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Between rights and rhetoric: the erosion of women's and lgbtq+ rights in Romania, Hungary and Poland

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Abstract: In recent years, several countries from Central and Eastern Europe have seen the emergence of political actors with illiberal agendas, having women's and LGBTQ+ rights among their main targets. Consequently, these rights have faced a significant regression, representative of democratic backsliding. The present study examines the evolution of abortion and LGBTQ+ legislation in Romania, Hungary, and Poland in a comparative manner. The findings show a regression in the legislation of Hungary and Poland, while Romanian legislation has remained relatively constant, the setback being more de facto than legal. An analysis of the political discourse surrounding this recent backsliding shows that regression is portrayed as cultural protectionism. In this type of discourse, family and traditional values are depicted as an integral part of national identity and opposing progressive values, which are seen as Western impositions. Looking at how the 'anti-gender' movement has evolved and how it has been portrayed can offer valuable insight into the phenomenon of democratic backsliding and the rise of far-right ideology.

Keywords: abortion, LGBTQ+, legal gender recognition, democratic backsliding, right-wing populism, Central Eastern Europe

1. Introduction

Over the last few decades several events have taken place that have led to the development of national legislation on LGBTQ+ and women's issues in European countries (European Commission n.d.). However, in some countries, mainly in Central Eastern Europe (CEE), we have also seen a significant regression in the legislation. Thus, in recent years, researchers have become interested in the effect that certain political phenomena have had on abortion and LGBTQ+ policies. Most studies focus on the topic of nationalism and its relation to reproductive rights and attitudes towards sexual minorities (Constantinescu 2021; Korolczuk 2019; Turda 2009; Nowicka 2007; Bucur 2002). In addition, a number of studies speak about the dissonance between national and European identities (Korolczuk 2019; Swimelar 2019; Roots 2022). Even

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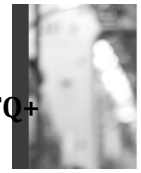


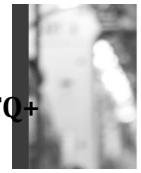
so, there is no general consensus in the literature establishing a clear cause for the emergence of anti-LGBTQ+ sentiments and abortion rights. Therefore, the present study aims to conduct a cross-national analysis looking at how CEE countries have evolved in this sense.

The purpose of this research is to analyse the evolution of the legislation on abortion and LGBTQ+ issues in Romania, Hungary and Poland and the political narratives surrounding recent backslidings in this regard. Romania, Hungary and Poland are as much similar as they are different. All three are post-communist countries which joined the European Union in the early 2000s, which means that both their communist pasts and their current position in the European Union have had an effect on their politics and policies. They are also three of the largest post-communist countries in Central and Eastern Europe and, thus, have a significant influence on the other countries in the region. However, even given their shared history and similar cultures, each country has taken a different path in regards to legislation, which makes them suitable for a comparative analysis. As for the subject of analysis, I chose to look at legislation on abortion, same-sex relationships and gender recognition because they are all related through the concept of gender and are seen as challenging the traditional family model. The movements for gender equality and LGBTQ+ rights are what Śledzińska-Simon (2020) calls 'the two fronts' of 'the war on gender'. It is especially important to look at these categories of legislation, because regressive policies regarding abortion and LGBTQ+ issues have been at the forefront of recent discussions about illiberal trends and democratic backsliding in Eastern Europe.

As a brief context of the region, Poland has experienced an erosion of the rule of law in several areas, including LGBTQ+ and women's rights (Grabowska-Moroz and Wójcik 2021). In Hungary, LGBTQ+ and women's rights have been attacked through censorship legislation, legislation that has removed legal gender recognition and the introduction of requirements which make it more difficult to get an abortion (Cursino 2022; Háttér Society 2020). While less extreme, Romania has also attempted to limit the rights of these groups through legislative initiatives and the refusal to adapt legislation in accordance to the population's needs and international standards (Neagu 2023). These specific changes, representative of democratic backsliding, have happened in the context of the rise of far-right ideology and of the parties adhering to it. Hungary and Poland have a longer history with these types of parties, with Hungary's Fidesz holding a consistent majority in parliament since 2010 and Poland's PiS being a dominant presence on the political scene since 2005 and gaining even more power since 2015. Romania, on the other hand, had a more moderate political scene until recently, when the far-right party AUR, newly-formed at the time, passed the electoral threshold in 2020. This rise of the far-right ideology in Romania became even more apparent in the latest 2024 elections, which saw three far-right parties enter the Romanian parliament, gaining a total of 32% of the votes (Autoritatea Electorală Permanentă 2024). This underscores the importance of examining the political discourse surrounding abortion and LGBTQ+ topics, and the role it played in the rise of the far-right movement.

2. Theoretical Background

We start our discussion with what the literature refers to as 'democratic backsliding'. This is conceptualised by Sitter and Bakke (2019) as a series of actions, intentionally done by elected representatives, which undermine democratic rules and the rule of law in a democracy. The democratic backsliding, within the European Union, has been most evident in the case of Poland and Hungary, which have, in recent years, initiated policies incompatible with democratic practices (European Commission 2022). In their case, Article 7 of the Treaty on European Union was triggered, whereby some of their rights as member states, such as the right to vote in the



European institutions, were suspended (European Commission 2022). Romania has also had some setbacks, the most recent example of this being the country leadership's refusal to create official forms of recognition for same-sex couples, in spite of the decision from the European Court of Human Rights demanding it (Vulcan 2023).

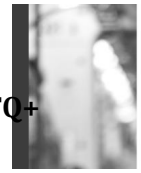
To further contextualise the situation, according to the Rainbow Index, conducted by ILGA-Europe (2024), which tracks the situation of the LGBTQ+ community in European countries, Romania has a score of 18.86%. Similarly, Poland has a score of 17.50% and Hungary is slightly higher with a score of 32.52%. As far as abortion is concerned, we can also see a decline in this sense, with the worryingly low level of access to abortion in Romania (Centrul FILIA 2021), the extension of the ban on abortion in Poland by the Constitutional Court in 2020 (Human Rights Watch 2023) and the new abusive procedures introduced in Hungary (Cursino 2022).

The term 'democratic backsliding' implies the existence of a set of democratic practices which are eroding. It is very important that we acknowledge this, as Romania, Poland and Hungary are all democracies, although there has been recent debate of the status of Hungary's democracy. Therefore, to gain a more complex understanding of this phenomenon, we must introduce the concept of 'illiberalism' to our discussion. As conceptualized by Laurelle (2022), illiberalism emerges in a democratic context, as a challenge to the liberal means of democracy. In these democratic contexts, illiberal leaders win elections through legitimate means. Thus, illiberalism emerges before democratic backsliding, the latter phenomenon being a consequence of illiberal leaders taking power (Laurelle 2022).

The literature on how parties with illiberal ideas manage to democratically win the elections, which then leads to democratic backsliding, is vast. Most of the authors find that far-right populism is very effective in spreading illiberal ideas under the guise of democracy. The main core of populism, which makes it identifiable, is its stance against the elites and in favour of the interests of ordinary people, people who feel unrepresented by the political class (Goodwin 2019). According to Anna Śledzińska-Simon (2020), populism is based on the idea of freedom and equality, since it places a great emphasis on injustice and inequality in the relationship of the political class with ordinary citizens. However, she also draws our attention to the fact that this freedom and equality is extended exclusively to those who are part of the populist electorate.

In her book, 'Femonationalism: Islam, Neoliberalism, and the State' (2017), Sara R. Farris shows that unlike the fascist far-right of the last century, the new far-right uses discourses of gender equality - and sometimes queer rights - to legitimize its xenophobic, anti-Islam attitudes. This trend has also been joined by quite renowned feminists, who have denounced Islamic practices as inherently sexist and having elements of repression against women. In most cases, Muslim women are seen as victims of their own culture, who are to be rescued from Muslim men who hold these dangerous attitudes. This creates an alliance between nationalists, some feminists and neoliberals who share a common enemy: Muslim men.

While it is a great analysis of the intersection between feminism and nationalism, these ideas about the instrumentalization of gender equality issues in far-right discourse don't really apply to Central and Eastern European countries. Goodwin (2019) highlights this difference in values between the East and the West, giving the example of Geert Wilders, President of the Partij voor de Vrijheid (PVV) in the Netherlands, and Viktor Orbán, Prime Minister of Hungary. While Wilders has exactly the approach described by Farris (2017) – in which he claims to protect the rights of women and LGBTQ+ people through his anti-Islam and anti-immigration stance – Orbán has an anti-immigration stance, while at the same time having policies that restrict the rights of the LGBTQ+ community, abortion rights and even freedom of speech (Goodwin 2019).



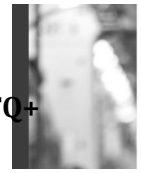
All of these attitudes represent conflicts over post-material values in society, such as human rights, national traditions, family and so on. This phenomenon is called 'cultural backlash', a reaction against progressive cultural change, as conceptualised by Inglehart and Norris (2016). Unlike Inglehart and Norris' theory (2016), cultural backlash is no longer considered to be closely related to the age of voters or their level of education, but is a broader phenomenon (Schäfer 2021). Some authors argue that the main motivation on the basis of which the populist agenda of far-right parties is formed is the protection of national culture from 'enemies' who want to destroy it (Śledzińska-Simon 2020). These enemies often take the form of minority groups, such as immigrants and the LGBTQ+ community.

The way in which this perspective fits into the anti-elite ideology of the far-right populist movement is by associating minority groups with larger foreign powers. In the populist view, the LGBTQ+ movement and the feminist movement are seen as ideologies from the West (Śledzińska-Simon 2020). These movements have principles that are interpreted to be completely opposed to the traditional values of Eastern countries regarding the family. This is the basis for the so-called 'war on gender ideology', which far-right populists are waging in Central and Eastern Europe, with Śledzińska-Simon (2020) arguing that it has its roots in the historical conflict between Russia and the West.

Other authors go even further than that. Judy Batt (2001) describes the revolutions of 1989 as the result of a two-century struggle for self-determination. Two centuries of imperialism, during which the CEE countries were dominated by various powers, have made them develop what Batt (2001) calls 'an existential fear for their own community'. In the case of Poland, for example, Nowicka (2007) argues that this relationship between national identity and family can be traced back to the end of the 18th century. At that time, Poland lost its sovereignty and thus the family became the symbol of the nation and the act of giving birth became a patriotic act (ibid.). The era after the fall of dictatorial regimes was supposed to mean that these states finally had sovereignty and the possibility to form a national identity based on their own values, independent of external influences. But the fall of the Soviet Union not only meant the exit from Russia's sphere of influence, it also meant a 'return to Europe' (Batt 2001). Thus, to national identity was added European identity, and the balance between the two was not an easy one to achieve, which led to tensions (Batt 2001).

Swimelar (2019) discusses the relationship between national and European identity. Although there is not a direct relationship between nationalism and homophobia, they are often associated because nationalism is constructed on patriarchal and heteronormative historical conceptions with well-defined gender roles (ibid). The idea of nationhood is also often closely linked to reproduction - as argued in the previous section - with non-heterosexual relationships representing a hindrance in ensuring the perpetuation of the nation. Similarly, European integration is often associated with the advancement of sexual minority rights. Swimelar (2019) talks about the way in which this association is instrumentalized. In some states, even in the East, these minority groups are emancipated to denote a closer connection to 'Europe'. For these situations the term 'homonationalism' is used, which combines elements of nationalism with elements of LGBTQ+ rights promotion, identified in the case of Croatia, to create a position of moral superiority (Swimelar 2019).

Among the reasons why other Eastern countries have not fared as well in the fight for LGBTQ+ rights, has to do with it being heavily influenced by the West (Woodcock 2009). Štulhofer and Sandfort (2005) say that LGBTQ+ rights lack a strong basis because the decriminalization of homosexuality has not occurred as a result of bottom-up movements, nor because of a consensus



on accepting these rights as part of fundamental human rights. Instead, the development that has taken place in this regard has been a simple acceptance of norms imposed as part of the transition process. The West saw these countries as a tabula rasa of human rights legislation (Woodcock 2009), ignoring the weak basis they were building on. Ban (2014), on the other hand, talks about the neoliberal transition that shaped early development in Romania, which was not concerned with 'social justice' or creating a social-democratic welfare state (Ban 2014, 122), hindering social progress from the beginning. Now, the liberal form of democracy is beginning to be contested by illiberal forces, being increasingly seen as 'a foreign import' (Laruelle 2022). All of these actions taken in the early stages of the CEE countries' transition greatly contributed to the backsliding we see today.

3. Research Design and Methodology

The aim of this study is to look at how women's and LGBTQ+ rights have evolved in Romania, Hungary and Poland in a comparative manner and to analyse the discourse that has accompanied the recent backsliding regarding these rights. This research problem can be narrowed down to two main research questions, which are as follows:

> Q1: How has the legislation on abortion and LGBTQ+ issues evolved in Romania, Hungary and Poland?
>
> Q2: What has been the main narrative in the political discourse surrounding the recent backsliding of the respective legislation?

The following research is structured in the form of two qualitative studies aimed at answering each question. The first study is a legislative analysis on three sets of rights covering abortion, same-sex relationships and gender recognition. The second study, in respect to the second research question, is a case study on the political discourse on abortion and the LGBTQ+ community in the three CEE countries.

The legislative analysis is concerned with three categories of legislation, representative for the groups included in the analysis. These categories are: abortion laws, laws regarding same-sex relationships – spanning from the criminalization of same-sex activity to the recognition of same-sex couples – and laws on gender recognition for transgender and intersex people. For this part, I looked at data from the post war period, from 1945 in the earliest until early 2024. To gather data, a variety of sources was used: indices, primary legal sources and secondary legal sources, such as academic articles. In the case of LGBTQ+ rights the data mainly came from ILGA Europe's Rainbow Map 2024 index and the Transgender Europe (TGEU) 2023 index for rights relating strictly to transgender people. These indices monitor the legal situation of LGBTQ+ rights, globally or at the European level. In the case of abortion rights, I could not find a reliable index from which to extract comparable data for all countries. In this case, data was collected from academic articles detailing the evolution of this right, press articles that reported on more recent changes, and primary legal sources to check the accuracy of some of the information and its exact wording.

For the discourse analysis, the data used was secondary data from news articles, considering that it would be easier to get an idea of the most important points made and the context in which the statements were delivered. The period observed was from the beginning of 2018 up to, and including, the beginning of 2024. I chose this period because this is the period when the most important legislative changes or legislative initiatives, representative of backsliding, took place in the three countries, as we will see in the legislative analysis. Speeches and quotes were collected from diverse publications in terms of visibility and ideological affiliation. The collection

process was based on the topics covered in the statements made by prominent far-right politicians. In order to obtain the most representative results and to limit the level of subjectivity, the newspaper articles were collected using relevant keywords, such as: 'LGBT', 'traditional family', 'abortion' and 'gender ideology'. To structure this part, I followed the models used by Żuk and Żuk (2019) and Koralewska and Zielińska (2021), who have done similar studies analysing Polish anti-abortion and anti-LGBT discourse in the media. The studies divided the discourse into categories based on their underlying themes. In the case of the present study, these themes are nationalism as a way of protecting culture, and anti-Western and anti-normative sentiment.

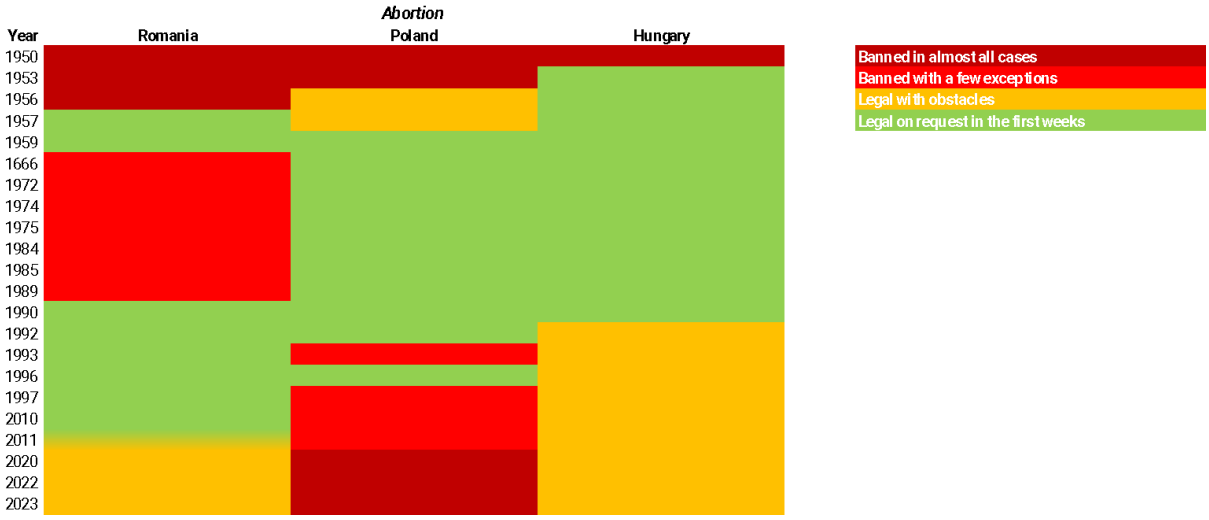
4. Data Analysis

4.1. Legal Analysis

This first part of the analysis deals with the evolution of legislation on abortion and LGBTQ+ issues. The section is divided in three parts – according to the three categories of laws – starting with abortion (Figure 1), then moving to same-sex relationships (Figure 2) and finally legal gender recognition for transgender and intersex individuals (Figure 3). The analysis extends from 1945 until the beginning of 2024.

4.1.1. Abortion

Figure 1: Abortion



Abortion on social grounds in Romania was banned in 1966 by Decree no. 770, less than 10 years after its legalization in 1957. The law has been amended over the years, but the conditions remained relatively the same. Abortion was considered a crime, with the only exceptions were for medical reasons, if the pregnancy was the result of rape or incest or if the woman had four or more dependent children or was over 40. Bucur (2002, 288) draws attention to the fact that this law is almost identical to the 1938 anti-abortion legislation and that reproduction is, again, linked to national identity, since the main purpose of this law was population growth, i.e. the growth of the nation. The law was changed in 1990 after the fall of the authoritarian regime. Today, abortion in Romania is legal during the first 14 weeks of pregnancy and only in specific cases after that.[2] Despite this change, access to abortion has deteriorated in recent years. A report conducted by Centrul FILIA (2021) on 171 hospitals in the country showed that only 59 of them offer abortion,

[2] Criminal Code, §201(7) (21/08/2013).

with most public obstetrics and gynaecology clinics refusing to offer this service on religious grounds and another large number of them on ethical or moral grounds.

In Poland, developments have been symmetrically opposite to Romania since the mid-50s. Legislation in the inter-war period was very restrictive, allowing abortion only if the pregnancy was the result of a crime or if it endangered the life of the pregnant woman.[3] This legislation remained in force until 1956, when abortion was liberalized on the grounds that it was necessary to reduce the maternal mortality rate caused by illegal abortions.[4] In addition, in 1959, the requirement to consult two doctors before having an abortion was scrapped, making the procedure even more accessible.[5] After the revolution, the abortion debate began to gain momentum, with several attempts to limit abortion, varying in their level of restrictiveness. Finally, in 1993, a bill was passed that made abortion illegal on all grounds other than medical or criminal grounds. The situation worsened in 2020, when the Constitutional Court declared the termination of pregnancy due to a serious malformation of the fetus to be unconstitutional (Human Rights Watch 2023). Thus, abortion was almost completely banned in Poland.

Abortion has been legal in Hungary since 1953.[6] In 1992 the abortion law was amended to clarify that the life of the fetus begins with conception,[7] and in 2012 non-surgical abortion was constitutionally banned (Parker 2022). The Orbán government has, in recent years, sought to make abortion as inaccessible as possible in various ways in order to increase the country's population, blaming the large number of highly educated women for the low birth rate (Cursino 2022). In September, 2022, Viktor Orbán issued a decree forcing doctors who perform abortions on demand to show women seeking abortions signs of the baby's life before performing the termination procedure.[8] Thus, women are humiliated and traumatized, making abortion a much less accessible procedure (Cursino 2022)

4.1.2. Same-sex relationships

Figure 2: Same-sex relationships

[3] Criminal Code, 1932.

[4] Law on the conditions of admissibility of termination of pregnancy §1 (27/04/1956).

[5] Regulation of the Minister of Health on Termination of Pregnancy §3(1) (19/12/1959).

[6] Law 8100—9/1953.

[7] Act No. LXXIX of 1992 on the Protection of the Life of the Unborn Child, Basic Law of Hungary, Art.II (25/04/2011).

[8] Decree 29/2022, §1.

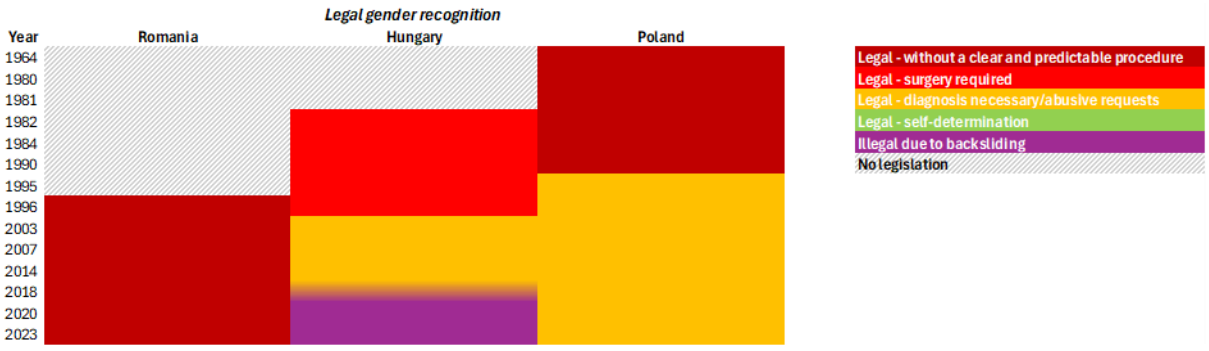
In Romania, homosexuality was criminalized in 1968 by Article 200 of the Penal Code, which was repealed in 2001. Even though homosexuality has been decriminalized since 2001, the country refuses to implement any type of legal recognition for same-sex couples. The only existent legal form of recognition for couples in Romania is marriage, which is limited to heterosexual couples through the Civil Code. There was also a failed attempt to introduce an explicit limitation on marriage in the constitution, through the 2016 'referendum for family' (Viski 2020). The lack of recognition led to the case of Buhuceanu and Ciobotaru and 20 other families against Romania at the ECHR, with the ECHR ruling from May 2023 that Romania must recognize and protect same-sex families. So far, no action has been taken in this sense.

Homosexuality was partially decriminalized in Poland in 1932 and fully decriminalized in 1970, when the Penal Code was amended. Although there are debates on the interpretation, the Polish Constitution defines marriage as 'a union between a man and a woman' and the Civil Code does not allow marriage or civil partnership between two persons of the same sex (Ptak 2022). The only form of recognition is cohabitation, through Article 691 of the Civil Code, but even this entails limited rights such as owning a shared dwelling. Poland suffered a setback in terms of LGBT rights when several regions of the country ruled by PiS – the majority party at the time – declared themselves in 2020 to be 'LGBT-free zones' or areas devoid of LGBT ideology (Dunin-Wąsowicz 2023). The country's leadership failed to take measures to protect the community until the civil society and international institutions started applying pressure on Poland's leadership (ibid.).

In Hungary, civil partnerships are legal for same-sex couples,[9] but marriage is not. Couples registered in a civil partnership do not benefit from some rights that married couples enjoy, such as: name change after the partner, adoption, medically assisted insemination and automatic recognition of joint custody (ILGA Europe 2024). Furthermore, in December 2020, the Hungarian parliament amended the Basic Law by adding the phrase 'Mother is female, father is male' to the definition of family (ILGA Europe 2024). Then, in 2021, Hungary introduced a law banning the discussion and portrayal of LGBTQ+ people in the media and in schools.[10] This represented a major setback in terms of rights.

4.1.3. Legal gender recognition

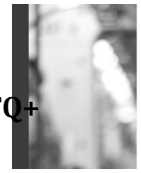
Figure 3: Legal gender recognition



As far as changing one's sex in the ID card goes, this is possible in Romania, with the mention that a legal authorization is needed. The law is rather vague regarding the need for medical or surgical interventions. As there is no specific legal procedure, these decisions usually depend on the

[9] Law XXIX/2009 on registered partnership and related legislation and on amending other laws to facilitate proof of cohabitation (20/04/2009).

[10] Law LXXIX/2021 on tougher action against paedophiles and amending certain laws for the protection of children (15/06/2021).



judge's interpretation of the law in each case (ILGA Europe 2024). There is no clear and predictable procedure for legally recognizing gender identity.[11] There is, also, no legislation on intersex people and no legal recognition for non-binary people. Moreover, although legally there has not been much change, in 2020 there was an attempt add a amendment to the education law banning 'theories about gender identity', an initiative reminiscent of Russia's anti-LGBT propaganda laws (Pora 2020).

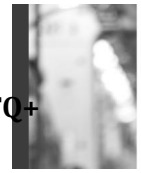
For Polish citizens, legal gender recognition has been possible since 1960, but the procedure is not an easy one even to this day. In order to legally change their gender, individuals undergoing the process must obtain a medical diagnosis and sue their parents to change their birth certificate, and so their parents' disagreement can make the process difficult (Gmiterek-Zabłocka 2023). Until 1978, sex reassignment surgery was required for legal gender reassignment, but now surgical and medical procedures can only be done after legal gender recognition (ILGA Europe 2024). Names can also be changed more easily than in the other two countries.

In Hungary, gender reassignment in documents had been possible since 2003, although there was no legal framework until 2015 (TGEU n.d.). One of the problems with the law was that it made the procedure available only to citizens and not residents. This led to the ECHR requesting in 2018 that Hungary revises the law, in order to make the procedure possible for non-citizens. The country took no actions in this sense.[12] What happened instead in 2018 was that the gender recognition procedure got frozen, with applications for legal gender change no longer being processed (TGEU n.d.). In 2020, when Article 33 was adopted, any form of legal gender recognition was revoked, with consequences for both people who were in the process of legal gender recognition and people who already had their gender legally recognized (ILGA Europe 2024).

Although each country had a relatively different evolution, there are some similarities between the Central and Eastern Europe countries. For example, in the case of the right to abortion on request, although the legislation was liberalized pretty early in the East, it has regressed dramatically in recent years. The biggest regression was seen in Poland, where abortion is illegal in almost all cases. Hungary limited abortion through more indirect means, making the process of getting an abortion more difficult, instead of banning it. Another is the case of Romania, which had a period when abortion was criminalized under the communist regime, as opposed to Poland and Hungary. This might be one of the reasons why Romania has not tried to limit the access to abortion through legislation, as it would be reminiscent of that.

In the case of the recognition of same-sex couples, legislation has stagnated in Romania after the decriminalization of homosexuality, and in Hungary and Poland it has had limited progress, regressing in recent years due to so-called 'propaganda laws'. Then, when it comes to legal gender recognition, the picture is even bleaker. This time we see stagnation in Romania and Poland and a regression in Hungary. Legislation has not really evolved in these countries, with people who want to have their gender officially recognized still facing abusive requirements and unclear or even non-existent administrative procedures. We are seeing a negative trend in the East, with worrying stagnations and major setbacks. Most of the setbacks have occurred in recent years, since 2018. This is why, in the next part of this study, we will look at the political discourse surrounding these topics and policy changes these last few years.

[11] X and Y v. Romania, 2021.
[12] Rana v. Hungary, 2020.



4.2. Discourse Analysis

This part of the analysis focuses on statements made by prominent far-right politicians in Romania, Hungary, and Poland between 2018 and 2024, a period marked by significant legislative changes, representative of democratic backsliding, as seen in the previous section. This section is divided in two parts, centred around the main themes found in the discourse, which are: (1) national identity and cultural protectionism and (2) anti-Western and anti-normative sentiment.

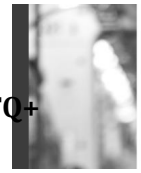
4.2.1. Preserving traditions in the post-communist era

In the statements analysed, we very often encounter declarations aimed at establishing values at the level of the nation. The positioning against sexual minorities and abortion comes as an expression of the collective identity of the people. In this sense, while in Romania the leader of the far-right party AUR, George Simion, says that we need to 'return to the church and its role' (Nemeș 2022), in Poland, the discussion on abortion is much more explicit. The Polish leader of PiS, Jarosław Kaczyński, declared in 2019 that his party would ensure that pregnancies will result in childbirth, even when the fetus' chance of survival is nil, so that it 'can be baptized, buried and named' (Prończuk 2019). This way, the granting or withdrawal of rights is based on Christian values and traditions that underpin national identity.

In Hungary, although we also find references to religion in the anti-abortion discourse, the discourse is more focused on demographic threats, especially in the context of the growing number of immigrants. In Fidesz leader Viktor Orbán's speech, immigrants are portrayed as a factor leading to the decline of Western civilization. At a demographic summit in 2023, Orbán insinuated that the right to abortion on demand without obstacles, promoted in the West, leads to a declining population and a shrinking workforce, which is being replaced by immigrant workers. Orbán calls this strategy 'a global plan to establish a new working class' that ignores cultural differences and will lead to the loss of national identity. Abortion, however, is not the only problem in the West; he also talks about children whose development is hijacked by gender ideology (Hungary Today 2021).

All these elements represent the idea of protecting national culture and identity. Many of the collected statements mention so-called 'attacks' or 'threats' to the national identity and its constituent elements – such as the family and the church – from which we need to protect ourselves. In the context of the 2020 legislative changes in Hungary that have made legal gender recognition impossible, Orbán declared that it was their right to defend their 'country, culture, laws, traditions and national values' from the threats of gender ideology (Schlagwein 2020). Likewise, in Poland, Kaczyński has repeatedly spoken about how the LGBTQ+ movement is 'a direct attack on the family and children' (Grzegorczyk 2019), on Christian civilization, on 'identity, the nation, the continuity of its existence, and thus on the Polish state' (Tilles 2021). In his view, this war can only be won by defending patriotism (Tilles 2020).

Cultural social change is not seen by extremist leaders as a natural process, but rather as a violent and sometimes even systematic destruction of national identity, to be replaced by a foreign culture. In the context of Roe v. Wade being overturned in the United States in 2022, Mihail Neamțu, a member of AUR, referred to abortion advocacy groups as representing 'the prostitution of morals and the cult of death' (Tribuna.US 2022), while Orbán refers to LGBTQ+ rights as 'destructive gender ideologies' (Schlagwein 2020). Another expression related to these attacks on culture, which often appeared in articles on the situation of 'LGBT-free' zones in Poland in 2019, was 'cultural barbarism' (Gostoli 2019; Grzegorczyk 2019; Human Rights Watch 2019). The phrase was used by Joachim Brudziński, Poland's Interior Minister at the time, in the context of the appearance of an image in which an icon of the Virgin Mary was edited to include the LGBTQ+



flag (Grzegorczyk 2019). A year later, in a similar manner, Kaczyński calls the protests against the government - following the constitutional decision to limit abortion - an attack 'intended to destroy Poland' (Tilles 2020). In this speech, he calls on his supporters to protect churches, which would be the target of these protesters seeking to destroy the country.

All these nationalist speeches create a very clear narrative that the traditions, culture and national identity of these countries are under attack by violent actors. These actors are the enemies of the country, who do not adhere to traditional values and who must be defeated by conservative heroes, the symbols of patriotism. This incompatibility is created between national 'culture' and progressive values, which are presented as irreconcilable. Moreover, national values are portrayed as inherently part of the nation and as something that cannot resist change, while progressive values are portrayed as something alien, with hidden intentions, seeking to destabilize the state.

4.2.2. The 'Cultural Barbarism' of the European Union

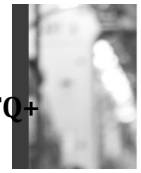
In most of the cases presented above, these foreign values and ideologies are mentioned by politicians without clarification of their source. We often see references to this 'enemy of the fatherland', this 'them against us'. Kaczyński called the LGBTQ+ ideology an 'imported movement' (Tilles 2021). There are, however, a number of culprits, guilty of imposing these values. As found in discourse, these are: the West, the European Union and the Marxists or the Left.

Cristian Terheș, a member of the AUR party at the time, made it very clear who the enemies of sovereignty are, saying that 'we are witnessing a coordinated attack against the sovereignty of EU states, adding that 'the political attack is coming from the European Commission' (Busuioc 2024). This statement was made at the beginning of 2024, in the context in which Romania is obliged, following an ECHR decision, to legally recognize same-sex couples (Vulcan 2023). In the same spirit, the party's leader, George Simion, said in 2023 that 'these crazy people from Brussels' are a threat to the traditional family and that 'they want to forbid us from using words like mother, father or fatherland' (Bratu 2023). In a similar manner, in Poland, Kaczyński said last year, before the parliamentary elections, that Donald Tusk wants to subjugate the country to Germany and Russia (Lepiarz 2023).

References to communism are also very common in far-right political discourse. Orbán, quite recently, gave a speech in which he used topics such as the region's history under communism and the new wave of Marxism emerging in the West. He said that Eastern countries have a better understanding of Marxist ideology and what it entails, because of their history as satellite states of the Soviet Union, which means they are 'vaccinated against wokeism' and their history protects them 'against the cultural left' (Hungary Today 2021).

There is also a disappointment with the current state of the European Union, which doesn't match the vision that countries had at the time of transition. Orbán declares that 'we are witnessing a decline of the strong, peaceful and free Europe that we longed for under communism' (Kovács 2024). In the same tone, Polish President Andrzej Duda says that previous generations did not fight for freedom only so that 'another ideology, even more destructive to man [than communism], would come along', referring to LGBTQ+ groups (BBC News 2020). Thus, what we call democratic regression — through legislation limiting abortion rights to legal gender recognition and marriage — is portrayed by these politicians as a form of resistance against Western ideology, similar to anti-communist resistance.

However, an interesting case is Romania, where although there have been stagnation and passive regressions in the area of rights, there have been no legislative regressions. This can be explained by one of the statements made by Simion in an interview for Europa Liberă in 2022, when he said



that he did not believe in 'a radical, unilateral and purely administrative formula' regarding abortion (Nemeş 2022). This position is motivated by the trauma caused by the ban on abortion on demand introduced in 1966, under the communist dictatorship (ibid.). Hence, there is a big difference between the speech of an extremist leader in a country where abortion was not legal during the communist period and the speeches of leaders of countries that liberalized abortion on demand during the communist period. These positions expressed in speeches are also reflected in national policies, so that an anti-abortion policy in Romania could be seen as too close to communist policy.

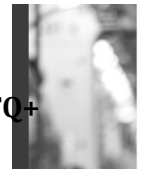
In all these examples we see clear references to external powers, which are corrupting the CEE countries with progressive ideologies. These ideologies are often being likened to the ideologies imposed by authoritarian regimes, because of the way the European Union functions, through policies of cultural and social cohesion. These policies presuppose the adherence of member states to a set of values developed in the West. In this way, Eastern countries feel left out, as MEP Cristian Terheş declared: 'we are not even part of this European debate' (Busuioc 2024). In the context of Hungary's refusal to ratify the Istanbul Convention on Combating Violence against Women, Orbán spoke of the 'gender theory that goes against the beliefs of the majority of the population' (Schlagwein 2020). Even when it is the citizens of a country themselves who are protesting, the protests are seen as organized forms of attack coordinated by external powers, with 'elements of preparation, perhaps even training', as described by Kaczyński (Tilles 2020).

5. Results and Discussion

When it comes to legislation, only Hungary and Poland have regressed in this respect. As seen in the legislative analysis, Hungary has regressed in terms of the right to abortion, starting with legislation on the protection of life from conception, rather than from birth, followed by the imposition of several obstacles to abortion on demand. In Poland, the regression started in 1993, when the ban on abortion was imposed with very few exceptions, and continued with the removal of one of the exceptions in 2020. The two countries also regressed in the area of LGBTQ+ legislation with the introduction of censorship measures and, in the case of Hungary, the removal of legal gender recognition procedures.

By comparison, in Romania, even if there has been no legislative regression, the existing legislation on the rights of sexual minorities and transgender people is very weak and remains far behind other countries, even compared to Poland (and Hungary before the regression). Furthermore, although abortion on demand is legal and the legislation has remained constant over the last decades, the procedure is not easily accessible. As we noted in the analysis, reports on the abortion situation in Romania showed us that the number of public clinics offering the procedure has been reduced to a worrying level. This is due to the lack of consolidation of the right to abortion through legislation.

Similar to Hungary, Romania also faced a legislative proposal which was meant to ban the discussion of gender identity in education (Pora 2020). Moreover, in 2018 there was an attempt to constitutionally limit the right to marriage by amending the Constitution (Viski 2020). In addition to these political developments, Romania is currently facing an ECHR decision which demands that the country creates forms of legal recognition of same-sex couples. To date, all legal avenues to challenge the decision have been exhausted and the country still refuses to comply (Vulcan 2023). The lack of progress in terms of rights and the attempts to change legislation in a manner reminiscent of Hungary and Poland's recent actions are clear warning signs.



Thus, considering the element of undermining democratic rules and the rule of law, mentioned by Sitter and Bakke (2019) in the definition of democratic backsliding, we can say that Romania is showing early signs of backsliding. It is possible that what has allowed Romania to remain relatively stable is the lack of strong far-right parties in government so far, but after the latest elections, the situation is not granted to remain the same. Further research is needed in this direction, but this draws our attention to the fact that legislative stability is not necessarily a good thing.

When it comes to the populist elements found in the anti-LGBT and abortion discourses, they follow the pattern of an anti-European populism. Using the definition of populism as a movement against elites and in favour of the interests of the common people (Goodwin 2019), the elites in this case are the Western political elites at the EU level, and the common people are the states, most often the Eastern ones, and their citizens. Śledzińska-Simon (2020) attributed the origins of the current East-West conflict to the historical conflict between Russia and the West. This conflict can be observed in political statements, such as PiS leader Kaczyński's, who spoke of an attempt to subordinate Poland to Russia and Germany by opposition leaders (Lepiarz 2023). These elements also point to an existential fear for the survival of the nation, as Batt (2001) called it, since national identity in Central and Eastern European countries seems to be closely related to the concept of family.

What has also been observed from the analysis of the discourse is that it is, more often than not, carried on a cultural or social plane. The main point of conflict is the differences in values. When it comes to the LGBTQ+ community and women's right to abortion, very rarely is the discourse focused on economic issues. The only economic elements found in discourse were in statements made by Viktor Orbán referring to demographic concerns caused by the low birth rates, immigration and the Marxist ideology (Hungary Today 2021). This is not to say that the economy is not a contributing factor to the regression. It is only not as often featured in the political discourse – or not as visible – as cultural elements are, especially in Romania and Poland

Another interesting thing identified in the speech is that the main voice of the far right in Romania, George Simion, the leader of the AUR party, declared himself against a legislative standardization regarding abortion, or more precisely its ban (Nemeș 2022). In this statement, he referred to the traumas of the communist period, when abortion was banned. In Poland and Hungary, the discourse is different, as abortion remained legal during the communist period in these countries, the leaders have not been as reluctant to the idea of a ban on abortion. Thus, anti-normativism is often found in discourse, but the way it's portrayed differs from country to country. The Polish right seems to be much more open to standardization, as long as it is based on its own moral judgments. Whereas in Romania, both in discourse and in practice, political leaders seem not to support rigid legislative change in a positive or negative sense, with moral debates often being conducted on a political or societal level, not on a legal level. Hungary is somewhere in the middle of these two, making legislative changes to limit certain rights without outright banning them, while at the same time trying to push the discourse at European level in a direction closer to its own values.

6. Conclusions

This analysis explored the differences in the evolution of abortion rights and LGBTQ+ rights in Romania, Hungary and Poland, putting them in a comparative perspective to identify possible patterns applicable at a broader level. The analysis identified two different directions the countries have taken in recent years: serious stagnation or regression (both legislative and de

facto). Poland and Hungary have seen many legislative changes, following a regressive trend in recent years, while Romania has mainly maintained its conservative legislation, facing some situations that created an environment favourable to regression.

After observing these regression trends in CEE countries, I chose to analyse the discourses of political leaders who initiated or supported the legislative changes in recent years, in order to find elements of discourse regarding their motivation. Following the analysis, a close link was found between the concept of family and nation, which are often associated or equated in political discourse. An adversarial type of communication was observed, contrasting family, religion and traditional values of the nation with the values promoted by the European Union. Out of this incompatibility between national and European values, portrayed as impossible to remedy, emerges a resistance to EU impositions. Thus, regressive legislation appears as a reiteration of sovereignty in the face of foreign powers under the guise of preserving national values.

Both from the analysis of legislative changes and from the analysis of discourses, a difference in the forms of manifestation of this cultural and social conservatism was observed. The most obvious differences existed in the case of abortion, where only the countries that had liberalized abortion throughout the communist period, Poland and Hungary, have suffered legislative regressions in this regard in recent years. Romania has seen only a de facto setback, caused by the refusal of doctors to offer abortion on demand. As far as a change in legislation is concerned, even the far-right has shown reluctance to introduce changes limiting the legal access to abortion, citing the negative effects of the strict legislation under communism. Romania has generally refused to make legislative changes that would limit or extend LGBTQ+ rights as well. However, we cannot draw final conclusions on this relationship, as further research is needed.

The legislative advances that have taken place in the countries of Central and Eastern Europe in the past have been seen as imposed by external powers. In the case of abortion, it is often associated with the communist past and leftist ideologies, and more recently it is associated with the new left in Western Europe. LGBTQ+ rights are seen as a new ideology coming from the West and a threat to the family and, thus, to the continuity of the nation. National actors who have fought for these rights are seen as pawns of the West. The European Union has had a much greater influence on the states than they might have expected. The increase in the supranational power of the Union over time has led to an increase in the CEE states' resentment towards it, given their struggle for self-determination. These factors should be taken into consideration in the search for viable solutions to the illiberal problem and the rise of far-right powers in Europe.

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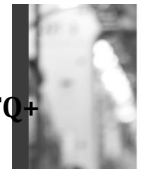

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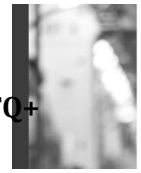

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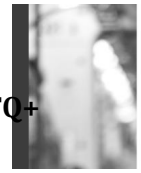

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