



# The concept of tailor-made laws and legislative backsliding in Central–Eastern Europe

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## Abstract

This article examines the concept of tailor-made laws and their empirical implications in the process of legislative backsliding. We define tailor-made laws as legislation that codifies an individual case under the guise of a general rule. These laws are designed directly or indirectly to affect only certain individuals or institutions, thereby potentially disadvantaging or favouring their target at the expense of the broader public interest. We argue that the normative assessment of these laws is partly dependent on the availability of judicial remedy for restoring the generality of the legal norm in question. By developing case studies from Central–Eastern Europe, we utilised this concept to better understand the characteristics of law-making in the shift from liberal to illiberal democracy. We show that the proliferation of tailor-made laws is a prime candidate for the empirical markers of legislative backsliding: besides public procurement, they may serve as key instruments for implementing discretionary reward and punishment policies.

**Keywords** Legislative backsliding · Tailor-made laws · Illiberal governance · Central–Eastern Europe

## Introduction

Over the last decades, the global political landscape has witnessed a significant rise in populism, illiberalism, and democratic backsliding (Andersen 2019; Bartha et al. 2020; Cooley 2015; Gandhi 2019; Haggard and Kaufman 2021; Huq and Ginsburg

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2018; Lührmann and Lindberg 2019; Zakaria 1997). Since the early 2010s, a scholarly consensus has emerged that various regimes in Czechia, Hungary, Poland, and Slovakia (countries of the Central–Eastern European—CEE—region) are at the forefront of this process (Cianetti et al. 2020; Drinóczi and Bień-Kacała 2019; Guasti 2021; Kubas 2021; Palonen 2018; Stanley 2019).

The illiberal regimes of Viktor Orbán and Jarosław Kaczyński are often criticised for undermining the rule of law (Drinóczi and Bień-Kacała 2019; Huq and Ginsburg 2018; Sajó and Tuovinen 2018) and profoundly affecting the nature and quality of legislation (Drinóczi and Cormacain 2021). Similar criticisms were often levelled against Andrej Babiš (Appel 2019) and Robert Fico (Bugarič and Ginsburg 2016) in relation to, *inter alia*, immigration policy (e.g. for their opposition to EU refugee quotas). Consequently, legislation in illiberal democracies has diverged from its traditional role as a domain of generally applicable legal and normative frameworks (Sebők et al. 2023).

Legislative backsliding—a constituent part and sub-trend of a wider democratic backsliding process—occurs when the practice of legislation shifts away from the key elements of liberal democracy (Sebők et al. 2023). One tool for doing so is codifying various types of tailor-made laws (such as Lex TVN, a case for disadvantaging an institution or Lex Lipšic, a case for benefitting an individual), which populist political leaders widely use as part of their carrot-and-stick policies. Magyar (2016, 117) compared this new normal of law-making to a political family's "tailor shop for fitted garments".

The so-called Lex Rác of 2019 from Hungary is an archetypal example of tailor-made laws (from now on TML). The political intent of appointing Zsófia Rác, a 22-year-old law student, as deputy secretary of state required an amendment to a law. Even though the text of the law did not mention Rác by name as a beneficiary—thus giving the impression of generality—the legislative intent was evident in the case. On 12 November 2019, the government introduced a bill (T/8019),<sup>1</sup> and on 4 December, Katalin Novák (then serving as Minister Responsible for Families and Vice-President of the ruling Fidesz party) announced on Facebook<sup>2</sup> that Rác would be appointed. The necessary amendment to the bill was only tabled on 6 December, according to which a higher education degree was no longer required to fill this role<sup>3</sup> (despite it being a senior professional position in public administration). In the parliamentary debate<sup>4</sup>—and beyond<sup>5</sup>—government-affiliated speakers openly admitted that the timing of the process was a fiasco and that the law was tailor-made for Rác.

<sup>1</sup> See the text of the bill (T/8019.), <https://bit.ly/49hKp6a>.

<sup>2</sup> See the original post on Novák's official Facebook site, <https://bit.ly/3vRubSy>.

<sup>3</sup> See the amendment of the Committee on Legislation, <https://bit.ly/3SE9Ysk>.

<sup>4</sup> See the speech of the Secretary of State of the Prime Minister's Office, Miklós Soltész, <https://bit.ly/47Kharb>.

<sup>5</sup> Index (2019) Deutsch: Baki, hogy előbb volt a kinevezés, aztán a törvénymódosítás [Deutsch: It was a fiasco to appoint first and then to amend the law], <https://bit.ly/4b6GWsB>.



Notable instances of such TMLs include France's Law on the Notre Dame Cathedral renovation (Göttelová, 2020),<sup>6</sup> Turkey's amendments to the Law on Natural Gas Market<sup>7</sup> aiding Ankara Metropolitan Municipality,<sup>8</sup> Croatia's Lex Agrokor,<sup>9</sup> designed explicitly to handle the conglomerate's financial crisis (Savković 2019). Finland's Lex Nokia, proposed to monitor email traffic metadata,<sup>10</sup> Germany's Lex Facebook, targeting social media regulation,<sup>11</sup> and Argentina's Ley de Medios, implemented to regulate the Grupo Clarín conglomerate.<sup>12</sup> Although such tailor-made legislation is far from being a unique feature of regimes in the CEE region,<sup>13</sup> we focus on cases from this area due to its (varying degrees) of illiberal transition and democratic backsliding—we return to the issue of external validity in the Conclusion.

Despite its growing importance and empirical prevalence, a comprehensive analysis of the plethora of concepts related to tailor-made legislation is lacking in the literature. Another gap in the literature relates to the role of TMLs play in the process of legislative backsliding. In this article, we address these gaps by setting two objectives. First and foremost, we aim to derive a coherent concept of TMLs from the existing literature and define its types. Notably, we aim to provide a positive conceptual synthesis in the sense that for this first step, we do not assume that such legislation is normatively good or bad. We define tailor-made laws as legislation that codifies an individual case under the guise of a general rule. These laws are designed directly or indirectly to affect only certain individuals or institutions, thereby potentially disadvantaging or favouring their target at the expense of the broader public interest.

Secondly, as a potential application of our conceptual work, we utilise this concept to better understand the characteristics of law-making in the process of legislative backsliding. We argue that the proliferation of TMLs is a prime candidate for the empirical markers of legislative backsliding, and that, at least in the case of Hungary, the advent of illiberalism resulted in widespread usage of such legislation as well as an increase in diversity in terms of the types used. With this, we argue that while the practice of adopting TMLs exists in liberal periods, and even though not all TMLs are in contradiction with the tenets of liberal democracy and the rule of

<sup>6</sup> LOI n° 2019–803 du 29 juillet 2019 pour la conservation et la restauration de la cathédrale Notre-Dame de Paris et instituant une souscription nationale à cet effet, <https://bit.ly/3SFgTli>.

<sup>7</sup> Kanun No. 6533., <https://bit.ly/3HHArzc>.

<sup>8</sup> Transparency International (2020) *Amendments to the Law on Natural Gas Market*, <https://bit.ly/3UhxaxZ>.

<sup>9</sup> Zakon o postupku izvanredne uprave u trgovackim društvima od sistemskog značaja za Republiku Hrvatsku. Narodne novine, 32/2017., <https://bit.ly/42JMUUV>.

<sup>10</sup> Yle (2019) *The rise and fall of 'Lex Nokia' in Finland*, <https://bit.ly/3U6LNDf>.

<sup>11</sup> Gesetz zur Änderung des Netzwerkdurchsetzungsgesetzes, <https://bit.ly/4hbRv0K>.

<sup>12</sup> Reuters (2013) *Argentina's Supreme Court upholds controversial media law*, <https://reut.rs/4dYg7r3>.

<sup>13</sup> Transparency International conducted a research project focusing on the Western Balkans and Turkey which examined 29 TMLs between 2008 and 2019. Although the selected cases were mostly limited to corruption and state capture—whereas this article uses a broader concept of tailor-made legislation—they show that tailor-made legislation was an emerging phenomenon beyond the CEE region. See Transparency International (2020) *Tailor-made laws in the Western Balkans and Turkey*, <https://bit.ly/4834o98>.



law, their widespread or even systematic use may be an important factor to be considered when discussing legislative backsliding.

We illustrate the concept of TMLs and our typology, as well as their potential role in legislative backsliding with cases which were selected based on several criteria. We covered all four CEE countries with an eye towards external validity and provided illustrative cases for all four types of customisations (in terms of personal/institutional and negative/positive effects). Starting from the premise that TMLs are not unique to illiberal regimes, we also analysed cases where the targets were illiberal leaders or their appointees. By developing these case studies, we further refined the concept of TMLs and evaluated them within the wider theoretical context of legislative backsliding.

In what follows, we first discuss the principle of generality and abstraction of law. Then, a literature review identifies the main characteristics of TMLs followed by their conceptualisation for empirical research. Next, we present eight case studies from CEE countries. The selected cases illustrate the different types of TMLs, giving specific examples of those that disadvantage or benefit a person or an institution. The Discussion addresses some key issues of the theoretical importance of TMLs for understanding legislative backsliding. It includes the evaluation of public procurement and concessions, as, alongside TMLs, these may serve as a key instrument for implementing discretionary reward and punishment policies. The Conclusion summarises the logic of the article and our results, extends the scope of the analysis beyond the CEE region, and situates the potential role of TMLs in relation to the wider process of democratic backsliding.

## The conceptual literature of tailor-made laws

In legal theory, norms are often categorised as individual or general (Kelsen 1991, 7). A norm is individual if it mandates compliance with a one-time individually specified instance of behaviour (e.g. court or public administration decisions and contracts). Traditionally, individual norms are crafted to address specific individuals or entities rather than applying to a broader class of people or institutions based on common characteristics. According to another distinction, the scope of the addressees of individual norms (from now on individual cases) is closed, i.e. to change the addressees of the act, the act itself must be amended (Jakab 2007, 38–41). In contrast, a norm is considered general if it mandates a specific behaviour obligatory (Kelsen 1991, 7). General norms have an open scope of addressees, i.e. changing the scope of addressees does not require an amendment to the act (Jakab 2007, 38–41).

By its nature, a law is a general act that extends beyond individual cases and is mandatory for everyone (Meßerschmidt and Oliver-Lalana 2016); thus, it is not a legal instrument for deciding a specific issue. The principle of generality serves as the grounding idea of the law, which concept in legal history can be traced back to



ancient law (Schneider 2002, 22). Even the Digest of Justinian contains the principle of the generality of legislation: laws are not established for individuals, but generally for all.<sup>14</sup> Generality is a reaction to the need for equality, as against the possibility of arbitrariness and injustice (Falcón y Tella 2010, 53). Therefore, most constitutions explicitly state that laws must be general and that laws adopted by an authority having legislative competence are universally binding legal regulations.<sup>15</sup>

In recent years, scholarly discourse in political and legal studies has intensively scrutinised the process of law-making under illiberal and populist regimes (Drinóczi and Cormacain 2021; Pap and Śledzińska-Simon 2019; Sebők et al. 2023; Sebők and Boda 2021). Some of the various conclusions include a systematic disregard and relativisation of the rule of law,<sup>16</sup> democratic principles and human rights by these illiberal and populist governments (Drinóczi and Cormacain 2021, 271).<sup>17</sup> Constitutional courts become one of the first targets when populist regimes take control of the political branches of power (see the literature on "abusive constitutionalism": (Aydin-Cakir 2023; Cheesman and Badó 2023; Granat 2023; Kovács and Scheppele 2018; Landau 2013; Skąpska 2019)).

Moreover, these regimes often extend personal privileges and engage in systematic clientelism and patronage in the judiciary, constitutional courts, public administration, public prosecution services, media, army, foreign service, state-owned enterprises, and banks (Innes 2014; Meyer-Sahling and Toth 2020; Pavlović 2023). The entwined relationships between oligarchs and governmental entities strongly indicate the occurrence of managed public procurements (Fazekas and Tóth 2016; Szente 2023), where competition tends to be confined either to associates of political decision-makers or to family members of the political elite. When public procurement processes are primarily structured to benefit a narrow group, potential competitors are eliminated or significantly reduced (Mihályi 2023, 17–18). Thus, the integrity of fair competition is compromised, and the collective public interest is marginalised (Szente 2023, 141).

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<sup>14</sup> See Dig., Liber Primus, 1.3.8 Ulpianus III ad Sabinum: "Iura non in singulas personas, sed generaliter constituuntur".

<sup>15</sup> Article T) of the Hungarian Fundamental Law declares that: "Generally binding rules of conduct may be laid down in the Fundamental Law and in laws adopted by an organ having legislative competence specified in the Fundamental Law and promulgated in the official gazette". Article 87 of the Constitution of the Republic of Poland also states that the constitution, statutes, ratified international agreements, and regulations are universally binding laws. The Constitution of the Slovak Republic states at several points that laws adopted by an organ having legislative competence are generally binding legal regulations. Although the Constitution of the Czech Republic does not explicitly contain the principle of generality, it can be inferred from certain articles of it (Göttelová 2020).

<sup>16</sup> See a related "rule of law as a political weapon" concept of (Maravall 2003).

<sup>17</sup> See related concepts such as "autocratic legalism" and "lawfare". According to Scheppele (2018), "autocratic legalism" is the use of electoral mandates, along with constitutional and legal changes, to advance an illiberal agenda. Autocratic legalism involves rule of law reforms that pave the way for constitutional changes that undermine the separation of powers. This manipulation of legal and constitutional frameworks to undermine the rule of law resembles "lawfare", as defined by Comaroff and Comaroff (2006, 30), which entails the use of legal means for political coercion or erasure.



Despite various attempts to conceptualise TMLs, a synthesising framework drawing on useful theoretical innovations is unavailable in the literature. We fill this gap by developing a literature overview and providing a more refined conceptualisation of tailor-made legislation. In this process, we have collected terms from extant studies that describe the phenomena of legislatures regulating an individual law case. These expressions and their definitions are set out in Tables 1, 2, 3, 4 (emphases are added to highlight keywords).

The literature uses many terms (in many cases, synonyms) to describe laws that do not conform to the principles of generality and abstraction. However, it should be emphasised that some of the laws that do not comply with these principles are not inherently unconstitutional—such an example is the case of norms establishing certain public institutions, where the legislator legitimately regulates a specific case by law.<sup>18</sup>

Although, beyond the lack of generality and abstraction, different scholars emphasise different aspects of the characteristics of TMLs, they mostly describe the same phenomenon using different terms. Based on the definitions collected from the literature, several terms can be understood as synonyms, including tailor-made, individualised, special, targeted, personalised, custom-tailored, ad hoc, bespoke and bent laws.

One precursor to the concept of TMLs was introduced in German public law (see Table 1). This uses different denominations of such legislation, in particular *Maßnahmegesetze* (laws made up of a series of specific measures) and one of its subtypes: *Einzelfallgesetze/Individualgesetze* (single-case statutes or individual-case statutes—case-specific laws for short). *Maßnahmegesetze* are legal provisions that connect a regulated situation to a purely pragmatic legal consequence (Honsell 2010, 5; Huber 1963, 9–15, 117; Karpen 1989, 24).

**Table 1** Tailor-made legislation in the German public law

Concept	References (selection)	Definition
Maßnahmegesetze and Einzelfallgesetze/ Individualgesetze	Andersen (2019), Berka (2012), Eichler (1970), Forsthoff (1955), Honsell (2010), Huber (1963), Karpen (1989), Lepsius (2017), Schneider (1994, 2002)	<i>Individualgesetze</i> and <i>Maßnah- megesetze</i> are laws in only a formal sense, <i>lacking</i> the characteristics of <i>generality</i> and abstraction (Berka 2012, 143).  <i>Individualgesetze</i> or <i>Einzelfallge- setze</i> appear as <i>external elements</i> within the system of laws, as <i>exemptions</i> from general legal rules (Karpen 1989, 23–24).

<sup>18</sup> It is also known in German legal theory as *Organisationsgesetze* (see, e.g. Degenhart 2016, 62).



Einzelfallgesetze and Individualgesetze refer to laws that are not focused on a general subject or a broad category of persons but are instead tailored to individual cases or subjects (Karpen 1989, 24; Schmidt and Bogdanowicz 2018, 1087; Schneider 2002, 26–30). Every *Einzelfallgesetz* is a *Maßnahmegesetz*. *Einzelfallgesetze* are not inherently unconstitutional [see Article 19 Sect. 1 of the Basic Law for the Federal Republic of Germany (*Grundgesetz*)],<sup>19</sup> as these can be considered legally permissible except those that restrict fundamental rights (Karpen 1989, 24).

**Table 2** Concepts describing tailor-made laws

Concept	References (selection)	Definition
Tailor-made Laws	Bárd et al. (2022), Csanádi et al. (2022), Forte (2020), Handrlica (2020), Hoxhaj (2022), Perfetti (2020), Pomahač (2020), Savković (2020), Sharapaev (2019), Taseva (2020), Zúñiga (2021), Zúñiga (2020)	<p>“[T]he tailor-made law is identifiable with the hypothesis in which law applies to a <i>specific</i> case and is not suitable for further applications” (Perfetti 2020, 27).</p> <p>“Tailor-made law is a legislative measure adapted to <i>specific subjects</i> and situations. It is a prototype of a specific law that can be directly or indirectly <i>individualized</i>” (Pomahač 2020, 8).</p> <p>“Created for the purpose of serving only the interests of a <i>natural person</i>, a <i>legal person</i>, or a narrow group/network of connected persons, and not the interest of other actors in a sector, group of society or the <i>public interest</i>” (Hoxhaj 2022, 333).</p> <p>“Although tailor-made laws <i>seem to be generally applicable</i>, they apply only to a <i>particular</i> matter and circumvent potential <i>legal remedies</i> that could be provided by ordinary courts” (Taseva 2021, 16–17).</p>
Individualised or personalised laws	Csanádi et al. (2022), Drinóczi and Bień-Kacała (2021), Szente (2019), Zoldan (2018)	<p>“<i>Individualized</i> legislation is often, but not always, considered <i>special</i>. Moreover, legislation that <i>targets</i> more than one person, like two accused co-conspirators or a handful of corporations, also can be considered special, <i>whether or not the statute specifically names its targets</i>” (Zoldan 2018, 415).</p> <p>“Personalized legislation is a tool that helps the leading <i>political power</i> to secure key positions for its loyal friends” (Drinóczi and Bień-Kacała 2021, 120).</p> <p>“Another special characteristic of today’s legislative practice is the <i>personalised</i> law-making. These laws provide <i>privileges</i>, exemptions or special entitlements for certain persons (usually politicians), giving loopholes and <i>exceptions to the general rules</i>” (Szente 2019, 1616).</p>
Custom-tailored laws	Csanádi et al. (2022), Magyar (2016), Magyar and Madlovics (2020), Wright et al. (2022)	<p>“Custom-tailored laws that mostly served as a framework for any subsequent <i>manipulation</i>, as well as laws that generally support the functioning of the mechanisms of state <i>corruption</i>” (Magyar 2016, 264).</p> <p>“Instead of identifying its <i>target by name</i>, a unique quality, it <i>circumscribes</i> its target by listing many different qualities, each shared by several different actors but in the given combination <i>unique to the target</i>” (Magyar and Madlovics 2020, 292).</p>
Ad hoc laws	Handrlica et al. (2022), Jasiak (2011), Pap (2019)	<p>“Laws resulting from the legislature’s attempt to achieve a particular <i>politically expedient</i> outcome in one specific case by exempting this case from the existing <i>general rules</i> or (unexpectedly) changing the inconvenient rules as such if they stand in the way of that outcome” (Jasiak 2011, 5).</p>

<sup>19</sup> “Insofar as, under this Basic Law, a basic right may be restricted by or pursuant to a law, such law must apply generally and not merely to a single case. In addition, the law must specify the basic right affected and the Article in which it appears.”, <https://bit.ly/3IeJpE4>.



The most common concepts in the English-language literature are summarised in Table 2. In several works on the characteristics of post-communist regimes, Magyar discussed tailor-made—in his terminology, custom-tailored—laws. In one such instance (Magyar and Madlovics 2020, 292) defined these as laws which “instead of identifying its target by name, a unique quality, it circumscribes its target by listing many different qualities, each shared by several different actors but in the given combination unique to the target”. Similarly, according to Jasiak (2011, 5), ad hoc laws emerge from the legislature’s efforts to secure a desired policy outcome in a particular case, either by exempting the case from the prevailing general rules or by changing inconvenient rules that impede the desired outcome. Perfetti, Pomahač and Hoxhaj, among others, provide similar, more or less overlapping definitions (see Table 2).

The notion of targeting is a critical element of TMLs in other conceptual frameworks as well (see Table 3). These narrowly focus on specific issues, individuals, or groups, often indicating favouritism or serving particular interests. Consequently, these terms are more or less synonymous with TMLs (Bakó 2021; Mendenhall 2022; Tacik 2019; Zoldan 2018). It is important to note, however, that the literature suggests that targeted legislation, in a positive sense, can be used to address specific and unique challenges faced by certain groups or in particular areas. These provide targeted solutions that cannot be effectively addressed by more general or universal legislation (see, e.g. Huberfeld 2018) or tackle local issues that require local solutions (see, e.g. Zoldan 2018).

As the abovementioned terminology of TMLs is far from universally accepted, we can find additional terms such as targeted, bespoke or bent laws and special laws (see Table 3) applied to the same phenomena. The “special law” moniker is also used in a completely different sense: the *lex specialis* principle (*lex specialis derogat legi generali*) is a fundamental concept in legal theory, which states that special law prevails when special and general laws conflict.

**Table 3** Concepts related to legislative targeting

Concept	References (selection)	Definition
Targeted laws	Bakó (2021), Tacik (2019)	“Masking an individual norm, [...] <i>under the guise</i> of a general one” (Tacik 2019, 59). “Some have a wider, some have a narrower scope but the intention behind them is always the same: to <i>punish the enemies</i> or favour the friends of the government [...]” (Bakó 2021, 44).
Bespoke or bent laws	Csanádi et al. (2022), Handrlica et al. (2022)	“Diffusion of <i>political capture</i> is served by bended (bespoke) laws. These laws are created to support the government’s purposes in any subfield actually designated” (Csanádi et al. 2022, 42). “The bespoke law may also obstruct decisions made by the EU or the opposition’s bill suggestions according to the <i>government’s interests</i> ” (Csanádi et al. 2022, 43).
Special laws	(Mendenhall 2022), Zoldan (2018)	“Legislation that singles out an <i>identifiable individual</i> for benefits or harms that do not apply to the rest of the population is called “special legislation” (Zoldan 2018, 415).



**Table 4** Case-specific concepts of tailor-made laws

Concept	References (selection)	Definition
Ad personam laws	Albertazzi (2009), Dallara (2015), Körösényi and Patkós (2017), La Torre (2015)	<p>“Ad Personam legislation refers to laws that are suspected of <i>servicing the interests</i> of one person rather than the <i>wider community</i>” (Albertazzi 2009).</p> <p>“[A]n ad personam law, <i>tailored to a specific individual</i>, would count as an aberration – an <i>arbitrary</i> exercise of power [...]” (La Torre 2015, 249).</p>
Ad hominem laws	Bárd et al. (2022), Casarosa and Moraru (2022), Elósegui (2021), Joseph (2014), Kosař and Šipulová (2018)	<p>“Ad hominem laws that are <i>tailored to certain individuals</i> are in clear <i>breach</i> of the Rule of Law” (Bárd et al. 2022, 17).</p> <p>“Governments resort to ad hominem legislation when <i>expedience</i> speaks loudest. Such legislation need not always impose a <i>detriment</i> but may also confer a <i>benefit</i>. [...] Such legislation may be vigorously defended <i>politically</i> but it does nothing to promote <i>respect for the law</i>” (Joseph 2014, 225).</p>

Finally, ad personam and ad hominem laws are also synonyms<sup>20</sup> used in the literature in the context of specific cases (see Table 4). The expression of ad personam law—popularised by the media—is strongly associated with the leadership of former Italian prime minister Silvio Berlusconi. It describes the creation of laws serving some target individual’s specific interests, in most cases, that of the introducer (Albertazzi 2009; Dallara 2015; Körösényi and Patkós 2017; La Torre 2015). In Hungary, the concept of ad hominem laws is most commonly linked to the Baka v. Hungary case. The European Court of Human Rights, in its judgement,<sup>21</sup> highlighted the use of ad hominem legislative amendments by the Hungarian government to remove András Baka from his position as Chief Justice as a violation of human rights principles and the rule of law (Bárd et al. 2022; Casarosa and Moraru 2022; Elósegui 2021; Kosař and Šipulová 2018).

Besides providing elements for the positive definition of TMLs, it is also important to delineate the boundaries of this concept. We argue that TMLs are not normatively malign under all conditions, as there are instances where targeted legislative action is necessary. Examples of such legislation include statutes establishing national institutions and defining their respective roles and responsibilities. In addition, there are individual norms that deal with specific cases without falling into the category of tailor-made legislation examined in our study, such as budget laws or certain laws relating to state of emergency. These examples illustrate that while tailor-made legislation can pose normative challenges in certain contexts, it can also serve legitimate and necessary functions when applied appropriately.

<sup>20</sup> Ad personam and ad hominem mean “to the person”. Since ad hominem is also used to describe an attack on an opponent’s character (*argumentum ad hominem*), the term is interpreted as “against the person” rather than its original Latin meaning.

<sup>21</sup> App no. 20261/12, IHR 3953 (ECHR 2016), 23rd June 2016., <https://bit.ly/3T9vtlg>.



There are also bordering concepts and institutions in some jurisdictions which call for a more nuanced analysis. One such type is a “private bill” or “private act” (Bernhard and Sulkin 2018; Zander 2004). These are primarily associated with the Anglo-Saxon legal tradition (common law). In our view, there are three ways in which private bills can be distinguished from TMLs. First, private bills serve to address individual claims against the government, encompassing matters such as veterans’ benefits, military awards, intricate tax disputes or immigration issues (Bernhard and Sulkin 2018, 159–167, 235). Conversely, TMLs serve the government’s discretionary carrot-and-stick policy.

Second, while TMLs are typically designed with the impression of generality, private bills are not disguised as general. Once adopted and promulgated, they become private acts, not public acts (Zander 2004, 2). Third, one of the constitutional concerns raised against TMLs is that they tend to restrict due process and exclude effective judicial protection and remedy for those affected. In the case of private bills, after they have been introduced, people or organisations (known as “objectors”) can object to the bill if they believe (and can prove) that they will be unfairly affected by it (Zander 2004, 58).

## **The concept and operationalisation of tailor-made laws**

Based on our review of the extant literature, we define a tailor-made law as a piece of legislation (covering both bills/draft laws and adopted laws) that codifies an individual case under the guise of a general rule. These laws are designed directly or indirectly to affect only certain individuals or institutions, thereby potentially disadvantaging or favouring their target at the expense of the broader public interest (see Fig. 1). The definition, therefore, references disadvantages and benefits (economic-material or political) and the contradiction of public and private interests.



Tailor-made laws			
		Subject	
		Person	Institution
Effect	Benefit	Benefitting an individual	Benefitting an institution
	Disadvantage	Disadvantaging an individual	Disadvantaging an institution

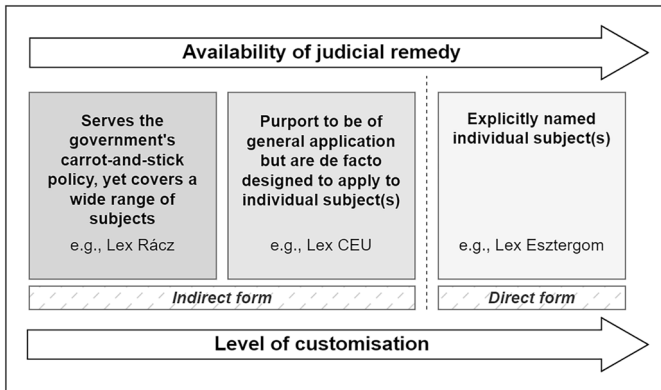
Fig. 1 The matrix of tailor-made laws

It is also an arbitrary exercise of power (in contradiction to the rule of law in general, or the constitution in particular), compounded by the fact that the intent is disguised (in most cases, no direct reference is made to the targeted individual or institution). However, it is not intrinsic to the definition whether the target is a person or institution or whether a positive or negative effect is exerted on the target. Based on our conceptual work, these constitute the types of TMLs. Yet the respective boundaries are not always clear-cut, as these laws often advantage one person or institution while simultaneously disadvantaging another, revealing the selective benefits and detriments that accompany such legislation.

On the one hand, a positive effect can be exerted by rewarding individuals loyal to the government, such as the bestowal of key public positions and immunities and providing preferential treatment to institutions and companies aligned with the government's interests. On the other hand, negative effects can be achieved by punitive measures against non-loyalists, including curtailing their powers, removing them from their positions and obstructing competitors of those aligned with the government. Consequently, TMLs represent a substantial challenge to fundamental legal principles: they undermine the rule of law, the generality of law, principles of equality, and legal certainty and often bypass judicial remedy. Due to the latter, this practice also contradicts the principle of the separation of powers.

The normative strength of these critiques of TMLs depends on their attributes regarding the availability of judicial remedy (we return to the normative implications





**Fig. 2** The degrees of the customisation of laws

of our definition, typology and cases in the Discussion). This is in a linear relationship with the level of customisation (see Fig. 2). In their most overt form, TMLs explicitly mention the individual subject(s) in the text of the law, thus openly contradicting the principle of generality. Due to its direct manifestation, it is also the least common form. We briefly illustrate the three levels of customisation and availability of legal remedy with three examples from Hungary.

The so-called Lex Esztergom of 2011 was a case of explicitly targeted TMLs (direct form).<sup>22</sup> The newly elected independent mayor of the Hungarian town inherited a substantial financial burden from the previous Fidesz-led local government. Despite the urgent need for joint efforts to tackle the city's financial challenges, Fidesz representatives refused to cooperate with the new administration. The solution of the governing majority was to pass a law to nationalise certain municipal services and institutions. Uniquely, this law applied only to Esztergom, distinguishing it from the other 3200 settlements in Hungary.<sup>23</sup> However, Lex Esztergom was repealed following the election victory of the candidate of Fidesz in 2014 (Magyar 2016, 119).

A more sophisticated approach is to claim a general application for the text of the law but design it to apply only to a limited group of persons or institutions (indirect form). Act XXV of 2017, known as Lex CEU, was an amendment to the Higher Education Act that re-regulated the operation of foreign higher education institutions in Hungary. The Central European University (CEU) was not explicitly

<sup>22</sup> See Act CLXXXVI of 2011 on the takeover of certain institutions of the Local Government of Esztergom City, <https://bit.ly/3SiRgoI>.

<sup>23</sup> Tenytár.blog (2012) *Lex Esztergom—egy város államosítása [Lex Esztergom—nationalisation of a city]*, <https://bit.ly/4bpwNHZ>.



mentioned in the text of the law, but most of the provisions referred only to it, as later confirmed by the Venice Commission's investigation.<sup>24</sup>

Lex Rácz, the case mentioned in the Introduction, is an example of the least obvious form of TMLs. The characteristics specified in this law did not apply to just one person or institution (indirect form) yet served the government's discretionary carrot-and-stick policy. In such scenarios, the legislature can conceal its actual intent so effectively behind the guise of generality that it can manipulate the law at will, essentially leaving no tangible opportunity for legal remedy. In the case of Lex Rácz, many people (e.g. every law student) met the amendment's conditions. However, in that case, customisation was evident in the fact that the person selected to hold the position had been announced before the amendment was introduced, and the conditions of appointment were only subsequently modified.

## Empirical case studies

### Case selection

In the CEE region, illiberalism and democratic backsliding can be observed as a deviation from liberal democratic norms in many domains (Bochsler and Juon 2020; Bugarič 2019; Halmai 2019; Rupnik 2023). These include the undermining of the rule of law, restricting the media and civil society, sustained attacks on human rights, and electoral rules (Bozóki and Hegedűs 2018). It is important to note that each CEE country experienced these failures to varying degrees, and the practice of adopting TMLs did exist in nominally liberal periods as well.

However, the dozens of "Lex"-s mentioned in the media of these countries under illiberal leaders is remarkable (since 2010, for the Hungarian case alone, we could find 70 such legitimate claims—see Appendix A). At the same time, that could only be found in isolated cases under previous governments. This signals that at least in the case of Hungary, the advent of illiberalism resulted in wide-spread usage of TMLs, making them a prime candidate as an empirical marker of legislative backsliding.

In what follows, we present eight cases from Czechia, Hungary, Poland, and Slovakia to illustrate the four types of TMLs (see Fig. 3). These mini-case studies allow for further refining of the conceptual framework by presenting both clear-cut and more controversial cases and help the assessment of the prevalence of TMLs in the region.

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<sup>24</sup> CDL-AD(2017)022, Hungary—Opinion on Article XXV of 4 April 2017 on the Amendment of Act CCIV of 2011 on National Tertiary Education, endorsed by the Venice Commission at its 112th Plenary Session (Venice, 6–7 October 2017), <https://bit.ly/48scruN>.



Tailor-made laws			
		Subject	
		<i>Person</i>	<i>Institution</i>
Effect	<i>Benefit</i>	<p>Lex Tiborcz (2015, Hungary)</p> <p>Lex Lipšic (2020, Slovakia)</p>	<p>Lex Mahir (2010, Hungary)</p> <p>Lex Váhostav (2015, Slovakia)</p>
	<i>Disadvantage</i>	<p>Lex Szász (2003, Hungary)</p> <p>Lex Babiš I-II. (2017; 2023, Czechia)</p>	<p>Lex RTL (2014, Hungary)</p> <p>Lex TVN (2021, Poland)</p>

Fig. 3 Case studies on tailor-made laws

Starting with institutional targets, Lex RTL and Lex TVN are classic illiberal TMLs aimed at creating a media hegemony. Given the limited number of national television channels or companies with specific types of revenues, these are ideal–typical cases of disadvantageous institutional targeting. One of the aims of dismantling existing institutions and reducing market shares is to fill the void with loyal institutions. The Lex Mahir case is a prime example of such market capture. In contrast, the story of Lex Váhostav is murkier and allows for multiple interpretations, from beneficial intervention to unwarranted rent-seeking.

As for personal targets of TMLs, the Hungarian case of Lex Tiborcz once again offers a clear-cut interpretation: the prime minister’s son-in-law is the direct (and only) beneficiary of illiberal re-regulation. A counterpart to this is Lex Lipšic, where the beneficiary was a star lawyer who was supposed to take on the political connections of the mafia. One side argued that the goals justify the means. In contrast, those critical of the appointed raised legitimate ad hominem concerns regarding previous legal troubles and lack of experience in the prosecutor’s role.

Finally, we also present two cases (Lex Szász and Lex Babiš) where the political rivals of Orbán and Babiš, respectively, moved along legislation to disadvantage an



appointee of the leader (in the former case) or the leader himself (in the latter case). These cases show that TMLs are not unique to neither the illiberal era started in the 2010s or to right-wing populists as a whole. In the light of these—and many other considered cases—we argue that the proliferation of tailor-made laws makes them a potentially important symptom when analysing legislative backsliding (Sebők et al. 2023) associated with illiberal leaders.

### **Lex RTL: a Hungarian case for disadvantaging an institution**

In some cases, the question of whether the law is an instance of the government's discretionary carrot-and-stick policy does not pose a particularly difficult puzzle. A prime example is Lex RTL from Hungary, related to the broadcast channel with the most viewers in the country. RTL had a liberal editorial stance, and it was long a thorn in the side of Orbán's illiberal regime. On 2 June 2014, the government introduced a bill (T/154.) on Advertising Tax.<sup>25</sup> The original bill had already been fast-tracked through the legislature under an exceptional procedure, and shortly after its promulgation, on 30 June, the government scheduled an extraordinary parliamentary session to amend it.<sup>26</sup>

The most important part of Lex RTL was the one obliging RTL to pay extra taxes. Previously, it had been inadvertently exempted, along with the government-associated TV2, the other big channel, from paying the tax, and it had been ruled that the accumulated losses could reduce the advertising tax. However, the amendment ensured that RTL (and only RTL) had to pay the new tax, as profitable companies could not apply the tax deduction rule from then on.<sup>27</sup> In response to the amendment, RTL issued a statement claiming that the legislative intent was to make it impossible for RTL to operate. To achieve this, the government was not “afraid to use measures that restrict free competition, the market economy and the freedom of the press”—the channel claimed.<sup>28</sup>

Legal scholars also suggested that the advertising tax could have breached EU law (Jakab and Sonnevend 2014). They argued that significant taxes beyond the standard tax rates may have infringed on the freedom of expression enshrined in the European Convention on Human Rights and the Charter of Fundamental Rights of the EU through their influence on the operation of media enterprises.<sup>29</sup>

Even though the special tax was eventually not adopted—possibly due to lobbying from the German government—it was a clear case of targeting “enemy” institutions. After initially failing to draft the law to punish only RTL, it was suddenly amended a few days later to accomplish just that. Furthermore, it was a creative case of customisation, veiling the real legislative intent in an intricate tax policy measure.

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<sup>25</sup> See the text of the bill T/154., <https://bit.ly/49YnYDp>.

<sup>26</sup> See the original Act XXII of 2014 on Advertising Tax, <https://bit.ly/3wpTtYn>.

<sup>27</sup> Index (2014) *Módosítják a reklámadót: mégis fizethet az RTL* [Changes to the advertising tax: RTL can still pay], <https://bit.ly/42IKTjy>.

<sup>28</sup> Index (2014) *RTL: Lex RTL született* [RTL: Lex RTL was born], <https://bit.ly/3T3fvJb>.

<sup>29</sup> The Wall Street Journal (2014) *EU Concerned Hungary's Advertising Tax May Curb Media Freedom*, <https://bit.ly/3uw9D1V>.



## Lex TVN: a Polish case for disadvantaging an institution

The counterpart of the Hungarian case in Poland was the Lex TVN (Act of 11 August 2021 on the amendment of the Broadcasting and the Cinematography Act).<sup>30</sup> This became a cause célèbre as Kaczyński's Law and Justice Party pursued media ownership reforms that restricted control of television and radio broadcasting companies to entities within the European Economic Area.<sup>31</sup>

The government stated that it aimed to prevent potential media takeovers by non-EU countries such as Russia, China, and the Arab states. Critics argued that the amendment targeted Discovery, the American owner of the TVN group, mainly because it served as the main television platform for the opposition. The TVN24 news channel was part of the TVN Group, which was founded by Polish entrepreneurs and sold to US-based Discovery (later: Warner Bros. Discovery) in 2018. Regarding viewership, TVN24 was the leading Polish news channel, ahead of the state-controlled TVP Info.<sup>32</sup>

The bill was criticised as it was an attempt to silence critical voices and a direct attack on media pluralism, violating fundamental rights under the Charter of Fundamental Rights of the EU, the EU Treaties, as well as EU internal market legislation and international human rights and trade law.<sup>33</sup> The bill was part of a broader push to “repolonise” the media in Poland by reducing foreign ownership.<sup>34</sup> On 18 December 2021, the Sejm passed the controversial media bill, overriding the Senate's veto. However, on 27 December 2021, Polish President Andrzej Duda vetoed it under international pressure.<sup>35</sup> The veto was welcomed by the EU, the U.S. and opposition parties as a victory for media freedom.

## Lex Mahir: a Hungarian case for benefiting an institution

When it comes to campaigning, besides media ownership, illiberal political parties put a premium on billboard presence. It was in this context that in November 2010, the Hungarian government introduced a bill (T/1746.) to amend certain traffic laws.<sup>36</sup> According to its explanatory note, the amendment was necessary to reduce the number of traffic signs along roads that posed a safety hazard. At that time, the ESMA Group owned the vast majority of billboard advertising on street lighting and electricity poles. Mahir Zrt., the company of Lajos Simicska, a former party finance

<sup>30</sup> Ustawa z dnia 11 sierpnia 2021 r. o zmianie ustawy o radiofonii i telewizji oraz ustawy o kinematografii, <https://bit.ly/3UI04rl>.

<sup>31</sup> Marcisz, Paweł (2021) *The Lex TVN and the end of free media in Poland*, <https://bit.ly/4bFtGvd>.

<sup>32</sup> Brylak-Hudyka, Kamila (2022) “Lex-TVN” – Quo vadis, Poland?, <https://bit.ly/48A0681>.

<sup>33</sup> Deutsche Welle (2021) *Poland's parliament passes media bill*, <https://bit.ly/310DeDC>.

<sup>34</sup> International Press Institute (2023) *Poland: Media regulator probe into TVN documentary sparks renewed licence concerns*, <https://bit.ly/4bTfzTx>.

<sup>35</sup> Welt (2021) *Präsident Duda stoppt Mediengesetz per Veto [President Duda stops media law by veto]*, <https://bit.ly/3I046np>.

<sup>36</sup> See the text of the bill T/1746., <https://bit.ly/3SDIlyE>.



chairman of Fidesz and Orbán confidant, wanted to buy the company, but they could not agree on the price. Thus, the deal did not go through.<sup>37</sup>

The amendment passed in December 2010 banned billboards on street lighting and electricity poles to force ESMA out of the market.<sup>38</sup> A year later a government decree also required the removal of advertising billboards already in place. Lex Mahir aimed to favour Simicska's own advertising company and make it impossible for the competition to operate. The amendment reduced ESMA Group's turnover to a fraction of its previous revenue and made the highly profitable company a loss-making enterprise.<sup>39</sup> In a few years, another Fidesz-aligned oligarch bought the remainder of ESMA, and with Lex Garancsi (named after the businessman), the ban on billboard advertising was reversed without any justification.<sup>40</sup>

### **Lex Váhostav: a Slovak case for benefitting an institution**

The case of Lex Váhostav of 2015 offers a less imminent political interpretation. Váhostav-SK a.s. was indebted for millions of euros to numerous unsecured creditors, predominantly small and medium-sized enterprises serving as subcontractors in its public procurement contracts with the government. Initially, Váhostav proposed a significant reduction, an 85% haircut, which led to widespread discontent among the creditors and the broader public, thus prompting the government to intervene.<sup>41</sup> To defuse the escalating situation with creditors, the government proposed a swift solution, suggesting the purchase of outstanding debts. Under the pretext of helping certain unsecured creditors through the restructuring, the amendment to the Act on Bankruptcy and Restructuring and the Commercial Code was adopted by the National Council on 23 April 2015.<sup>42</sup>

While creditors well received this quick reaction, the short-termist solution has sparked debate among legal scholars<sup>43</sup> who regarded the case to be a precedent future state bailouts of irresponsible companies and inducing moral hazard (Takáč and Kordoš 2015). In sum, Lex Váhostav was a case where the reason for law-making was to benefit of a non-state actor. Still, the regulations were nevertheless framed in general terms (Gábriš 2019, 108) and, therefore, partly disguised its tailor-made nature.

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<sup>37</sup> Origo (2011) *Plakátháború: eltűnnek a hirdetőtáblák a villanyoszlopokról* [Billboard War: removing street advertising billboards from electricity poles], <https://bit.ly/49g6cLM>.

<sup>38</sup> See Act CLXXII of 2010 amending certain laws relating to traffic, <https://bit.ly/49C6coW>.

<sup>39</sup> Origo (2011) *Plakátháború: eltűnnek a hirdetőtáblák a villanyoszlopokról* [Billboard War: removing street advertising billboards from electricity poles], <https://bit.ly/49g6cLM>.

<sup>40</sup> Átlátszó (2015) *A Lex Simicska és a Lex Garancsi: a magyar állam letörőhetetlen szégyenei* [Lex Simicska and Lex Garancsi: the indelible shame of the Hungarian state], <https://bit.ly/48pV9hD>.

<sup>41</sup> The Slovak Spectator (2015) *Unsecured creditors to get more*, <https://bit.ly/49q0Hdt>.

<sup>42</sup> 87/2015 Z. z. ktorým sa mení a dopĺňa zákon č. 513/1991 Zb. Obchodný zákonník v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony, <https://bit.ly/42Ihztr>.

<sup>43</sup> Új Szó (2015) *Megszületett a "lex-Váhostav"* [The "lex-Váhostav" was born], <https://bit.ly/3OOAmh2>.



## Lex Tiborcz: a Hungarian case for benefitting an individual

Lex Tiborcz in Hungary provides as straightforward a case of a TML positively targeting a person as it gets. The pre-2015 text of the Public Procurement Act stipulated that—except for public limited companies—an organisation could not participate in the procedure if it was owned by—among others—the President of the Republic, the Prime Minister or a minister.<sup>44</sup> The same applied to family members defined as “the close relative, the cohabitant, the spouse of a lineal relative, the lineal relative and the sibling of the spouse, and the spouse of the sibling”.<sup>45</sup>

According to this definition, the husband of prime minister Orbán’s daughter, István Tiborcz, was considered a relative. Lex Tiborcz<sup>46</sup> was adopted to fix this “problem” by replacing the term “relative” with “relative living in the same household”. Although the bill was introduced on 30 November 2015, and the adopted law came into force on 12 December (the day after its promulgation), a retroactive provision was introduced to make the amendment effective from 1 November 2015.<sup>47</sup>

According to the government’s interpretation, this amendment only tightened up previous provisions: they claimed that the original regulations extended the scope of conflict of interest to include relatives in a way that raised constitutional concerns because it did not specify which close familial relationships would be considered impermissible. Interestingly, the original text of the law, in fact, defined precisely those excluded from bidding, including close relatives of public officials and heads of state institutions.<sup>48</sup>

In the aftermath of Lex Tiborcz, the European Anti-Fraud Office (OLAF) investigated a series of tenders won by his companies, and domestic police authorities launched an investigation into four public procurement cases in relation to Elios Innovative Zrt. (the company owned by Tiborcz).<sup>49</sup> OLAF concluded its investigation in December 2017. Its report revealed several irregularities and identified organised fraud.<sup>50</sup>

## Lex Lipšic: a Slovak case for benefitting an individual

Lex Lipšic<sup>51</sup> from Slovakia is a similarly trivial case of positive personal targeting, albeit with less clear implications for illiberal legislative backsliding. In 2020,

<sup>44</sup> See Article 25, Sect. 4 in the original text of the Act CXLIII of 2015 on Public Procurement, <https://bit.ly/3T5HND9>.

<sup>45</sup> See Article 8:1, Sect. 1, point 2 of the Act V of 2013 on the Civil Code, <https://bit.ly/4bFjCm1>.

<sup>46</sup> Article 25, Sect. 4 in the text of the amended Act CXLIII of 2015 on Public Procurement, <https://bit.ly/49AOT7K>.

<sup>47</sup> HVG.hu (2015) *Lex Tiborcz után: végleg mutyiország leszünk?* [After Lex Tiborcz: Will we irrevocably turn into a crony state?], <https://bit.ly/3T8aEXu>.

<sup>48</sup> Index (2015) *Az OLAF is nyomoz Tiborczék milliárdos kavarásai miatt* [OLAF is also investigating the Tiborczs’ billionaire shenanigans], <https://bit.ly/3T8aWO4>.

<sup>49</sup> Index (2015) *Nyomoznak az Elios milliárdos győzelmei miatt* [Elios’ multi-billion forint winnings under investigation], <https://bit.ly/3BTiRq>.

<sup>50</sup> See the Final Report OCM(2017)26,804—22/12/2017 of the OLAF, <https://bit.ly/3uXbpcw>.

<sup>51</sup> 241/2020 Z.z. ktorým sa mení a dopĺňa zákon č. 153/2001 Z.z. o prokuratúre v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony, <https://bit.ly/3ULg23P>.



Slovakia's four-party coalition led by populist-conservative Prime Minister Igor Matovič amended the rules for nominating top state prosecutors. This was immediately dubbed as Lex Lipšic in the press. The law was tailor-made to allow a pro-government star lawyer and former minister of justice, Daniel Lipšic, to run for the post of special prosecutor.<sup>52</sup> The original law<sup>53</sup> only allowed prosecutors in office to be elected as Special Prosecutor. Lex Lipšic was pivotal in ensuring that the candidacy from outside the prosecutors' field, such as that of Lipšic—who emerged as the only such candidate—was not impeded.

For critics, Lipšic's appointment was a clear partisan move that brought politics into the Prosecutor's Office. The concerns of a strange coalition of opposition politicians—including illiberal Fico—and anti-corruption watchdogs, such as the local chapter of Transparency International, were manifold.<sup>54</sup> On the one hand, they criticised Lipšic for his political ties and lack of independence, given his close relations with several members of the ruling coalition, including Matovič.<sup>55</sup> On the other hand, he lacked experience as a prosecutor, which was a legitimate concern. (A similar case—Lex Varga Zs.—in Hungary emerged in 2021 when the government appointed a constitutional judge, András Zs. Varga, with no judicial and court management experience, to the head of the Curia, the Supreme Court.<sup>56</sup>)

Furthermore, Lipšic, as a lawyer, was involved in several high-profile cases (such as the one related to the murder of journalist Ján Kuciak in 2018), some of which were ongoing at the time of his appointment.<sup>57</sup> Lipšic also faced criticism due to a prior felony conviction for causing the death of a pedestrian at a crossing with his car. Consequently, he was serving a suspended prison sentence at the time Lex Lipšic was adopted.<sup>58</sup> Although the murder charge was for negligence, critics pointed to Lipšic's hypocrisy: as Minister of Justice, he demanded unconditional punishment for similar crimes committed by others.<sup>59</sup> The case of Lex Lipšic (and Lex Rácz before) points to a unique subtype of TMLs positively targeting individuals: appointment-related customisation.

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<sup>52</sup> Die Presse (2021) *Ex-Politiker wird Anti-Mafia-Staatsanwalt der Slowakei* [Ex-politician becomes Slovakia's anti-mafia prosecutor], <https://bit.ly/3I2b4YS>.

<sup>53</sup> 153/2001 Z.z. Zákon z 28. marca 2001 o prokuratúre, <https://bit.ly/49gBty4>.

<sup>54</sup> The Slovak Spectator (2021) *An enemy of Kočner with many friends in politics. Daniel Lipšic is the new special prosecutor*, <https://bit.ly/3SMRUeq>.

<sup>55</sup> SMER (2020) *Lex Lipšic*, <https://bit.ly/42GkiDP>.

<sup>56</sup> Hungarian Helsinki Committee (2021) *The appointment of András Zs. Varga: not even the UN was provided with an explanation by the government*, <https://bit.ly/3T3hEEQ>.

<sup>57</sup> Kafkadesk (2021) *Meet Daniel Lipsic, the new special prosecutor leading the charge against corruption in Slovakia*, <https://bit.ly/3wmGwyq>.

<sup>58</sup> The Slovak Spectator (2017) *Ex-minister Daniel Lipšic gets suspended sentence for car-crash manslaughter*, <https://bit.ly/42I9K6U>.

<sup>59</sup> SMER (2020) *Lex Lipšic*, <https://bit.ly/42GkiDP>.



## Lex Babiš I-II: a Czech case for disadvantaging an individual

The two waves of the Lex Babiš case in Czechia are less straightforward to interpret from a typological or normative standpoint. In 2017, after a two-year-long legislative process, Andrej Babiš (at the time, finance minister and deputy prime minister) was threatened by losing access to public procurements by an amendment to the Act on Conflict of Interest (Lex Babiš I).<sup>60</sup> The billionaire business magnate-turned-politician owned Agrofert Holding, a major Czech conglomerate, which was the beneficiary of both EU and domestic public procurements. The original bill had been introduced by the government in 2015. The amendment was supported not only by the opposition but—apart from Babiš's ANO 2011 party—also by two parties of the three-party coalition of Bohuslav Sobotka. In response to the adopted (but not yet in effect) amendment, he ended up placing his shares of his companies in trust funds.<sup>61</sup>

The Chamber of Deputies, the lower house, had initially adopted the amendment. Then it was returned twice: first, the Senate sent it back on technical issues, and next, Miloš Zeman, the president, vetoed it on merit.<sup>62</sup> However, the presidential veto was overridden in the legislature in January 2017 (still before the premiership of Babiš's). Subsequently, the Act was challenged before the Constitutional Court by the president and Babiš's party (their objections were rejected in 2020).<sup>63</sup>

The second wave of targeting Babiš, in opposition since 2021, arrived in 2023 as the amendment of the aforementioned law. Lex Babiš II restricted politicians from offloading media holdings to close associates or into trust funds.<sup>64</sup> As the history of these amendments shows, Babiš was able to circumvent the legislative intent of the first one in practical terms. Further customisation was therefore necessary, but it came with the dissolution of any doubt that the initiative was targeted at a single person and was politically charged.

As a side effect, it also impacted tens of thousands of other public actors (Gábriš 2019, 108). The normative evaluation of this is a thorny issue, given that the inherent positive aspects of transparency are juxtaposed with legitimate business interests of the wider political class. Furthermore, the case highlights how opponents of illiberal politicians can use tailor-made laws (or processes) to push back against illiberal leaders. In the context of the legal procedures levelled against Donald Trump in the U.S. after his presidency ended in 2020, this is one of the research questions that would be worth pursuing in further research.

<sup>60</sup> Zákon č. 14/2017 Sb. kterým se mění zákon č. 159/2006 Sb., o střetu zájmů, ve znění pozdějších předpisů, a další související zákony, <https://bit.ly/3T3ssmo>.

<sup>61</sup> ČT24 (2017) *Poslanci přehlasovali veto zákona o střetu zájmů [MPs override the veto of the Act on Conflict of Interest]*, <https://bit.ly/49CEQza>.

<sup>62</sup> Radio Prague International (2020) *Constitutional Court rejects proposal to annul 'Lex Babiš' conflict of interest law*, <https://bit.ly/3SCeoyQ>.

<sup>63</sup> Expats.cz (2023) *Czechia takes step towards tightening ban on politicians' media ownership*, <https://bit.ly/3uE3cK5>.

<sup>64</sup> See the text of the bill T/6236., <https://bit.ly/48kMvBb>.



## Lex Szász: a Hungarian case for disadvantaging an individual

As the sole case in our selection from before the illiberal era, on 4 November 2003, the left-liberal Hungarian government submitted a bill (T/6236.)<sup>65</sup> to amend certain acts relating to the enhanced protection of investors and depositors. As a result of the amendments, the organisational structure and management of the Hungarian Financial Supervisory Authority (PSzÁF) was radically changed.<sup>66</sup> Public commentary was quick to point out that the intended effect of the bill was to remove the president, Károly Szász. Appointed by Orbán during his first government cycle (1998–2002), Szász remained a counterbalance in the wider government setup when the new coalition took the reins in 2002.

According to the original law text, Szász's mandate would have ended immediately upon its entry into force, leaving no one to carry out certain duties during the interregnum. The bill was criticised not only by the opposition but also by the European Union,<sup>67</sup> and the adopted law was not signed by President Ferenc Mádl, who instead sent it to the Constitutional Court for review.<sup>68</sup> The Court did not find the reorganisation of the PSzÁF and the codification of an individual case by law unconstitutional, as—they reasoned—the lack of generality did not lead to unconstitutionality without violating fundamental rights<sup>69</sup> (although they found fault with another aspect of the law, unrelated to Szász<sup>70</sup>).

Finally, in May 2004, after the law had come into force, Szász was dismissed.<sup>71</sup> Later, in 2007, Szász prevailed in a labour court case against the Minister of Finance,<sup>72</sup> as the Supreme Court ruled that the employment of Szász and his deputy had been dismissed unlawfully.<sup>73</sup> Orbán, then in opposition as the leader of Fidesz, claimed in 2003 that Lex Szász undermined the country's international reputation and signalled that the corrupt “network system of the old days” was being revived.<sup>74</sup>

After 2010, Szász was reappointed to the presidency of the PSzÁF, and, in an ironic twist, he was granted other personalised privileges (such as tax benefits) through a

<sup>65</sup> See Act XXII of 2004 amending certain laws relating to the enhanced protection of investors and depositors, <https://bit.ly/3SYHgT7>.

<sup>66</sup> See Act XXII of 2004 amending certain laws relating to the enhanced protection of investors and depositors, <https://bit.ly/3SYHgT7>.

<sup>67</sup> The President of the European Central Bank sent a letter to the Hungarian Minister of Finance, complaining that the proposed amendment does not comply with EU standards and international practice. See Magyar Nemzet (2003) *Lex Szász: európai tiltakozások közepette szavaz a parlament [Lex Szász: Parliament votes amid European protests]*, <https://bit.ly/49BfWA4>.

<sup>68</sup> Index (2003) *Mádl nem írja alá a PSzÁF-törvényt [Mádl refuses to sign the PSzÁF law]*, <https://bit.ly/3wr0Ezz>.

<sup>69</sup> Decision 7/2004. (III. 24) of the Constitutional Court of Hungary, <https://bit.ly/4bDmkID>.

<sup>70</sup> 24.hu (2004) *Lex Szász – két passzus fennakadt [Lex Szász – two paragraphs stuck]*, <https://bit.ly/3SV44Dn>.

<sup>71</sup> Világgazdaság (2004) *Hatályba lépett a lex Szász [Lex Szász entered into force]*, <https://bit.ly/49xHPsG>.

<sup>72</sup> Index (2007) *Jogellenes volt Szász Károly kirúgása [The dismissal of Károly Szász was unlawful]*, <https://bit.ly/3SNI24i>.

<sup>73</sup> See, Decision Mfv. 10.802/2006/4. of the Supreme Court, <https://bit.ly/3UYUXTR>.

<sup>74</sup> Magyar Nemzet (2003) *Orbán: A bizonytalanság éve jön [Orbán: the year of uncertainty is coming]*, <https://bit.ly/49x4YeP>.



series of TMLs. In sum, *Lex Szász* is also a classic case of negative personal targeting and the flipside of the “positive” appointment cases detailed above. It also shows that TMLs are not unique neither to liberal or illiberal regimes. Their association with illiberalism and legislative backsliding is a matter of degree and prevalence.

## Discussion: tailor-made regulations and legislative backsliding

The abovementioned cases underscore the empirical relevance of our conceptualisation of TMLs for at least the early 21st-century legislative history of CEE. In this Discussion, we take up three additional and interrelated points that designate a potential theoretical application for our conceptual framework. First, we consider under what circumstances can TMLs considered to be inherently “bad” from the perspective of liberal democracy. Second, we provide some empirical considerations on the role these “bad” laws played in the legislative backsliding of Hungary.

Third, in search of an explication of the trends unearthed, we expand the analysis to lower-level regulations (such as executive orders and public procedures) and consider their relation to legislative backsliding as a whole. This chain of thought sets up our scrutiny of the external validity of our conceptual framework (whether TMLs are specific to the CEE countries) and their potentially universal role in the process of legislative backsliding in the Conclusion.

### Inherently “bad” tailor-made laws

In our presentation of the concept of TMLs, we contended that their normative analysis is less than straightforward. First, normative analysis is dependent on the level of customisation and the availability of judicial remedy, as presented in Fig. 2. Yet except for the most obvious cases—in which the legislature explicitly names the individual subject—they are difficult to challenge in courts. Ordinary legal remedies available for individual acts (e.g. court decisions, public administration decisions) are limited since a TML is formally a legislative act which is supposed to codify a general norm. Furthermore, the principle of the generality of laws has limited practical relevance in positive constitutional law. This means that constitutions generally do not empower the courts to invalidate a law merely because it is not general (Jasiak 2011:288).

Even in the case of laws dealing with specific subjects, unconstitutionality only arises in the context of a violation of fundamental rights (typically the lack of the right to an effective remedy). Therefore, the more an individual case is covered under the guise of a general norm, the more difficult it is to seek an effective remedy against such a TML. While the lack of generality and the violation of fundamental rights can be challenged in the case of direct manifestations of customisation, in the case of indirect manifestations, it may even be impossible to pursue actions by rule of law measures. In sum, negative court decisions cannot be used as (the only) benchmark to account for “bad” TMLs.

Yet, in some cases, the deliberate use of TMLs is acknowledged by their political sponsors themselves (as happened with *Lex Rác*, which was mentioned in the



Introduction). For instance, in Hungary, prominent ruling-party politicians from 2010 openly discussed the need for legislation tailored to achieve specific political goals fast, framing it as a necessary tool for a major governmental policy shift. This self-awareness indicates that the use of TMLs is not merely incidental, but a conscious strategy. The introduction of TMLs as temporary solutions may be also strategic tool as in many cases short-term solutions (as deviations from the tenets of liberal democracy) tend to stay in effect long-term, thus eroding the rule of law.

Finally, besides a long-term reliance on TMLs, their systematic utilisation (as measured by their volume and ratio of total legislative production) can also point to an ongoing process of legislative backsliding. In this article, our focus is on developing the concept of TMLs and mapping their effect on regime characteristics. However, in a mini case study, we can illustrate how such determinations could be made in future work (see Appendix A and B for more details).

### **How tailor-made laws contributed to legislative backsliding in Hungary?**

In an ideal setup, available data would allow for directly comparing the mentions related to TMLs between liberal and illiberal periods. For Hungary, these would be the pre-2010 years (generally considered to be a case of a liberal democracy) and the post-2010 era (which cover the years of the self-proclaimed illiberal system of Viktor Orbán). A search in media archives reveals mentions of “Lex”-s, such as in the case of Lex Szász above. Similarly, the amendment to the Higher Education Act (bill T/2930.), known as Lex Molnár (Act CIV of 2007), altered the age limit for academic leadership positions within universities. It allowed individuals over the age of 65 (such as Károly Molnár, then Rector of the Budapest University of Technology and Economics) to remain in position. A similar case was Lex MOL, which protected the Hungarian energy company MOL from foreign takeovers, in particular from OMV (the Austrian state-controlled energy company).<sup>75</sup>

Despite these examples, conducting a fully-fledged analysis of the pre-2010 period for Hungary is not feasible due to a lack of readily available data. Our review of the relevant literature has also not produced any conclusive evidence regarding the potential widespread or systematic usage of tailor-made laws in this period. What is clear, though, is that in that period, no one-party hegemony (or even government) existed, and that the regime was based on the basic tenets of liberal democracy—Hungary joined NATO and the European Union in this period, and none of its past prime ministers (including Orbán himself) strove for a move towards illiberalism.

All these are in stark contrast with the post-2010 period, for which we were able to conduct a mini case study (see Appendix A and B for details). We checked data collected from four Hungarian online news portals—two pro-government and two government-critical outlets (see Table 5)—covering the same period of two full years between March 29, 2021, and March 28, 2023, using a proprietary database service containing website content.

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<sup>75</sup> Economx (2007) *Bokros szerint oligarchákat véd a lex Mol* [Bokros says lex Mol protects oligarchs], <https://bit.ly/4esgp9H>.



**Table 5** Media mentions of TMLs with a validated "Lex" terminology

Outlet	Stance	Total number of articles	Text occurrences	Title occurrences	Total occurrences
24.hu	Government-critical	84,303	24	6	30
hvg.hu	Government-critical	123,622	26	3	29
index.hu	Pro-government	87,834	28	4	32
ripost.hu	Pro-government	28,731	0	0	0

First, empirical data shows a flare-up in both the volume and variety of TMLs immediately after Orbán came into power in 2010 (see Appendix B). The breakdown of hand-validated "Lex" mentions, according to outlets, also shows that the use of the term for TMLs is not limited to the rhetoric of government-critical portals. Second, although the term is prominent in non-government aligned media (24 and HVG), it was most frequently found in articles published by Index (owned by an Orbán-ally businessman) over a two-year period between 2021 and 2023 (while the other government-sympathetic one, Ripost did not yield any mentions which may partly be due to the fact that it is a tabloid outlet). Given the fact that almost all levers of power were in the hands of Orbán and his allies, and that he enjoyed a constitutional majority in parliament throughout the period, these mentions point to the potentially widespread usage of TMLs.

A superficial analysis could equate any drop in the media occurrences of TMLs after record numbers in the first few years of the Orbán regime with an increase of the democratic quality. Yet more and more matches for "Lex"-s from our analysis (such as "Lex Pázmány", which refers to a government decree in relation to the circumvention of local authority to facilitate a university development) was included on account of them not being laws but lower-level regulations. If the legislature intends to bypass legal remedies and the increased media attention associated with run-of-the-mill legislation, it can move customisation to a lower level of legal norms. Thus, the application and interpretation of the law, public procurements and contracts, public tenders, and concessions (agreements between public authorities and typically private sector companies) can also be tailor-made—and with potentially less visibility.

### **Inherently "bad" tailor-made regulations (beyond laws)**

Corruption benefitting the ruling party, a key aim of illiberal regimes in their pursuit for exclusive resources and hegemony, is many times not implemented on the regulatory level of the legislation. This is especially the case for public procurement, where contracts can be secretly steered towards preferred bidders, resulting in limited and unequal access to government procurement opportunities (Bernatt and Jones 2023, 14–16). To cite just one example from Hungary of how illiberal regimes



can avoid resorting to TMLs, we can consider the renewal of casino concessions.<sup>76</sup> In 2021, three years before the expiry date (2024), new concession contracts were signed with the Las Vegas Casino Group, owned by István Garancsi (also a protagonist in the Mahir case above) and Kristóf Szalay-Bobrovniczky (later to become Minister of Defence).<sup>77</sup>

Such a phenomenon is also common in Poland, where several notable scandals indicated a potential increase in corrupt practices among high-ranking politicians and officials in the illiberal era. During the COVID-19 crisis in April 2020,<sup>78</sup> the Ministry of Health faced a scandal for procuring overpriced respiratory equipment from E&K, owned by arms dealer Andrzej Izdebski.<sup>79</sup> Investigations by the Polish Supreme Audit Office (NIK) suggested nepotism, with contracts for ineffective personal protective equipment favouring the health minister's acquaintances and relatives.<sup>80</sup>

In Slovakia, the tender for removing fly ash from three state-owned thermal power plants was a widely discussed case. In 2009, Esco Krupina (a company linked to Fico's left-wing populist and nationalist party, Smer) won the tender despite its bid being tens of millions of euros more expensive than its competitors.<sup>81</sup> However, this was not the company's only dubious deal: when transporting wood material for the SCP Ružomberok cellulose factory, Esco replaced oak with much cheaper poplar.<sup>82</sup>

In Czechia, in 2020, Asseco Central was awarded a contract for e-motorway vignettes worth around EUR 16 million without a public tender, drawing criticism from experts who deemed it overpriced.<sup>83</sup> Vladimír Kremlík was dismissed from his post as transportation minister in connection with the issue.<sup>84</sup> Subsequently, it emerged that the state contract had a more significant purpose than merely establishing an online shop for electronic vignettes: it allegedly involved the development

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<sup>76</sup> Hungary Today (2021) *Businessmen with Close Ties to Ruling Fidesz Acquire Concession Rights to Hungary's Most Profitable Casinos for 35 Years*, <https://bit.ly/49pbhBu>.

<sup>77</sup> Szabad Európa (2021) *Még le sem jártak, de már 35 évre újrakötötték a kaszinókoncessziókat [Not yet expired, but casino concessions have already been renewed for 35 years]*, <https://bit.ly/3wwF4cJ>.

<sup>78</sup> Wyborcza.pl (2020) *Ministry of Health bought ventilators from an arms dealer. They were never delivered*, <https://bit.ly/4bMIyle>.

<sup>79</sup> Reuters (2020) *Need a ventilator? Polish arms dealer has plenty*, <https://bit.ly/3UOa6ah>.

<sup>80</sup> TVN24 (2022) *Supreme Audit Office: irregularities in health ministry's purchase of ventilators*, <https://bit.ly/3SKLuwE>.

<sup>81</sup> SME (2009) *Popolčekový tender vyhral sponzor Smeru [Smer's sponsor won the ash tender]*, <https://bit.ly/3SPU39v>.

<sup>82</sup> Pravda (2009) *Popolčekovú firmu naháňa polícia pre podvody s drevom [Police are chasing the company for timber fraud]*, <https://bit.ly/3UODb5n>.

<sup>83</sup> Ekonomický deník (2020) *Elektronické dálniční známky za 400 milionů? Zapomeňte, účet má být přes miliardu [Electronic vignettes for 400 million? Forget it, the bill is supposed to be over a billion]*, <https://bit.ly/3uIcAwg>.

<sup>84</sup> Lidovky.cz (2020) *Ministr Kremlík končí, Babiš ho kvůli dálničním známám vyhodil z vlády. Dopravu převezme Havlíček [Minister Kremlík quit, Babiš fired him from the government due to motorway vignette issue. Havlíček will take over transport affairs]*, <https://bit.ly/3SQguva>.



of a highly sophisticated surveillance system.<sup>85</sup> The government later withdrew the controversial order.<sup>86</sup>

As in the case of TMLs, the selected instances of customised public procurements and concessions are examples of the erosion of the rule of law and a shift away from liberal democracy. TMLs are but a tool in the emerging toolkit of illiberal policy-making and political governance (Bartha et al. 2020). Our analysis on how rule-making is pushed to lower levels with the explicit aim of circumventing political, media and public attention also underscores that a more comprehensive approach is necessary for drawing proper theoretical conclusions in relation to the process of legislative backsliding.

## Conclusion

In this article, we had a dual objective. First and foremost, we aimed to derive a coherent concept of TMLs from the existing literature and define its types. We defined tailor-made laws as legislation that codifies an individual case under the guise of a general rule. These laws are designed directly or indirectly to affect only certain individuals or institutions, thereby potentially disadvantaging or favouring their target at the expense of the broader public interest. Importantly, we did not assume that such legislation would be normatively good or bad, and we argued that the normative assessment of these laws is partly dependent on the availability of judicial remedy for restoring the generality of the legal norm in question.

Secondly, as a potential application for our conceptual work, we developed case studies from Central–Eastern Europe to better understand the characteristics of law-making in the shift from liberal to illiberal democracy. We showed that the proliferation of tailor-made laws is a prime candidate for the empirical markers of legislative backsliding: besides public procurements they may serve as key instruments for implementing discretionary reward and punishment policies.

In conclusion, we expand the geographical scope of our analysis to incorporate examples of TMLs and regulations from regions beyond our original focus. By doing so, we also provide a broader comparative perspective that points towards a potential universal linkage between legislation of this type and the more general process of legislative backsliding.

While systematic academic comparative analyses of TMLs are few and far between, there are some precursors to the present study in the literature produced by think tanks and advocacy groups. Notably, Transparency International conducted a research project focusing on the Western Balkans and Turkey, examining 29 TMLs between 2008 and 2019. Although the selected cases were mostly limited to corruption and state capture—whereas this article uses a broader concept of tailor-made

<sup>85</sup> Seznam Zprávy (2020) *E-shop na dálniční známky byl zástěrkou pro tajný sledovací systém* [Vignette e-shop was a front for a secret tracking system], <https://bit.ly/48sLhmk>.

<sup>86</sup> Radio Prague International (2020) *E-motorway vignette order officially cancelled, Czech trade minister dismissed*, <https://bit.ly/49Fpw4S>.



legislation—they show that tailor-made legislation was an emerging phenomenon beyond the CEE region.<sup>87</sup>

Tailor-made laws are a global phenomenon, occurring across various regime types on the autocracy-democracy spectrum (see Appendix C for more detail on the examples). This legislative approach is evident in diverse geographical and political contexts. In Argentina, the *Ley de Medios*<sup>88</sup> was implemented as a media regulation specifically targeting the Grupo Clarín conglomerate.<sup>89</sup> India's government amended the Income Tax Act in 2012,<sup>90</sup> enabling retrospective taxation of capital gains from indirect transfers of Indian assets. This amendment was notably aimed at Vodafone, the multinational telecommunications company.<sup>91</sup>

Even liberal democracies, typically associated with strong rule of law, have proposed or enacted TMLs. In Finland, *Lex Nokia*<sup>92</sup> was proposed in 2009 to allow monitoring of email traffic metadata, ostensibly to prevent trade secret leakage.<sup>93</sup> Germany enacted *Lex Facebook*<sup>94</sup> in 2017 to combat hate speech and illegal content. Here, critics argued that this law was tailored to compel social media companies to enforce German legal standards, effectively privatising law enforcement under the guise of general regulation.<sup>95</sup> These examples demonstrate that TMLs are not confined to any specific regime type or region but are a widespread legislative tool used for various purposes across different political systems.

A similar list can be compiled for lower-regulations, such as Romania's *Lex Dragnea*. A so-called emergency ordinance, initiated in 2017 by the Social Democratic Party (PSD) in Romania during Liviu Dragnea's leadership, it sought to decriminalise certain acts of corruption, particularly offenses related to abuse of office (of which Dragnea had been convicted).<sup>96</sup> These additional examples from both liberal and illiberal regimes point towards the wider theoretical relevance of TMLs and regulations in assessing their impact on regime characteristics and regime change processes, a potential application of our conceptual work. When evaluating consequences for regime change, the key difference lies in the frequency, scope, and intentions behind their implementation.

In the light of empirical evidence, especially of our more detailed presentation of the Hungarian case, one could argue that the proliferation of TMLs may be a potentially important empirical markers of legislative backsliding. In the case of Hungary,

<sup>87</sup> Transparency International (2020) *Tailor-made laws in the Western Balkans and Turkey*, <https://bit.ly/4834o98>.

<sup>88</sup> Ley N° 26.522 de Servicios de Comunicación Audiovisual, <https://bit.ly/3U4Desu>.

<sup>89</sup> Reuters (2013) *Argentina's Supreme Court upholds controversial media law*, <https://reut.rs/4dYg7r3>.

<sup>90</sup> Income-tax Act, 1961 as amended by Finance Act, 2012, <https://bit.ly/4h7mvPt>.

<sup>91</sup> Drishti (2020) *PCA Decision on Retrospective Taxation by India*, <https://bit.ly/4f3gnWA>.

<sup>92</sup> Act on Protection of Privacy in Electronic Communications (516/2004), <https://bit.ly/3YhVGAp>.

<sup>93</sup> Yle (2019) *The rise and fall of 'Lex Nokia' in Finland*, <https://bit.ly/3U6LNDf>.

<sup>94</sup> Gesetz zur Änderung des Netzwerkdurchsetzungsgesetzes, <https://bit.ly/4hbRvOK>.

<sup>95</sup> Human Rights Watch (2018) *Germany: Flawed Social Media Law—NetzDG is Wrong Response to Online Abuse*, <https://bit.ly/4gXz3sx>.

<sup>96</sup> Deutsche Welle (2017) *Rumänen marschieren gegen Regierung [Romanians march against government]*, <https://bit.ly/4eFYGwj>.



the advent of illiberalism resulted in widespread usage of such legislation as well as an increase in diversity in terms of the types used. Based on this analysis, we contend that even though not all TMLs are in contradiction to the tenets of liberal democracy and rule of law, their widespread, or even systematic use may serve as key instrument for implementing discretionary reward and punishment policies.

If an empirical analysis (one that is similar to our case studies on the observation level but is more systematic and covers more data types and a wider time frame) can show for any given country clear and systemic trends towards more TMLs and/or regulations, it should be treated as a potential marker for legislative, and by definition, democratic backsliding. Then, the next question is whether such backsliding is reversible or the entrenchment of TMLs leads to irreversible legislative decline.

For this question, the end of the era of Law and Justice (PiS)-led governments in Poland in 2023 offers some insights. Efforts by the new, more liberally minded government of Donald Tusk, to reverse some of the controversial TMLs of the previous period were proceeding slower than originally planned. In the case of Lex Ziobro (a 2016 law merging the roles of Minister of Justice and that of the Public Prosecutor General for Zbigniew Ziobro, a key PiS ally), at the time of writing, the Tusk government did not manage to reverse the TML.<sup>97</sup> Given the importance of the subject for the incoming government, this tardiness shows the enduring effects of TMLs as elements of legislative backsliding.

## Appendix A: The list of tailor-made laws in Hungary

Table 6 provides a list of tailor-made laws that are referred to as "Lex" in the media in Hungary since 2010. The repository for the data can be found at: [https://osf.io/wk3pg/?view\\_only=9dece63ccfff46d3aacc6716865086](https://osf.io/wk3pg/?view_only=9dece63ccfff46d3aacc6716865086).

For the visual representation of the findings, see Fig. 4, which provides a statistical overview of the 70 identified Hungarian tailor-made laws. Figure 5 shows the distribution of tailor-made laws in Hungary between 2010 and 2024 by type of procedure. While the majority of these laws (64%) were adopted through normal procedures, the extensive use of exceptional and emergency procedures (30%) highlights the lack of sufficient time for discussion of such laws.

<sup>97</sup> TVN24 (2023) *Nie lex Kaczyński, tylko lex Ziobro? "Prace zostały zainicjowane przeze mnie" [Not lex Kaczyński, but lex Ziobro? 'The legislation was initiated by me']*, <https://bit.ly/4051L18>.



**Table 6** Tailor-made laws in Hungary since 2010

	Name	Year	Bill	Act	Description	Type	Procedure
1	Lex Baranyay	2010	T/35.	Act LII of 2010	László Baranyay resigned as a member of the Supervisory Board of the Hungarian National Bank in 2010 because he was appointed President of the Hungarian Development Bank (MFB). Under the rules in force at the time, his new position would have posed a conflict with his previous one. The Lex Baranyay overwrote the conflict of interest rules.	Benefitting an individual	Normal
2	Lex Turul	2010	T/44.	Act XLVIII of 2010	One of the first acts of the Fidesz-KDNP majority in 2010 was to simplify the approval process for public statues and artworks in Budapest. This allowed district councils to approve installations independently, retroactively legalising the installation of a controversial Turul statue in District XII.	Benefitting an institution	Normal
3	Lex Stumpf	2010	T/189.	Amendment of Act XX of 1949 on the Constitution of the Republic of Hungary (5 July, 2010)	Following a constitutional amendment that changed the selection process for constitutional judges, individuals such as István Stumpf (between 1998 and 2002, the Minister leading the Prime Minister's Office during the first Orbán government) could become members of the Constitutional Court.	Benefitting an individual	Normal
4	Lex Sláger	2010	T/360.	Act LXXXII of 2010	Sláger Radio has won a case against the National Radio and Television Commission (ORTT): ORTT acted unlawfully by accepting the application of FM1 Zrt., which operates Neo FM, for the frequency previously used by Sláger Radio, despite FM1's significant shareholding in another broadcaster. Consequently, the newly established media authority should have terminated the illegally concluded contract with Neo FM, which won the frequency bid. Instead, it introduced legislation to undermine Sláger Radio and protect Class FM and Neo FM.	Disadvantaging an institution	Normal



Table 6 (continued)

	Name	Year	Bill	Act	Description	Type	Procedure
5	Lex Gadó	2010	T/369.	Withdrawn	Gábor Gadó was deputy head of the Hungarian Competition Authority until July 2010. The proposed legislation linked the term of deputies to the term of the president, allowing not only the outgoing president, Zoltán Nagy, to be replaced but also the vice-presidents appointed in 2009 (although Gadó's term would not have expired until 2015). However, László Sólyom (President of Hungary from 2005 until 2010) refused to sign the bill and sent it to the Constitutional Court for review, where it was declared unconstitutional in October 2010.	Disadvantaging an individual	Withdrawn
6	Lex OTP	2010	T/581.	Act XC of 2010	Certain tax wedges have been modified to be the most favourable for OTP.	Benefitting an institution	Emergency procedure
7	Lex Borkai	2010	T/676.	Amendment of Act XX of 1949 on the Constitution of the Republic of Hungary (11 August, 2010)	Members of the armed forces, police and national security services were barred from standing in elections for three years after their discharge. The original amendment (T/649.) proposed a moratorium of five years, which was later withdrawn; in the new bill (T/679.), it was reduced to three years. Although it was only four years after his discharge, Lex Borkai allowed Zsolt Borkai (Olympic gymnast, Fidesz party member, and mayor of Győr) to run for mayor in the 2010 municipal elections.	Benefitting an individual	Normal
8	Lex Polt I	2010	T/1247.	Amendment of Act XX of 1949 on the Constitution of the Republic of Hungary (16 November, 2010)	The adopted constitutional amendment eliminated the possibility for parliamentary interpellation of the Prosecutor General. This amendment also increased the term of office from six to nine years and established that the election of the Prosecutor General requires a two-thirds majority in Parliament	Benefitting an individual	Emergency procedure



**Table 6** (continued)

Name	Year	Bill	Act	Description	Type	Procedure
9 Lex MAL	2010	T/1334.	Act XCIII of 2010	The company responsible for the red sludge disaster, Hungarian Aluminium Production and Trade Company (MAL Zrt.), was placed under state control and state asset seizure, allowing complete oversight of its operations. This amendment was initially aimed at MAL Zrt., but it allowed the government to take over private companies more broadly.	Disadvantaging an institution	Normal
10 Lex CBA	2010	T/1374/14.	Act XCIV of 2010	The CBA retail network was a strong supporter of Fidesz during the 2010 election campaign. The sectoral special tax laws, designed to fill the monumental deficit caused by the loss of budget revenues, included a number of concessions to groups friendly to Fidesz, including CBA.	Benefitting an institution	Normal
11 Lex Polt II	2011	T/1380.	Act CXXI of 2011	The government has ensured that the General Prosecutor does not have to retire at the age of 62, unlike other prosecutors.	Benefitting an individual	Emergency procedure
12 Lex Szász	2010	T/1447/23.	Act CXXIV of 2010	Károly Szász (former president of the Hungarian Financial Supervisory Authority (PSZÁF) between 2000–2004 and 2010–2013) was exempted from paying tens of millions in special taxes on his severance pay.	Benefitting an individual	Normal
13 Lex Felcsút / Lex Varga	2010	T/1495.	Act CLXIV of 2010	After Fidesz lost the local elections in Felcsút in 2010, new regulations were used to dismiss the independent mayor on the grounds of conflict of interest.	Disadvantaging an individual	Normal
14 Lex Járai	2010	T/1665/75.	Act CLIII of 2010	After Zsigmond Járai (Finance Minister of the first Orbán government) became chairman of the supervisory board of the Hungarian National Bank, the government wanted to increase the chairman's salary to a fixed monthly gross amount of HUF 1.2million (from HUF 300,000). However, under pressure, the law was adopted without this amendment.	Benefitting an individual	Emergency procedure



**Table 6** (continued)

Name	Year	Bill	Act	Description	Type	Procedure
15 Lex Domokos	2010	T/1665/97.	Act CLIII of 2010	The government replaced the dissolved Fiscal Council with a new three-member body. László Domokos could only become a member after an amendment was passed, as it was previously considered a conflict of interest.	Benefitting an individual	Emergency procedure
16 Lex Szapáry	2010	T/1731.	Act CXXXVIII of 2010	The amendment aimed to facilitate the appointment of György Szapáry (the Prime Minister's chief advisor) as Ambassador to Washington despite his age.	Benefitting an individual	Normal
17 Lex Mahir	2010	T/1746.	Act CLXXII of 2010	The amendment banned billboards on street lighting and electricity poles, effectively forcing the ESMA Group out of the market to favour Mahir Zrt., owned by Lajos Simicska, a close ally of Prime Minister Orbán. By drastically reducing ESMA's revenue and rendering it unprofitable, the regulation cleared the way for Fidesz-aligned interests to dominate the market, with subsequent reversals of these bans under similarly dubious circumstances.	Benefitting an institution	Emergency procedure



**Table 6** (continued)

	Name	Year	Bill	Act	Description	Type	Procedure
18	Lex Szalai	2010	T/1747.	Act CLXXXV of 2010	The parliamentary majority enacted constitutional amendment T/1940., formally establishing the National Media and Communications Authority. This amendment authorised the appointment of a president by the Prime Minister, granting the appointee a nine-year term and legislative powers. It was widely acknowledged upon the introduction of this amendment that Prime Minister Viktor Orbán aimed to secure Annamária Szalai, a Fidesz media strategist, in the presidential role of this authority for more than two legislative periods. Then, the T/1747. proposal concerning media services and mass communication provoked an international outcry. The restrictive measures on freedom of expression within this media legislation prompted Freedom House to rank Hungary at the lowest tier of the free press nations in its Freedom of the Press 2011 report, marginally above the partly free category.	Benefitting an individual	Normal
19	Lex Biszku	2011	T/4714.	Act CCX of 2011	Lex Biszku was a tailor-made law that brought political benefits, although the underlying goal was legitimate. It enabled the prosecution of Béla Biszku, a former interior minister, for his role in the 1956 events.	Disadvantaging an individual	Normal



Table 6 (continued)

	Name	Year	Bill	Act	Description	Type	Proce- dure
20	Lex Baka	2011	T/4996.	Amendment of Act XX of 1949 on the Constitution of the Republic of Hungary (1 December, 2011)	András Baka was President of the Supreme Court of Hungary until November 2011. A feature of the new Judicial Act was that it extended the terms of almost all judges except the President of the Supreme Court, whose term expired with the transformation of the Supreme Court into Curia. This matter reached the European Court of Human Rights in Strasbourg (CASE OF BAKA v. HUNGARY, application no. 20261/12), where the Court ruled that the ad hominem legislative measures which intended the dismissal of András Baka from the presidency of the Supreme Court had violated the European Convention on Human Rights.	Disadvan- taging an individual	Normal
21	Lex Esztergom / Lex Tétényi / Lex Meggyes	2011	T/5070.	Act CLXXXVI of 2011	In 2010, Esztergom's newly elected independent mayor inherited a substantial financial burden from the previous Fidesz-led local government, amounting to approximately HUF 26 billion in debt. Despite the urgent need for joint efforts to tackle the city's financial challenges, Fidesz representatives refused to cooperate with the new administration. The government's final solution, formulated in 2011, was to adopt a tailor-made law to nationalise certain municipal services and institutions. Uniquely, this law applied only to Esztergom, distinguishing it from the other 3200 settlements in Hungary. However, Lex Esztergom was repealed following the election victory of a Fidesz candidate in 2014.	Disadvan- taging an institution	Normal



**Table 6** (continued)

Name	Year	Bill	Act	Description	Type	Procedure
22 Lex Simor	2011	T/5248.	Act CCVIII of 2011	The amendment reduced the salary of the governor of the Central Bank (MNB) to HUF 2 million per month. According to the MNB, this amendment violated the Central Bank's independence as it was incompatible with the principles laid down in the Treaty on the Functioning of the European Union and completely disregarded the opinions of the European Central Bank and the MNB on the draft law.	Disadvantaging an individual	Emergency procedure
23 Lex Töröcskei	2012	T/4656.	Act CLXVI of 2012	The amendment allowed for suspending the previously applicable conflict of interest rules at the Government Debt Management Agency Ltd.	Benefitting an individual	Emergency procedure
24 Lex Continental Zrt. I	2012	T/5281.	Act CXXXIV of 2012	The aim of the Tobacco Act was to reduce the amount of cigarettes produced by multinational companies and to put Continental Zrt. in an advantageous position. Multinationals such as Philip Morris, British American Tobacco and Imperial Tobacco covered 85–90% of the market, with the rest held by Continental, the only manufacturer considered by the government to be "domestic".	Benefitting an institution	Normal
25 Lex Kovács Árpád	2012	T/6187.	Act XVII of 2012	Árpád Kovács (former president of the State Audit Office of Hungary) was invited to become president of the Fiscal Council of Hungary. At the same time, the salary of the president of the Fiscal Council was raised to almost two million forints, which was nine times the average gross monthly national income, thanks to an amendment.	Benefitting an individual	Normal



**Table 6** (continued)

	Name	Year	Bill	Act	Description	Type	Procedure
26	Lex Demokratikus Koalíció (Lex Democratic Coalition)	2012	T/6391.	Act XXXVI of 2012	The amendment raised the minimum number of MPs required to form a parliamentary faction from ten to twelve, thus preventing the Democratic Coalition (Ferenc Gyurcsány's party) from having enough MPs in the National Assembly to form its faction.	Disadvantaging an institution	Normal
27	Lex Schmitt	2012	T/6817/10.	First Amendment to the Fundamental Law (18 June, 2012)	Pál Schmitt is a Hungarian Olympic fencer and politician who served as President of Hungary from 2010 until his resignation in 2012 following a controversy over his academic misconduct. The amendment allowed the President of the Republic to be entitled to the benefits granted to former Presidents, even after the term of office.	Benefitting an individual	Normal
28	Lex Éger István	2012	T/6960/66.	Withdrawn	The amendment specifically sought to remove István Éger from the presidency of the Hungarian Medical Chamber (MOK). However, this amendment was later withdrawn, and a different version was adopted	Disadvantaging an individual	Withdrawn



**Table 6** (continued)

	Name	Year	Bill	Act	Description	Type	Procedure
29	Lex Klubrádió	2012	T/7022/35.	Withdrawn	Attempts were made to silence Klubrádió through a proposed amendment stating that if a radio station won a frequency but had not yet signed a broadcasting or media service contract with the Media Council, it would automatically be reclassified from a free community media service provider to a commercial medium. Consequently, the station would have to pay a media service fee of several tens of millions of forints per year. This reclassification was intended to be retroactive and to apply specifically to the 92.9 frequency, which Klubrádió, operating as a community radio station, had successfully applied for and been awarded by the National Radio and Television Commission (ORTT). This proposed amendment was eventually withdrawn, but the European Commission later launched infringement proceedings against Hungary in the Klubrádió case.	Disadvantaging an institution	Withdrawn
30	Lex kommunista nyugdíjak (Lex communist pensions)	2012	T/7417/2.	Act LXXXIV of 2012	The proposal withdrew the pension supplement from people whose activities before the regime change had been incompatible with democratic values. While the new rule may have brought some satisfaction to those who were persecuted or whose families were persecuted during the communist dictatorship, the number of surviving perpetrators was estimated at only a few hundred. Lex communist pensions was a tailor-made law, although the underlying goal was legitimate.	Disadvantaging an individual	Normal

Table 6 (continued)

	Name	Year	Bill	Act	Description	Type	Procedure
31	Lex L. Simon	2012	T/7653.	Act CVII of 2012	Géza Szócs, the state secretary for culture, resigned on 13 June 2012. On the same day, Zoltán Balog (then Minister of Human Resources) announced that he would appoint László L. Simon (Fidesz MP and Chairman of the Parliamentary Committee on Culture, who also headed the National Cultural Fund of Hungary (NKA)) to replace Szócs. However, running the NKA conflicted with the Secretary of State's mandate. Therefore, on 14 June, László L. Simon introduced an amendment to abolish this conflict of interest.	Benefitting an individual	Emergency procedure
32	Lex Vajna I	2012	T/8751.	Act CXCIX of 2012	The amendment allowed Digi Pictures, established by Andy Vajna (government commissioner responsible for the development of the Hungarian movie industry), to qualify for a 20 per cent indirect state subsidy for its short animated videos promoting video games in the gaming industry. As a result of this amendment, the company obtained more than HUF 157 million in tax benefits in 2013.	Benefitting an individual	Normal
33	Lex Fapál László	2012	T/9234.	Act CCV of 2012	The law stipulated that a state-appointed professional soldier could not obtain service housing from the Ministry of Defense. Csaba Hende (former Minister of Defense) argued during the committee debate that the amendment would eliminate the possibility for someone to purchase their "executive apartment" from the Ministry of Defense while all other "non-executive" apartments would be sold. Although he did not mention names, the minister cited a well-known public "housing affair" associated with László Fapál, the former Deputy Secretary of Defense, as an example.	Disadvantaging an individual	Normal



**Table 6** (continued)

	Name	Year	Bill	Act	Description	Type	Procedure
34	Lex Mádl Dalma	2012	T/9244/28.	Act CCVII of 2012	The amendment provided for the widows of deceased presidents to receive housing, car use, two secretaries, and free health care. The Office of the National Assembly was designated to ensure the allocation of funds for these benefits.	Benefitting an individual	Normal
35	Lex Átlátszó	2013	T/10904.	Act XCI of 2013	In response to requests for data on transport tenders by the investigative journalism portal <i>Atlatszo.hu</i> , a legislative amendment was proposed that significantly restricted access to public interest data. The president did not sign the law (János Áder was in office at the time). Legal advocacy organisations welcomed the presidential veto but would have preferred the law to have been submitted for constitutional review, arguing that the text was flawed not only from a legal-technical point of view but also because it violated fundamental rights.	Disadvantaging an institution	Emergency procedure
36	Lex Mészáros Lőrinc / Lex "Ne zavarj, épp lopok" (Lex "Do not disturb me, I am stealing!")	2013	T/10904.	Act XCI of 2013	The essence of the adopted amendment was that it left it up to state institutions to decide whether to respond to requests from journalists or citizens who made so-called "abusive data requests". If they decided that the barrage of disruptive questions interfered with their work, they would not be obliged to deal with such trivialities. Despite the growing list of those who might have found the amendment useful, Lőrinc Mészáros (then mayor) and his office were the first to make full use of the law's possibilities.	Benefitting an institution	Exceptional procedure
37	Lex Kuruc.info	2013	T/11105.	Act LXXVIII of 2013	The amendment allowed the state to block access to websites operated from abroad deemed unlawful by domestic courts. The amendment was aimed at shutting down <i>Kuruc.info</i> , a far-right website run from the United States.	Disadvantaging an institution	Normal



Table 6 (continued)

Name	Year	Bill	Act	Description	Type	Procedure
38 Lex Margitsziget	2013	T/11210.	Act CXXVIII of 2013	Margaret Island was transferred from the socialist-run 13th district to the direct administration of the capital.	Disadvantaging an institution	Normal
39 Lex Balettintézet / Lex MTESZ / LEX Sándorpalota	2013	T/11398.	Act CXV of 2013	The amendment allowed for the nationalisation of dilapidated heritage buildings, such as the Ballet Institute, located within World Heritage sites. Lex Balettintézet was a tailor-made law that brought political benefits, although the underlying goal was legitimate.	Benefitting an institution	Normal
40 Lex Duna Takaréék	2013	T/11651.	Act CXXXV of 2013	The amendment targeted a radical transformation of the saving cooperatives system. Out of 105 saving cooperatives, only one managed to avoid nationalisation: Duna Takaréék, affiliated to István Garancsi.	Benefitting an institution	Exceptional procedure
41 Lex KGBéla	2013	T/12617.	Act CLXXXVI of 2013	Due to the suspicious Russian connections of Gábor Béla Kovács, a Member of the European Parliament from the far-right Jobbik party, the criminal code was amended to include the offence of "espionage against the institutions of the European Union". Lex KGBéla was a tailor-made law that brought political benefits, although the underlying goal was legitimate.	Disadvantaging an individual	Normal
42 Lex Vajna II. / Lex kaszinó (Lex casino)	2013	T/12847.	Act CLXXXV of 2013	The amendment allowed the Minister of National Economy to grant casino concession rights without a bidding process to applicants who pay a premium fee and are deemed trustworthy. The law also allows gambling organisers to deduct the amount of the concession fee from their gambling tax. As a result of this amendment, Andy Vajna (government commissioner responsible for the development of the Hungarian movie industry and operator of the Las Vegas Casino in Budapest) was able to secure additional markets in the countryside.	Benefitting an individual	Normal



**Table 6** (continued)

	Name	Year	Bill	Act	Description	Type	Procedure
43	Lex Bihari / Lex idős alkotmánybírók (Lex elderly constitutional judges)	2013	T/12912.	Act CCVII of 2013	A minor "legal-technical" change buried in the fifth amendment to the Fundamental Law facilitated the ability of constitutional judges, elected for 12 years, to remain in office beyond the age of 70. This alteration predominantly benefited judges whose views aligned with those of the governing party, entrenching them within the Constitutional Court.	Benefitting an individual	Normal
44	Lex RTL Klub	2014	T/154.	Act XXII of 2014	The advertising tax rate was set at 40% for revenues exceeding HUF 20 billion, a provision that is clearly disadvantageous to RTL Klub.	Disadvantaging an institution	Exceptional procedure
45	Lex Mocsai I	2014	T/311.	Act XXXVI of 2014	Legislation stipulated that an Olympic medal was equivalent to a PhD in sports science education. This provision enabled the subsequent appointment of Lajos Mocsai, a handball coach, first as a university rector and later as a university professor.	Benefitting an individual	Exceptional procedure
46	Lex FHB bank	2014	T/1271.	Act XXXIX of 2014	The amendment granted "allied" banks eased capital adequacy requirements and access to HUF 136 billion in public funds, along with their yields. The type of institution specifically listed in the law – Plc. (public limited company) – could only refer to FHB's parent bank or OTP.	Benefitting an institution	Emergency procedure
47	Lex Continental Zrt. II	2014	T/2080.	Act XCVI of 2014	A central distributor was inserted between tobacco manufacturers/wholesalers and retailers, with national tobacco shops required to purchase their products exclusively from this distributor. Neither Philip Morris nor British American Tobacco met the criteria set out in the amendment, leaving Continental as the only viable applicant.	Benefitting an institution	Normal



Table 6 (continued)

Name	Year	Bill	Act	Description	Type	Procedure
48 Lex TV2	2015	T/4787.	Act CXVIII of 2015	The proposal stipulated that no television company would be allowed to collect distribution fees from cable operators unless it reached a certain audience threshold. The prohibition was extended to media companies based abroad that broadcast into Hungary. Given that the specific audience share of 15% had only been reached by the RTL and TV2 groups for many years and that only TV2 had announced in December that it was "examining the possibility of moving its main channel abroad", it can be concluded that the amendment was designed specifically for this commercial channel. The aim was to prevent TV2 from relocating outside Hungary and circumvent Hungarian media regulations to collect programme fees.	Disadvantaging an institution	Normal
49 Lex Garancsi	2015	T/4888/2.	Act LXXXVII of 2015	After Lajos Simicska (a former party finance chairman of Fidesz and Orbán confidant) fell out of favour, the law, which had previously been tailored to undermine ESMA, was amended again, giving the market back to the company now owned by Garancsi.	Benefitting an institution	Normal
50 Lex Vajna III	2015	T/5239.	Act CXXXIX of 2015	Andy Vajna was also about to benefit from online sports betting, but in the end, the parliamentary Economic Committee did not approve the amendment proposed by Erik Bánki (Fidesz). This amendment would have openly favoured Andy Vajna and another casino concession holder, Gábor Szima. As it was finally passed, the amendment granted them the exclusive right to organise online casino games without any additional payment obligations beyond the already stipulated concession fees.	Benefitting an individual	Normal



**Table 6** (continued)

	Name	Year	Bill	Act	Description	Type	Procedure
51	Lex Vajna IV	2015	T/6986.	Act CXCH of 2015	The personal income tax and gambling laws were amended to make Andy Vajna more competitive, allowing him to enter the online casino industry.	Benefitting an individual	Normal
52	Lex Tiborcz István	2015	T/7918.	Act CXCI of 2015	The amendment abolished the conflict of interest restrictions that previously applied to family members of the president, prime minister, and ministers involved in public procurement processes	Benefitting an individual	Exceptional procedure
53	Lex Vajna V	2016	T/10632.	Act LXIII of 2016	Prior to the amendment, companies that had been involved in cartel activities in the previous three years were excluded from participating in tenders. However, the amendment made the exclusion optional, allowing Andy Vajna (government commissioner responsible for the development of the Hungarian movie industry) to remain eligible for public procurement contracts.	Benefitting an individual	Normal
54	Lex Vajna VI	2016	T/12250.	Act XCVII of 2016	The amendment facilitated the establishment of Andy Vajna's online gambling enterprise. The government had been actively working to eliminate foreign-operated gambling, poker, and sports betting websites from the Hungarian internet space. This initiative was aimed at transferring control of the market to licensed gambling operators, particularly those affiliated with the Fidesz party.	Benefitting an individual	Exceptional procedure
55	Lex Heineken	2017	T/14441.	The debate is closed	In Hungary, the use of banned totalitarian symbols have been a criminal offence since 1993. Fidesz noticed just in 2017 that the labels of Heineken's beer products also featured a red star. They proposed that this should also be criminalised. Eventually, the proposal was closed without a vote.	Disadvantaging an institution	The debate is closed



**Table 6** (continued)

Name	Year	Bill	Act	Description	Type	Procedure
56 Lex CEU	2017	T/14686.	Act XXV of 2017	The amendment to the act on higher education aimed at obstructing the Budapest-based Central European University (CEU), founded by George Soros.	Disadvantaging an institution	Exceptional procedure
57 Lex Patyi	2018	T/711.	Act XXXV of 2018	According to the amendment on the status of judges, a judge who resigns his judicial office to accept an appointment as a rector may return to his former judicial office without having to undergo a competitive selection procedure.	Benefitting an individual	Normal
58 Lex Mocsai II	2018	T/3294.	Act XC of 2018	As a result of the amendment, Lajos Mocsai was not obliged to relinquish his rectorate when he reached the age of 65.	Benefitting an individual	Normal
59 Lex Varga Zs. I	2019	T/5241.	Act XXIV of 2019	Lex Varga Zs. I-II removed several safeguards of judicial independence to allow András Varga Zs. to take over the presidency of the Curia. The first step in this process was the amendment stipulating that experience as a constitutional court judge should be considered when calculating the length of judicial service.	Benefitting an individual	Normal
60 Lex Czeglédy	2019	T/6212.	Act LXV of 2019	The amendment specified that parliamentary immunity does not apply to candidates who are subject to criminal proceedings, coercive measures, or charges brought against those brought before their candidacy. Fidesz specifically targeted Csaba Czeglédy, a Democratic Coalition candidate for the European Parliament, with the ruling party accusing him of using his candidacy to protect himself from the consequences of criminal prosecution.	Disadvantaging an individual	Normal



**Table 6** (continued)

	Name	Year	Bill	Act	Description	Type	Procedure
61	Lex Varga Zs. II.	2019	T/8016.	Act CXXVII of 2019	Lex Varga Zs. I-II removed several safeguards of judicial independence to allow András Varga Zs. to take over the presidency of the Curia. The amendment provided that constitutional judges without previously held judicial office could apply to the Head of State for judicial appointment. These judges and those who had been judges before becoming constitutional judges entered a dormant judicial status. After this dormant period, they could be appointed to the Curia without a competitive application process.	Benefitting an individual	Normal
62	Lex Rácz Zsófia	2019	T/8019/4.	Act CIX of 2019	The political intent of appointing Zsófia Rácz, a 22-year-old law student, as deputy secretary of state required an amendment to a law, according to which a higher education degree was no longer required to fill this role (despite it being a senior professional position in public administration).	Benefitting an individual	Normal
63	Lex Dézsi	2020	T/9284.	Act VII of 2020	The amendment was necessary because, under the previous law, doctors and healthcare workers could not serve as mayors due to conflicts of interest. This would have required the new mayor of Győr, Fidesz's Dézsi Csaba András, to give up his medical profession.	Benefitting an individual	Normal



Table 6 (continued)

Name	Year	Bill	Act	Description	Type	Procedure
64 Lex Gyöngyöspata	2020	T/10742.	Act LXXX-VII of 2020	Following a court ruling that awarded approximately HUF 100 million in compensation to around 60 Roma children for years of segregation and inferior education at a school in Gyöngyöspata, the law on national public education was amended. The amendment stipulated that compensation for educational disadvantage should be provided in the form of education and training opportunities rather than a financial payment. This case led to an infringement procedure against Hungary: the European Commission sent a letter to the Hungarian government asking it to amend the law passed after the Gyöngyöspata segregation case. The European Commission believed that compensating pupils forced into segregated education with benefits and services in kind was contrary to EU law.	Disadvantaging an individual	Normal
65 Lex Benedek Tibor	2020	T/11085.	Act XCIV of 2020	The widows of Olympic medallists can access their pensions more favourably than before. The amendment was made to support Tibor Benedek's children. Lex Benedek was a tailor-made law that brought political benefits, although the underlying goal was legitimate.	Benefitting an individual	Exceptional procedure
66 Lex Csíki sör	2020	T/13653.	Act CXL of 2020	The amendment improved the position of small-scale breweries, notably including Csíki Sör (a beer company). The objective was to prevent large breweries from entering into quasi-exclusive contracts with pubs, thus ensuring that a selection of beers, including craft beers, would be available in pubs.	Benefitting an institution	Normal



**Table 6** (continued)

	Name	Year	Bill	Act	Description	Type	Procedure
67	Lex Fudan	2021	T/16225.	Act LXXXI of 2021	Lex Fudan facilitated the establishment of a foundation responsible for maintaining the Budapest campus of China's Fudan University. The foundation acquired state-owned property in the designated area free of charge.	Benefitting an institution	Normal
68	Lex Orbán Balázs	2022	T/166.	Act VII of 2022	The amendment allowed Balázs Orbán, the prime minister's political director, to use a diplomatic passport, and his salary could be set not by law but personally by Prime Minister Viktor Orbán.	Benefitting an individual	Emergency procedure
69	Lex Szemereyné	2022	T/1202.	Act XIX of 2022	The amendment to the Local Government Act removed conflict-of-interest barriers for the mayor, Klaudia Szemereyné Pataki (who is linked to György Matolcsy, the governor of the National Bank of Hungary, through her husband).	Benefitting an individual	Emergency procedure
70	Lex Budaházy	2023	T/5882.	Act XCVII of 2023	György Budaházy (a Hungarian nationalist and far-right activist), who was convicted of terrorism in the Hunnia case and later released from prison by a presidential pardon, also benefited from an amendment that favourably recalculates the period of disqualification from public affairs for people in similar situations.	Benefitting an individual	Normal

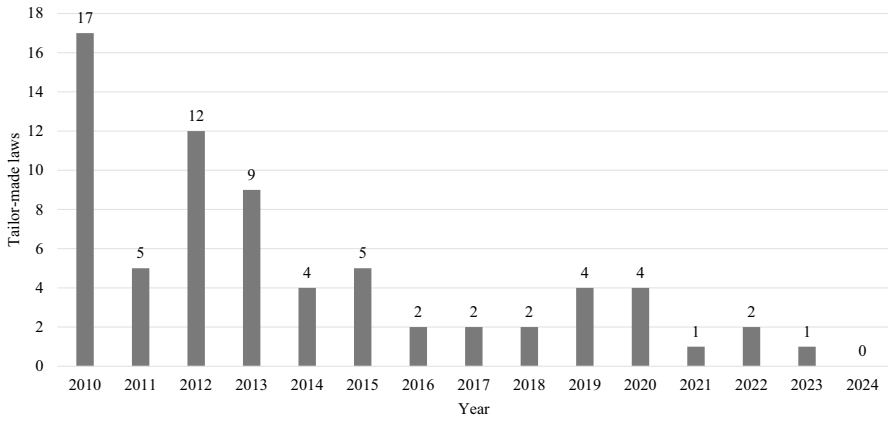


Fig. 4 Tailor-made laws in Hungary (2010–2024)

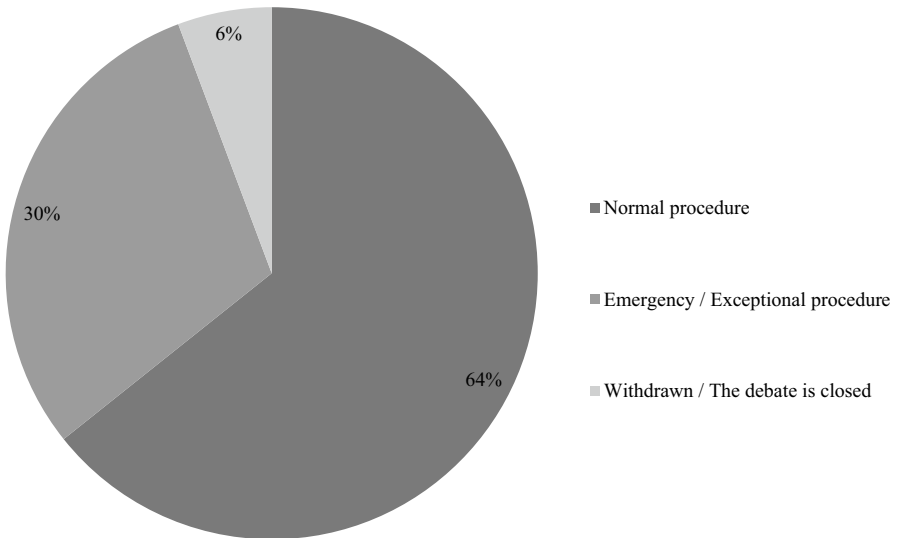


Fig. 5 Tailor-made laws in Hungary (2010–2024) by type of procedure

## Appendix B: Media mentions of tailor-made laws in Hungary

In this analysis, we briefly examined whether tailor-made legislation, often referred to as "Lex", is a characteristic of the government-critical portal's rhetoric or whether it is also used by the pro-government media.



The repository for the data can be found at: [https://osf.io/wk3pg/?view\\_only=9dece63ccfff46d3aaccaf6716865086](https://osf.io/wk3pg/?view_only=9dece63ccfff46d3aaccaf6716865086).

For this purpose, we analysed four Hungarian portals:

- **Index**—one of the most visited Hungarian online news portals, pro-government since its reorganisation in 2020;
- **Ripost**—a smaller conservative site, uncritical of the government;
- **HVG**—one of Hungary’s leading public, economic and political government-critical sites;
- **24.hu**—government-critical news provider outlet.

The articles covering the same period (2 full years between **29.03.2021** and **28.03.2023**) are available in the databases with the following metadata:

- 'id'
- 'domain'
- 'source\_link'
- 'date'
- 'title'
- 'text'

We conducted a dictionary-based analysis by creating a dictionary focusing on term related to "lex" occurrences (keyword: ' lex ') (Table 7).

**Table 7** Occurrence of the search word "lex" in the media

Outlet	Stance	Text occurrences	Title occurrences	Total occurrences
24.hu	Government critical	39	8	47
hvg.hu	Government critical	53	6	59
index.hu	Pro Government	84	6	90
ripost.hu	Pro Government	0	0	0



After validating the results, we identified several terms that do not refer to TMLs:

- '*dura lex sed lex*'—Not related to a TML.
- '*ex lex*'—Not related to a TML.
- '*lex apponyi*'—Not related to a TML.
- '*lex babis*'—Not related to Hungary.
- '*lex bakócz*'—The regulation was enacted in 1514.
- '*lex caesera*'—Not related to Hungary.
- '*lex di notó*'—Not related to Hungary.
- '*lex dunaferr*'—Refers to a government decree.
- '*lex fridman*' and '*lex friedman*'—Not related to a TML.
- '*lex hoefsoot*'—Not related to a TML.
- '*lex hvg*'—Refers to a government decree.
- '*lex károlyi*'—The regulation was enacted in 1912.
- '*lex készül*'—Refers to a government decree.
- '*lex luthor*'—Not related to a TML.
- '*lex machina*'—Not related to a TML.
- '*lex magyarország*'—Related to the European Union.
- '*lex marínez*'—Not related to a TML.
- '*lex mihály (lex antikvítás kft.)*'—Not related to a TML.
- '*lex murphy*'—Not related to a TML.
- '*lex netflix*'—Not related to Hungary.
- '*lex nevú tiktoker*'—Not related to a TML.
- '*lex oppia*'—Not related to Hungary.
- '*lex orchia*'—Not related to Hungary.
- '*lex parragh*'—Not related to a TML.
- '*lex pázmány*'—Refers to a government decree.
- '*lex porsch*'—Not related to Hungary.
- '*lex specialis*'—Not related to a TML.
- '*lex sulyok*'—The regulation was enacted in 1946.
- '*lex super omnia*'—Not related to a TML.
- '*lex szfe*'—Refers to a government decree.
- '*lex tvn*'—Not related to Hungary.
- '*lex van lieshout*'—Not related to a TML.
- '*lex városliget*'—Refers to a government decree.
- '*lex wexner*'—Not related to a TML.

Therefore, we have excluded these terms from the results to ensure the keyword "lex" is only associated with hungarian TMLs (Table 8).

**Table 8** Results of the media mini case study

Outlet	Stance	Text occurrences	Title occurrences	Total occurrences
24.hu	Government-critical	24	6	30
hvg.hu	Government-critical	26	3	29
index.hu	Pro-government	28	4	32
ripost.hu	Pro-government	0	0	0



The analysis shows that the use of the term "lex" for tailor-made laws is not limited to the rhetoric of non-governmental portals. Although the term is prominent in government-critical media (24.hu and HVG), it was most frequently found in articles published by Index (one of the most visited Hungarian online news portals, pro-government since its reorganisation in 2020) over the two-year period, while Ripost did not yield any mentions.

## Appendix C: International cases of tailor-made laws

Table 9

**Table 9** Examples of international cases of tailor-made laws

Country	Name	Act	Description
Argentina	Ley de Medios	Audiovisual Communication Services Law	Argentina's Ley de Medios, known as the Audiovisual Communication Services Law, was enacted in 2009 with the declared aim of democratising the media landscape by limiting media concentration and promoting diverse ownership. Critics argued that President Cristina Fernández de Kirchner was utilising the legislation to target Grupo Clarín, the country's largest media conglomerate and her most vocal critic. The law sparked significant controversy and public debate, culminating in legal challenges that reached the Supreme Court (Corte Suprema de Justicia de la Nación). While presented as a general effort to foster plurality in media, the law's specific impact on Grupo Clarín suggested a targeted approach under the guise of a broad regulatory framework
Finland	Lex Nokia	Amendment to the Privacy of Electronic Communications Act, 2009	Lex Nokia allowed companies to monitor their employees' electronic communications metadata to prevent corporate espionage and information leaks. The legislation emerged after concerns from Nokia about sensitive information being leaked to competitors. Although framed as a general measure to protect business interests, the law was perceived as being tailor-made for Nokia's specific situation. Critics argued that it compromised employee privacy rights and was enacted primarily to address the concerns of a single corporation under the pretence of general applicability



**Table 9** (continued)

Country	Name	Act	Description
Germany	Lex Facebook	Network Enforcement Act	Lex Facebook was enacted in 2017 to combat hate speech and illegal content on social media platforms. The law required platforms with over two million users in Germany to remove manifestly unlawful content within 24 h of notification or face substantial fines. While applicable to any qualifying platform, the legislation was dubbed Lex Facebook due to its significant impact on major social networks like Facebook and Twitter. Critics contended that the law was tailor-made to compel these companies to enforce German legal standards, effectively outsourcing law enforcement responsibilities to private entities under the guise of general regulation
India	Indirect Transfer (Vodafone) Tax	Income Tax Act, 2012	India's government amended the Income Tax Act in 2012, enabling retrospective taxation of capital gains from indirect transfers of Indian assets, specifically targeting Vodafone. This tailor-made amendment was designed to reverse the Indian Supreme Court's ruling that had favoured Vodafone, retroactively applying tax obligations to transactions completed before the law was introduced, including Vodafone's 2007 acquisition of Hutchison's stake
Mexico	Ley Televisa	Ley Federal de Telecomunicaciones; Ley Federal de Radio y Televisión	These amendments were known as Ley Televisa as evidence and reports suggested that Grupo Televisa played a major role in both drafting the amendment and influencing the legislative process. The amendments granted existing broadcasters expanded rights to the digital spectrum without a competitive bidding process. The laws effectively strengthened the market dominance of the major broadcasters Televisa and TV Azteca. Critics argued that they were tailor-made to benefit specific companies and consolidate their control over the media landscape. After adoption, Mexico's Supreme Court declared several major parts of these laws to be unconstitutional, acknowledging concerns over media monopolisation and the necessity for fair competition

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