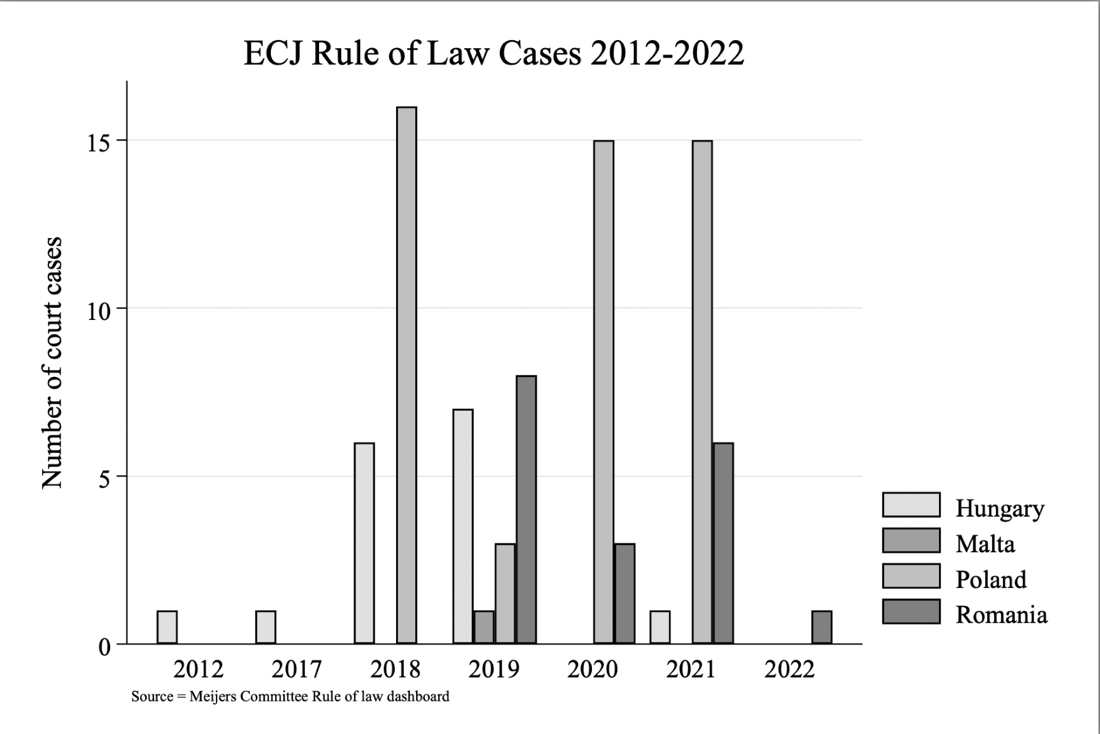
The second punishment tool is infringement procedures, formal requests from the European Commission for a member state to comply with EU law. It is a multi-stage process, culminating in the European Court of Justice if the state refuses to comply. If the ECJ rules against the member state, it can levy fines. While infringement procedures could threaten backsliders, the outcomes of its use are mixed. Fines are often relatively small, and states have chosen to pay the fine instead of complying. In about half of the cases between 2000 and 2012, states paid the fine, but did not come into complete compliance with EU laws (Falkner 2016).

Another issue with this mechanism is that it takes too long to be effective. In 2020, the ECJ ruled that Hungary, Poland, and the Czech Republic were in violation of the emergency asylum act in 2017. However, the temporary law had expired in late 2017. In this case, the Court’s decision had no impact on state behavior, and there were no consequences for the non-compliant countries (Scicluna 2021). This was not the only time a ECJ court ruling came too late. In January 2012, the Commission launched an infringement procedure against Hungary, arguing that a law lowering the mandatory retirement age of judges was a violation of EU equal treatment in employment laws. The ECJ ruled that the law did in fact violate EU law, and it was therefore rescinded. However, the law change had already forced hundreds of judges to retire, and the ruling did not reinstate them. Sadurski (2022) points out that ironically, overturning the law means that the new judges seated by Fidesz would remain on the bench much longer than they otherwise would have.

However, the number of infringements related to backsliding behavior is increasing, and the mechanism may, therefore, be seen as more threatening. As shown in Figure 1, the number of Rule of Law cases brought to the ECJ has increased dramatically in recent years. Additionally, infringements have also successfully reversed laws that threatened democracy and the rule of law. This has largely followed the introduction of the Rule of Law Framework. Although the Framework itself does not produce infringements, its introduction suggests a change in political will. After its implementation, we saw an increase in Rule of Law infringements brough to the ECJ. Therefore, we argue that when the Rule of Law framework was introduced, it signaled a change in political will to use infringements to punish backsliders. This increased the EU’s threat level, and, based on our theoretical expectations, we expect rhetoric to change during that time.

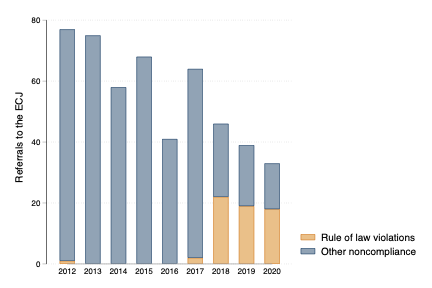
It is important to note as well, that the number of rule of law infringements did not increase immediately once the Framework was introduced. Rather, it took a couple years for the Commission to use this mechanism, starting in earnest in 2017 (see Figures 1 and 2). The number of Rule of Law ECJ cases spiked in 2018, with Poland getting sent to the court 16 times, and Hungary 6 times. Note that the Law and Justice Party (PiS) had taken control of the Polish government in 2015, after which, they immediately began to dismantle liberal democracy. PiS quickly undermined the independence of the constitutional court, and the created a new National Council of the Judiciary, whose job it is to select Polish judges, presumably ones that support PiS (Sadurski, 2019). Yet, it took until 2018 for any rule of law cases sent to the ECJ from Poland. It is also notable that the percentage of infringement cases sent to the ECJ around rule of law violations increased dramatically in 2017. Given these developments, we reiterate the expectation that we should see rhetoric change when the ECJ begins hearing Rule of Law infringement cases in 2017.

**Figure 1: Rule of Law Cases in the European Court of Justice**



Rule of law cases referred to the ECJ: 2012-2022

**Figure 2: Share of European Court of Justice Cases, Rule of Law Infringements**



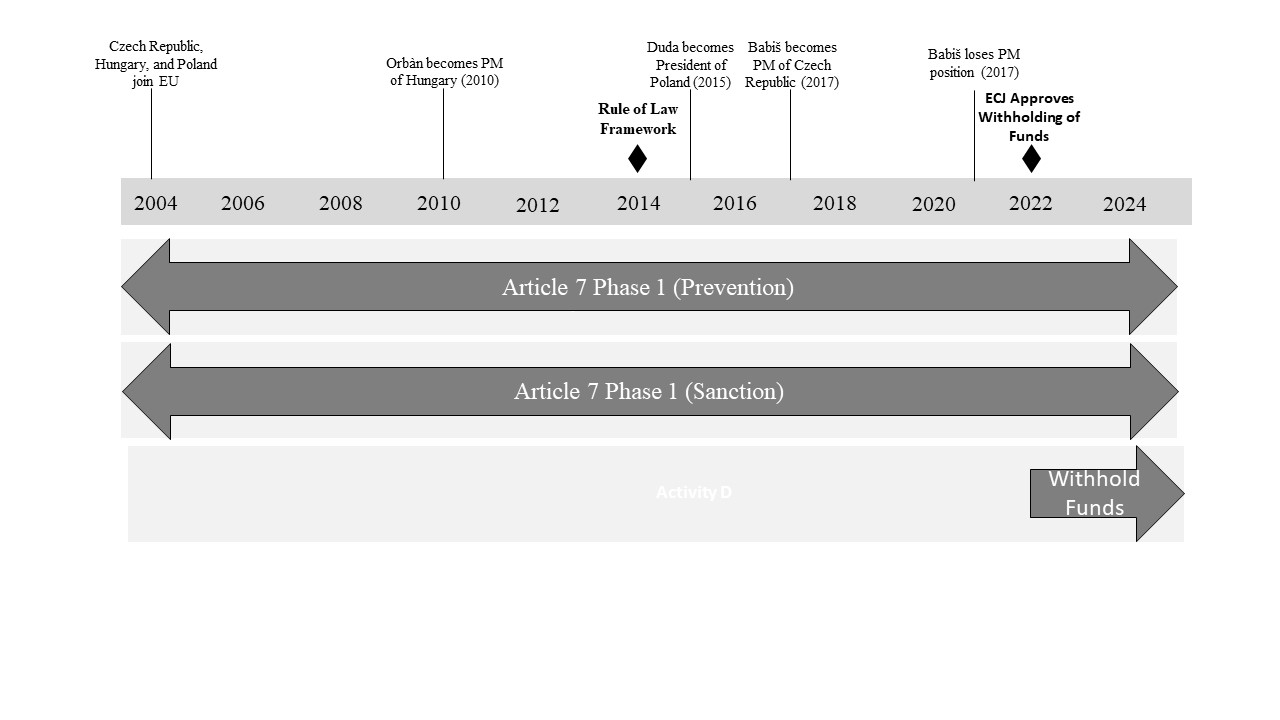
*Withholding of Funds*

More recently, the Commission has recognized its failure to prevent or contain backsliding and have developed a new way to punish backsliders, the Rule of Law Conditionality mechanism. States had been given fines before for noncompliance, but the sums were often small and did little to deter bad behavior. The Commission decided that it needed a more powerful tool, and proposed the Rule of Law Conditionality mechanism in late 2018. It was not approved by the European Council until December 2020, and came into force in January 2021. The conditionality mechanism allowed the Commission and Council to suspend EU funds for member states if rule of law violations threatened the budget. In 2021 and 2022, the Commission used this mechanism, and recommended that €7.5 billion in EU funds be withheld from Hungary and Poland due to concerns about corruption (Tidey 2022). The European Court of Justice went on to confirm the EU’s right to use this mechanism (Casert 2022).

The Commission has since used this mechanism in direct reference to backsliding behavior. It decided to withhold COVID relief funds from Hungary until issues of judicial independence and the rule of law were addressed (Strupczewski 2022). This strategy has already sparked action in Hungary, with the Commission demanding and Hungary agreeing to a deal in which Hungary must meet milestones in combatting corruption and empowering democratic institutions before the funds are released (Strupczewski 2022). From this, we know that the EU now has a functional check on backsliders. Also, since this check can take place without the input of Hungary or Poland, the veto power they have used in the past to protect each other from punishment is no longer an option. Effectively, this lowers the amount of political will and power needed to punish backsliders, and thus makes it more likely actors within the Commission will agree to punishment. The quick implementation of these measures against Hungary also reaffirms that there is enough political will within the EU to withhold funds in order to secure democratic changes.

Given that this new mechanism both provides a check on backsliders and is likely to use that check, the EU recently became a higher threat institution toward those backsliders. Through this analysis, we have argued and provided evidence that the introduction of the Rule of Law Framework, the use of Article 7, and finally the withholding of funds, through the Rule of Law Conditionality mechanism, increased the threat level of the institution. We expect, therefore, that backsliders’ negative rhetoric will increase in 2014 when the Rule of Law Framework was implemented and in 2022 when the Commission asserted and the ECJ confirmed the ability to withhold EU funds to backsliders using the Rule of Law conditionality mechanism.

**Figure 3: Mechanisms Timeline**



**Results**

*Sentiment Analysis*

An overview of sentiment analysis scores can be found in Figures 4-6, and are further summarized in Tables 1-2 in the Appendix.

The figures below plot the average quarterly sentiments of statements that are primarily about the EU compared to non-EU statements from Orbán, Duda, and Babiš. As the plots show, statement sentiment varies over time and across type of communication, sometimes dramatically. For example, negative speech spiked in Duda’s EU statements in late 2018, and again in the middle of 2022, while positive speech surged in the middle of 2020. In Hungary, negative sentiment in both EU statements and non-EU statements dropped to almost zero in the last half of 2011, and surged in the EU statements to its highest point in 2014. Some of these variations correspond to EU actions. For example, there is a large spike in negative EU speech from Orbán in 2012. In March 2012, the European Court of Justice ruled that new judge retirement rules did not align with EU law, a clear threat to Orbán's attempts to capture Hungarian courts.

**Figure 4: Comparing Orbán's Sentiment in EU vs. non-EU Communications**

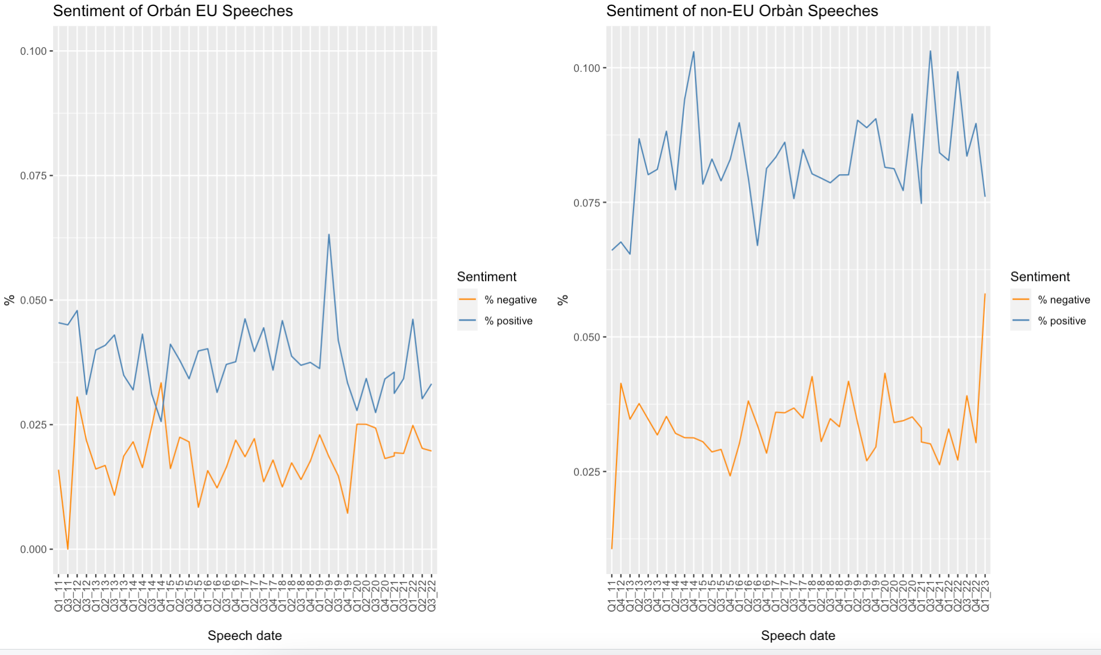
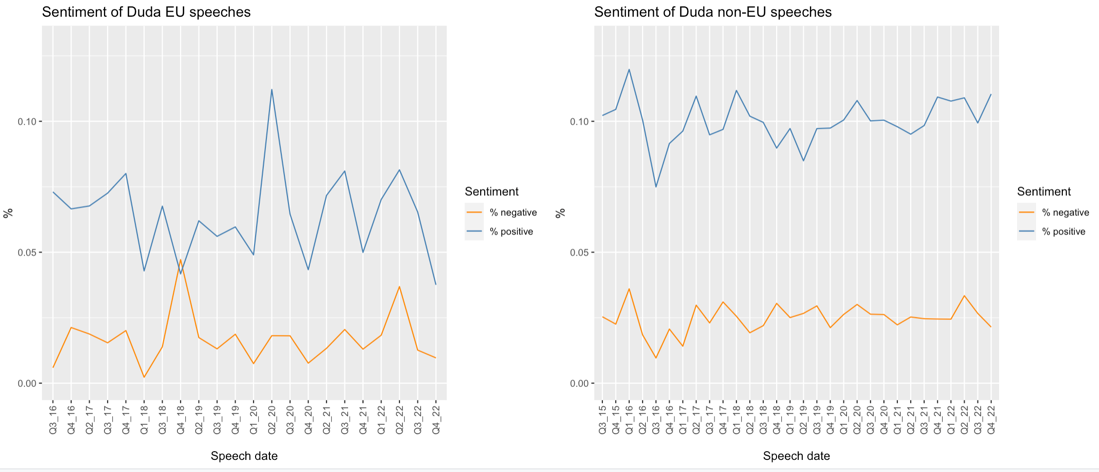


Figure 4 shows the mean sentiment scores for Orbán's EU statements compared to his non-EU statements.[[5]](#footnote-5) The average positive sentiment is clearly higher in his non-EU statements, and is statistically significant.[[6]](#footnote-6) Furthermore, mean negative speech is higher in EU communications than in non-EU ones, and this difference is also statistically significant. This suggests that political communication from Orbán about the EU is different than his other speeches, and that it’s more negative. Additionally, the difference between positive and negative communication about the EU is lower than non-EU speeches (or all speeches), even crossing at one point, providing evidence that Orbán uses of blurring.

Somewhat surprisingly, the average positive sentiment of the EU statements is higher than the positive sentiment in all of Orbán’s statements, and is statistically significant (see Figure A3 in the appendix). However, it is also much more variable. Orbán’s statements about the EU exhibit larger slips and surges when compared to all of his statements. The mean of negative sentiment is higher for EU statements compared to all statements, but it is not statistically significant. It too, is much more variable than EU statements. The link between institutional threat and negative rhetoric will be examined later in this paper. At this point, we argue that because Orbán's EU statements have more volatile sentiment scores, EU statements may be systematically different from all statements and there is some evidence of blurring.

**Figure 5: Comparing Duda's Sentiment in EU vs. non-EU Communication**



Sentiment plots of Duda’s statements are in Figure 5. The left-hand panel shows sentiment scores for his EU statements, while the right-hand panel shows scores of non-EU statements. Two things are apparent. First, the average sentiment of Duda’s non-EU statements is more positive than the sentiment in EU statements, in other words, when he talks about the EU, he uses less positive speech, and more negative speech (see the appendix for means and difference of means data). The difference is statistically significant for both positive and negative speech; negative speech in EU statements is also lower compared to all statements (see Table A1), but the difference is much smaller.

Second, the EU statements are more variable than non-EU statements (or all statements, see Table A1). There are a few minor spikes between 2015-2016 for non-EU statements, but both the range and the rate of variable statements is higher when Duda talks primarily about the EU. In the fourth quarter of 2017, negative speech jumps up dramatically, with a corresponding dip in positive speech. The EU Commission triggered Article 7 against Poland in late 2017, and may therefore be the driver behind the spike in negative speech. The first quarter of 2019 first sees a large spike in positive speech, followed by a rapid slip in the second quarter. In April 2019, the EU Commission launched an infringement procedure against Poland, arguing that new laws undermined judicial independence. Statements may have become more negative in response. These events, as well as the variation in sentiment scores, along with their volatility, provides some evidence that Duda’s EU statements are different than his average statements, and that Duda responds to EU action, which is discussed further below.[[7]](#footnote-7)

Like Orbán, the difference between positive and negative speech in Duda's EU communications are less than his non-EU communication (or all communication, see Figure A2 in the appendix). At one point the positive and negative EU communications cross. We argue that this signals Duda’s use of blurring rhetoric.

**Figure 6: Comparing Babiš’s Sentiment in EU vs. non-EU Communication**

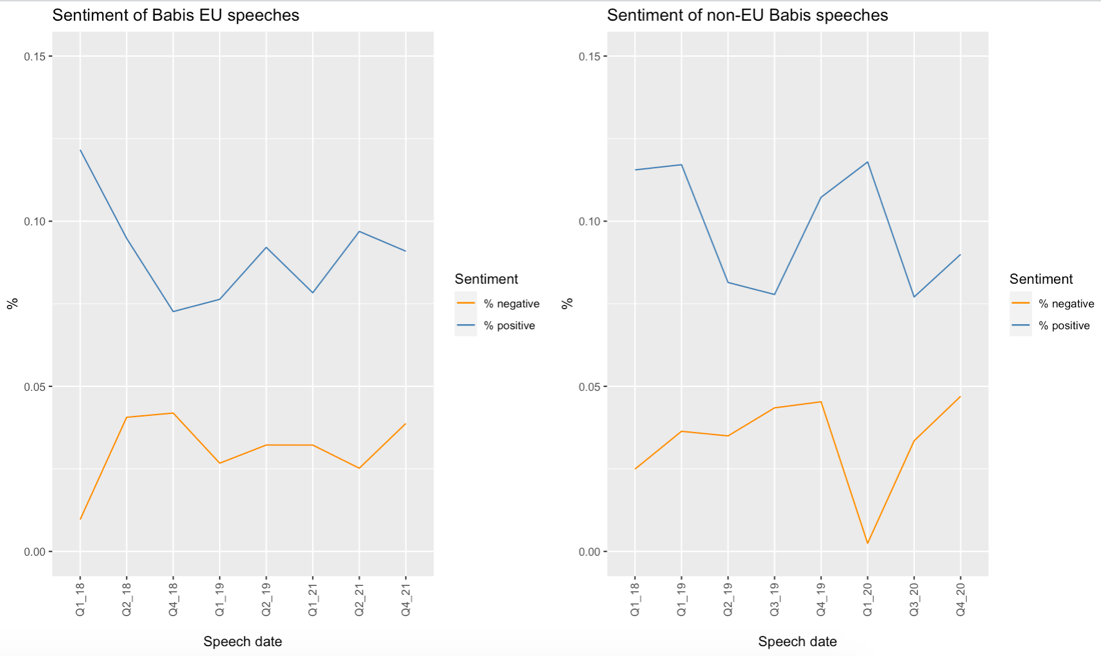


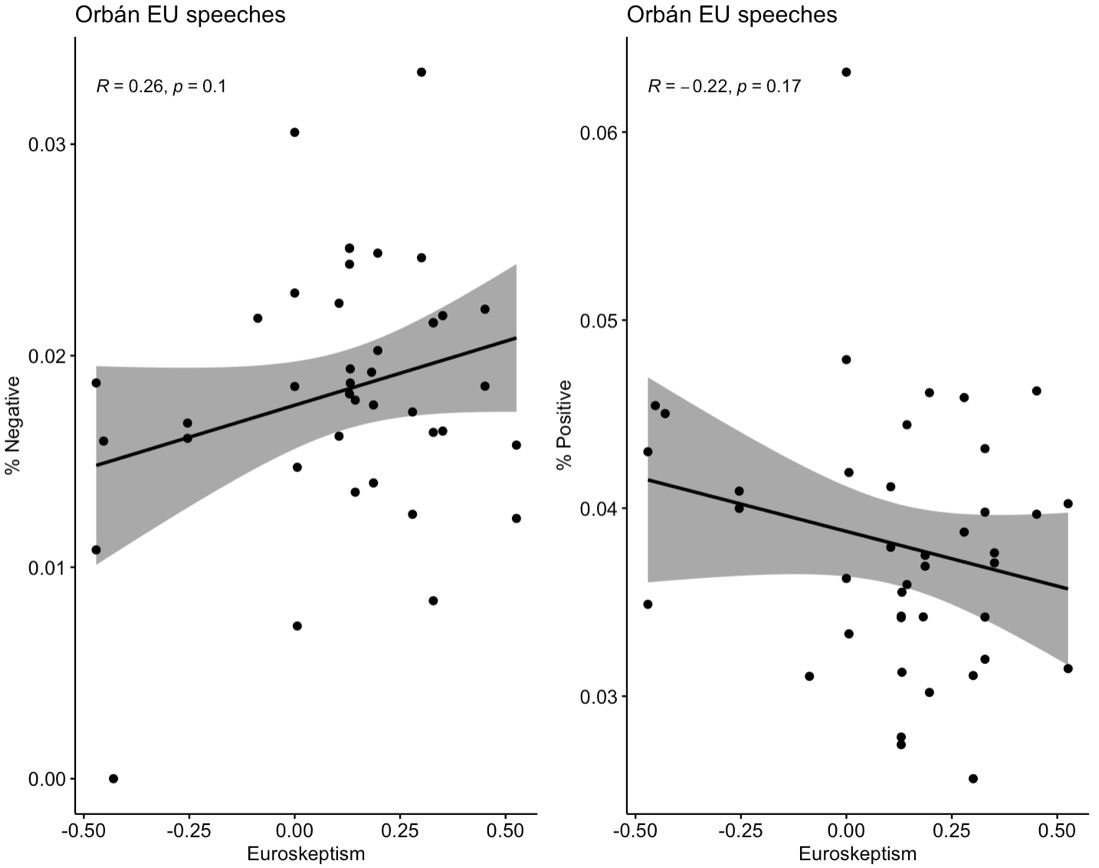
Figure 6 shows the mean statements sentiment scores for Babiš’s non-EU statements and his EU statements.[[8]](#footnote-8) Because there are only 11 EU statements, and 24 total statements, we believe that comparing EU vs. non-EU statements is more informative. However, the difference between sentiment scores is not statistically significant; similarly, the mean sentiment of all Babiš’s statements and EU statements are also not statistically different. It is possible that there are too few statements to discern any systematic differences. Nonetheless, in the next section of this paper, we test our public opinion and institutional threat hypotheses while keeping in mind the potential limitations that come along with the available data.

*Public Opinion*

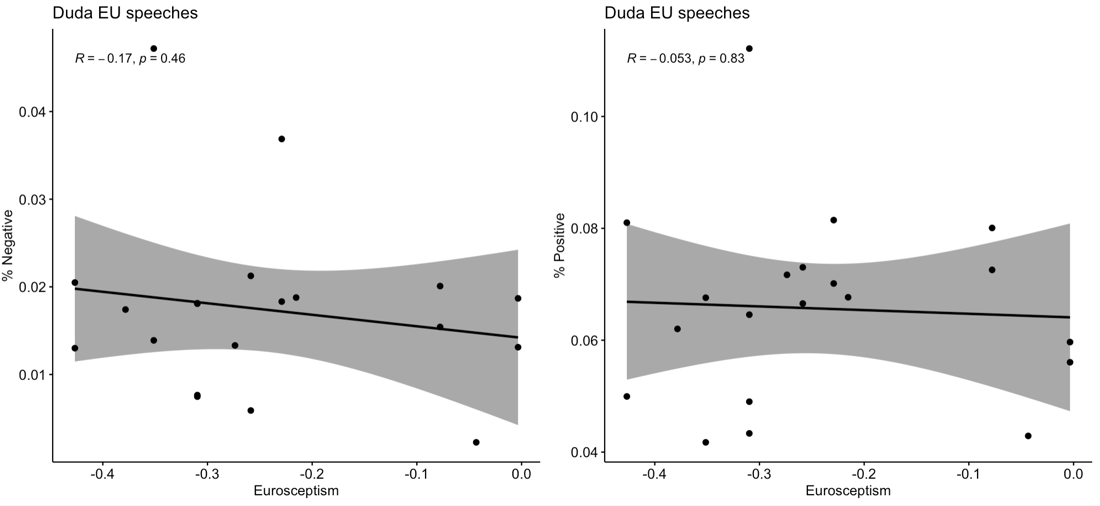
The correlation between public opinion and statement sentiments can be found in Figures 7-9.

In all statements made by Prime Minister Orbán, there is a slight positive correlation between public opinion and negative speech. That means that the tone of his statements was more negative when support for the EU increased. However, when we look at just statements about the EU, the relationship is reversed. As public opinion of the EU increases, the percentage of negative speech decreases, although the correlation is not statistically significant. The relationship between tone and EU support is positive for his non-EU statements, suggesting that the positive relationship found in all statements is largely driven by non-EU statements. The negative relationship between public EU support and speech negativity by Prime Minister Orbán indicates that public opinion affects tone. This lends support to the hypothesis *when a backslider’s supporters have a positive view of the EU, the backslider’s rhetoric will be more negative.*

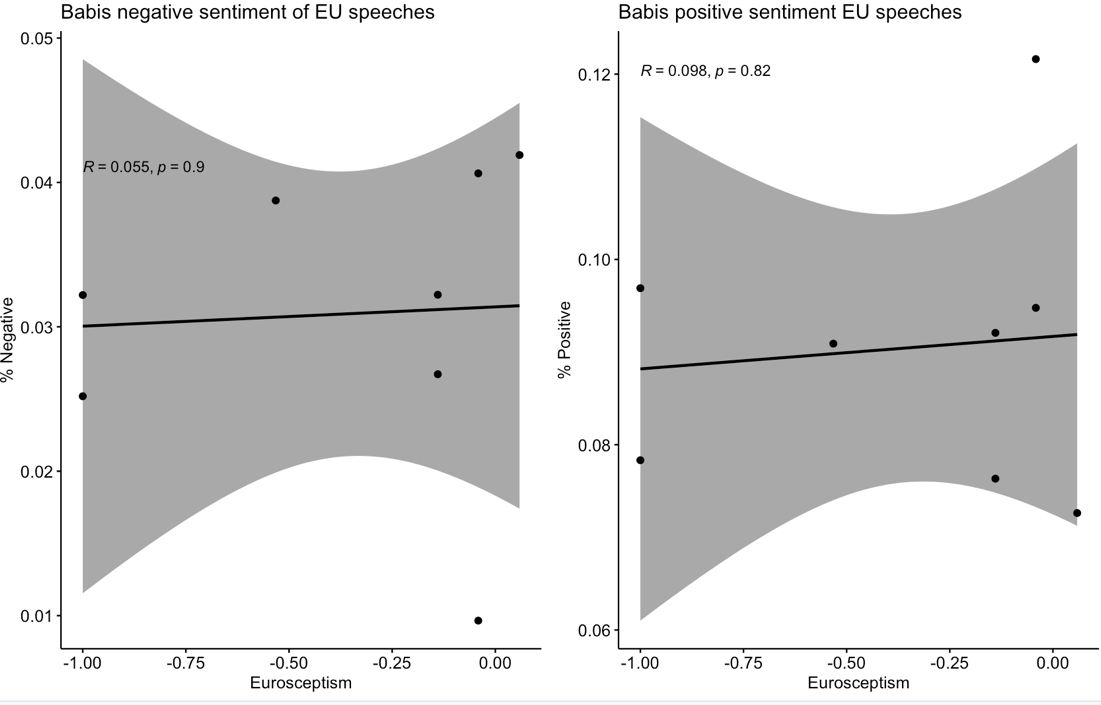
**Figure 7: Orbán's EU Sentiment and Euroscepticism**



**Figure 8: Duda’s EU Sentiment and Euroscepticism**



**Figure 9: Babiš EU Sentiment and Euroscepticism**



Statements made by President Duda in Poland do not follow the same pattern. Instead, his statements show evidence of blurring. As public opinion of the EU becomes more positive, Duda’s speeches became both less positive and less negative, meaning a greater proportion of the speeches were dedicated to valence statements regarding the EU. These results are not statistically significant, but are in the expected direction for the blurring hypothesis.

Babiš’ rhetoric does not, however, show support for any of the hypotheses. The short time period he was in office did not allow him to make many statements that were primarily about the European Union and did not allow for much time for public opinion of the EU to change. As a result, there are not enough data to reveal a relationship between public opinion and Babiš’ rhetoric.

*Institutional Threat*

**Figure 10: Institutional Threat Changes and Orbán’s Sentiment**

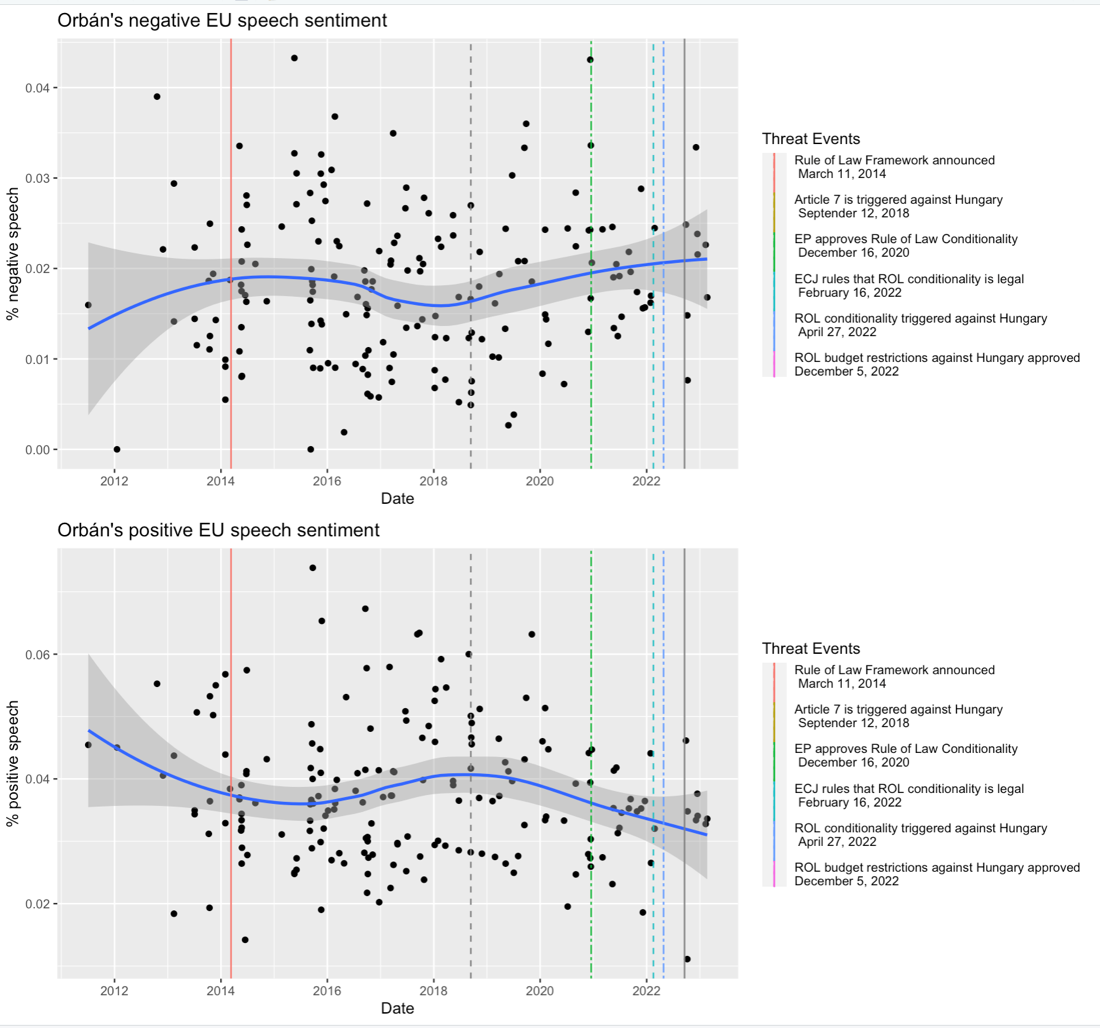
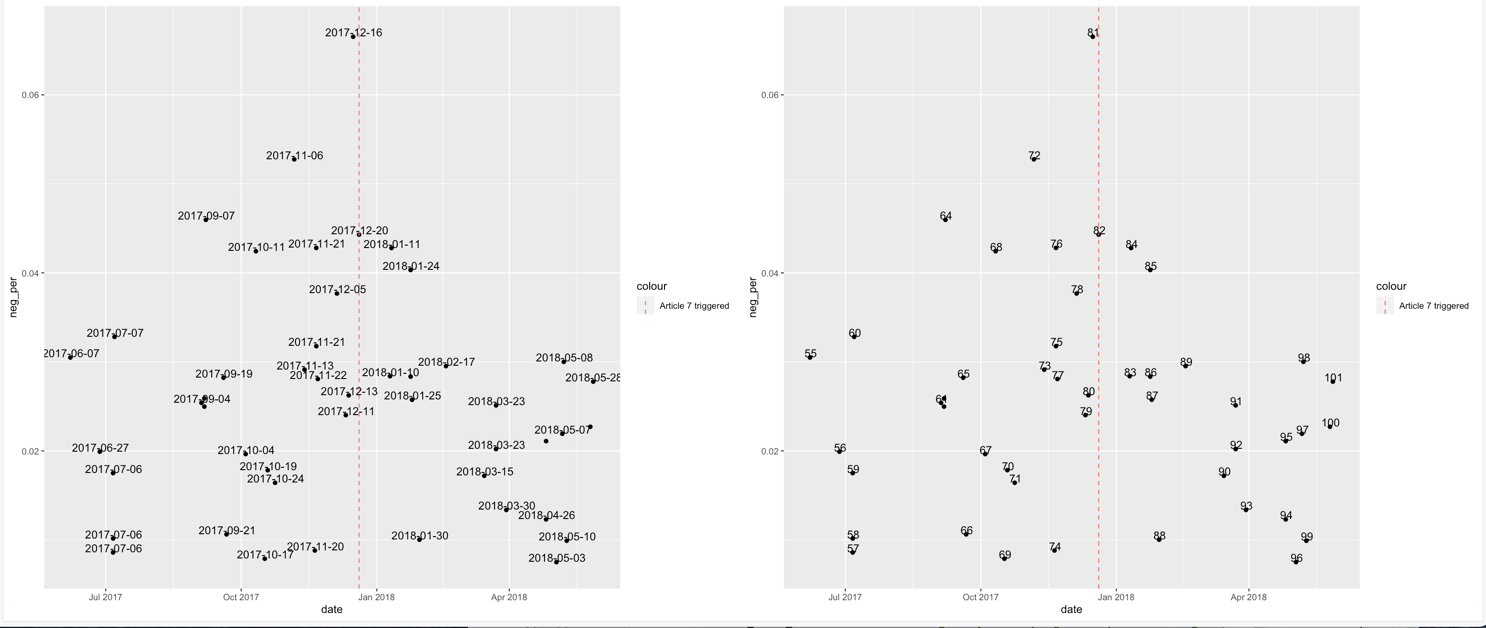


Figure 10 shows the negative and positive sentiment scores for Orbán’s EU statements over time. Each dot denotes one statement, at one point in time. The blue horizontal line is the lowess mean negative (positive) sentiment score, and it suggests that negative rhetoric has generally increased over time (positive decreased). The vertical lines each represent a potential threat to the Hungarian government from the EU. For example, the first red line marks the 2014 introduction of the Rule of Law Framework. Figure 10 shows that, in general, negative rhetoric increased over time and positive rhetoric decreased. However, when each threat-increasing event is investigated individually, there is not an immediate, significant change in either positive or negative sentiment.

Rather, we see a wide range of sentiments in the statements in both the months before threat-increasing events and in the months after these events. For example, earlier in 2022 before the budget restriction on Hungary was approved, Orbán’s statements showed a mix of positive and negative sentiment. After the approval (September 18, 2022), Orbán made a series of three statements about the EU on September 28, October 7, and October 9 that similarly varied in sentiment. The first two had moderate levels of negative sentiment, while the third had much less negative sentiment. Two months later, negative sentiment increased again. This indicates that Orbán was blurring his position on the EU both before and after these threat-increasing events. It is important to note that these statements were relatively short and did not mention the approval of the budget restriction, which could provide further evidence that Orbán wanted to make his position less clear. The implications of this will be discussed in the Concluding section of this paper. We see similar patterns surrounding other threat-increasing events, including the triggering of Article 7 in September of 2018 and the triggering of the Rule of Law conditionality in April 2022.

There are also several similarities between the trends in sentiment for Orbán and Duda. For Duda, like Orbán, negative sentiment increased over time (see Appendix Figure A5). Consistent again between the two leaders is that when we focus on specific threat-increasing events, sentiment is similarly blurred both before and after the events. As seen in Figure 11, there was a wide spread in negative sentiment both before and after Article 7 was triggered against Poland. Notably, most of the statements made in the three months after Article 7 was triggered do not mention Article 7, and in fact, there are no statements made primarily about the EU during that time (see Appendix Figure A6).

**Figure 11: Sentiment of all Duda statements surrounding Article 7 trigger**



**Discussion and Conclusion**

In this paper, we tested two sets of hypotheses about the rhetoric used by backsliders when speaking about the EU. The first set of hypotheses focused on whether and how public opinion affects the type of rhetoric used. Although our data was insufficient to draw conclusions based on the Czech Republic case, we uncovered interesting patterns within the other cases of Hungary and Poland. We found that as public opinion of the EU improved, Orbán’s sentiment became significantly more negative and less positive. This supports the hypothesis *when a backslider’s supporters have a positive view of the EU, the backslider’s rhetoric will be more negative.* Duda’s sentiment, however, became increasingly blurred as public support for the EU increased, lending itself more to the blurring hypothesis.

This could be due to the different political circumstances within each member state. Orbán might behave differently than Duda due to the size of their majority support. In Hungary, Orbán was elected in 2010 with a 2/3 majority for his party, Fidesz, in Parliament, and was reelected with just over 60% of the votes in 2014. He was then reelected in 2018 and 2022, with his governing coalition in each receiving a 2/3 majority of the votes (IPU Parline Hungary 2014, 2018, and 2022). This is important in Hungary because 2/3 is the majority needed to change the Constitution (which the governing coalition has often done). Even though the public generally has a positive view of the EU, Orbán has enough power to do what he wants to do, anyway, including challenging the EU through increasingly negative speech. In contrast, Duda won just over 50% in 2015 and 2019, and his party held just over 50% of the seats in the Sejm (lower chamber of Parliament) (IPU Parline; Poland 2015, 2019). This is not as clear of a mandate and means Duda was more vulnerable to changes in public opinion. Therefore, he blurred his position to prevent losing support. Overall, this indicates that public opinion does affect rhetoric but is also impacted by the level of political support the backslider has in their home government.

We found evidence of blurring while testing our institutional threat hypotheses, as well. There was no clear change in sentiment for either Duda or Orbán after threat-increasing events, but there was consistent blurring throughout the time period studied. This lends support to work by parties and competition scholars who find that politicians, and especially populist parties, blur their positions when they risk losing voters or when an issue is not of importance to them (Rovny 2012; Elias, Szocsik, and Zuber 2015; Han 2018; Rovny and Polk 2020; Nasr 2022). Not only did they blur tone within statements, they also blurred their tone across statements, sometimes lauding the EU’s efforts one day, and scolding it the next.

It is important to acknowledge the limitations of our data. All of the statements we analyzed came directly from the official websites of each member state. This means that there is a chance that they left out more controversial statements following large events in the EU. This too, could be viewed as tone blurring, though retroactively. The selection of which statements to archive online, therefore, could be more evidence that backsliders want their position or feelings about the EU to remain unclear. Future studies would be able to further clarify if this is the case. We plan to implement an RDD to look at specific threat events and Facebook posts in the months preceding and following the events. This will allow us to control for audience and will give us more data to run our sentiment analysis on, hopefully filling in some gaps in the study.

This paper contributes both to the literature on strategic party competition as well as democratic backsliding, showing how backsliders use tone strategically when talking about the EU. While the literature largely focuses on populist and radical right parties, we apply our theoretical framework to backsliders, a group of people whose rhetoric and actions have an impact on the quality and level of democracy in the region. We find that they, too, blur their positions. We also find that public opinion affects the tone of rhetoric used by backsliders, contributing to literature on responsiveness and elite cues. These backsliders use their rhetoric strategically, and this paper brings us closer to understanding under what circumstances we can expect rhetoric toward the EU to change.

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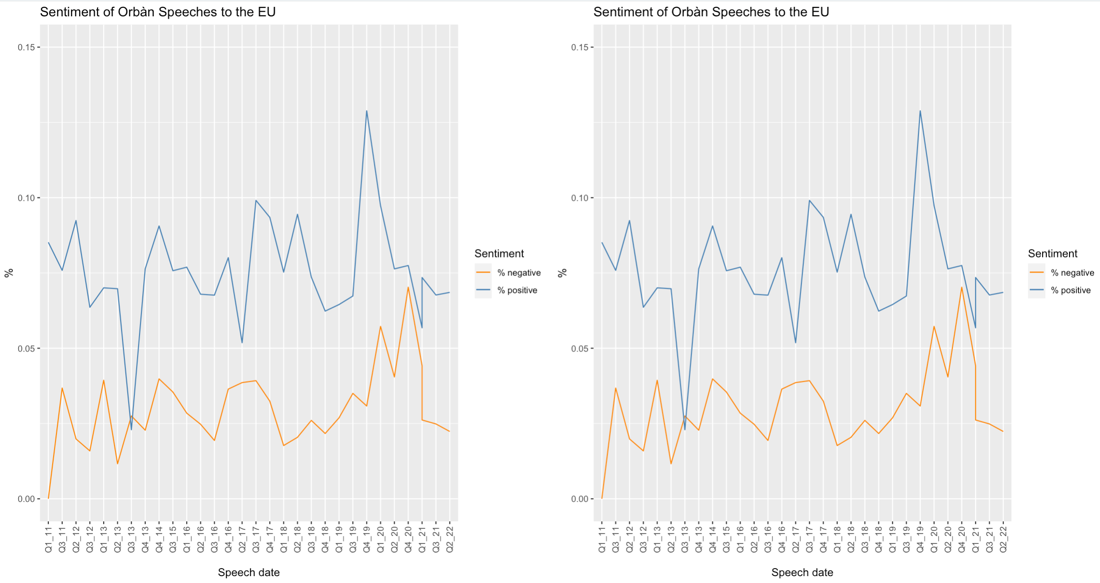
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**Appendix**

**Table A1: Mean Sentiment Speech Proportions**

|  |  |  |
| --- | --- | --- |
|  | **Positive sentiment** | **Negative sentiment** |
| **All speeches** |  |  |
| Babis | 0.09309425 | 0.0339065 |
| *Variance* | 0.000386092 | 0.000156899 |
| *N = 24* |  |  |
|  |  |  |
| Duda | 0.09853965 | 0.023965 |
| *Variance* | 6.15E-05 | 2.90E-05 |
| *N = 566* |  |  |
|  |  |  |
| Orbán | 0.04068591 | 0.01806609 |
| *Variance* | 1.96E-05 | 1.29E-05 |
| *N = 722* |  |  |
|  |  |  |
|  |  |  |
| **EU speeches** |  |  |
| Babis | 0.09044608 | 0.03090751 |
| *Variance* | 0.00021233 | 9.78E-05 |
| *T-test* | 0.33495 | 0.57671 |
| *P-value* | 0.7415 | 0.5715 |
| *N = 11* |  |  |
|  |  |  |
| Duda | 0.06436574 | 0.01679731 |
| *Variance* | 0.000274052 | 9.11E-05 |
| *T-test* | 8.7735 | 3.1078 |
| *P-value* | 1.666e-09\*\*\* | 0.004049\*\*\* |
| *N = 63* |  |  |
|  |  |  |
| Orbán | 0.07550407 | 0.03441759 |
| *Variance* | 0.00017117 | 0.000136744 |
| *T-test* | 2.1804 | -0.33034 |
| *P-value* | 0.03262\*\* | 0.7422 |
| *N = 184* |  |  |

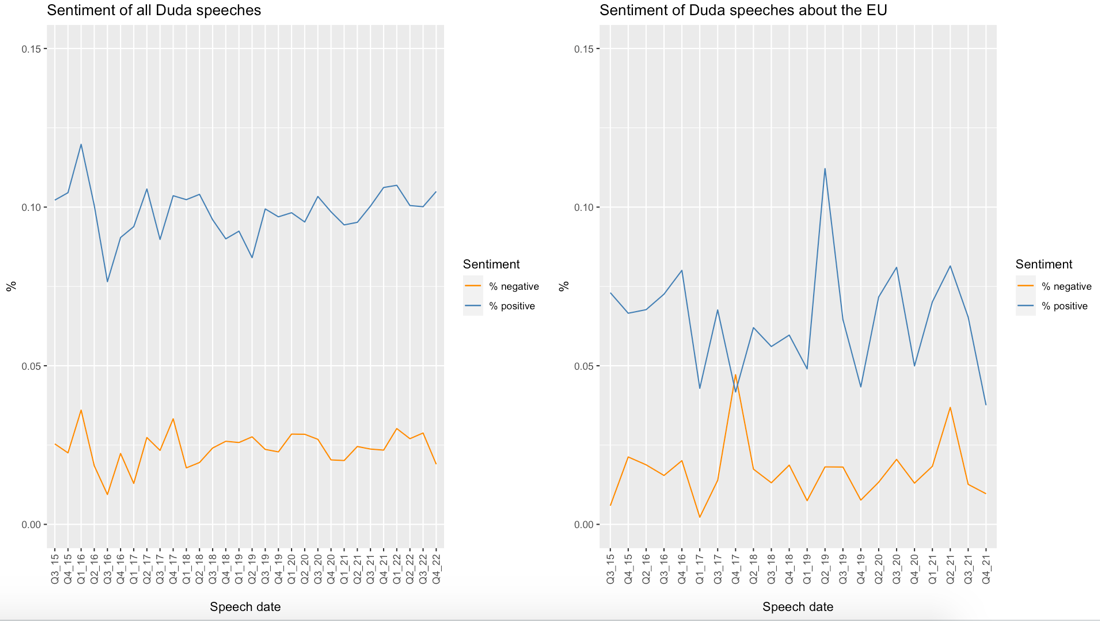
**Figure A1: Orbán speech sentiment to the EU vs. about the EU**



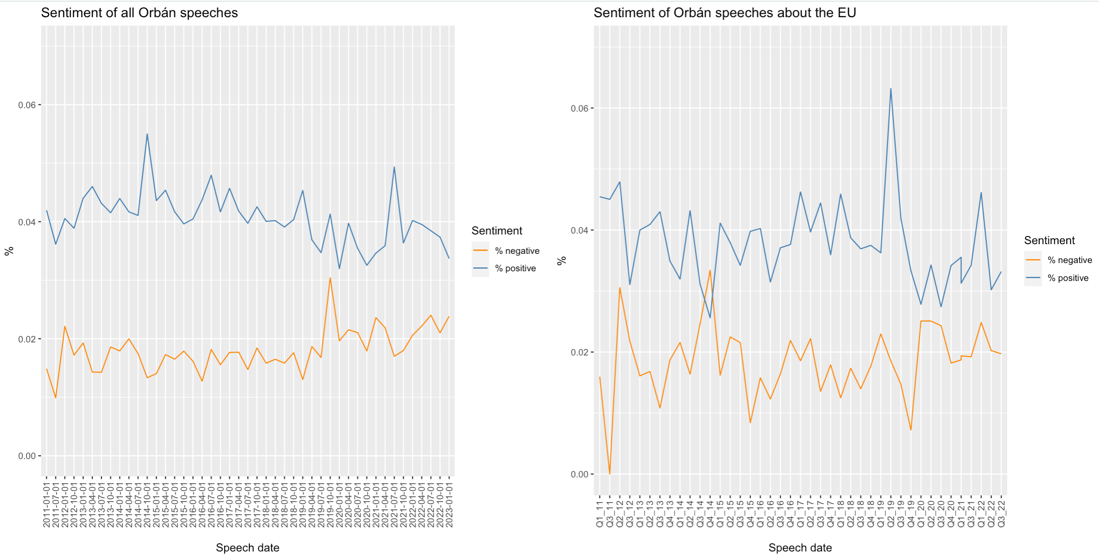
**Table A2: Mean sentiment scores of EU vs. non-EU speeches**

|  |  |  |
| --- | --- | --- |
|  | **Positive sentiment** | **Negative sentiment** |
| **Non-EU speeches** |  |  |
| Babis | 0.09801025 | 0.03350052 |
| *Variance* | 0.000292592 | 0.000183557 |
| *T-test* | -0.89063 | -0.40903 |
| *P-value* | 0.3885 | 0.6893 |
| *N = 13* |  |  |
|  |  |  |
| Duda | 0.1002385 | 0.02472126 |
| *Variance* | 7.28E-05 | 2.80E-05 |
| *T-test* | -9.0937 | -3.4409 |
| *P-value* | 5.305e-10\*\*\* | 0.001712\*\*\* |
| *N = 503* |  |  |
|  |  |  |
| Orbán | 0.08266443 | 0.03337265 |
| *Variance* | 6.98E-05 | 4.48E-05 |
| *T-test* | -26.74 | -10.801 |
| *P-value* | 2.2e-16\*\*\* | 2.2e-16\*\*\* |
| *N = 563* |  |  |
| *Note: The reference category is EU speeches.* | | |

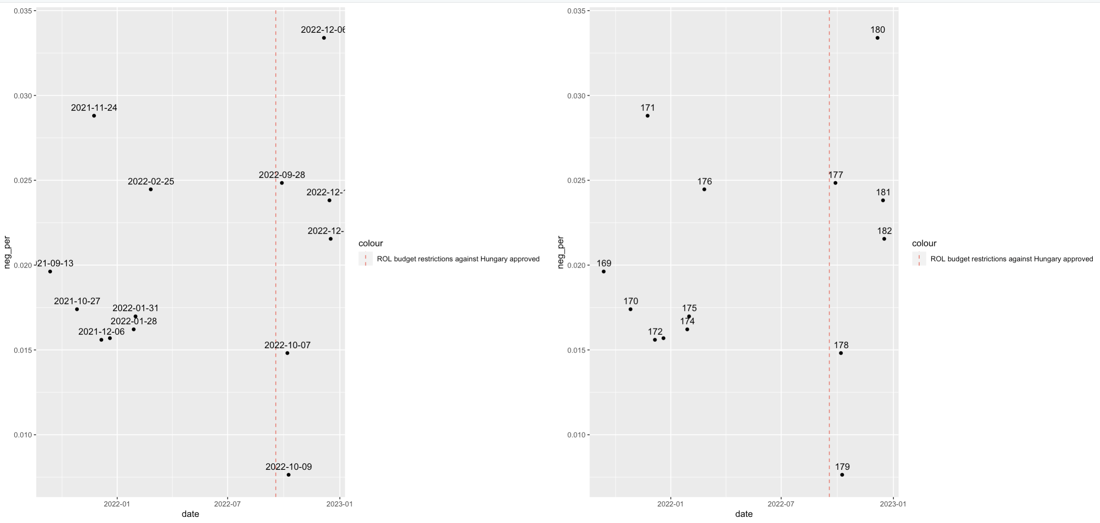
**Figure A2: Duda speech sentiment for all speeches vs. EU speeches**



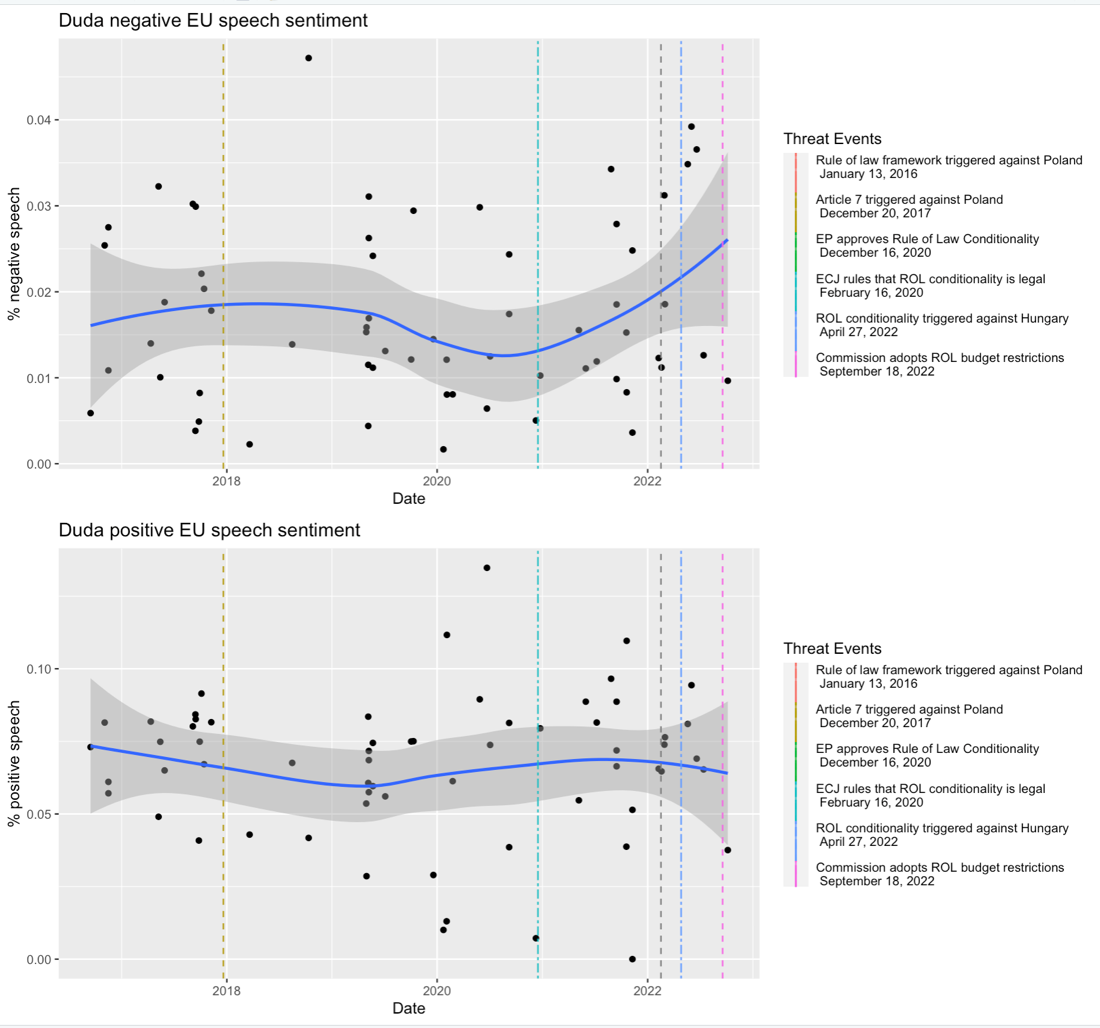
**Figure A3: Orbán speech sentiment for all speeches vs. EU speeches**



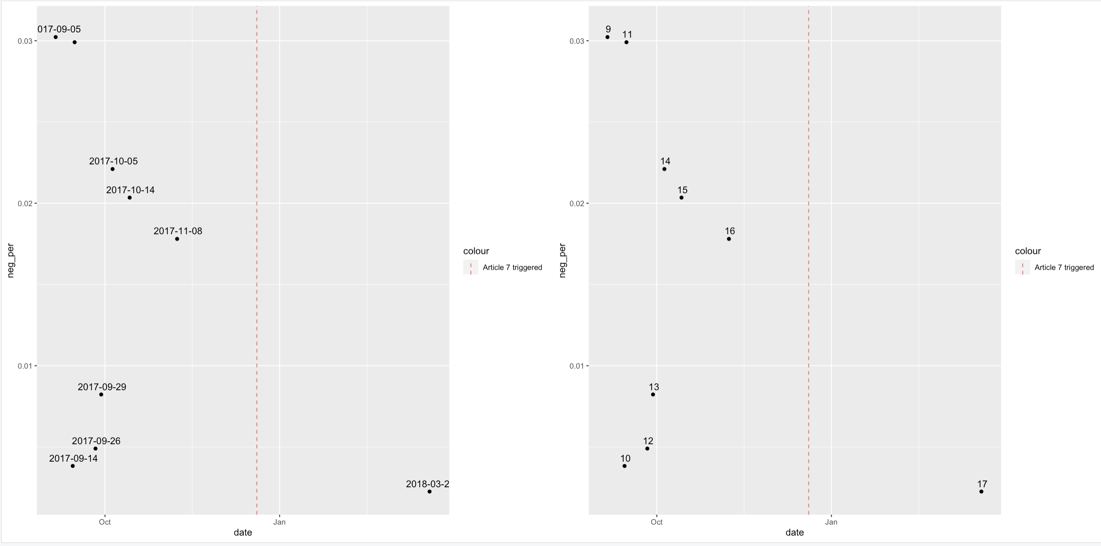
**Figure A4: Budget Restriction Approved, Orbán Negative Sentiment**



**Figure A5: Institutional Threat Changes and Duda’s Sentiment**



**Figure A6: EU Speeches Surrounding Article 7 Trigger**



1. Keywords: Europ\*, EU, Brussels, Common, Market [↑](#footnote-ref-1)
2. Valence is another common measure used in sentiment analysis. It is defined here as the percentage of negative speech subtracted from the percentage of positive speech. Higher valence scores mean that a speech is more positive than those with lower valence. Because we are interested in how valence changes, whether it is driven by less negative sentiment, or more positive sentiment, valence is a less useful measure for the paper. [↑](#footnote-ref-2)
3. Before speech sentiment was measured, each leader’s corpus was pre-processed by removing numbers, punctuation, casing, and symbols. We also reduced words to their common root (stemming), and removed common stop words like “the,” or “and.” These steps reduce the complexity making analysis more parsimonious, while still retaining theoretically important words (Grimmer et. al. 2022). [↑](#footnote-ref-3)
4. Results were recoded so that higher values represent more EU support. We aggregated and then averaged survey responses by year per country, using appropriate weights. [↑](#footnote-ref-4)
5. We also compared average sentiment scores of speeches given *to* the EU (N = 71) with speeches *about* the EU (N = 184). There is no statistically significant difference between negative or positive sentiment scores (see Figure A1 in the appendix). In this paper, we use the speeches *about* the EU to keep the larger corpus. [↑](#footnote-ref-5)
6. Positive speech in all speeches is also statistically higher in all of Orbán's speeches compared to his EU communications (see Table A1 in appendix). Negative speech is higher in EU speeches than all speeches, but the difference is not statistically significant. [↑](#footnote-ref-6)
7. The mean sentiment of Duda’s non-EU statements versus his EU statements are also statistically different, see Figure in the appendix. Non-EU statements are also more positive that EU statements. [↑](#footnote-ref-7)
8. For a comparison on all Babis speech to EU speech, see Figure in the appendix. [↑](#footnote-ref-8)