Citizens' Commitment to Judicial Independence

A Discrete Choice Experiment in Nine European Countries

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Abstract. How do citizens respond when democratic principles come under attack — not by outsiders, but by elected governments they support? In backsliding democracies, governments often push reforms that undermine the principle of an independent judiciary. Citizens are then faced with a dilemma: oppose these reforms or support them, especially when they align politically with the government. To disentangle this tradeoff, we conducted comparative discrete choice experiments across nine European countries, presenting respondents with hypothetical judicial reforms. The results reveal consistent public support for the principle of an independent judiciary across all countries. However, increasing polarization and declining trust in courts put this commitment to a stress test. This highlights the importance to reduce polarization and build trust in judicial institutions to protect democratic resilience.

Keywords. democratic resilience • judicial independence • trust in courts • public opinion • survey experiment

1. Introduction

How do citizens respond when democratic principles come under attack — not by outsiders, but by elected governments they support? In backsliding democracies, the erosion of liberal institutions often begins with the judiciary. Governments in countries like Hungary, Israel, Poland, and Turkey have introduced judicial reforms that weaken courts' independence, frequently under the guise of procedural legitimacy (Levitsky and Ziblatt, 2018; Bermeo, 2016). While some citizens mobilize to defend judicial autonomy,[1] others remain loyal to the government – even when that government compromises judicial independence, a core democratic principle.

This raises a critical question about democratic resilience, which we define here as citizens' willingness to prioritize democratic principles over partisan gains that erode those principles: *Are citizens willing to defend the independence of the judiciary, even when doing so is costly*—for example, when it requires opposing reforms proposed by a government they support? Addressing this question is essential for understanding the limits of citizen-driven resilience to democratic backsliding. While some studies find that citizens support governments engaging in democratic backsliding – often because they prioritize alternative benefits such as favorable policy outcomes or partisan interests (e.g., Bartels and Johnston, 2020; Bartels and Kramon, 2022) – other research highlights sustained public support for democratic principles and a tendency to punish violations of democratic principles (e.g., Wuttke, Gavras and Schoen, 2022; Wunsch and Gessler, 2023; Kaftan and Gessler, 2025). Extending this research, our central hypothesis is that if supporters of a government do not support illiberal reforms of the judiciary empowering their preferred government, then the democratic system is more resilient than if these supporter were to favor the illiberal reforms.

To assess this hypothesis, we introduce a behavioral litmus test of citizens' commitment

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[1]Der Spiegel International. 2012. "Destroying Democracy: Hungarians Protest Controversial New Constitution." https://www.spiegel.de/international/europe/destroying-democracy-hungarians-protest-controversial-new-constitution-a-806933.html; last accessed 04/10/2025. BBC World News. 2018. "Poland protests: Thousands rally against court changes." https://www.bbc.com/news/world-europe-44979353; last accessed 04/10/2025. CNN Edition. 2023. "'Historic' strikes leave Israel at standstill with crowds in streets to protest judicial reform." https://edition.cnn.com/2023/03/27/middleeast/israel-judicial-overhaul-legislation-intl/index.html; last accessed 04/10/2025.

to democratic resilience by examining their defense of judicial independence. We implement this test using identical discrete choice experiments (DCEs) (Louviere, Hensher and Swait, 2000; Louviere, Flynn and Carson, 2010) conducted across nine European countries, with a total sample of over 11,000 respondents. In each country, respondents choose multiple times between two hypothetical packages of judicial reform proposals that vary along three dimensions: (1) the content of the reform, (2) the actor proposing it, and (3) the court's response. Critically, the proposals curb judicial independence, while one proposal is neutral. This design allows us to examine whether citizens systematically reject nondemocratic reforms in favor of the neutral proposal – and whether a potential commitment to judicial independence persists even when illiberal reforms are proposed by a preferred government.

At first glance, our results are encouraging, but caution is warranted. Across all countries, there is a baseline preference for the neutral reform that ensure judicial independence. Even government supporters are generally less likely to endorse illiberal reforms that favor their side. However, this commitment weakens with increasing political polarization and decreasing trust in courts. These cross-national patterns suggest that democratic resilience is conditional: citizens will defend democratic institutions, but their willingness depends on the political and institutional context.

In the following section, we outline four key contributions of our research before presenting the theoretical motivation and empirical findings of our survey experiment.

2. Public support for eroding democratic principles (?)

Democratic backsliding refers to the gradual erosion of democratic principles by an elected government (Bermeo, 2016; Waldner and Lust, 2018). In this study, we aim to understand to what extent citizens support such erosion, with a particular focus on the principle of an independent judiciary. This section outlines four contributions we make to the literature on democratic backsliding and judicial politics.

First, a key question in the backsliding literature is why citizens tolerate leaders who

undermine democracy (e.g. Ferrer et al., 2025; Jacob, 2025; Kaftan and Gessler, 2025). One explanation is that partisan loyalty and policy alignment often outweigh democratic commitments among citizens, especially in polarized contexts (e.g. Carey et al., 2022; Graham and Svolik, 2020; Fossati, Muhtadi and Warburton, 2021). At the same time, other studies show that citizens generally support democratic principles (Wuttke, Gavras and Schoen, 2022; Adserà, Arenas and Boix, 2023). Even in cases like Hungary, illiberal violations are widely condemned. Indeed, Wunsch and Gessler (2023) identify a "mosaic pattern," where tolerance for backsliding is concentrated among specific subgroups only—such as the less educated, economically disadvantaged, or more religious. In conclusion, existing research presents mixed findings, highlighting a tradeoff: citizens may choose between supporting leaders undermining democratic principles or defend such principles. Our study explicitly addresses this trade-off by asking citizens to choose among (non)democratic reform proposals that concern the principle of an independent judiciary.

Second, survey experiments on democratic backsliding often use candidate-choice designs (e.g. Graham and Svolik 2020; Fredriksen 2022; Wunsch and Gessler 2023; Lewandowsky and Jankowski 2023; Ferrer et al. 2025), asking respondents to select between hypothetical candidates with varying (non)democratic traits. These studies reveal how both candidate and respondent characteristics influence support for candidates in backsliding contexts (Graham and Svolik, 2020; Fossati, Muhtadi and Warburton, 2021). This approach is largely *actor*-centered, focusing on evaluations of politicians or parties. In contrast, our design takes an *action*-centered perspective. In backsliding democracies, governments gradually undermine democratic principles by introducing nondemocratic reforms (Bermeo, 2016). This is why, we shift the focus to the reforms themselves. We ask respondents not to judge politicians, but to evaluate their actions by choosing between (non)democratic reform proposals of the judiciary.

Third, while an independent judiciary is known to support democratic stability (Gibler and Randazzo, 2011; Epperly, 2013), less is understood about how such independence initially emerges (Randazzo, Gibler and Reid, 2016, 583). The insurance theory suggests

that political majorities accept an independent judiciary to constrain their own power, knowing that it will also limit their adversaries when political control shifts (Stephenson, 2003; Ginsburg, 2003; Ginsburg and Versteeg, 2014). From this perspective, judicial independence is a strategic institutional choice made by political actors at the macro level. In contrast, the micro-level perspective of citizens on judicial independence has received less attention. Scholars often assume that public support naturally favors the judiciary (e.g. Vanberg, 2001, 2005; Staton, 2010), and findings showing citizens' support for judicial legitimacy and high levels of trust in the judiciary reinforce this view (Caldeira and Gibson, 1995; Gibson, Caldeira and Baird, 1998; Gibson and Nelson, 2014). We extent this assumption accounting for scholarship showing that citizens evaluate the U.S. Supreme Court through partisan lenses (Nicholson and Hansford, 2014; Clark and Kastellec, 2015; Bartels and Johnston, 2020; Bartels and Kramon, 2022). Specifically, we examine how citizens' attitudes toward (non)democratic reforms on judicial independence are shaped when such reforms are proposed by a government citizens favor. While doing so, we extend analyses beyond the U.S. context.

Finally, to our knowledge, few survey experiments adopt a comparative approach across more than two countries (e.g. Albertus and Grossman, 2021; Fredriksen, 2022; Ferrer et al., 2025). Our study spans nine European countries, including both backsliding and stable democracies. This most-different systems design (Przeworski and Teune, 1970) captures contextual variation—such as political polarization, a key driver of backsliding (Carey et al., 2022; Graham and Svolik, 2020). We also include a response from the institution targeted by (non)democratic reform. This allows us to assess how a court's position on a reform shapes public support. Lastly, our design allows to account for cross-national variation in trust in courts.

In sum, we shift the focus from political actors to the (non)democratic reforms, offering an action-centered perspective to understanding public support for judicial independence. By employing a comparative design across nine European countries, we provide new insights into how citizens respond to nondemocratic reforms in diverse political contexts. In the next section we outline the design of our discrete choice experiment.

3. Political reforms of the judiciary

Citizens do not encounter specific reform proposals of the judiciary in a vacuum. In reality, proposals come pre-packaged and citizens may evaluate the same proposal differently depending on the proposer and the court's reaction. Our central hypothesis is that if supporters of a government do not support illiberal reforms of the judiciary empowering their preferred government, then the democratic system is more resilient than if these supporter were to favor the illiberal reforms. To examine how citizens perceive of judicial reform, we design reform packages consisting of three key components: (1) the substantive content of the reform, (2) the identity of the proposing actor, and (3) the judiciary's response. In this section, we derive the attributes of each component from the literature on judicial independence and outline observable implications with regard to our central hypothesis.

3.1. Which reform is proposed?

Scholars discussing judicial independence highlight various attributes of independence (e.g. Melton and Ginsburg, 2014; Hayo and Voigt, 2014; Feld and Voigt, 2003; Linzer and Staton, 2015). We utilize commonly referenced attributes to describe the substantive content of the hypothetical reform packages. Three reform proposals limit judicial independence and a fourth proposal does not limit independence.

First, appointment procedures are pivotal in determining the political influence on the composition of the bench (Domingo, 2000, 708). To ensure fair treatment of citizens in court, it is important to minimize the influence of individual political actors on judicial appointments (Feld and Voigt 2003, 501-502; Melton and Ginsburg 2014, 196). Thus, the first reform entails a judicial selection process controlled by the government.

1. *The reform involves that ...* the [Government] can name half of the judges that serve on the [Court].[2]

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[2]Items where translated in the respondent's language and the parts in squared brackets were modified to match country-specifics; e.g. the government in Germany is the *Bundesregierung* and the court is the *Bundesverfassungsgericht*.

This proposal limits judicial independence by allowing the government to appoint half of the bench. Consequently, the remaining judges will always require the support of at least one judge selected by the government in order to secure a majority vote. Thus, by packing the court with loyal judges, the government significantly enhances its ability to shield its policies from unfavorable judicial decisions. Citizens asked to vote on the reform face the dilemma of either supporting the government or safeguarding judicial independence.

The hypothetical proposal aligns with real-life examples of judicial reforms in Israel and Turkey. In Israel, discussions are underway regarding changes to the committee responsible for selecting supreme court judges, favoring government influence (Gold, 2023). In Turkey, a 2017 reform granted the president the power to appoint twelve out of fifteen judges to the constitutional court (Dewan, 2017).

Second, judges on the Supreme Courts of the United States and the United Kingdom are safeguarded from political pressures through life tenure (Ferejohn, 1998, 356-357). Similarly, judges with non-renewable terms and term limits are insulated from external influences as they do not rely on external actors to advance their careers (Melton and Ginsburg, 2014, 195-196). Additionally, judges who serve longer terms than the selecting actors maintain a level of independence, even if they require reelection (Rios-Figueroa, 2011). Thus, the second reform proposes the implementation of frequent legislative reconfirmation of judges.

2. *The reform involves that ...* every third year all judges that serve on the [Court] have to be confirmed by the [Parliament]. Judges not confirmed have to leave the court within a month.

This proposal restricts judicial independence in two ways. First, judges become dependent on the legislature, limiting their autonomy as they must respond to those who confirm them. Second, the requirement of a legislative vote every three years can hinder judges in completing their work, particularly considering the lengthy proceedings at highest courts. Moreover, it is possible for the same legislator to repeatedly evaluate the same judges over a three-year period. Nevertheless, some citizens may perceive

the re-confirmation of judges by an elected legislature as democratic. However, citizens faced with the decision to vote on the reform must weigh the choice between supporting frequent political interference with the judiciary or preserving judicial independence. Although, this proposal may obscure the trade-off, it aligns with the literature on judicial independence. Scholars highlight less obvious measures that limit de facto judicial independence, such as constraints on judicial income or budgetary limitations (Linzer and Staton 2015, 225,Voigt, Gutmann and Feld 2015, 201, Domingo 2000, 715-716). These measures include reducing judicial salaries (Hayo and Voigt, 2014, 164), limiting the number of clerks, restricting the court's access to modern technology, or reducing the size of the library (Voigt, Gutmann and Feld, 2015, 201).

This hypothetical proposal shares similarities with the judicial reform in Poland in 2019. The Polish governing party, PiS, introduced disciplinary chambers that granted the Ministry of Justice (not the parliament), the authority to penalize judges by reducing their salaries or terminating their positions.[3] Following a ruling by the European Court of Justice, the Polish government announced its plan to abolish the chambers in 2021.[4]

Third, the design of judicial review in a country influences judicial independence (Hayo and Voigt, 2014, 164-165). Specifically, courts cannot implement decisions themselves but rely on political action (Hamilton 1788, Federalist No. 78). Therefore, the de facto independence of the judiciary depends on the recognition of judicial power and the acceptance of judicial decision-making (Rios-Figueroa and Staton 2012, 107; Linzer and Staton 2015, 225). Accordingly, the third reform proposal grants the legislature the authority to evade judicial decisions.

3. *The reform involves that ...* the [Parliament] can override a court decision if 75 percent of its members agree.

The qualified majority requirement may create the perception of a democratic reform. In any democratic system, the legislature possesses the authority to enact laws. Con-

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[3]BBC News. 2019. "Poland lower house approves controversial judges law." https://www.bbc.com/news/world-europe-50874320; last access: 05/24/2023.

[4]Deutsche Welle. 2021. "Poland tells EU it is closing disciplinary chamber." https://www.dw.com/en/poland-notifies-eu-it-is-closing-disciplinary-chamber-for-judges/a-58886329; last access: 05/24/2023.

sequently, the legislative majority can always pass legislation to circumvent a judicial decision (Engst, 2021, Ch.2). Thus, the proposal reveals an implicit constraint on judicial independence. When citizens vote on the reform, they must consider whether to support the explicit empowerment of political actors to bypass judicial decisions or protect judicial independence. A public vote on this reform enables the political branches to seek legitimacy for legislative actions that undermine judicial independence.

This hypothetical proposal aligns with a recent reform proposed in Israel, where the parliament would gain the authority to pass laws that were previously invalidated by the supreme court (Gold, 2023).

Finally, we require a neutral reform proposal that serves as a benchmark for assessing a respondent's proclivity to accept reforms that limit judicial independence. The neutral proposal should not impose any limitations on independence. To achieve this we leverage the fact that highest courts are commonly overwhelmed by their case-load. Thus, the fourth reform introduces an increase in administrative staff for the court.

4. *The reform involves that ...* the [Court] receives more administrative staff to better handle the increased caseload.

This reform addresses less apparent aspects of judicial independence. It has been mentioned that the manipulation of judicial salaries and budgetary constraints can limit independence (Hayo and Voigt, 2014; Linzer and Staton, 2015; Voigt, Gutmann and Feld, 2015). However, the reform is phrased positively, emphasizing the benefits of increased staff for the court. It implies that the court receives a higher budget rather than facing budget cuts. Consequently, the reform enables courts to operate more efficiently, thereby strengthening their independence. Citizens asked to vote on this reform encounter no trade-off that would limit judicial independence.

The four reform proposals are grounded in the literature on judicial independence and are supported by real-world examples. Our central hypothesis gives rise to the following *observable implication regarding the content of reform proposal*:

When presented with two proposals, respondents who demonstrate a meaningful

commitment to democratic resilience are expected to favor the neutral reform proposal over those that constrain judicial independence.

3.2. Who proposes the reform?

We posit that respondents' preferences for a reform proposal are endogenous and can be influenced by the political actor proposing the reform. Existing evidence, particularly regarding the US Supreme Court, suggests that citizens' opposition to proposals limiting judicial independence varies depending on the political actor associated with the proposal (Nicholson and Hansford, 2014; Clark and Kastellec, 2015; Bartels and Johnston, 2020; Driscoll and Nelson, 2023). To untangle the trade-off between strengthening democratic resilience or partisan preferences, we introduce the proposing actor as a second component in our reform packages.

In each country, we randomly allow five actors to propose political reforms of the judiciary. First, members of the party with the most parliamentary seats in the lower quartile of the country's Comparative Manifesto Project Scores (CMP, Volkens et al. 2019). This party is positioned on the left. Second, members of the party with the most parliamentary seats in the upper quartile of the country's CMP Scores, representing the right. Third, members of the party with the most parliamentary seats between the lower and upper quartile of the country's CMP Scores. This is the largest moderate party. Fourth, the countries national government.

Our fifth actor is a non-political entity. Research (e.g., Bertsou, 2021) has shown that citizens often favor the involvement of non-partisan experts in government decision-making. This is believed to ensure efficient and effective governance, even though holding such experts accountable may pose challenges. We operationalize this non-political actor as "a non-partisan committee of legal experts."

Our central hypothesis gives rise to the following *observable implication regarding the actor proposing a reform*:

When presented with proposals from both political actors and a non-partisan committee of legal experts, respondents who demonstrate a meaningful commitment

to democratic resilience are expected to favor proposals from non-partisan experts, particularly over those originating from the government.

3.3. How does the court react?

Although courts lack the authority to enforce decisions, prior research demonstrates that courts can employ strategies to mobilize public opinion and enhance their influence relative to the political branches (Vanberg, 2001; Clark, 2010; Staton, 2010; Sternberg, 2019). Therefore, we include the court's response to a proposed reform as a third component in our reform packages. Respondents may consider the court's statement as a signal when evaluating different reform packages; especially when courts receive public support (Caldeira and Gibson, 1995; Gibson, Caldeira and Baird, 1998). Thus, we randomly assign one of the following three court responses:

1. *The judges on the [Court] say that the reform ...* potentially threatens the court's ability to work independently.

2. *The judges on the [Court] say that the reform ...* threatens the court's ability to work independently.

3. *The judges on the [Court] say that the reform ...* definitely threatens the court's ability to work independently and to decide cases in a fair and just manner.

Considering the three responses, our central hypothesis gives rise to the following *observable implication regarding the court's reaction*:

> When faced with two reform proposals, respondents who demonstrate a meaningful commitment to democratic resilience are expected to favor those deemed less harmful by the court over those considered more harmful.

Following the introduction of the components and attributes of our hypothetical reform packages, we now outline our experimental design.

4. A discrete choice experiment across nine countries

Are citizens willing to defend the independence of the judiciary, even when doing so is costly? One way to assess democratic resilience at the individual level is to directly ask whether citizens support or oppose an independent judiciary. However, many individuals may not have previously reflected on such issues. When prompted in surveys, respondents often rely on available cues or heuristics to form an opinion. Additionally, social desirability bias may shape their responses, leading them to invoke widely accepted democratic norms to justify their views on the judiciary.

Rather than prompting such processes directly, we infer respondents' attitudes toward judicial independence from the choices they make among various reform packages. We randomly vary the reforms' substantive content, the proposing actor, and the court's response. To do so, we use discrete choice experiments (Louviere, Hensher and Swait, 2000), which enable us to estimate the causal effects of multiple treatment components simultaneously.[5] Discrete choice experiments, widely used in marketing and applied economics, analyze how consumers trade off attributes of different products (Green, Krieger and Wind, 2001). Unlike conjoint analysis, they are grounded in random utility theory rather than conjoint measurement theory (Louviere, Flynn and Carson, 2010).

To infer citizens' preferences regarding judicial independence, we present respondents with pairs of randomly generated reform packages and ask them to choose between them. For meaningful interpretation, we estimate *average marginal effects* (AMEs) as the key quantities of interest. The random assignment of attributes across reform packages allows us to identify the AME of an attribute as the average change in the probability of selecting a package when that attribute shifts from its reference category to a specified value.

For example, from respondents' choices between reform packages, we can infer the extent to which they oppose reform limiting judicial independence—even when proposed by a preferred political party—and whether this opposition holds regardless of the court's response. In sum, rather than directly asking about judicial independence, our measurement strategy offers a more controlled and rigorous way to assess how much individuals

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[5]Appendix A provides technical details on the online survey.

Figure 1: Setup of the discrete choice experiment as seen by respondents

The [Court] is the only court in [Country], which can evaluate and reject laws. Rejected laws cannot be applied anymore.

Let's assume for the moment that the following two reforms to change the [Court] are proposed. The table below outlines what a reform involves, who proposed a reform and how the [Court] responds to each reform. Please read the descriptions of the two reforms carefully and choose the reform you personally prefer more. There are no wrong choices but only your sole personal choice matters.

	Reform 1	Reform 2
The reform involves that ...	... the [Parliament] can override a court decision if 75 percent of its members agree.	... the [National Government] can name half of the judges that serve on the [Court].
Reform proposed by ...	... members of [Party 1]	... the [National Government].
The judges on the [Court] say that the reform ...	... threatens the court's ability to work independently.	... definitely threatens the court's ability to work independently and to decide cases in a fair and just manner.

If you had to choose between Reform 1 and Reform 2, which one of the two would you prefer?

Reform 1	Reform 2
O	O

value judicial independence and the trade-offs they are willing to make when evaluating competing reform proposals.

Case selection We use a comparative design and conducted our online survey experiment simultaneously across nine countries: France, Germany, Hungary, Italy, the Netherlands, Poland, Spain, Sweden and the United Kingdom. Respondents were asked to choose six times between two reform packages addressing a country's highest court with review powers, randomly composed of the attributes and country-specific insertions summarized in table 1.

The case-selection strategy employs a most-different system design (Przeworski and Teune, 1970), encompassing various institutional characteristics to examine the generalizability of the findings across different countries. One may consider the possibility that a respondent's institutional frame of reference and knowledge can potentially affect the choices made. Table 2 summarizes differences in the frame of reference across countries; e.g., in some countries political actors dominate judicial selection (see France, Germany, Poland etc.) while in others non-political actors shape the judicial selection (see Netherlands, Sweden, and the United Kingdom). We further discuss the cross-country difference in appendix B and account for them in the comparative analyses.

Table 1: Components, attributes and country-specifics of the randomly generated reform packages

Component 1	**Proposal (P)**	**The reform involves that ...**
Attribute P1		... the [Government] can name half of the judges that serve on the [Court].
Attribute P2		... every third year all judges that serve on the [Court] have to be confirmed by the [Parliament]. Judges not confirmed have to leave the court within a month.
Attribute P3		... the [Parliament] can override a court decision if 75 percent of its members agree.
Attribute P4		... the [Court] receives more administrative staff to better handle the increased caseload.

Component 2	**Actor (A)**	**Reform proposed by ...**
Attribute A1		... members of the [Largest party on the left].
Attribute A2		... members of the [Largest party on the right].
Attribute A3		... members of the [Largest moderate party].
Attribute A4		... the [Government].
Attribute A5		... a non-partisan committee of legal experts.

Component 3	**Court's Reaction (R)**	**The judges on the [Court] say that the reform ...**
Attribute R1		... potentially threatens the court's ability to work independently.
Attribute R2		... threatens the court's ability to work independently.
Attribute R3		... definitely threatens the court's ability to work independently and to decide cases in a fair and just manner.

	France	**Germany**	**Hungary**
Government	Gouvernement de la République française	Bundesregierung	Magyarország Kormánya
Court	Conseil Constitutionnel	Bundesverfassungsgericht	Magyarország Alkotmánybírósága
Parliament	Assemblée Nationale	Bundestag	Országgyűlés
Largest party on the left	PS	Die LINKE	MSZP
Largest moderate party	REM	CDU/CSU	Jobbik Magyarországért Mozgalom
Largest party on the right	LR	AfD	Fidesz – Magyar Polgári Szövetség

	Italy	**Netherlands**	**Poland**
Government	Governo della Repubblica Italiana	Nederlands kabinet	Rada Ministrów Rzeczypospolitej Polskiej
Court	Corte Costituzionale	Hoge Raad	Trybunał Konstytucyjny
Parliament	Camera dei Deputati	Tweede Kamer	Sejm
Largest party on the left	PD	SP	PO
Largest moderate party	M5S	VVD	PiS
Largest party on the right	FI	PVV	PSL

	Spain	**Sweden**	**United Kingdom**
Government	Gobierno de España	Konungariket Sveriges regering	British Government
Court	Tribunal Constitucional	Högsta domstolen	Supreme Court
Parliament	Congreso de los Diputados	Sveriges Riksdag	House of the Commons
Largest party on the left	En Comú Podem	V	Labour Party
Largest moderate party	PSOE	SAP	SNP
Largest party on the right	PP	C	Conservative Party

Note: Party abbreviations were also spelt out in brackets to ease the cognitive burden for respondents.

Table 2: Institutional context in the nine European countries under consideration (October 2020)

Country	France (Const. Court)	Germany (Const. Court)	Hungary (Const. Court)
Judicial appointment	· 3 judges, president of republic, committees approval, > $\frac{2}{5}$ majority · 3 judges, president of national assembly · 3 judges, president of senate · *ex officio*, former presidents of republic	· 8 judges, first leg. chamber, $\frac{2}{3}$ majority · 8 judges, second leg. chamber, $\frac{2}{3}$ majority	· 15 judges, nominated by leg. committee · Elected by leg., $\frac{2}{3}$ majority
Source	Art. 56 I - II, Art. 13 V Const.	Art. 94 Const.; §6 Act on Court	State - Art. 24 VIII Const.; §7 Act on Court
Tenure	· 9 years, non-renewable · life tenure, former presidents of republic	· 12 years, non-renewable, age limit 68 years	· 12 years, non-renewable, age limit 70 years
Source	Art. 56 I - II Const.	§4 I - III Act on Court	§6 Ib & III Act on Court
Knowledge	48% of 1,118 respondents	48% of 1,074 respondents	53% of 1,122 respondents

Country	Italy (Const. Court)	Netherlands (Supreme Court)	Poland (Const. Court)
Judicial appointment	· 5 judges, president of republic · 5 judges, joint leg. seating, $\frac{2}{3}$ majority · 5 judges, supreme courts	· Max. 53 judges on the supreme court · Court and prosecutor general suggest 6 candidates to first leg. chamber who selects 3 nominees · Government selects judge, named on royal decree	· 15 judges, first leg. chamber, absolute majority
Source	Art. 135 I Const.	Art. 117 I, Art. 118 I Const.; Art 72 I Judicial Organization Act; Art. 2 I, Art. 5c VI Judicial Officers Act	Art. 17 I-II Act on Court.
Tenure	· 9 years, non-renewable	· life tenure, age limit 70 years	· 9 years, non-renewable
Source	Art. 135 II Const.	Art. 117 II Const.; Art. 46h III Judicial Officers Act	Art. 17 II Act on Court.
Knowledge	26% of 1,170 respondents	21% of 1,190 respondents	70% of 1,127 respondents

Country	Spain (Const. Court)	Sweden (Supreme Court)	United Kingdom (Supreme Court)
Judicial appointment	· 4 judges, first leg. chamber, $\frac{3}{5}$ majority · 4 judges, second leg. chamber, $\frac{3}{5}$ majority · 2 judges, government · 2 judges, General Council of Judiciary, $\frac{3}{5}$ majority	· 16 judges, legally qualified candidates apply · Non-political board vets and proposes nominees · Government selects judge	· 12 judges, Lord Chancellor with Selection Committee suggests candidates · Prime minister recommends judge to Her Majesty
Source	Section 159 I Const.; Art. 16 I-II Act on Court	Ch. 11 Art. 1, Art. 6 Const.; Ch. 3 Sect. 4 I, Ch. 4 Sect. 1A Code of Judicial Procedures; Sect. 3-11 Law on Appt. of Ordinary Judges; Zamboni 2019, Fn. 58	Art. 26 Const. Reform Act 2005
Tenure	· 9 years, non-renewable (once ¿3 years on bench)	· life tenure, age limit 67 years	· life tenure, age limit 70 years
Source	Art. 16 III-IV Act on Court	Ch. 11 Art. 7 Const.; Zamboni 2019, 680	Art. 33, Art. 35 III Const. Reform Act 2005; Art. 26 IV Judicial Pension and Retirement Act 1993
Knowledge	37% of 1,147 respondents	24% of 1,318 respondents	32% of 2,186 respondents

Note: 'Knowledge' refers to the correct answer to the question: "*Do you happen to know the name of the current chief justice of the [Court]? If you are not sure, please make a guess.*" In appendix H we show that knowledge about the court does not substantively influence our findings.

Implementation   In our implementation, respondents were presented with a screen similar to the one shown in figure 1. They were asked to choose between two fully randomized reform packages, consisting of three components (proposals × actors × reactions). This allows to generate (4 × 5 × 3 =) 60 different reform packages. The order of the components on the screen was randomized across respondents to eliminate order effects, but then fixed across all six screens for each respondent to reduce cognitive burden. Across our nine country studies, a total of 11,352 respondents viewed 136,224 different reform packages and made 68,112 choices. The observed choice outcomes, whether respondents choose 'Reform 1' or 'Reform 2', is the dependent variable for our analyses. We estimate conditional (fixed-effects) logit models, with a set of covariates consisting of ([4 − 1] + [5 − 1] + [3 − 1] =) 9 indicator variables for each attribute of the three components as well as country fixed-effects. One attribute per component has to be set as the reference category.[6] We present the estimated raw coefficients for the pooled data in appendix C.

In the next section, we examine respondents' choices in relation to their ideological proximity to the government. This analysis addresses whether citizens are willing to defend judicial independence even when doing so is costly – specifically, when it requires opposing reforms proposed by their preferred government.

5. Results

In this section, we analyze the data of our discrete-choice experiment by estimating conditional (fixed-effects) logit models to predict the probability of a respondent choosing a specific reform package based on the attributes that describe its components. First, we present a pooled analysis considering all respondent choices. We compare the AMEs of all attributes from table 1 relative to their respective reference categories.

Second, we estimate the same model only for the subsample of government supporters. Thus, we assess whether support for an independent judiciary is robust enough to deter

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[6]We choose attributes A5 'Expert Committee' (actor), P4 'More administrative staff' (proposal), R1 'Potentially threatens Court' (reaction), and Germany (country fixed-effects) as reference categories.

nondemocratic behavior by a government preferred by the respondents. We argue that this provides a hard test of democratic resilience.

Third, we utilize our comparative design and shift the analytical focus to the country level. We do not make causal claims but using robust regressions, we show that important country-level characteristics – such as the degree of polarization or the level of trust in the courts – are associated with the size of the AMEs among the subset of government supporters.

5.1. Democratic resilience not at stake?

In this section, we present the pooled analysis based on all respondents across nine countries. Figure 2 displays the AMEs for each attribute with their respective 95% confidence intervals and including the three baseline categories as a reference.[7]

First, we examine the role of the reform proposer. In our diverse set of countries, we find that respondents are most likely to support judicial reforms when they are proposed by a non-partisan expert committee. The government (often a coalition of several parties) is the next most preferred proposer. Nevertheless, the same reform package is, on average, 7 percentage points less preferred when proposed by the government compared to the expert committee. When individual parties propose reforms, they are most strongly rejected, regardless of the reform content. Thus, the lower the level of partisan involvement, the more preferred the reform proposals are.

Second, figure 2 shows that a neutral reform – aimed at increasing the number of administrative staff – is the most preferred when considering the reform content. This preference holds regardless of the reform proposer. However, the nondemocratic reform granting the legislature the power to frequently reconfirm judges is, on average, only 3 percentage points less preferred than the neutral reform. Additionally, the reform allowing legislative override of court decisions is, on average, 7 percentage points less preferred than the neutral reform. Finally, the proposal empowering the government to appoint half of the judges is the least preferred. Comparing this latter reform to the two

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[7]Estimated country fixed-effects are shown in appendix C, while we also document the corresponding country-specific AMEs in appendix D.

Figure 2: Effects of Reform Proposer, Reform Content and the Court's Reaction across nine countries

Change in Pr(Choosing Reform Proposal) relative to resepctive baseline category
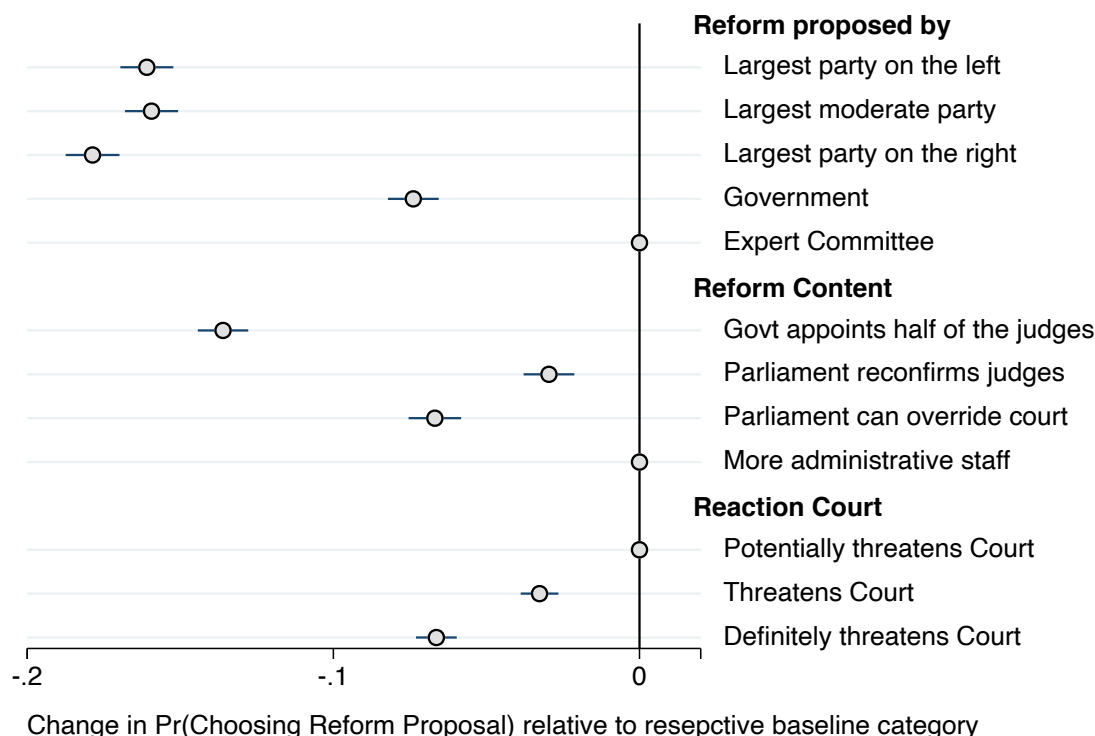
Note: The plot depicts estimated AMEs (and their 95% confidence intervals) of Reform Proposer, Reform Content and the Court's Reaction across nine countries.

proposals empowering the legislature raises the question of whether (a) respondents do not comprehend that legislative action can non-democratically limit judicial independence, or (b) respondents consider legislative action legitimate, given that the intervention is carried out by a directly elected body. While we acknowledge this observation we are not able to disentangle the respondents' reasoning.

Third, figure 2 provides a clear result when examining the impact of a court's reaction to proposed judicial reforms. Respondents are significantly more reluctant to support proposals the harsher the court's reaction. This reluctance is strongest when the court states that the proposal definitely threatens judicial independence, compared to when it potentially threatens it. This pattern aligns with a preference for judicial independence.

These findings suggest that, on average, citizens pass our resilience test, demonstrating a significant commitment to an independent judiciary. They tend to prefer that non-political actors propose reforms, favor neutral proposals over those that limit judicial

independence, and take judicial opinions into account. Nevertheless, there is a potential danger: a government with a legislative majority may conceal nondemocratic actions. While the opposition may raise concerns, a legislative majority can ultimately pass proposals that undermine judicial independence. Such legislative actions are, on average, considered more acceptable than nondemocratic action taken directly by the government. Therefore, when the legislature passes proposals that are not easily comprehensible, it can become difficult for citizens to detect nondemocratic intent. This is why, in the next section, we consider how supporters of the government respond to non-democratic reforms proposed by the very government they support.

5.2. Democratic resilience (not) at stake!

Current research suggests that citizens often support illiberal policies rather than punish their own partisan leaders for proposing them, especially when they expect partisan benefits from these policies (e.g., Carey et al., 2022; Fossati, Muhtadi and Warburton, 2021; Graham and Svolik, 2020). This raises the question: is support for judicial independence sufficiently strong to prevent respondents from sacrificing it for partisan concerns? We argue that support for judicial independence is especially credible when such support 'hurts.' In line with our resilience test, respondents credibly pass the test when they demonstrate a commitment to judicial independence under two conditions: first, when rejecting non-democratic proposals is costly to them, and second, when the signal sent by the court influences their choice.

First, citizens who do not support the government are inclined to oppose reforms that limit judicial independence. Rejecting such reforms aligns with their interest in limiting the government's power or preserving judicial independence. Hence, their behavior does not necessarily reflect a deep commitment to democratic principles. In contrast, government supporters face a dilemma: rejecting proposals that limit judicial independence means denying their preferred party additional power, which comes at a cost. Therefore, when government supporters oppose such reforms it signals a more credible commitment to judicial independence. Thus, to assess democratic resilience, we analyze the behavior

of government supporters. If the estimated effect of the reform empowering the government to appoint half of the judges is both significant and negative – compared to the neutral reform that grants the court more administrative staff – then government supporters credibly demonstrate some degree of democratic resilience.

Second, given that high courts may constrain the government's agenda within a system of checks and balances, government supporters who pass the resilience test should be less likely to support a reform that is heavily criticized by the court. In contrast, if government supporters behave solely as partisans, they would likely disregard a court's statement that a reform threatens judicial independence. To assess democratic resilience, we again focus on the behavior of government supporters. If the estimated effect of the most severe judicial response – that a reform definitely threatens judicial independence – is both significant and negative, compared to the most moderate response – that a reform only potentially threatens independence – then government supporters demonstrate some degree of democratic resilience.

Figure 3 summarizes the relevant AMEs used to test both implications of our resilience test, employing the same model specification as in the previous analysis for the subset of the government supporters – defined as respondents who position themselves close to the government. Specifically, this refers to individuals in the lower tertile of the distribution of perceived absolute distances between their own ideological placement and where they place their respective government on the same ideological scale.

To evaluate the first implication, we examine the estimated effects of reform content. We replicate the main result from the previous section for the relevant subgroup of government supporters.[8] We find a negative AME, indicating that government supporters are, on average, less likely to prefer the proposal in which the government appoints half of the judges compared to the neutral reform. They systematically reject the nondemocratic reform that would empower their preferred government over a more neutral alternative. Thus, they pass our resilience test.

To evaluate the second implication, we examine the estimated effects of the courts'

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[8]We report the estimated raw coefficients in appendix F. The corresponding AMEs are presented in appendix G, where we evaluate the experiment separately for each country.

Figure 3: Effects of reform proposals and court's reaction for government supporters

Reform Content

Govt appoints half of the judges
vs. more administrative staff

Reaction Court

Definitely threatens Court
vs. potentially threatens Court

Change in Pr(Choosing Reform Proposal) relative to resepctive baseline category
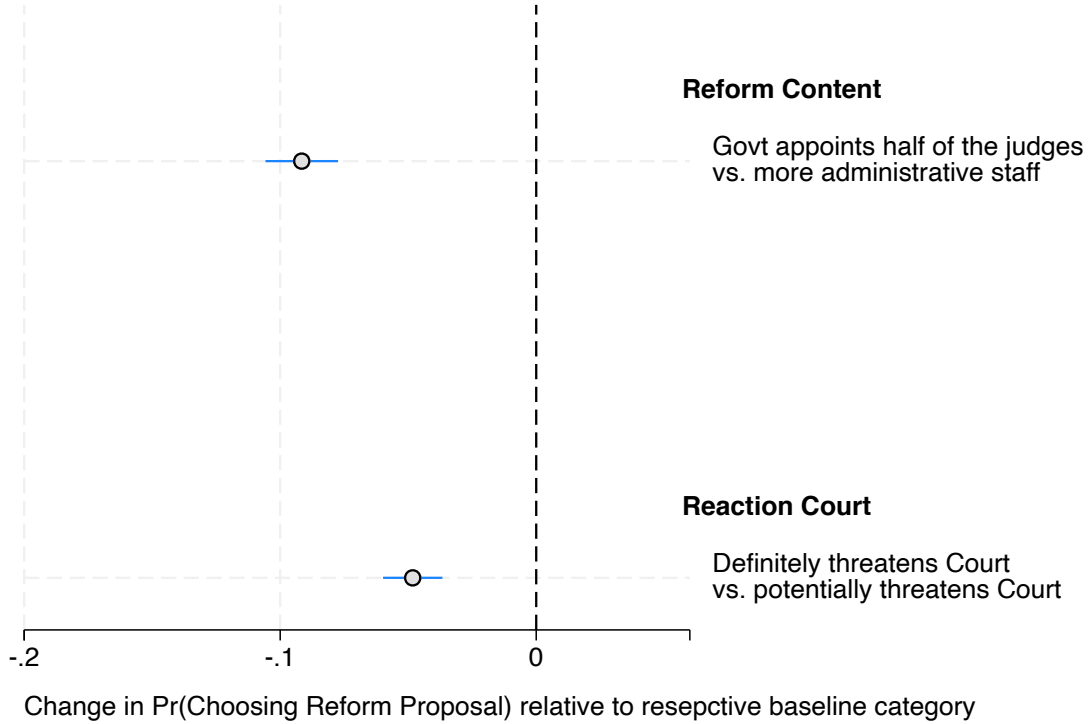
Note: The plot depicts estimated difference in predicted probability (and their 95% confidence intervals) of a reform proposal and the court's reaction to such proposals for the subsample of government supporters compared to its respective baseline categories.

responses to reforms among government supporters. We find that the more strongly the court signals that a proposal threatens judicial independence, the less likely government supporters are to favor that reform. Specifically, when courts assert that a particular reform definitely threatens their independence, government supporters are statistically less likely to support it. This indicates a nontrivial form of democratic resilience, insofar as this behavior reflects a willingness to value judicial independence to the extent that government supporters listen to the courts.

In sum, citizens in the countries included in our study successfully pass the resilience test. They demonstrate a credible level of support for judicial independence – support that is essential to deter nondemocratic behavior by elected governments and parliamentary majorities.[9] In the concluding section, we examine whether the estimated effects vary

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[9]When evaluating both implications, the magnitude of the respective estimated AMEs at the country level appears to be a valid measure of judicial independence. In appendix I, we show that our estimated AMEs predict the perceived level of independence of national justice systems among the general public, using an alternative data source: the Eurobarometer. Moreover, in appendix H, we demonstrate that

with characteristics that describe a society's political culture – its degree of polarization, and its level of trust in the highest court.

5.3. Variation in democratic resilience across countries

In this section, we shift from an individual-level to a country-level analysis. Leveraging a consistent experimental design and an identical baseline reform package across all nine countries, we systematically examine cross-national variation in estimated effects.

The encouraging news from our findings is that citizens across the countries in our study exhibit some resilience to democratic backsliding. In general, government supporters tend not to follow their partisan instincts; instead, they make politically costly decisions by demonstrating a certain level of commitment to judicial independence. They are more likely to prefer a neutral reform over a proposal that would weaken the court's independence – even when the latter would strengthen their favored government. Nevertheless, we observe that the degree to which government supporters reject proposals limiting judicial independence varies across countries. Previous studies (e.g., Bartels and Johnston, 2020; Levitsky and Ziblatt, 2018; Svolik, 2019) suggest that different levels of democratic resilience are associated with varying degrees of political polarization. Therefore, we now assess whether we can identify a polarization effect across the countries in our study.

The concept of polarization does not directly translate to parliamentary democracies, which make up the majority of countries in our sample. In such systems, the opposition typically serves as an ideological alternative to the government. We therefore argue that a country is more polarized when the government and opposition are perceived as highly distinct, compared to countries where they are seen as ideologically similar. This perceived ideological distance also affects how respondents position themselves relative to the government. We assume that in more polarized political cultures, there will be greater variation in perceived ideological distances between respondents and the government. Conversely, in countries where the opposition lacks a distinct ideological platform, this variation will be smaller. Accordingly, a country's *degree of polarization* is at least corre-

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we do not observe substantive differences between respondents who possess knowledge about the court and those who do not.

lated with the standard deviation of the distribution of respondents' perceived absolute ideological distance from the government.

The comparative design of our study presents an additional challenge. While the likelihood of respondents rejecting proposals that limit judicial independence may be associated with the degree of polarization, some of the observed variation could stem from differences in respondents' frames of reference when evaluating specific reform proposals. One relevant institutional characteristic that may shape this frame of reference is whether the government is already involved in selecting judges for the highest court. As shown in table 2, three countries – France, Italy, and Spain – feature government involvement in judicial appointments, whereas the remaining six do not. Government supporters in the former countries may be *a priori* less inclined to reject the proposal that 'the government appoints half of the judges.' To account for this, we adjust for institutional differences that could lead respondents to evaluate the same reform proposal differently due to a differing frame of reference. We partial out institutional effects from both the estimated AMEs for the subsample of government supporters in each country[10] and the *degree of polarization* per country, using a dummy variable coded as 1 for countries where the government selects judges and 0 otherwise.[11]

Does support for reforms that limit judicial independence vary systematically with the degree of polarization across countries, even after adjusting for institutional differences? Figure 4 summarizes our analysis and demonstrates that aggregated individual behavior aligns with key characteristics of differing political cultures. We observe that the greater the variation in perceived ideological distance to the government – that is, the more polarized a country is – the more likely government supporters are to favor the non-democratic proposal over the neutral reform, as indicated by the corresponding AME. The estimated slope of the thick robust regression line in figure 4 is 0.15 (with a standard error of 0.02), suggesting that, on average, government supporters in less polarized political cultures (e.g., Germany, the Netherlands, or Sweden) are more likely to reject

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[10]We report the respective AMEs in the appendix G.

[11]Partialling out institutional effects is equivalent to running a linear regression of the estimated country-specific AMEs on the degree of polarization while controlling for the dummy variable representing institutional differences across the nine cases. We report the respective regression results in appendix J.

Figure 4: Preference for nondemocratic Reform Proposal across Countries by Degree of Polarization
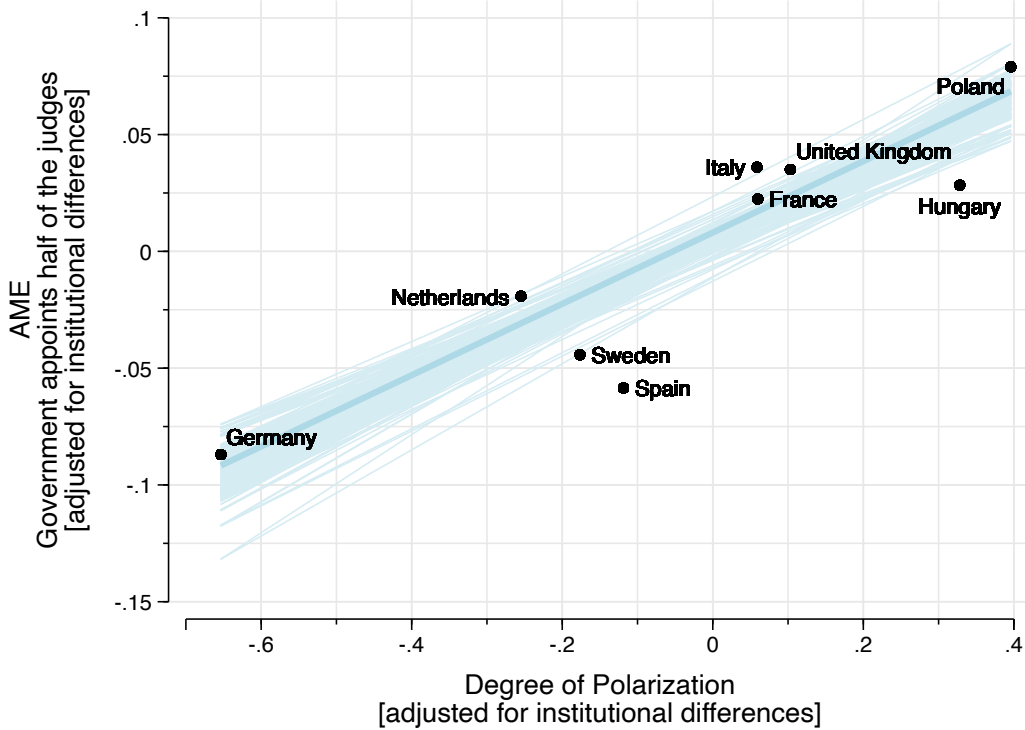
Note: The plot depicts the estimated AMEs for the reform proposal that the 'Government appoints half of the judges' for the subsample of government supporters in each country against the *degree of polarization* adjusted for institutional differences. The plot includes partial regression lines based on a linear fit from robust regressions (using a Huber-M-estimator) to account for outliers and possibly high leverage points. The robust regressions are estimated on 100 replicated datasets that vary because of estimation uncertainty in the adjusted AMEs. The thick line represents the expected values based on a robust regression using the point estimates of the adjusted AMEs per country as dependent variable for the subsample of government supporters.

proposals that limit judicial independence, compared to those in more polarized societies (e.g., Hungary and Poland). This analysis accounts for outliers and down-weights high-leverage points.[12] The thinner robust regression lines represent the analysis of 100 replicated datasets, which account for estimation uncertainty in the AMEs.[13] These find-

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[12]The robust regression results in appendix J are very similar when institutional differences are not controlled for. Additionally, we find that differentiating between countries with or without a supreme court—as a way to account for diverse legal traditions—does not yield significant differences.

[13]We generated these replicated datasets by randomly drawing 100 replicates for each country's estimated AME from a normal distribution, using the point estimate as the mean and the estimated standard error as the standard deviation. These AMEs are reported in appendix G.

ings are consistent with existing literature (e.g., Svolik, 2020; Bermeo, 2016, 15), which suggests that the degree of polarization in a society influences the extent of democratic backsliding observed across countries.

The second observation from section 5.2 highlights the role of trust in courts in shaping the effectiveness of judicial communication on proposed reforms. The courts' reactions matters on average in all countries, albeit to varying degree. Figure 5 illustrates the association between public trust in the judiciary and the estimated magnitude of the AMEs for the court's response across the nine countries in our study. To measure the average level of trust in the highest court, we use the standard 'trust-in-institution item,' which captures trust in the highest courts on an 11-point scale.

Figure 5 illustrates that the strength of the effect – when a court states that a reform 'definitely threatens' judicial independence – is associated with the average level of public trust in courts. As expected, we find that higher levels of trust in the highest court enhance the effectiveness of the court's signal. The estimated slope of the thick robust regression line is -0.02 (with a standard error of 0.007). This suggests that, on average, respondents in countries with higher levels of trust in their courts (e.g., Germany, the Netherlands, or Sweden) are more likely to reject reform proposals when the court uses the most severe language. Accounting for outliers and down-weighting high-leverage points, an increase of one unit on the 11-point trust scale is associated with a 2 percentage point increase in the estimated rejection rate. In contrast, countries experiencing democratic backsliding, such as Hungary and Poland, show lower rejection rates. Notably, even established European democracies such as Spain and France – where trust in the judiciary is relatively low – also exhibit weaker responses to court signals.

Overall, the results support our expectation that public trust in courts is a key factor influencing how government supporters respond to reform proposals identified by courts as threatening to judicial independence. Further comparative research is needed to explore whether trust levels also shape how courts choose to communicate in the face of such threats. Obviously, the associations presented in figures 4 and 5 are not causal, and the limited number of countries in our sample constrains our ability to fully account

Figure 5: Strength of a Court's Reaction across Countries by level of trust in courts
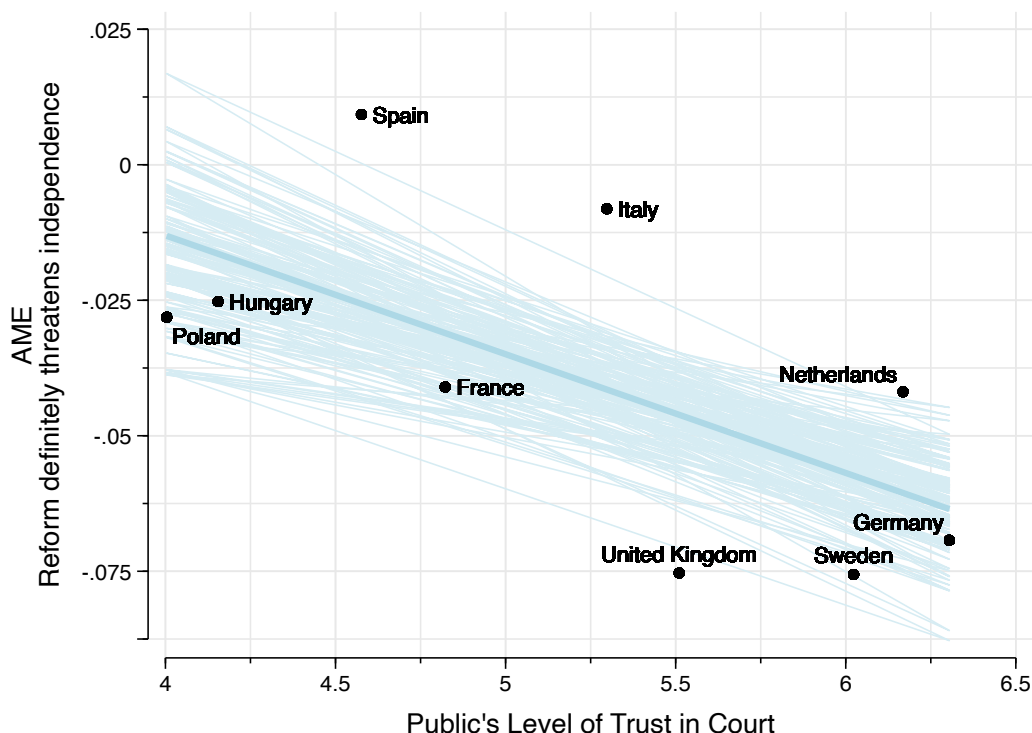
Note: The plot depicts the estimated AME for the court's response that a reform proposal 'definitely threatens independence' for the subsample of government supporters against the reported mean level of trust in the respective highest court per country. The plot includes a linear fit from a robust regression (using a Huber-M-estimator) to account for outliers and possibly high leverage points. The robust regressions are estimated on 100 replicated data-sets that vary because of estimation uncertainty in the AMEs. The thick line represents the expected values based on a robust regression using the point estimates of the AMEs per country as dependent variable for the subsample of government supporters.

for potential confounding factors. Nevertheless, the observed patterns offer meaningful insights into macro-level characteristics – such as the degree of polarization and the level of trust in courts – that contribute to the broader literature on democratic backsliding. These findings help illuminate the conditions under which nondemocratic judicial reforms are more or less likely to succeed.

6. Conclusion

How do citizens respond when democratic principles come under attack — not by outsiders, but by elected governments they support? To investigate this question, we conducted identical discrete choice experiments (DCEs) across nine European countries, examining whether citizens are willing to uphold the democratic principle of judicial independence even when it conflicts with their partisan interests. We adopted an action-centered approach, presenting hypothetical judicial reform packages that varied in content, the proposing actor, and the court's response. This design enabled a rigorous test of democratic resilience, particularly when reforms were proposed by a government favored by the respondents.

Our findings reveal a promising baseline commitment among respondents to uphold judicial independence. Even government supporters were, on average, less inclined to endorse non-democratic reforms – despite the potential partisan advantage for their preferred government. However, our cross-country comparison suggests that this commitment may erode in contexts of heightened political polarization and declining trust in courts. A notable nuance is that legislative efforts to weaken judicial independence were generally more acceptable to citizens than comparable executive actions. This distinction may allow governments to obscure undemocratic intentions behind seemingly legitimate legislative processes.

Despite these insights, we must acknowledge that hypothetical survey experiments cannot fully capture the complexity of real-world decision-making – particularly given that democratic backsliding often unfolds incrementally. Nonetheless, public backlash against non-democratic reforms – such as those in Hungary and in Poland – demonstrates that citizens do respond when judicial independence is under threat. Such events may raise public awareness of the consequences of these reforms elsewhere. The mass protests in Israel in 2023, which led Prime Minister Netanyahu to delay his judicial overhaul (Picheta, 2023), further underscore the importance of understanding how citizens recognize and react to democratic erosion. Thus, at the very least, our findings offer hope that, once

aware of the implications of non-democratic reforms, European citizens often exhibit a baseline inclination to defend democratic principles.

Moreover, our findings have implications for understanding the evolving nature of democratic governance. We observe a growing tendency for elected officials to delegate authority to non-elected actors within so-called 'non-majoritarian institutions' (Bovens and Schillemans, 2020), such as regulatory agencies, central banks, and highest courts. Our results suggest that the public recognizes the value of these institutions and may be willing to defend their independence. Further research is needed to explore the underlying motivations for this support and its implications for democratic legitimacy, particularly given these institutions' limited direct accountability to the electorate.

Finally, our results highlight the importance of cultural context in shaping citizens' adherence to democratic principles. In societies marked by high polarization and low trust in courts, democratic resilience tends to weaken, with partisan loyalty potentially taking precedence. Including a diverse set of countries, our study helps to contextualize trends of rising polarization across democracies. While democratic principles may appear stable at first glance, rising polarization and declining trust in courts subject these principles to an ongoing stress test.

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Online Appendix

Table of Contents

A. Comparative survey design

The discrete choice experiment was administered as part of an online survey on political institutions and parties in nine European countries from 2nd to March 4th, 2020 (with some variation among countries). Respondents were informed on the introductory screen about who designed the survey, its content, and its aim. Moreover, they were informed that they could refuse to answer individual questions or abort the survey entirely at any time. Finally, it was made clear that responses would be stored anonymously and kept completely confidential. Personally identifiable information was never exchanged between the survey company and the researchers.

Each survey took approximately 20 minutes to complete. To rule out effects related to the survey's length, the discrete choice experiment was randomly positioned in either the first or second part of the survey. About 2,000 respondents per country were recruited by the hired survey company based on predefined quotas reflecting each country's gender and age distribution, as adopted from the 2019 European Election Study (Schmitt et al., 2020) and Gallup International.

In tables A.1 and A.2, we examine the extent to which the realized samples in each country accurately represent the respective populations. Specifically, we compare those quotas to the realized proportions in the country-specific samples, illustrating that deviations from the quotas are negligible. Moreover, measures were implemented to ensure data quality. These included identifying speeders who rushed through the survey, detecting straight-liners who consistently chose the same answer category, and incorporating an open-ended question to evaluate the presence of mindless responses.

Table A.1: Country-specific quotas and deviations (I)

Category	Germany			Hungary			United Kingdom			France			Italy		
	Proportion	Quota	Difference	Proportion	Quota	Difference	Proportion	Quota	Difference	Proportion	Quota	Difference	Proportion	Quota	Difference
Female	51.21	51.09	0.12	51.96	52.99	-1.03	50.27	51.15	-0.88	53.80	52.39	1.40	53.58	51.88	1.69
Male	48.78	48.91	-0.14	48.03	47.02	1.01	49.72	48.84	0.87	46.19	47.59	-1.41	46.41	48.09	-1.69
18-24	9.77	9.12	0.65	9.18	9.60	-0.43	10.70	10.96	-0.26	11.10	10.20	0.89	7.94	8.19	-0.26
25-39	23.37	22.75	0.62	25.13	24.18	0.95	25.06	25.49	-0.43	23.45	23.25	0.20	19.74	20.63	-0.90
40-54	26.90	25.56	1.34	28.34	26.91	1.43	25.38	25.33	0.04	24.17	25.37	-1.20	29.82	28.29	1.53
55-64	14.80	17.00	-2.20	16.48	16.33	0.14	14.95	15.07	-0.12	15.21	16.00	-0.80	16.75	15.94	0.81
65+	25.13	25.58	-0.45	20.85	22.96	-2.12	23.87	23.13	0.73	26.05	25.15	0.89	25.72	26.91	-1.20

Country specific quotas are based on information from European Elections Study 2019 and Gallup International. *Proportion* represents the realized quotas per category in our samples.

Table A.2: Country-specific quotas and deviations (II)

Category	Spain			Netherlands			Poland			Sweden		
	Proportion	Quota	Difference	Proportion	Quota	Difference	Proportion	Quota	Difference	Proportion	Quota	Difference
Female	52.13	51.49	0.63	50.55	50.76	-0.21	53.41	52.24	1.16	49.84	50.13	-0.30
Male	47.86	48.50	-0.64	49.44	49.24	0.20	46.58	47.74	-1.17	50.15	49.88	0.27
18-24	8.10	8.22	-0.13	11.65	10.81	0.83	10.73	9.51	1.22	8.58	10.43	-1.86
25-39	22.84	23.35	-0.51	22.47	23.09	-0.62	29.10	28.24	0.85	25.30	25.31	-0.02
40-54	30.16	29.58	0.58	24.86	25.99	-1.14	23.24	24.16	-0.93	26.06	24.77	1.29
55-64	15.51	15.44	0.06	18.34	16.61	1.73	16.06	17.18	-1.12	16.48	14.39	2.08
65+	23.36	23.38	-0.03	22.66	23.47	-0.82	20.85	20.88	-0.04	23.55	25.09	-1.54

Country specific quotas are based on information from European Elections Study 2019 and Gallup International. *Proportion* represents the realized quotas per category in our samples.

B. Respondents' frames of reference

Respondents from the various countries may be influenced by different frames of reference when assessing reform packages. The first proposal (P1, in table 1 in the article) grants the government explicit power in selecting judges. In France, Italy, and Spain, the government can explicitly select up to one-third of the judges (see table 2 in the article). However, in Germany, Hungary, and Poland, the legislature selects all judges. The government is involved only implicitly through its legislative majority. Lastly, in the Netherlands, Sweden, and the United Kingdom, non-partisan actors dominate the selection process. In these countries, the government may select judges only from pre-determined lists. For instance, in Sweden, qualified candidates apply to a non-political board, which then proposes nominees to the government (see table 2 in the article). Thus, across countries, respondents are exposed to different frames of reference when evaluating the proposal of the government having the authority to appoint half of the judges.

The second proposal (P2, table 1 in the article) does not imply a different frame of reference. Although the term length of judges differs across countries—ranging from nine years in the constitutional courts of France, Italy, Poland, and Spain to life tenure with age limits in the supreme courts of the Netherlands, Sweden, and the United Kingdom – none of the countries permit reelection (refer to table 2 in the article). Thus, nowhere are procedures in place that resemble our hypothetical reform in which the legislature reconfirms judges.

The reform proposal P3 (table 1 in the article) entails granting the legislature formal authority to evade judicial decisions. To the best of our knowledge, no such formal rights exist in any of the countries under consideration in this study. It has been acknowledged

that, implicitly, the legislature can always pass bills to circumvent the judiciary (Engst, 2021, Ch.2). However, this characteristic is an inherent aspect of legislative power and is not subject to cross-country variation. Consequently, respondents encounter a similar frame of reference on this dimension.

It is worth noting that the highest courts in the Netherlands, Sweden, and the United Kingdom adhere to the Anglo-American supreme court model, while the remaining countries follow the Austrian-German tradition of constitutional review (see, e.g., Epstein, Knight, and Shvetsova 2001, 120–123; Kelsen 1942). The outlined features (see table 2 in the article) highlight differences and similarities among the courts across their legal traditions. We account for the different frames of reference respondents may employ when comparing the results across countries.

Finally, the row on "knowledge" in table 2 in the article indicates the share of respondents who correctly identify the chief justice of a court. We can plausibly assume that a court's societal salience – which we cannot measure directly – influences the public's knowledge regarding that court—which we can measure. Indeed, we observe that 53% and 70% of the respondents correctly identify the chief justices in Hungary and Poland, both countries where the courts are widely discussed in the public sphere. In contrast, only about 21% are able to identify the Dutch chief justice, which is less surprising considering that the court's power to settle constitutional matters is limited (Art. 120 Dutch Constitution). One could argue that a court's salience, measured by the public's knowledge about the court as a proxy, affects how people evaluate reform packages of the judiciary. However, below (Appendix H) we demonstrate that knowledge about the court does not substantively influence our findings.

C. Baseline estimation results

In table C.1, we present the estimated raw coefficients of the conditional logit model using country fixed effects, based on the pooled unweighted data. In Appendix E, we show that weighting the data does not change our findings. The coefficients in table C.1 serve as the basis for calculating average marginal effects, which we present as quantities of interest in figure 2 in the main text. Moreover, table C.1 provides an overview of the number of observed choices made by all respondents across the nine countries.

Table C.1: Conditional Logit Results across nine Countries

	Coef.	Std.Err.
REFORM PROPOSED BY		
Largest party on the left	-0.69***	0.02
Largest moderate party	-0.68***	0.02
Largest party on the right	-0.76***	0.02
Government	-0.32***	0.02
REFORM CONTENT		
Govt. appoints half of the judges	-0.58***	0.02
Parliament reconfirms judges	-0.13***	0.02
Parliament can override court	-0.28***	0.02
REACTION COURT		
Threatens Court	-0.14***	0.01
Definitely threatens Court	-0.28***	0.01
COUNTRIES		
Hungary	-0.03	0.03
UK	-0.05***	0.02
France	-0.07**	0.03
Italy	-0.05*	0.03
Spain	-0.06**	0.03
Netherlands	-0.08***	0.03
Poland	-0.06*	0.03
Sweden	-0.08***	0.03
Observations	136224	
Log-Likelihood	-44907	
No. of choices	68112	
No. of Respondents	11352	

Baseline categories omitted; * p < 0.10; ** p < 0.05; *** p < 0.01.

D. Country-by-Country results

In addition to the raw model estimates of the pooled data presented in Appendix C, we report the estimated raw coefficients of the same conditional logit model, this time estimated separately within each of our nine country samples using unweighted data, in table D.1. In Appendix E, we show that weighting the data does not change our findings. Additionally, figure D.1 displays the estimated size of the AMEs and their respective 95% confidence intervals per country, while also including the three baseline categories as a reference. Remarkably similar patterns are observed across all three components of the reform packages in all countries.

First, let us examine the role of the proposer of a reform. In this diverse set of countries, we find that respondents are most likely to support judicial reforms when they are proposed by a non-partisan expert committee. The government is consistently the next most preferred proposer. The strongest effect is observed in Hungary, where citizens, on average, are about 15 percentage points more likely to favor the same reform if it is

Figure D.1: Effects of Reform Proposer, Reform Content and the Court's Reaction
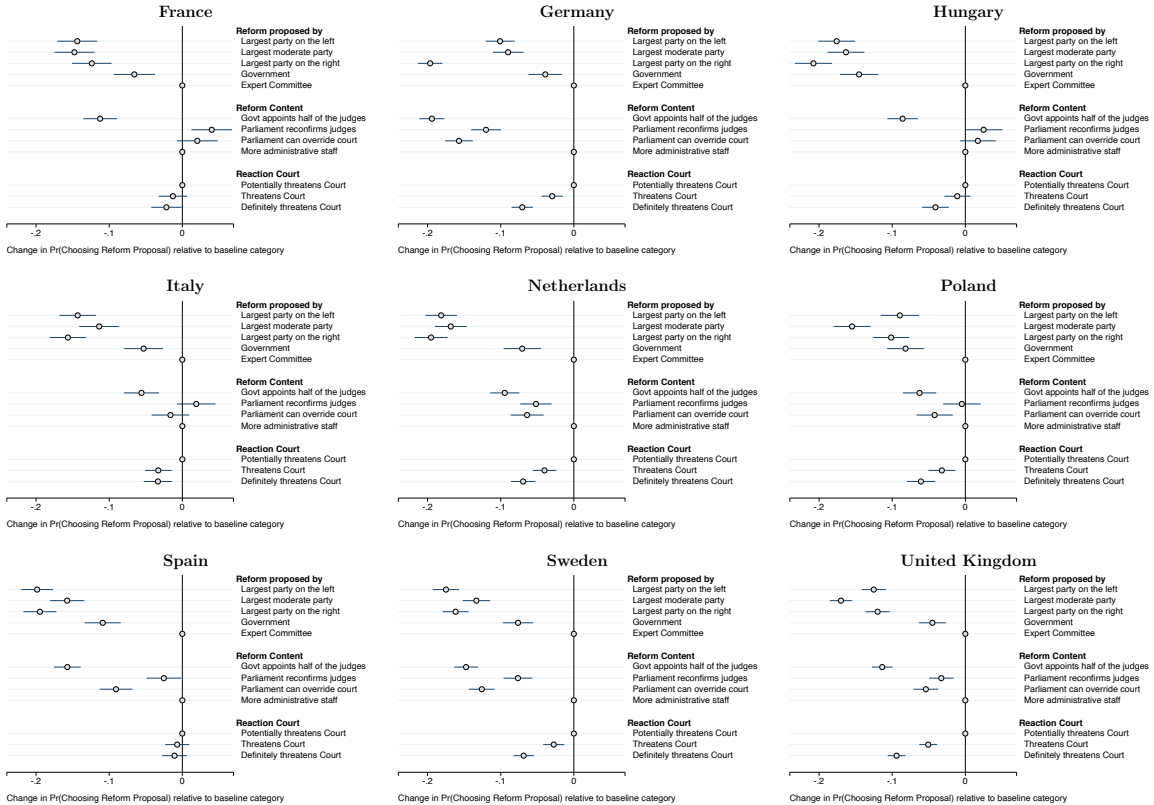
Table D.1: Conditional Logit Results for nine Countries

	(1) Germany		(2) Hungary		(3) UK		(4) France		(5) Italy		(6) Spain		(7) Netherlands		(8) Poland		(9) Sweden	
	Coef.	Std.Err.	Coef.	Std.Err.	Coef.	Std.Err.	Coef.	Std.Err.	Coef.	Std.Err.	Coef.	Std.Err.	Coef.	Std.Err.	Coef.	Std.Err.	Coef.	Std.Err.
REFORM PROPOSED BY																		
Largest party on the left	-0.56***	0.06	-0.77***	0.06	-0.59***	0.04	-0.61***	0.06	-0.61***	0.06	-0.98***	0.07	-0.90***	0.06	-0.38***	0.06	-0.96***	0.06
Largest moderate party	-0.49***	0.07	-0.71***	0.06	-0.84***	0.05	-0.63***	0.06	-0.48***	0.06	-0.74***	0.06	-0.82***	0.06	-0.69***	0.06	-0.69***	0.06
Largest party on the right	-1.34***	0.08	-0.93***	0.07	-0.56***	0.04	-0.52***	0.06	-0.67***	0.06	-0.95***	0.07	-0.99***	0.07	-0.43***	0.06	-0.87***	0.06
Government	-0.20***	0.06	-0.62***	0.06	-0.20***	0.04	-0.27***	0.06	-0.22***	0.06	-0.49***	0.06	-0.31***	0.06	-0.35***	0.06	-0.37***	0.05
REFORM CONTENT																		
Govt appoints half of the judges	-1.16***	0.07	-0.42***	0.06	-0.58***	0.04	-0.52***	0.06	-0.25***	0.06	-0.85***	0.06	-0.50***	0.06	-0.28***	0.05	-0.82***	0.06
Parliament reconfirms judges	-0.63***	0.06	0.11*	0.06	-0.15***	0.04	0.17***	0.06	0.08	0.06	-0.12*	0.06	-0.26***	0.06	-0.02	0.06	-0.39***	0.06
Parliament can override court	-0.88***	0.07	0.08	0.06	-0.26***	0.04	0.09	0.06	-0.07	0.06	-0.45***	0.06	-0.33***	0.06	-0.19***	0.06	-0.68***	0.06
REACTION COURT																		
Threatens independence	-0.17***	0.05	-0.05	0.04	-0.24***	0.03	-0.06	0.04	-0.14***	0.04	-0.04	0.04	-0.21***	0.04	-0.14***	0.04	-0.15***	0.04
Definitely threatens independence	-0.45***	0.05	-0.19***	0.05	-0.47***	0.03	-0.10**	0.05	-0.15***	0.04	-0.06	0.05	-0.37***	0.05	-0.27***	0.05	-0.40***	0.04
Observations	12888		13464		26232		13416		14040		13764		13080		13524		15816	
Log-Likelihood	-3925		-4427		-8577		-4446		-4725		-4403		-4237		-4566		-5046	
No. of choices	6444		6732		13116		6708		7020		6882		6540		6762		7908	
No. of Respondents	1074		1122		2186		1118		1170		1147		1090		1127		1318	

Reference categories omitted; * p < 0.10; ** p < 0.05; *** p < 0.01.

proposed by an expert committee (the baseline category) rather than by the government. Political parties are seen as the least preferred proposers of judicial reforms. This common pattern – favoring reforms proposed by non-partisan actors – suggests a preference for a judiciary that is independent of partisan influence.

Second, when examining the reform content, we find that – with the exception of France and Hungary – the neutral reform, which aims to increase the number of administrative staff, is the most preferred option (or, as in Italy and Poland, at least not systematically less preferred). Two of the non-democratic reforms we designed involve the parliament – either granting it the right to reconfirm judges or to override a court's decision. Relatively speaking, these reforms appear to be the most popular among the measures that limit judicial independence. Notably, among French and Hungarian respondents, the idea of granting parliament the power to regularly reconfirm judges is even systematically more popular than the neutral reform. Thus, involving the parliament – rather than the government – when limiting judicial independence appears to be slightly more acceptable. Comparing the reform that empowers the executive to appoint half of the judges to the two proposals that empowers the legislature to frequently reconfirm judges raises an important question: do respondents in some countries (a) not comprehend that legislative action can also non-democratically limit judicial independence, or (b) consider legislative action legitimate because it is carried out by a directly elected body? With our design, we unfortunately cannot disentangle respondents' reasoning.

Third, the country-by-country results in figure D.1 suggest that respondents are responsive to a court's perception of judicial reform. In most countries, respondents are reluctant to support reform proposals when the court considers them threatening or definitely threatening to judicial independence. In Spain, France, and (partially) in Hungary respondents are indifferent to the court's signals. In these countries, our survey also found comparatively low levels of trust in the courts — consistent with previous research on the French (Hönnige, 2007; Sternberg, 2019) and Spanish courts (Garoupa and Magalhães, 2020, p.274). These findings may suggest that citizens take cues from the court only when they regard it as trustworthy.

The results mirror those of the pooled analysis. On average, citizens pass our democratic resilience test: they show a certain degree of commitment to judicial independence. In nearly all countries, they prefer the neutral reform at least as much as—if not more than—any of the proposals that limit judicial independence. Nevertheless, there may be opportunities for the executive to obscure nondemocratic behavior through legislative action. Moreover, in nearly all countries, the court's signal matters to respondents when evaluating reform. Finally, across all countries, respondents favor reforms proposed independently of any partisan influence.

E. Comparison of unweighted and weighted data

In figure E.1, we replicate our analysis of the unweighted data presented in Appendix D, this time using weighted data. The construction of weights is based on a state-of-the-art methodology known as the raking procedure (Deming and Stephan, 1940). This procedure involves iteratively matching the weighted marginal distributions of a sample to the known population margins, such as a country's gender and age distribution. Esteemed comparative survey instruments, including the European Social Survey (European Social Survey, 2014) and the American National Election Studies (Debell and Krosnick, 2009), employ the same procedure. As illustrated in figure E.1, the results are essentially the same regardless of whether we use weighted or unweighted data. Therefore, we adopt the more parsimonious approach and use unweighted data throughout our main analyses.

Figure E.1: Comparison of unweighted and weighted data
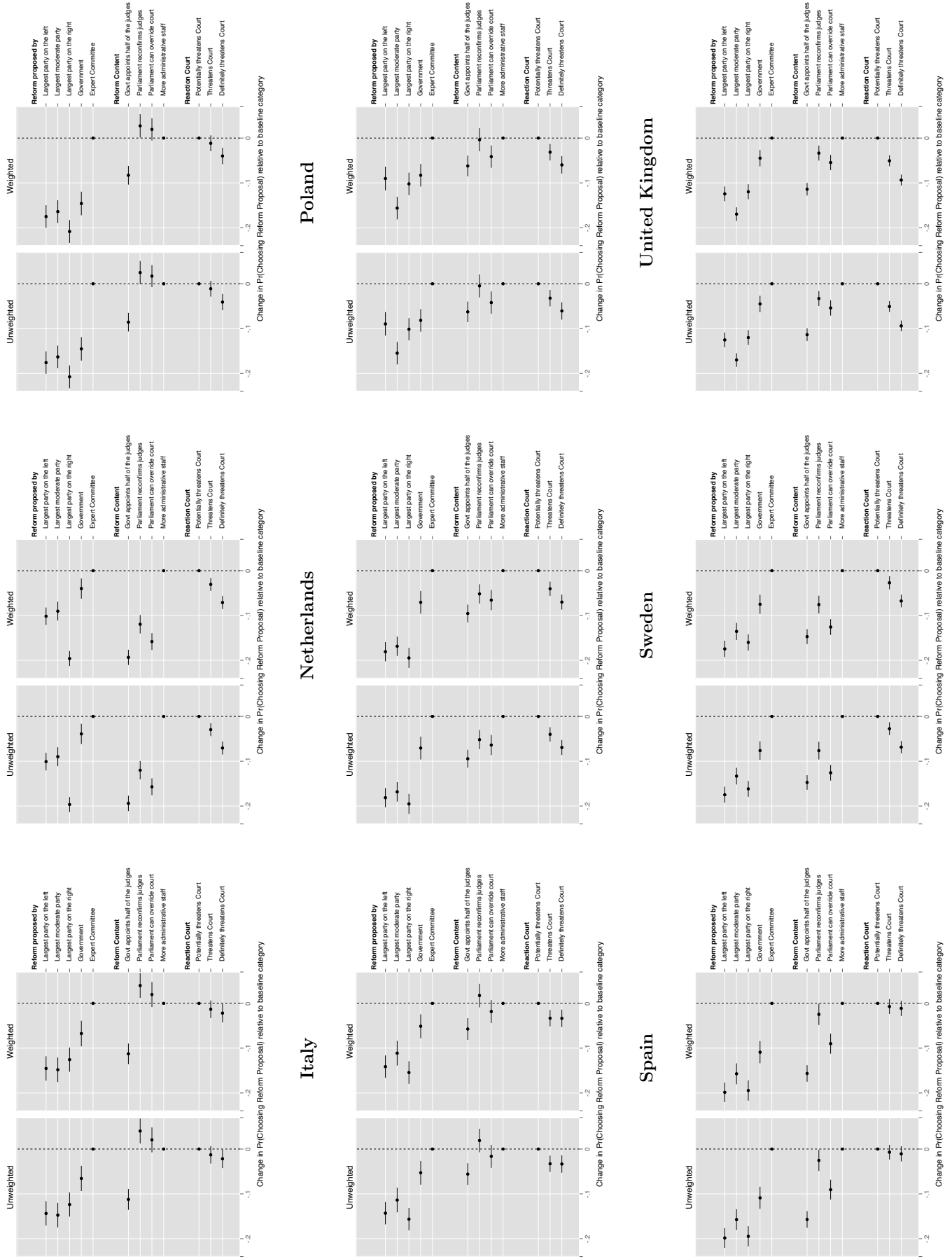
F. Sub-sample Analysis: Government Supporters

In table F.1, we replicate the baseline models for the subset of government support-
ers—that is, respondents who position themselves close to the government. We use these
raw estimated coefficients to calculate the average marginal effects, which we present in
figure 2.

Table F.1: Conditional Logit Results of Government Supporters across nine Countries

	Coef.	Std.Err.
REFORM PROPOSED BY		
Largest party on the left	-0.70***	0.03
Largest moderate party	-0.48***	0.03
Largest party on the right	-0.64***	0.03
Government	-0.09***	0.03
REFORM CONTENT		
Govt. appoints half of the judges	-0.39***	0.03
Parliament reconfirms judges	-0.05*	0.03
Parliament can override court	-0.18***	0.03
REACTION COURT		
Threatens Court	-0.11***	0.02
Definitely threatens Court	-0.20***	0.03
COUNTRIES		
Hungary	-0.03	0.05
UK	-0.07**	0.03
France	-0.08	0.05
Italy	-0.05	0.05
Spain	-0.03	0.04
Netherlands	-0.13***	0.05
Poland	-0.11**	0.05
Sweden	-0.10*	0.05
Observations	45708	
Log-Likelihood	-15229	
No. of choices	22854	
No. of Respondents	3809	

Baseline categories omitted; * p < 0.10; ** p < 0.05; *** p < 0.01.

G. Country-by-Country results for Government Supporters

In all but one country, we find that government supporters are, on average, more likely to reject a proposal that would strengthen their preferred government by allowing it to appoint half of the judges serving on the court, compared to the neutral reform that aims to increase the number of administrative staff. In Poland, we observe no systematic difference between the two reforms. In sum, government supporters in all countries except Poland systematically reject judicial reforms that would empower their preferred government.

In Hungary, Italy, Poland, and Spain, we find that government supporters do not systematically change their behavior as the court employs more drastic language to indicate a threat to judicial independence. However, in the remaining five countries, we observe

Figure G.1: Effects of reform proposals and court's reaction for government supporters
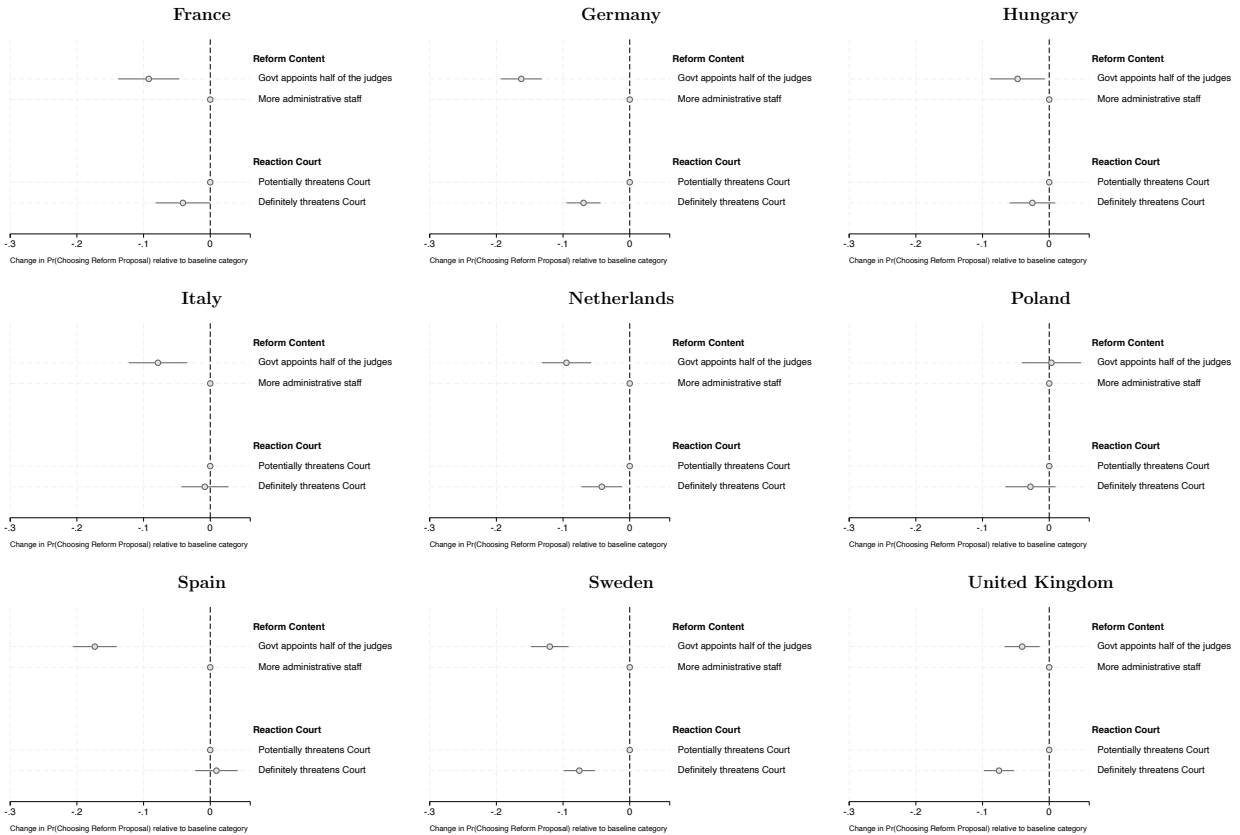
Note: The plot depicts estimated effects (and their 95% confidence intervals) of two reform proposals and the court's reaction to such proposals for the subsample of government supporters.

results consistent with the behavior expected from citizens who value judicial independence. When courts assert that a specific reform 'definitely threatens' their independence, government supporters in France, Germany, the Netherlands, Sweden, and the United Kingdom are statistically less likely to support such a reform.

In sum, with the exception of Poland, there appears to be a credible level of support for judicial independence sufficient to deter non-democratic behavior by elected governments.

We also use those coefficients as dependent variables for the country-level analysis presented in figures 4 and 5.

H. Does knowledge about the court matter?

In general, individual-specific characteristics should not have a significant impact due to randomization. However, we examine whether respondents who possess knowledge about their highest court exhibit different behavior compared to those who do not.

We included the following item to assess respondents' knowledge about the court. We asked: "Do you happen to know the name of the current chief justice of the [Court]? If you are not sure, please make a guess." Respondents were presented with three answer options, whose order was randomized. One option was the (country-specific) name of the chief justice, while the other two were the names of the country's representative to the International Olympic Committee (IOC) and the country's ambassador to the United States. In a few cases where these individuals were too prominent—e.g., HRH Princess Anne as the UK's IOC member—we substituted the name of the country's representative to the European Union. From this item, we created a knowledge indicator coded as '1' if the respondent correctly identified the chief justice, and '0' otherwise.

We compared the estimation results between two subgroups: those who correctly identified the chief justice (estimates shown in light grey) and those who did not (estimates shown in dark grey), as presented in figure H.1. Specifically, we display the estimated AMEs for the most substantively interesting reform proposals and the corresponding reactions of the court across both sub-samples. Out of 18 comparisons ($= 2 \times 9$) across

the nine countries, we find no statistically significant differences in 14 cases. The four exceptions—where the estimates differ between the two sub-samples—are the estimated AME of the reform content in Hungary and the AMEs of the court's reaction in Germany, Italy, and the United Kingdom. In all these cases, knowledgeable respondents evaluate the respective component more negatively than the corresponding baseline. However, in none of these cases do the differences lead to a different substantive conclusion. We therefore conclude that substantive knowledge about the court does not lead to substantively different results.

Figure H.1: Analysis of knowledge effects
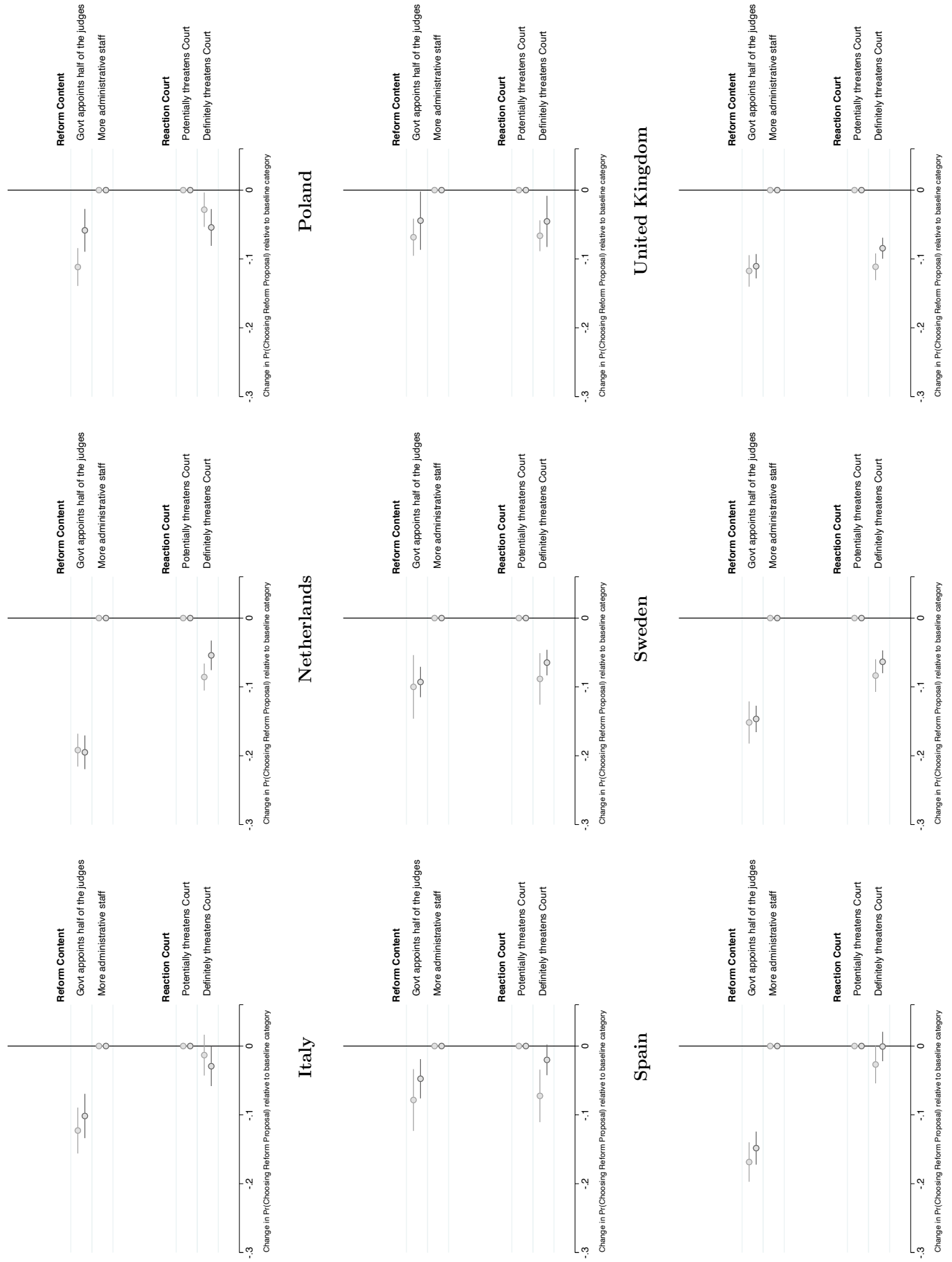
I. Validation

Table I.1 presents the results of a validation exercise with a different data source. We use the estimated AMEs at the country level to predict public perceptions of the independence of national justice systems, drawing on a different data source: the Flash Eurobarometer 483, fielded between 7 and 11 January 2020. From this dataset (using post-stratification weights), we calculate, for each country, the percentage of respondents who stated that the independence of courts and judges in their country is 'very good' or 'fairly good.' We then examine whether the size of the two estimated AMEs per country (among government supporters) is associated with these perceptions of judicial independence. We run robust regressions to account for outliers and potentially high-leverage points, given the small number of countries.

In model (1), we use as the sole covariate the estimated AME per country among government supporters for choosing a proposal, even when the court indicates that such a reform would 'definitely threaten' judicial independence, instead of choosing the neutral reform. The results indicate that the larger the magnitude of this AME across countries, the less independent the judiciary is perceived to be.

In models (2) and (3), we use as the sole covariate the estimated AME per country among government supporters for choosing the proposal that allows the government to appoint half of the judges, over the neutral proposal that would not limit judicial in-

Table I.1: Robust Regression Results predicting perceived Judicial Independence in the Eurobarometer data as a function of the estimated AMEs in the sample of government supporters across countries

	(1)	(2)	(3)	(4)
Reform def. threatens ind. (AME)	−5.34***			−4.82***
	(1.23)			(0.48)
Govt appoints half of judges (AME)		−1.22		
		(1.16)		
Govt appoints half of judges (AME, adj)			−2.06*	−1.54**
			(0.98)	(0.50)
Constant	0.37***	0.47***	0.58***	0.39***
	(0.08)	(0.11)	(0.06)	(0.03)

N = 9; * p < 0.10; ** p < 0.05; *** p < 0.01.

dependence. In model (2), we use the raw AME values, while in model (3), we adjust them for the institutional context. The results indicate that, for both versions of the covariate, a larger AME is associated with lower perceived judicial independence in that country. Interestingly, the relationship is statistically significant only for the adjusted version, where we account for differences in institutional context.

The results of model (4), which includes both covariates, indicate that the magnitude of both AMEs in our data systematically predicts the perceived level of independence of national justice systems, as measured by a completely different data source—the Eurobarometer. This suggests that in countries where respondents are, on average, more likely to choose a proposal limiting judicial independence over a neutral one, and more likely to support a proposal even when the court warns that it would threaten judicial independence, citizens are less likely to perceive their national judiciary as independent.

Figure I.1: Validation 1: The magnitude of the estimated AMEs of the court-curbing proposal per country is associated with their citizens' average perception of Judicial Independence
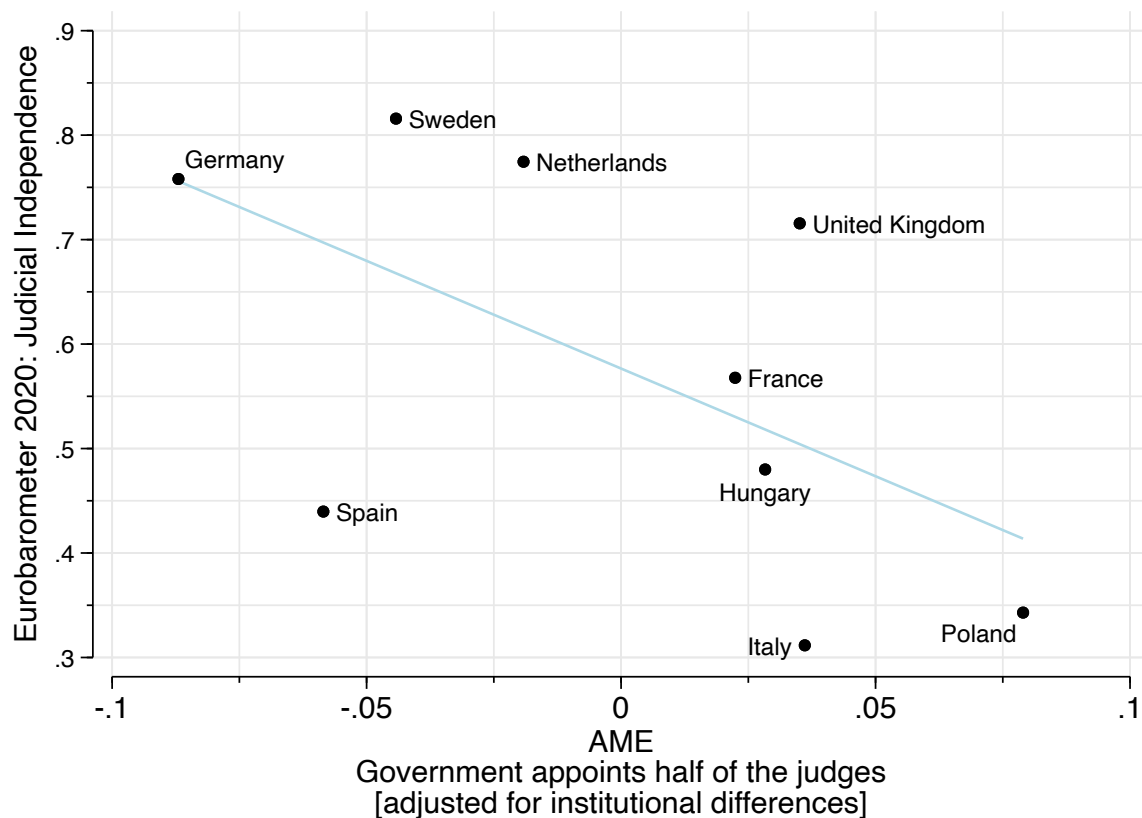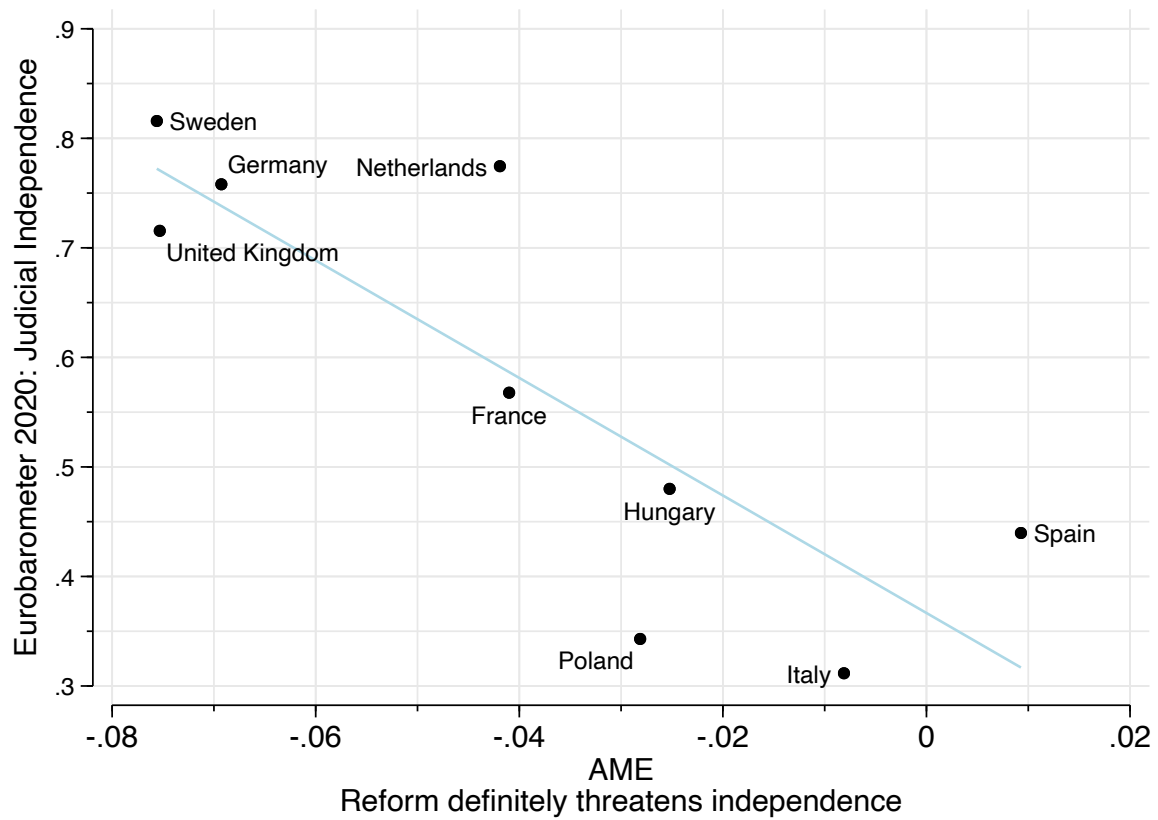
Figure I.2: Validation 2: The magnitude of the estimated AMEs of the the court's warning about a given proposal per country is associated with their citizens' average perception of Judicial Independence

Finally, figures I.1 and I.2 show that our estimated AMEs are associated with the average perception of judicial independence in the countries included in our study.

J. Robust regression results of macro analysis

Table J.1 presents the estimated coefficients from four differently specified regression models, which examine whether the extent to which government supporters reject court-curbing proposals is associated with the degree of polarization in our sample of nine countries. In model (1), we run a bivariate robust regression to account for outliers and potentially high-leverage points, given the small number of countries. The results indicate that, as expected, the degree of polarization in a society is positively associated with the strength of preferences among government supporters to allow the government to appoint half of the judges—over supporting the neutral proposal that would *not* limit judicial independence. Thus, at least in our sample of countries, we find that the more polarized a society is, the stronger the tendency among government supporters to prefer a proposal that limits judicial independence when their preferred government stands to benefit.

Moreover, we hypothesize that part of this variance can be attributed to the different frames of reference respondents employ when evaluating such proposals. These frames of reference likely arise from institutional differences between countries. We adjust for two such institutional differences. First, we consider whether a country uses a supreme court rather than a constitutional court. Second, we examine whether the appointment rules stipulate that the government actively selects judges to the highest court.

Table J.1: Robust Regression Results predicting preference for court-curbing as a function of polarization and institutional characteristics across countries

	(1)	(2)	(3)	(4)
Degree of Polarization	0.14***	0.15**	0.15***	0.15***
	(0.02)	(0.05)	(0.02)	(0.02)
Supreme Court (=1)		0.03		0.00
		(0.03)		(0.02)
Govt. selects judges (=1)			−0.05*	−0.05
			(0.02)	(0.03)
Constant	−0.46***	−0.50***	−0.48***	−0.49***
	(0.06)	(0.13)	(0.06)	(0.06)

$N = 9$; * $p < 0.10$; ** $p < 0.05$; *** $p < 0.01$.

In model (2), we adjust for the fact that respondents in countries with a supreme court—as opposed to a constitutional court (see table 2)—may possess a different frame of reference. However, this characteristic does not appear to be systematically related to the estimated size of the AMEs. The same inference can be drawn from model (4). In contrast, model (3) provides evidence that in countries where the appointment rules allow the government to actively select judges to the highest court, government supporters are, on average, 0.05 percentage points more likely to prefer court-curbing measures that limit judicial independence over the baseline category of the neutral reform in our discrete choice experiment. In the main body of the text, we rely on model (3) to adjust for institutional settings that may significantly influence respondents' choices, and we visualize the results in figure 4.

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