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The (worst) laws of the land: the concept of legislative basket cases, legislative backsliding and public administration in Central-Eastern Europe

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ABSTRACT

This article introduces the concept of legislative basket cases—adopted laws that fail to meet the normative standards of a wide range of established conceptual legislative quality criteria. They exhibit significant deficiencies across all or most of four dimensions: public policy, legal-constitutional, procedural, and stability. Through a multidimensional framework assessing these dimensions, we analyze emblematic cases from Czechia, Hungary, and Poland during periods of illiberal governance. The Czech taxation of church restitutions, the Hungarian Medical Chamber Law, and the Polish Law on Forests demonstrate how such laws bypass procedural safeguards, violate constitutional principles, and undermine democratic norms. We argue that normatively “bad” laws fail across the full policy-making cycle, from inadequate public administration preparation and improperly specified objectives through conflicts with legal-constitutional frameworks and democratic principles, including public consultation. Our comparative analysis reveals a pattern where quality standards across multiple dimensions are systematically eroded, contributing to broader democratic backsliding. While similar deficiencies occur in established liberal democracies, as illustrated by cases from Spain and Austria, they typically manifest differently. This framework offers a valuable tool for identifying extreme cases of deficient legislation and enhancing the understanding of legislative backsliding within democratic backsliding processes.

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Introduction

In recent decades, democratic backsliding – described as the state-led weakening or elimination of the political institutions that sustain an existing democracy (Bermeo 2016, 5) – has emerged as a significant trend in global politics (Haggard and Kaufman 2021; Mechkova, Lührmann, and Lindberg 2017; Waldner and Lust 2018). It is characterized by the

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slow erosion of democratic institutions, rules, and norms – rather than by traditional coups d'état (Ginsburg 2018, 355; Huq and Ginsburg 2018, 81). In democracies, this process manifests itself as a reduction in the quality of democratic processes; in autocracies, it represents a weakening of the democratic aspects of governance (Waldner and Lust 2018).

Since the early 2010s, a scholarly consensus emerged that pointed to the Central-Eastern European (CEE) region – Czechia, Hungary, Poland, and Slovakia – as leading the trend of democratic backsliding (Cianetti 2018; Drinóczi and Bień-Kacała 2019; Guasti 2021; Kubas 2021; O'Dwyer and Stenberg 2022; Palonen 2018; Stanley 2019), even though they had been previously seen as major democratic success stories (Ginsburg 2018, 352). The global rise of populism and illiberalism has also adversely affected the quality, democratic nature, inclusiveness, and transparency of legislation (Ilonszki and Vajda 2021). Public administration was also not left unaffected as populist-led governance often weakened bureaucratic capacities, politicized administrative institutions and undermined procedural safeguards (Bauer 2021; Lotta, Piotrowska, and Raaphorst 2024). As a result, the role of the public administration in ensuring the quality of legislation is undermined, leading to laws that are increasingly adopted through fast-track procedures with limited expertise, oversight and reduced stakeholder consultation.

In this article, we explore two research questions: first, we aim to provide a theoretical and operationalized definition of legislative basket cases, and second, we assess their role in this broader process of democratic backsliding in the CEE. Legislative quality is a multidimensional concept shaped by factors such as the legislative environment, state structure, and political culture (Aitken 2013; Mousmouti 2012; Stefanou and Xanthaki 2020). High-quality legislation adheres to constitutional principles like legality and effectiveness and has a tangible impact on societal and economic outcomes (Drinóczi and Cormacain 2021; Mousmouti 2012; Voermans 2011). The quality of legislation is closely linked to its language's clarity and structure's comprehensibility, which are essential for ensuring public trust and compliance (Vanterpool 2007). Furthermore, good legislative practices involve robust drafting processes, impact assessments, and public consultations to reflect a consensus among stakeholders and minimize administrative burdens (Karpen, Xanthaki, and 2020).

Building on this literature, legislative quality is often defined by one (or a combination) of four main dimensions (Mousmouti 2014; Radaelli and De Francesco 2013; Sebők, Kiss, and Kovács 2023; Xanthaki 2014): public policy (Gomes, Barbosa, and Figueiredo 2011; Vanterpool 2007; Voermans 2009), legal-constitutional (Krutz and Lebeau 2006; Norton 2001), procedural (Aitken 2013; Mousmouti 2012), and stability-related quality (Sebők, Kubik, and Molnár 2017). We define legislative basket cases as adopted laws that fail to meet the normative standards of a wide range of established conceptual legislative quality criteria, exhibiting significant deficiencies across all or most of the four dimensions. Moving beyond the concept of “legislative failures” in specific quality dimensions, this article proposes a regime-independent definition of legislative basket cases.

As for our second research question, we illustrate the usefulness of this concept in explaining the wider trends of democratic backsliding by examining case studies of legislative basket cases within the Visegrad Four countries of CEE. The Czech taxation of

church restitutions illustrates the perils of retroactive legislation that conflicts with constitutional principles. The fast-track adoption of the Hungarian Medical Chamber Law, characterized by insufficient public participation, demonstrates the adverse effects of circumventing procedural quality controls of the legislative process. The Polish law on forests, which was implemented hastily and contravenes EU conservation standards, has had significant legal consequences.

Our contributions to the literature include crafting the concept of legislative basket cases and advancing a multidimensional framework for measuring these extreme cases of deficient legislative quality. By applying this framework to case studies from Central-Eastern Europe (CEE), we contribute to a deeper understanding of legislative backsliding processes in the more general context of democratic backsliding. In what follows, we first provide a literature review that explores the interplay of liberal democracy, legislative quality, and public administration. Our empirical case studies illustrate the importance of legislative basket cases within legislative backsliding at large. In the Discussion, we juxtapose these illiberal examples with cases from Western Europe to examine patterns of legislative failures across different European contexts. The final section summarizes the article's logic and results and proposes ideas related to the quantitative testing of the present explorative work.

Conceptualizing legislative quality

Our first aim is to conceptualize legislative quality in an amenable way for the operationalized empirical research. The legislative studies and legisprudence literature lists several factors that influence the quality of legislation. These include the legislative environment (Mousmouti 2012, 194), the specificities of the state structure and types of polity (Aitken 2013, 2), the electoral and party system (Stefanou and Xanthaki 2020, 30–31), the political culture (Szabó and Küpper 2021, 106), and the legislative organization (Krehbiel 2004, 113).

Beyond the well-analyzed sphere of the legality of laws in the literature on constitutional law, the practical aspect of legislation, namely the public administration and policy components of legislative planning and decision-making and the evaluation of the efficacy and efficiency of drafting, has long been neglected (Karpen, Xanthaki, and 2020, 23). Akirav (2018) addresses this gap by proposing a model to assess legislative significance and effectiveness, focusing on the essence, extent, and practicality of laws, as well as public awareness and the alignment between legislative intent and implementation. Drafting techniques and the legislative and administrative system's size, structure, level, and processes are also pivotal in shaping legislative quality (see Aitken 2013; Mousmouti 2012).

While these elements of the extant literature offer useful clues for a comprehensive and operationalized definition of the quality of legislation (also referred to as good, effective, efficient, workable legislation, etc.), the various streams have not been reduced to a single definition (Voermans 2002, 129; Vanterpool 2007, 170). However, several conceptual frameworks provide valuable foundations (Sebók and Kiss 2024).

Substantive approaches examine the clarity and coherence of *legal and constitutional* objectives (Gomes, Barbosa, and Figueiredo 2011; Vanterpool 2007; Voermans 2009), while *public policy*-oriented, impact-based analyzes assess laws through outcomes like efficiency, effectiveness, and stakeholder satisfaction (Gajduschek 2016; Mousmouti

2012). Formal perspectives emphasize *procedural* aspects, such as the processes through which laws are developed and enacted (Arter 2006; Krutz and Lebeau 2006; Norton 2001; Vogler 2012).

Legislative *stability* is another crucial aspect of quality that has been quantitatively analyzed in the literature. Sebők, Kubik, and Molnár (2017) propose a measurement framework for formal legislative quality and construct a quality index based on the theory that good laws do not require frequent amendments within a short period after adoption. This index yields low values for stable laws and high for unstable ones. A comprehensive evaluation often combines elements from these approaches to capture the multifaceted nature of legislative quality (Mousmouti 2014; Radaelli and De Francesco 2013; Sebők, Kiss, and Kovács 2023; Xanthaki 2014).

From this overview of the literature, we can derive four key dimensions of legislative quality: public policy, legal-constitutional, procedural, and stability-related aspects. It is also important to emphasize that when discussing legislative quality, extant studies variably focus on individual bills and laws and the legislative output as a whole. In this article, we define legislative quality as a final evaluation of individual pieces of legislation (including its procedural and substantive aspects) and understand the quality of total legislative output over a period as a composite index of the evaluation of individual laws.

The role of public administration in legislative backsliding

In ideal-typical liberal democracies, legislation serves as a cornerstone of governance, upholding equality, accountability, and the rule of law. Legislative processes in such regimes are often tailored to be transparent, inclusive, and grounded in democratic principles. By contrast, in illiberal regimes, legislation is often manipulated to consolidate executive power, erode institutional checks and balances, and marginalize opposition voices while maintaining a semblance of legality (Scheppele 2018). This transformation involves the content of legislation and the procedural mechanisms through which laws are enacted. In a poster child case for such an illiberal transformation, in Hungary, under Prime Minister Viktor Orbán, legislative practices have shifted towards centralizing power by circumventing traditional parliamentary processes, using expedited procedures, and eliminating deliberative oversight (Pap 2018, 15–19).

Legislative backsliding, as a feature of democratic backsliding, may involve the systematic deterioration of legislative quality along the aforementioned four critical dimensions (Sebők, Kiss, and Kovács 2023). This process involves a systematic shift away from liberal democratic norms, transforming legislation into a tool of partisan and executive dominance rather than a mechanism for governance that reflects the public good. These norms include, *inter alia*, an adherence to the rule of law, which encompasses human rights and checks and balances (Coppedge 2020, 33). Other core principles include the separation of powers (Salzberger and Voigt 2009, 197), limited government with mechanisms for delegation and accountability (Manin 1997, 29), and robust electoral systems that promote citizen participation, multi-party competition, and fair representation (Lindberg et al., 2014, 160–161; Coppedge 2020, 33). However, in illiberal regimes, legislative strategies often prioritize illiberal ideological commitments over liberal governance, as seen in Hungary's constitutional redesign, which embedded

nationalist and majoritarian discourses into legal frameworks at the expense of pluralism and individual rights (Pap 2018, 45–89).

This shift reconfigures the relationship between the state and the individual, elevating state-prescribed values above individual autonomy and constraining judicial oversight (Pap 2018). The erosion of judicial independence (Russell, O'Brien, and 2001, 1), the weakening of civil society (Osborne 2021), and restrictions on media diversity and freedom (Lavarch 2012) further illustrate how legislative processes are co-opted to undermine democratic norms. Illiberal regimes deploy constitutional amendments and legal mechanisms to insulate executive power from future electoral change, as demonstrated by the Hungarian case, where the ruling party entrenched loyalists in key judicial and administrative positions, ensuring long-term institutional capture (Szente 2023). Through these mechanisms, illiberal regimes transform legislation into a tool for entrenching power rather than upholding democratic accountability (Pap 2018).

Public administration plays a pivotal role in safeguarding procedural integrity and ensuring the quality of legislation, particularly in contexts where democratic backsliding threatens institutional frameworks. Populist governments often engage in administrative backsliding by sidelining public agencies, weakening bureaucratic capacities, or politicizing administrative functions to expedite illiberal policy agendas while circumventing procedural oversight (Bauer 2021; Bauer 2024; Lotta, Piotrowska, and Raaphorst 2024). Such tactics not only compromise the formulation and implementation of legislation but also erode the broader accountability mechanisms that underpin democratic governance (Peters and Pierre 2019). This process of bureaucratic erosion is particularly damaging in the post-legislative phase, where weakened administrative autonomy leads to selective enforcement, reduced transparency, and a diminished capacity for policy evaluation (Bauer 2021).

These aspects can all be crucial elements in a measurement system to quantify legislative backsliding. Such a system can build on the theory of the policy cycle and the various indicators proposed in the literature associated with its phases. The policy cycle (see Figure 1) serves as a conceptual framework for analyzing how public administration engages with and influences the quality of legislation at different stages, including agenda setting, policy formulation, adoption, implementation, and evaluation (Howlett, Ramesh, and Perl 2009; Strassheim 2018).

In this article, we approach the role of public administration in legislative backsliding as a procedural phenomenon (besides being a sociological phenomenon or a collection of individuals). This perspective emphasizes the procedural mechanisms that underpin legislative quality, such as public consultation, stakeholder engagement, and comprehensive impact assessments. These indicators are critical for ensuring that legislation is prepared and implemented consistently with democratic principles and institutional accountability.

In the pre-legislative phase, public administration translates political objectives into actionable policy proposals through evidence-based practices, stakeholder consultations, and impact assessments, ensuring initiatives align with societal goals. A key element of quality legislation is the conduct of a thorough ex-ante impact assessment, which provides evidence for regulatory decisions and supports the development of policy alternatives through systematic analysis. This process serves a dual function: it improves reasoning by fostering deliberative thinking over intuitive judgments and establishes

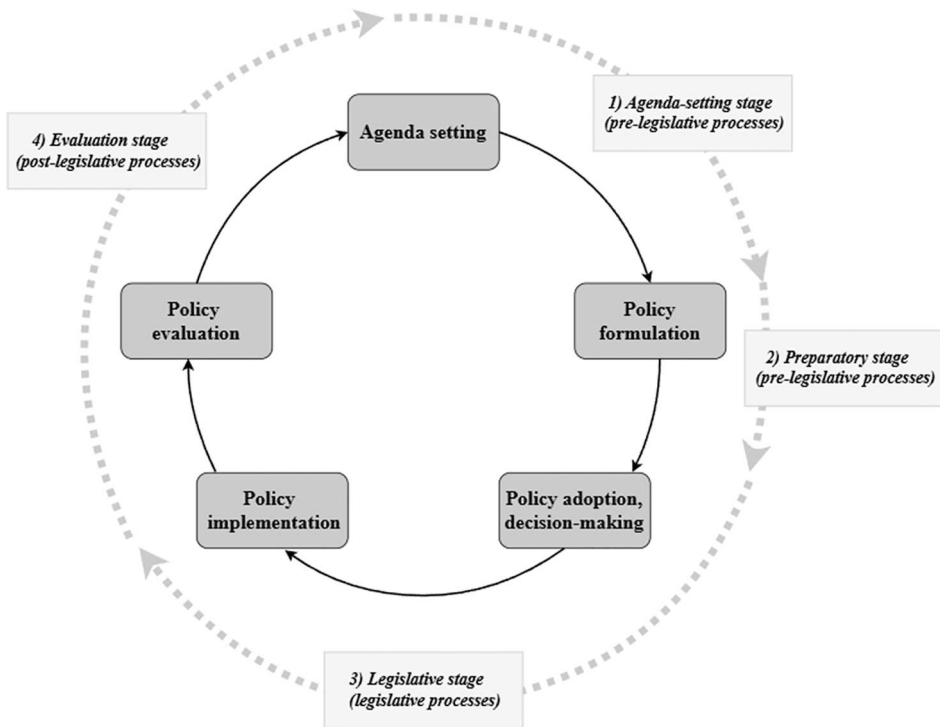


Figure 1. The public policy process.

an analytical framework for evaluating the potential consequences of legislation (Drummond and Radaelli 2024).

Effective public consultation – primarily a responsibility of public administration during the pre-parliamentary phase – is crucial for the quality of legislation (Drinóczi 2017). In most countries, public administration must coordinate stakeholder consultations and broader public engagement before submitting government-initiated bills to parliament. These processes gather expertise, assess policy feasibility, and evaluate socio-economic impacts. However, their effectiveness varies, depending on institutional context, process openness, and whether stakeholder input is genuinely integrated or merely used for legitimization (Albareda 2024, 119–125).

Illiberal regimes often disrupt these mechanisms by circumventing stakeholder engagement and prioritizing rapid legislative adoption to consolidate power. In the post-legislative phase, public administration ensures laws are effectively implemented and monitored for compliance and societal impact. Under illiberal governance, weakened institutional capacity reduces transparency and accountability, while erosion of administrative autonomy leads to selective enforcement and inadequate evaluation mechanisms, undermining legislative quality.

Public administration and democracy at large often backslide in parallel from the norms of liberal governance (James 2025 forthcoming). However, the extent and nature of this relationship can vary depending on the democratic and institutional robustness of a state's administrative order and the ideological orientation of political

actors driving backsliding (Bauer 2021; Lotta, Piotrowska, and Raaphorst 2024). Our comparative analysis in Appendix A demonstrates that in Hungary and Poland, significant declines in the Public Administration Quality Index (PAQI) closely correspond with deteriorations in the Liberal Democracy Index (LDI) – both derived from the V-Dem database and its respective indicators. In Hungary, the onset of this decline can be traced to the post-2010 era, coinciding with the consolidation of power by Fidesz under the premiership of Viktor Orbán, which was characterized by extensive constitutional and legislative reforms that fundamentally restructured the institutional framework. In Poland, a comparable trajectory became evident from 2015 onwards, following the electoral victory of the Law and Justice Party, led by Jarosław Kaczyński, which similarly pursued measures that weakened democratic checks and balances.

Although Czechia also exhibits a downward trend, the extent of decline is less pronounced. Yet, the parallel movement of the PAQI and LDI in this case underscores a consistent correlation between the quality of public administration and the state of liberal democracy. The erosion of public administration – manifested through increasing corruption, declining government effectiveness, and weakened administrative impartiality – not only reflects but contributes to democratic backsliding, highlighting the critical role of robust and autonomous public administration in safeguarding democratic governance, particularly in the face of executive dominance and illiberal political transformations.

The fourteen indicators of legislative basket cases

Drawing from the literature presented and available measurement strategies related to legislative backsliding (Sebők, Kiss, and Kovács 2023), we aim to identify legislative basket cases by employing a multidimensional framework for assessing legislative quality in the four dimensions listed above: public policy, legal-constitutional, procedural, and stability-related aspects. We examine the quality criteria listed in Table 1 for each law under consideration. (Here, we only provide some basic guidelines for evaluating laws in each dimension, which is later fleshed out during the analysis of the empirical cases.) In our operationalization, a law can be considered a legislative basket case if it demonstrates significant shortcomings in the majority (at least 8) of the 14 indicators identified within the four dimensions of legislative quality.

The first dimension examines legislation's public policy aspect, evaluating purpose, effectiveness, and implementation. A legislative basket case typically lacks clear objectives or shows misalignment between stated goals and actual intent. Such laws often fail to achieve their aims and lack proper enforcement mechanisms, including necessary regulations and organizational support.

The second dimension addresses legal and constitutional aspects, focusing on constitutionality, legal principles, clarity, and proportionality. Legislative basket cases may be declared unconstitutional, target specific entities rather than provide general rules, or contain vague provisions open to broad interpretation. Inappropriate penalties or regulatory approaches further diminish quality. The third dimension concerns procedural aspects, emphasizing stakeholder involvement and the parliamentary process. Basket cases often exhibit rushed preparation, limited consultation, bypassed standard

Table 1. Criteria of legislative quality.

Dimension	Quality criteria	Guidelines for evaluation	
		Positive	Negative
Public policy	1. Goal setting	The law's purpose is clearly defined in its text. The explanatory note reflects and justifies the legislator's purpose and intention.	The law does not have measurable objectives. The purpose and intention of the legislator are not reflected in the explanatory note and are not justified.
	2. Causal logic, appropriateness	The described purpose is closely linked to the law's actual intent.	The law's real purpose is strikingly distinct from the purpose stated in the law and its explanatory note.
	3. Effectiveness	The expected and actual effects are identical, and the law has elicited the effects for which it was created (e.g. an ex-post impact assessment confirms effectiveness).	There is no reference to ex-ante impact assessment (IA), monitoring, or ex-post evaluation. The law has not achieved its intended purpose or has produced different outcomes than expected. See also IA as a procedural requirement.
	4. Enforceability	The necessary conditions for implementing the legislation (e.g. administrative, organisational, regulatory, financial, etc.) have been created by the date of its application.	The necessary conditions for enforcing the legislation, such as required regulations, specific rules for implementation, financial resources, organisational aspects, etc., are absent.
Legal-constitutional	5. Constitutionality, compliance with legal principles and doctrines	The law is not found to be unconstitutional by the respective judiciary bodies. It respects the requirements of the rule of law.	The Constitutional Court, or another international court, declares the legislation unconstitutional or violates the rule of law. The scope of the law is tailored to a particular person or entity rather than being general.
	6. Clarity, intelligibility, comprehensibility	The text of the legislation is clear, intelligible, and unambiguous.	The text of the legislation is unclear and ambiguous and provides an extensive margin for interpretation and consideration.
	7. Proportionality, appropriate level of regulation	The provisions are regulated in the relevant field of law within the legal system. The provisions of the law are proportionate and not excessive concerning the objective pursued and the effects sought.	The provisions are not regulated in the appropriate field of law (e.g. regulating provisions imposing severe penalties in the field of public law instead of criminal law).
Procedural	8. Ex-ante impact assessments as legal requirements	The IAs assess, evaluate, and communicate expected impacts (e.g. in explanatory notes, such as an exposé of the sponsor). Evidence-based decision-making: Assessed impacts are taken into account in the drafting of the bill.	No prior impact assessment is carried out, or the expected impacts are evaluated but not incorporated in the bill's drafting.
	9. Sufficient time for preparation (<i>vacatio legis</i>)	The legislator provides sufficient time to prepare for the application of the legislation.	There is insufficient time for preparation, and the limited period from promulgation to the law's entry into force is not justified. See also stability.

(Continued)

Table 1. Continued.

Dimension	Quality criteria	Guidelines for evaluation	
		Positive	Negative
	10. Stakeholder consultations involving experts from ministries	Extensive consultation occurs, the stakeholders are involved in drafting the bill, and their opinion is reflected in the proposed legislation.	Stakeholder associations are not involved in drafting the bill, and their opinions are not incorporated.
	11. Public deliberation	The draft bill is published for public consultation. Opinions received are considered, and a proper explanation is given if they are rejected.	The draft bill is not published for public consultation, depriving society of the opportunity to influence its drafting. Submitted suggestions are not considered, and reasons for their dismissal are not provided.
	12. Parliamentary debate	The bill is debated under standard procedure, and the members of parliament (MPs) have time to propose amendments.	The debate on the bill is rushed without adequate justification, bypassing the standard procedure. MPs have no time to propose amendments.
	13. Consensus	There is a broad consensus within parliament: the sponsor and others beyond its coalition partners support the proposal.	There is no consensus within the parliament; either only the sponsor and coalition partners support the proposal, or consensus is lacking even within a parliamentary group.
Stability	14. Predictability	The law remains stable and does not require amendments or repeal shortly after its adoption.	The law requires amendments or repeal shortly after its adoption and is modified extensively within the same government period of its adoption.

procedures, restricted amendment opportunities, and absent impact assessments. These laws typically lack consensus and proper deliberation.

Finally, the last dimension, stability, evaluates post-adoption changes and regulatory predictability. Basket cases frequently require significant amendments or repeal shortly after adoption, indicating fundamental flaws in their initial design and implementation. Based on these four dimensions, we define legislative basket cases if all or most indicators deviate from the ideal type of “good quality” laws. In our analytical framework, each dimension is assessed with equal significance, and no weighting is applied as veritable basket cases should manifest flaws across the board, covering most dimensions and criteria.¹ Given the multidimensional nature of legislative quality, each indicator requires a diverse set of sources for accurate assessment. For a comprehensive overview of the sources used for each indicator, see Appendix B.

Empirical case studies

Case selection

From the 2010s on, in the Central-Eastern European region, a notable shift away from liberal democratic norms is evident, spanning various domains, including the rule of law, media freedoms, civil society engagement, human rights protections, and electoral

integrity (Bochsler and Juon 2020; Bozóki and Hegedűs 2018; Bugarič 2019; Rupnik 2023). This trend of democratic backsliding and the rise of illiberalism were particularly pronounced in the governance styles of leaders like Viktor Orbán in Hungary and Jarosław Kaczyński in Poland but were also partly representative of the premierships of Robert Fico in Slovakia and Andrej Babiš in Czechia.

Orbán, as prime minister, and Kaczyński, as chairman of the biggest party in a coalition with a great purchase on legislative politics, were frequently criticized for not only eroding legal frameworks but also significantly impacting the formulation and quality of legislation (Drinóczi and Bień-Kacała 2019; Drinóczi and Cormacain 2021; Huq and Ginsburg 2018). Similarly, Andrej Babiš and Robert Fico were often pilloried for their governance styles, reflecting a similar trend of illiberal governance and democratic erosion observed in the case of their counterparts (Appel 2019; Bugarič and Ginsburg 2016; Haughton et al. 2024; Kubas 2021). While these leaders, in their respective extended times in power, collectively represented a regional pattern that challenged the traditional principles of liberal democracy, signs of quality issues were not limited to the periods where these leaders controlled government majorities.

Our case studies (see Table 2) were deliberately selected from periods of illiberal governance to illustrate how legislative basket cases are often intertwined with such political contexts. The case selection followed a systematic qualitative approach combining criterion sampling and critical case sampling (Patton 2015). The initial pool of potential legislative basket cases was identified through four primary sources: (1) constitutional court decisions declaring laws unconstitutional or judgments of international courts finding violations, (2) cases that generated significant public opposition and media coverage, (3) legislation passed through parliament using exceptional or emergency procedures, as documented in parliamentary datasets, and (4) laws that were amended shortly after adoption, as indicated by legislative stability metrics.

This preliminary screening yielded multiple cases that, upon detailed examination against our quality criteria framework. While many exhibited serious flaws in one or two dimensions, not all qualified as comprehensive legislative basket cases. Through rigorous application of our evaluative framework across all four dimensions (public policy, legal-constitutional, procedural, and stability), we identified those cases that demonstrated systematic failures across most or all quality criteria (i.e. not merely “bad” laws).

Table 2. Selected cases.

Country	Year	Act number	Topic	Source
Czechia	2019	Act No. 125/2019 Coll.	Czech Taxation of Church Restitution	Act No. 125/2019 Coll. Act amending Act No. 428/2012 Coll., on Financial Settlement with Churches and Religious Societies and on Amendments to Certain Acts (Act on Financial Settlement with Churches and Religious Societies) and Act No. 586/1992 Coll., on Income Taxes, as amended
Hungary	2023	Act I of 2023	Hungarian Medical Chamber Law	Act I of 2023 amending Act XCVII of 2006 on professional associations in the health sector and Act CLIV of. 1997 on healthcare
Poland	2016	Act on Forests of 16 December 2016	Polish Law on Forests	Act of 16 December 2016 on the Amendment of the Act on Nature Protection and the Act on Forests

Zákon č. 125/2019 Sb., <https://bit.ly/3Q4Cyl5>, (accessed 17 April 2024).

Act I of 2023, <https://bit.ly/3w1Eeov> (accessed 17 April 2024).

Dz.U. 2016 poz. 2149 (ustawy o lasach), <https://bit.ly/3VWajc9> (accessed 17 April 2024).

From these confirmed legislative basket cases, we selected the most illustrative examples, deliberately choosing cases from different policy domains – taxation, health-care, environmental protection, and criminal justice – to demonstrate that the phenomenon of legislative basket cases transcends specific policy areas. This diversity in policy content strengthens the external validity of our findings while maintaining the focus on comprehensive quality failures that characterize true legislative basket cases.

The Czech law on church restitution, the Hungarian act on the Medical Chamber, the Polish legislation related to forestry (and the Slovak Criminal Code reform, see Appendix C) are not merely bad laws; they are intrinsically inadequate, serving as quintessential representations across the multiple criteria of [Table 1](#) of what we define as legislative basket cases. However, we do not claim that such laws are exclusive to illiberal governments; similar failures can emerge under liberal administrations (see Discussion).

Czech taxation of church restitution

Andrej Babiš, the founder and leader of the Czech political party ANO 2011, has pursued a political career distinguished by a technocratic approach intertwined with populist rhetoric (Havlík 2019). Initially, ANO 2011 presented itself as a centrist party but gradually shifted towards right-wing populism and adopted a stance of (soft) Euroscepticism (Hloušek and Kopeček 2022, 11). Babiš’s narrative capitalized on portraying traditional political elites as corrupt and ineffective, contrasting them with the “hard-working people” a hallmark of technocratic populism (Císař and Štětka 2016, 288).

Although democratic backsliding under Babiš’s premiership did not reach the levels observed in Hungary or Poland, his tenure raised significant concerns among scholars regarding the resilience of Czech democracy (Cianetti 2018). Furthermore, Babiš’s anticipated participation in the 2025 elections has heightened concerns that his potential return to power could further entrench illiberal tendencies in Central Europe, thereby accelerating regional democratic backsliding.

The roots of church restitution in Czechia date back to the communist era, when numerous properties were confiscated from religious organizations.² Compared to other post-communist nations that tackled similar issues in the 1990s, Czechia lagged behind on restitution due mainly to the complex party politics surrounding it. The Constitutional Court exerted considerable pressure on the government following 2005, emphasizing that churches had a legitimate expectation for property settlement.³ In 2009, in judgment of 24 June 2009, I. ÚS 663/06, the court reminded legislators that the property issues with churches needed to be settled,⁴ a directive that underscored the urgency of the matter.⁵

Finally, in Act No. 428/2012 Coll.,⁶ the houses of the Czech parliament adopted a framework for returning or compensating for confiscated properties. Act No. 125/2019 Coll., which came into force on January 1, 2020, introduced additional changes to the existing laws. The contentious issue reached a critical juncture because the second Babiš government sought to tax the financial compensation awarded to churches.⁷ The Czech government’s rationale for supporting the taxation of church restitution compensations was to address concerns that the original compensation amounts were overinflated, thereby promoting fairness and augmenting state revenues.⁸ This move was intended to address what was perceived as excessive restitution payments, to collect up to CZK 380 million annually from the churches over 24 years. The controversy

intensified with the proposal of a 19% tax rate on church restitution, which was the general income tax rate for all legal entities. Opponents of the proposal (a group of senators and deputies)⁹ argued this move as unconstitutional,¹⁰ sparking a debate that resonated throughout the legal and political landscape of the country.¹¹

A thorough ex-ante impact assessment underpins quality legislation by ensuring evidence-based decisions and well-founded policy alternatives. It fosters deliberative thinking and mitigates legislative risks through systematic analysis (Drummond and Radaelli 2024). The case of the Czech taxation of church restitution demonstrated the significant consequences of when the public administration's due process is bypassed. The bill was deliberately submitted as a private members' bill¹² to circumvent impact assessment procedures that would have been mandatory for government-initiated legislation. During parliamentary debate, government MPs claimed that policy analyzes had been prepared, but despite opposition MPs' requests, they refused to make these public – highlighting a lack of transparency.¹³ This administrative failure ultimately led to constitutional deficiencies – which a proper ex-ante assessment might have identified – thereby necessitating a subsequent constitutional review.

The legal implications were profound. Act No. 428/2012 Coll. had already granted churches the right to full financial compensation without taxation. The attempt to change the taxation rules in 2019 was seen as a retroactive measure, typically not permissible.¹⁴ Such retroactive laws could undermine legal certainty and violate the principle that laws should provide a reliable foundation for individuals and legal entities to plan their lives.

The Czech Constitutional Court's decision¹⁵ on taxing financial compensation for churches (Pl. ÚS 5/19.) represented a critical juncture. By an overwhelming majority, the Constitutional Court annulled the provision on taxation, with only two of the 14 members dissenting. The court's decision argued that the tax was not a legitimate fiscal measure but rather an attempt to reduce the already agreed-upon financial compensation to the churches. The court found that this was not in line with the principles of a democratic state governed by the rule of law.

The judges also emphasized that in the Czech Republic's history, restitution payments had never been taxed, and to do so would have contradicted the purpose of restitution, which is to address past proprietary grievances.¹⁶ Furthermore, the court pointed out that the Czech Republic had entered contracts with individual churches because of the church restitution process. Under the principle of “*pacta sunt servanda*” (agreements must be kept), the state was bound to honor these agreements. The court found that it would have been unfair for the state to agree to certain conditions with the churches and later use its authority to alter the compensation terms.¹⁷

To highlight just one other dimension of quality, the procedure leading to the adoption of the law in question was characterized by a lack of consensus between the two chambers of the legislature. The bill was initially approved by the Chamber of Deputies (with 106 out of 172 deputies voting in favor during the third reading). Then, two committees of the Senate¹⁸ urged the full Senate to vote against the bill, and the majority of senators obliged,¹⁹ arguing that it conflicted with the establishment of a democratic legal order and the preservation of the rule of law.²⁰

The Senate rejected the bill, with 64 out of 74 senators voting against it (the bill was not only rejected by the opposition but also by nine senators from Babiš's ANO party and

the Social Democratic Party, who had previously supported its adoption in the lower house). However, the Chamber of Deputies can overrule the Senate's decision in the Czech legislative process. Finally, despite all the concerns, the lower house adopted the bill (114 votes in favor, 57 against) – as the coalition of the far-left Communists (KSČM), Babiš's populist ANO, and the left-wing Social Democrats (ČSSD) had a majority in the lower house.

The evaluation of quality dimensions shows that the law met only the very basic – mainly formal – criteria of legislative quality (see Table 3, and for a more detailed discussion of the evaluation of each dimension, see Appendix D). The Czech taxation on church restitution was not effectively targeted at its stated objectives as it was unenforceable due to its unconstitutionality. Although the explanatory note to the Act stated that it assumed that taxation of financial compensation was the only possible step to ensure its adequacy, the Constitutional Court clearly stated otherwise, emphasizing that this was not the only and appropriate legislative solution.

The law was drafted and implemented through a questionable legal process and overlooked essential procedural standards for legislative quality. The Constitutional Court ruled against the taxation of the financial compensation received by the churches for their property confiscated during Communist rule, which cannot be returned in the restitution process, and therefore annulled this legal provision. Overall, this case is emblematic of poor legislative quality across all four dimensions and, thus, can be considered to be a legislative basket case.

Hungarian medical chamber law

Since Viktor Orbán's return to power in 2010, Hungary has experienced a profound shift towards illiberalism, characterized by systematic efforts to consolidate executive authority and weaken democratic institutions (Bogaards 2018). Central to this transformation was the adoption of the 2011 Fundamental Law, which restructured institutional frameworks to entrench the dominance of the ruling Fidesz party. Reforms to the electoral system, judicial procedures, and media ownership have undermined judicial independence, restricted pluralism, and stifled public discourse, consolidating Fidesz's political dominance (Szente 2023). Thus, Hungary is often cited as a paradigmatic example of

Table 3. Evaluation of the Czech case.

Dimension	Quality criterion	Evaluation
Public policy	1. Goal setting	✓
	2. Causal logic	X
	3. Effectiveness	X
	4. Enforceability	X
Legal–constitutional	5. Constitutionality, compliance with legal principles and doctrines	X
	6. Clarity, intelligibility, comprehensibility	✓
	7. Proportionality, appropriate level of regulation	X
Procedural	8. Ex-ante impact assessment	X
	9. Sufficient time for preparation	X
	10. Stakeholder consultations involving experts from ministries	X
	11. Public deliberation	X
	12. Parliamentary debate	X
	13. Consensus	X
Stability	14. Predictability	X
Score:		2/14

the erosion of liberal democracy in CEE and a focal point in comparative analyzes of regional democratic backsliding.

The amendment to the so-called Hungarian Medical Chamber Law (Act I of 2023) was passed in an emergency procedure in parliament and effectively terminated the mandatory membership of doctors and medical professionals in the Hungarian Medical Chamber (MOK).²¹ This move had far-reaching consequences for the MOK, one of Hungary's most well-known professional representative organizations, thanks to its compulsory membership structure, with local and county representative bodies and a national assembly of delegates deliberating on issues affecting the medical profession. The amendment also transferred the authority to oversee and process ongoing and future ethical proceedings from the MOK to the Health Science Council (ETT). Consequently, the chamber's role was diminished, significantly reducing its former influence. The government justified this move by accusing the chamber of abusing its power and endangering patients' fundamental rights.²²

Public consultation, a key responsibility of public administration in the pre-parliamentary phase, helps ensure well-founded legislation by gathering expertise and evaluating policy impacts. Its effectiveness, however, depends on institutional openness and genuine commitment to integrating feedback (Albareda 2024; Drinóczi 2017). While Hungary's post-2010 legislative framework formally acknowledges the necessity of stakeholder engagement and public consultations in the legislative process through the act on law-making and the act on "public participation in preparing laws", implementation reveals a significant disparity between regulatory requirements and administrative practice. However, in the democratic backsliding period, the government systematically circumvented statutory obligations for democratic law-making processes (Farkas and Kádár 2023).

This pattern was demonstrated in the case of the amendments to the Medical Chamber law. The Trade Union of Hungarian Doctors (MOSZ) voiced strong opposition to the government's action, arguing that it represented an attack on the entire Hungarian medical community through a discriminatory process that stripped the medical chamber of its powers. MOSZ maintained that the amendment did not align with societal interests and advocated for resolving disagreements through dialogue, particularly considering Hungary's dire state of healthcare.²³ They expressed concern that the absence of public consultation before the decision could adversely affect Hungary's position in securing EU funds and further complicate the urgent need for salary increases for health-care workers.²⁴ Despite the legislative changes – the abolition of compulsory chamber membership – MOSZ urged doctors to maintain their membership in the chamber.

The law was passed in just over 27 h. The government justified the fast-track procedure by citing an overriding interest in its swift adoption. This fast-tracking was met with scepticism from the opposition, particularly since the government had previously committed to reducing the frequency of such procedures.²⁵ Act I of 2023 did not achieve the intended effect, as most doctors and nurses submitted a declaration to the MOSZ to remain members of the chamber despite the implemented rules.²⁶ See Table 4 for a summary evaluation of the case (and for a more detailed discussion of the evaluation of each dimension, see Appendix D).

This is another clear example of a legislative basket case in our assessment. Protections for proper procedures were disregarded, and the law was hastily adopted in parliament

Table 4. Evaluation of the Hungarian case.

Dimension		Quality criterion	Evaluation
Public policy	1.	Goal setting	✓
	2.	Causal logic	X
	3.	Effectiveness	X
	4.	Enforceability	X
Legal–constitutional	5.	Constitutionality, compliance with legal principles and doctrines	✓
	6.	Clarity, intelligibility, comprehensibility	X
	7.	Proportionality, appropriate level of regulation	✓
Procedural	8.	Ex-ante impact assessment	X
	9.	Sufficient time for preparation	X
	10.	Stakeholder consultations involving experts from ministries	X
	11.	Public deliberation	X
	12.	Parliamentary debate	X
	13.	Consensus	X
Stability	14.	Predictability	✓
Score:			4/14

without genuine debate. Furthermore, the executive orders required for the law’s implementation were not issued for six months, indicating a lack of commitment to establishing it as a proper law. The sole purpose of the law was to push back against one of the remaining independent interest groups in Hungary.

Overall, the Hungarian Medical Chamber Law showed mixed characteristics in terms of legislative quality. Politics trumped policy considerations. Yet it showed no legal or constitutional deficiencies, and its stability showed positive characteristics. However, it should be noted that the fact that a legislative basket case is visibly embedded in a legal system (i.e. not amended shortly after its adoption) is not necessarily a positive feature in this case.

Polish law on forests

Jarosław Kaczyński, who served as Poland’s *de facto* leader during the Law and Justice Party’s (PiS) governance from 2015 to 2023, led with a distinctive blend of right-wing populism and nationalism, emphasizing traditional values and state sovereignty (Havlík and Hloušek 2021). While the early years of his leadership saw a consolidation of support through welfare reforms and anti-corruption rhetoric,²⁷ his administration increasingly embraced illiberal policies. Kaczyński systematically emulated Viktor Orbán’s authoritarian toolkit by undermining judicial independence, curbing media freedom, and restricting civil society (Drinóczi and Bień-Kacała 2019, 1146). Notable actions included politicizing the Constitutional Tribunal, restructuring public broadcasting into a government propaganda tool, and the controversial “muzzle law” targeting independent judges (Drinóczi and Bień-Kacała 2021, 162).

The Polish Law on Forests, known as “Ustawa o lasach”, was enacted on 16 December 2016. This legislation was at the centre of a significant legal controversy due to its provisions allowing tree cutting, which led to clashes with European Union conservation laws. The initial goals of the law were to enhance the rights of property owners regarding tree and shrub growth, simplify regulations on felling trees, and delegate the ability to adjust greenery protection levels to local governments. The law aimed to introduce a stable solution under the oversight of the Minister for the Environment, who was

expected to ensure environmental balance and prevent selective application of provisions (Radecka 2018).

However, the law's implementation led to a scandal involving the Minister for the Environment, who approved a logging plan that sparked widespread criticism and was seen as a violation of EU law. The law's enforceability was complicated because the areas in question were part of the Natura 2000 network and UNESCO World Heritage sites, subject to stringent protection standards. The European Commission had consistently and formally called on Poland to avoid extensive logging in the primeval Białowieża Forest, which Poland's government initially ignored and proceeded with the logging activities.²⁸

The law faced challenges regarding its constitutionality and compliance with EU law.²⁹ In 2021, the European Commission brought Poland before the CJEU, challenging the Polish government's decision to permit tree cutting during the breeding season of protected bird species. The Commission argued that such actions violated EU nature conservation directives, particularly as they threatened and sometimes destroyed the habitats of these birds. The Polish government defended its policies by asserting that national legislation mandated sustainable forest management and implying that its tree-cutting practices were environmentally friendly.

However, CJEU sided with the European Commission, ruling that Poland's policy was illegal as it contravened EU nature conservation rules. The court found that Poland's state forest management plans did not adequately consider the impact on birds' habitats and conservation status. Additionally, the court noted that Poland breached EU rules on access to justice in environmental matters by preventing ecological groups from challenging the state forest management plans in local courts (C-432/21).³⁰ This was not the first instance of Poland facing legal action over forest management. Since 2015, the EU has expressed its concerns and directed inquiries and warnings towards Poland. The main points of contention included the rule of law, logging in the Białowieża Forest, refugee relocation, smog, and several other lesser issues. In addition, in 2018, the CJEU already ruled that Poland should halt tree-cutting in the protected Białowieża Forest (C-441/17).³¹

Due to the latest ruling (C-432/21), Poland was required to revise its national legislation to align its forest management plans with EU biodiversity conservation laws. This case highlights the ongoing tension between Polish national legislation and EU environmental directives and the importance of considering the broader implications of environmental policies. The procedural aspects of the law's enactment were also criticized, as it was adopted rapidly without sufficient preparation, stakeholder consultation, and proper public deliberation. The parliamentary debate was conducted in a fast-tracked manner, raising concerns about the law's rushed introduction and potential violation of EU directives – as confirmed by the abovementioned judgments. See [Table 5](#) for a summarized evaluation of the Polish Law on Forests (and for a more detailed discussion of the evaluation of each dimension, see Appendix D).

The shortcomings in the legislative process highlight wider weaknesses in the Polish public administration, particularly in its capacity for evidence-based policy-making and regulatory foresight. The enforcement of the law by public administration also highlighted institutional weaknesses, as the Polish State Forestry Agency and the Ministry of the Environment prioritized political directives over legal and environmental standards.

Table 5. Evaluation of the Polish case.

Dimension	Quality criterion	Evaluation
Public policy	1. Goal setting	✓
	2. Causal logic	X
	3. Effectiveness	X
	4. Enforceability	✓
Legal–constitutional	5. Constitutionality, compliance with legal principles and doctrines	X
	6. Clarity, intelligibility, comprehensibility	X
	7. Proportionality, appropriate level of regulation	✓
Procedural	8. Ex-ante impact assessment	X
	9. Sufficient time for preparation	X
	10. Stakeholder consultations involving experts from ministries	X
	11. Public deliberation	X
	12. Parliamentary debate	X
	13. Consensus	X
Stability	14. Predictability	X
Score:		3/14

Rather than acting as neutral regulators ensuring sustainable forestry and EU compliance, these bodies extended executive power, reflecting the deepening politicization of public administration.

Overall, the legislation showed evident shortcomings in its drafting process but articulated well-defined policy objectives, which were successfully implemented, leading to a mixed assessment of the public policy dimension. There were significant shortcomings in terms of constitutionality and stability. Apart from a few criteria (such as proper promulgation in an official gazette), the legislation lacks positive assessments and is thus a typical legislative basket case.

Discussion

While our empirical analysis primarily focused on Central-Eastern Europe, such legislative basket cases are observable globally. In this discussion, we aim to demonstrate our concept's external validity by highlighting similar legislative quality deficiencies in Western European democracies.

In March 2015, despite widespread opposition from Spanish public opinion, all opposition parties, judges, lawyers, the United Nations,³² and the Council of Europe, the Spanish legislature adopted the Citizens' Security Law (Law no. 4/2015, also known as the "Gag Law").³³ This piece of legislation, proposed by Prime Minister Mariano Rajoy and his Popular Party (PP), was frequently described as a "dark day" for Spanish democracy, as it ostensibly aimed to address public safety concerns but, in reality, served as an undemocratic response to social discontent sparked by the financial crisis.³⁴

The law contained numerous provisions that essentially criminalized and imposed disproportionate sanctions on almost any form of assembly and protest. According to observers, it had a detrimental effect on the freedom of expression and complicated the documentation of abuses and excesses by law enforcement agencies.³⁵ Critics, including the Spanish Constitutional Court and the Venice Commission, challenged the law's constitutionality and called for amendments, emphasizing its vague definitions and broad administrative discretion, which could have led to arbitrary enforcement.³⁶

Despite widespread criticism from political parties, experts, and social organizations, no substantial changes were made to the law, undermining stakeholder consultation processes typically conducted by public administration in the pre-parliamentary stage and within the parliamentary legislative process. Public opinion polls showed only 7% support for the legislation, with 82% in favor of amending or repealing it.³⁷ Regarding stability, the amendments proposed in 2024 by Spain's new ruling coalition led by the Socialist Party (PSOE) did not come to force due to disagreements over specifics such as the use of rubber bullets and fines for disrespecting police.

In Austria – a country known for its relatively high smoking rates, with a significant number of tobacco-related deaths each year – the government's withdrawal³⁸ of an anti-smoking law in 2018³⁹ drew significant criticism.⁴⁰ This reversal was part of a coalition pact between the Austrian People's Party (ÖVP) and the Freedom Party of Austria (FPÖ). FPÖ leader Heinz-Christian Strache argued that smoking bans violated the "freedom of choice".⁴¹ This decision ignored prevailing health data and expert opinion, including nearly 900,000 signatures from professional associations supporting the ban.⁴²

The reversal violated the WHO Framework Convention on Tobacco Control, which Austria ratified in 2005, and opposition efforts, such as calls for a referendum against the repeal, were disregarded.⁴³ The stability of the Austrian political landscape was significantly affected when the coalition later collapsed over the Ibiza scandal ("Ibiza-gate"),⁴⁴ leading to new elections and the subsequent reintroduction of the smoking ban before the elections took place.⁴⁵

The purpose of including these additional examples is twofold. First, it underscores that legislative basket cases are not exclusive to CEE; second, it illustrates how similar patterns of legislative backsliding can emerge in different political regimes. Although Spain and Austria have not experienced the democratic backsliding observed in the CEE countries – both being long-established liberal democracies without a post-communist legacy or systemic erosion of democratic norms – their legislative processes have nevertheless produced laws that exhibit comparable shortcomings. These cases reinforce our argument that the emergence of legislative basket cases is a regime-independent phenomenon that can also occur in liberal democracies. At the same time, the prevalence of legislative basket cases in systems of liberal governance can serve as an early warning sign of the commencement of legislative backsliding.

What is still different between the two case groups is that the legislative basket cases in the CEE region show deficiencies in most criteria across all dimensions (for a summary assessment of the cases, see [Table 6](#)) while such wholesale degradation of the legislative process was not apparent for the two cases above, and the many others considered during the research process.

Procedural guarantees were eroded in Czechia, Hungary, Poland, (and Slovakia, see [Appendix C](#)). Furthermore, legislative basket cases were embedded in the legal system without correcting its shortcomings and errors, resulting in additional legislative deficiencies down the line (see the failure to promulgate the necessary executive orders in the Hungarian case). Amendments were often required due to constitutional issues (shortcomings in the legal-constitutional dimension) or to correct flaws caused by fast-track procedures.

As the case studies show, legislative basket cases can often be recognized by negative international or domestic court adjudications (such as in the case of the Polish Law on

Table 6. The evaluation of the case studies.

Dimension	Quality criterion	Czechia: Taxation of church restitution	Hungary: Medical Chamber Law	Poland: Law on Forests
Public policy	1. Goal setting	✓	✓	✓
	2. Causal logic	X	X	X
	3. Effectiveness	X	X	X
	4. Enforceability	X	X	✓
Legal-constitutional	5. Constitutionality, compliance with legal principles and doctrines	X	✓	X
	6. Clarity, intelligibility, comprehensibility	✓	X	X
	7. Proportionality, appropriate level of regulation	X	✓	✓
Procedural	8. Ex-ante impact assessment	X	X	X
	9. Sufficient time for preparation	X	X	X
	10. Stakeholder consultations involving experts from ministries	X	X	X
	11. Public deliberation	X	X	X
	12. Parliamentary debate	X	X	X
	13. Consensus	X	X	X
Stability	14. Predictability	X	✓	X
Score:		2/14	4/14	3/14

Forests). In the crucial pre-parliamentary phase, when public administration has primary responsibility for drafting legislation, illiberal governments systematically circumvent established quality control mechanisms – bypassing ex-ante impact assessments and marginalizing stakeholder consultation. In Constitutional Court proceedings, multiple provisions were found unconstitutional (see the Slovak Criminal Code reform in Appendix C). The CEE cases were often rushed through legislatures under fast-track procedures without allowing for meaningful debate. After adoption, such laws often required amendments, ranging from substantive changes to corrections of grammatical and legal technicalities (such as in the Polish Law on Forests). While in this article our aim was not provide conclusive evidence related to global legislative backsliding processes, the comparison of regime cases with varying degrees of such deviations from the norms of liberal governance can inform future studies relying on more comprehensive measurement implemented along the lines proposed above.

Conclusion

In this article, we introduced the novel concept of legislative basket cases and advanced a multidimensional framework for measuring these extreme cases of deficient legislative quality. While existing literature examined legislative failures and deficiencies in law-making, these analyzes predominantly focused on isolated dimensions of legislative quality. Our multidimensional framework synthesizes these aspects into a multidimensional analytical framework, offering a comprehensive method to assess legislative quality that integrates public policy, legal-constitutional, procedural, and stability-related criteria.

We argued that a “good” law meets high standards across the four key dimensions of legislative quality. Conversely, a legislative basket case signifies a major failure in law-making, marked by various deficiencies compromising its effectiveness and legitimacy. Thus, we defined a legislative basket case as a law that shows deficiencies in all or most of the four critical dimensions (public policy; legal-constitutional; procedural; stability) of legislative quality.

In an exploratory qualitative empirical analysis, we illustrated the added value of the concept with case studies from Central-Eastern Europe. The cases were selected from Czechia, Hungary, and Poland—in many respects, similar country cases, which were used to establish a concrete scope for external validity for this explorative analysis.

Based on the cases studies presented we argued that, within the broader context of democratic backsliding, the proliferation of “bad” laws could be attributed to the legislation’s divergence from its traditional role of providing a universally applicable legal and normative framework. The deterioration of public administration – through weakened procedural integrity, bypassed consultations, and rushed drafting – further exacerbates this trend by undermining legislative quality and governance stability. Thus, legislative basket cases in the context of illiberal public administration, policy-making, implementation and governance are manifestations of the erosion of the rule of law and a shift away from liberal democracy.

To validate our hypothesis broader and more systematically, it would be necessary to complement the qualitative methodology used in this empirical study with further quantitative analysis. Such an approach would allow for a deeper and more comprehensive comparison between liberal and illiberal regimes. Regarding quantitative metrics, certain dimensions are more amenable to measurement than others. For example, the stability index could be quantified, while the degree of consensus could be measured using statistics on parliamentary voting patterns.

Furthermore, the quality of parliamentary deliberation can be examined through the nature of procedures. It could be assessed by analyzing the length of time between introducing and adopting a bill. The extent of ex-ante impact assessment could be evaluated by collecting public data. Conversely, measuring the causal logic behind legislative purposes, the clarity of laws, and the integration of ministerial expertise poses more significant challenges due to their more subjective and qualitative nature.

Notes

1. While a natural next step in index construction would have been the assignment of weights to various components, we refrained from this option for multiple reasons. The relevance of dimensions varies across contexts: public policy might be critical for laws addressing substantive societal issues but may be less relevant for purely administrative or procedural types of legislation. Additionally, the multidimensional nature of legislative quality often involves inherent trade-offs – such as balancing stability with adaptability – further complicating the development of such a framework. Another key reason for not applying weighting in our assessment is the inherent subjectivity in assigning relative importance to different dimensions of legislative quality. Therefore, in our empirical analysis, we applied an equal weight to the 14 quality metrics studied.
2. Doležal J X (2019) Zlodějina odhlasována Sněmovnou. Círky byly okradeny podruhé [Thievery voted by the House. Churches robbed for the second time], <https://bit.ly/4d0p3Ni> (accessed 17 April 2024).
3. Cf. Section 102 and 103 of the reasoning of the decision Pl. ÚS 10/13.
4. Cf. Section 1 of the reasoning of the decision Pl. ÚS 9/07.
5. Česká justice (2019) Autor komentáře k zákonu o církevních restitucích: Věřím, že Ústavní soud by zdanění zrušil [Author of the commentary on the law on church restitutions: I believe that the Constitutional Court would abolish taxation], <https://bit.ly/4d01UdO> (accessed 17 April 2024).

6. Zákon č. 428/2012 Sb., Zákon o majetkovém vyrovnání s církvemi a náboženskými společnostmi a o změně některých zákonů [Act No. 428/2012 Coll. Act on Property Settlements with Churches and Religious Societies and on Amendments to Certain Acts], <https://bit.ly/3JiLNuf>
7. The second Babiš government was formed by the ANO 2011 and the ČSSD (Social Democratic Party in Czechia). The far-left Communists, although not part of the coalition government led by Babiš, supported the minority cabinet in a vote of confidence. In the power-sharing agreement that Babiš had negotiated with the Communists, one of their main conditions had been the introduction of a tax on the compensation that the country's churches had received from the state for property confiscated by the former communist regime. Babiš had argued that this compensation was too generous and needed to be adjusted.
8. Prague Business Journal (2017) Babis Pushes for Taxation of Church Restitutions, <https://bit.ly/4ar3OTI> (accessed 17 April 2024).
9. The petitioners in Pl. ÚS 5/19 were a group of 44 senators, with additional petitions filed by a group of 62 deputies and 19 senators, all challenging the constitutionality of the church restitution tax provisions.
10. Kenety B (2019) Czech MPs approve Communist proposal to tax Church restitution money, <https://bit.ly/3JFRO4d> (accessed 17 April 2024).
11. Courthouse News Service (2019) Czech Court Nixes Controversial Church Compensation Tax, <https://bit.ly/4aWPZM0> (accessed 17 April 2024).
12. See parliamentary documents on the bill: <https://bit.ly/4kYdXfx> (accessed 14 January 2025).
13. See the minutes of the parliamentary debate (30 October 2018), <https://bit.ly/3JGJNMn> (accessed 1 May 2024).
14. Lazarová D (2017) ANO leader stirs up controversy by backing idea to tax church restitutions, <https://bit.ly/49M051m> (accessed 17 April 2024).
15. Pl. ÚS 5/19. <https://bit.ly/3vXk7Ib>
16. Doležal J X (2019) Zlodějina odhlasována Sněmovnou. Církev byla okradena podruhé [Thievery voted by the House. Churches robbed for the second time], <https://bit.ly/4d0p3Ni> (accessed 17 April 2024).
17. Novotná D (2020) Zdanění církevních restitucí ve světle zásady pacta sunt servanda [Taxation of Church Restitutions in the Light of the Principle of Pacta Sunt Servanda], <https://bit.ly/3xL1xmZ> (accessed 17 April 2024).
18. Výbor pro Hospodářství, Zemědělství a Dopravu 27. Usnesení z 6. schůze konané dne 14. února 2019. [Committee on Economic Affairs, Agriculture and Transport 27. Resolution of the 6th sitting held on 14 February 2019], <https://bit.ly/4aDXkQW> (accessed 17 April 2024).; Ústavně-Právní Výbor 15. Usnesení ze 4. schůze, konané dne 20. února 2019. [Constitutional Law Committee 15. Resolution of the 4th sitting held on 20 February 2019], <https://bit.ly/4aClPxE>
19. 12. Funkční Období 111. Usnesení Senátu z 6. schůze, konané dne 27. února 2019. [12. Functional Period 111. Resolution of the Senate of the 6th sitting held on 27 February 2019], <https://bit.ly/3vVQIyc>
20. 12. Funkční Období 112. Usnesení Senátu z 6. schůze, konané dne 27. února 2019. [12. Functional Period 112. Resolution of the Senate of the 6th meeting held on 27 February 2019], <https://bit.ly/3W19hM6>
21. Nagy N (2023) Bill on Medical Chamber could threaten EU funds for Hungary, <https://bit.ly/4aVmN7V> (accessed 17 April 2024).
22. Tamásné Sz Zs and Vitéz F I (2023) Kivéreztetné a kormány a Magyar Orvosi Kamarát, szocialista mintára [The government would bleed the Hungarian Medical Chamber dry, following a socialist model], <https://bit.ly/3VZVDJ2> (accessed 17 April 2024).
23. Világi M (2023) A teljes magyar orvostársadalmat támadták meg – reakciók a MOK-törvényre [The entire Hungarian medical community has been attacked – reactions to the Medical Chamber law], <https://bit.ly/4454KKj> (accessed 17 April 2024).

24. Halmai K (2023) Európai Bizottság: Magyarországnak szánt uniós pénzeket sodorhat veszélybe a MOK-törvény [European Commission: EU funds for Hungary could be put at risk by the MOK law], <https://bit.ly/3VZSXeb> (accessed 17 April 2024).
25. Cseke B (2022) Négy brüsszeli javaslatot elfogadott a kormány [The government has adopted four proposals from Brussels], <https://bit.ly/49FNpZM> (accessed 17 April 2024).; Cseke B (2022) A kormány vállalta az EB felé, hogy csökkentti a gyors jogalkotást, majd egy nap alatt átnyomják a katatörvényt [The government pledged to the European Commission to reduce fast-track legislation, then pushes through the KATA Act (Act XIII of 2022 on Fixed-Rate Tax of Low Tax-Bracket Enterprises and on Small Business Tax) in a day], <https://bit.ly/3xDEoDc> (accessed 17 April 2024).
26. Kertész Á (2023) MOK-alelnök: Az etikai ügyek elvétele még súlyosabb, mint a kötelező tagság megszüntetése [MOK Vice-President: The removal of ethical cases is even more serious than the abolition of mandatory membership], <https://bit.ly/3VZFWRS> (accessed 17 April 2024).
27. Visegrad Insight (2022) Mirage of Anti-Corruption Policies in Poland, <https://bit.ly/3WrLZOS> (accessed 17 April 2024).
28. Wecker K (2017) Will Bialowieza survive Poland's politics?, <https://bit.ly/3TWxEb3> (accessed 17 April 2024).
29. Keating D (2017) Can the EU save Poland's primeval forest?, <https://bit.ly/3W1bV4u> (accessed 17 April 2024).
30. C-432/21, <https://bit.ly/49GjKj3>
31. C-441/17, <https://bit.ly/49zjnGR>
32. United Nations (2015) "Two legal reform projects undermine the rights of assembly and expression in Spain" – UN experts, <https://bit.ly/3Q4Q7kl> (accessed 17 April 2024).
33. Ley Orgánica 4/2015, de 30 de marzo, de protección de la seguridad ciudadana, <https://bit.ly/43Yz758>
34. Garea F (2014) Ruling party rams controversial security legislation through Congress, <https://bit.ly/4d0UdUz> (accessed 17 April 2024).
35. Greenberg A (2015) Spain's New Security Law Meets Fierce Criticism From Rights Groups, <https://bit.ly/3UkH5Cs> (accessed 17 April 2024).
36. In its opinion No. 826/2015 of 22 March 2021 (CDL-AD(2021)004) on Spain's Citizen Security Law, the Venice Commission pointed out that the vague definitions of certain offenses, particularly in Article 36 Section 6 concerning 'disobedience to authorities', might impose substantial economic fines that could deter people from exercising their right to freedom of assembly, <https://bit.ly/444vw5q>
37. Spongenberg H (2015) Spain's 'gag' law comes into force, <https://bit.ly/3Jk2aH1> (accessed 17 April 2024).
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Statement on the use of generative AI

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