

***YOUR 'RULE OF
LAW' RHETORIC IS
HELPING ORBÁN
AND KACZYŃSKI
– BUT THERE IS
ANOTHER WAY***

***A SHORT MESSAGING GUIDE FOR
PROPONENTS OF THE RULE OF LAW***

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NOVEMBER 2021*

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Liberties welcomes queries from campaigners who are interested in receiving training on values-based framing or would like assistance or feedback on communications products they are developing based on this guide. Please email the author (i.butler@liberties.eu) or Liberties (info@liberties.eu).

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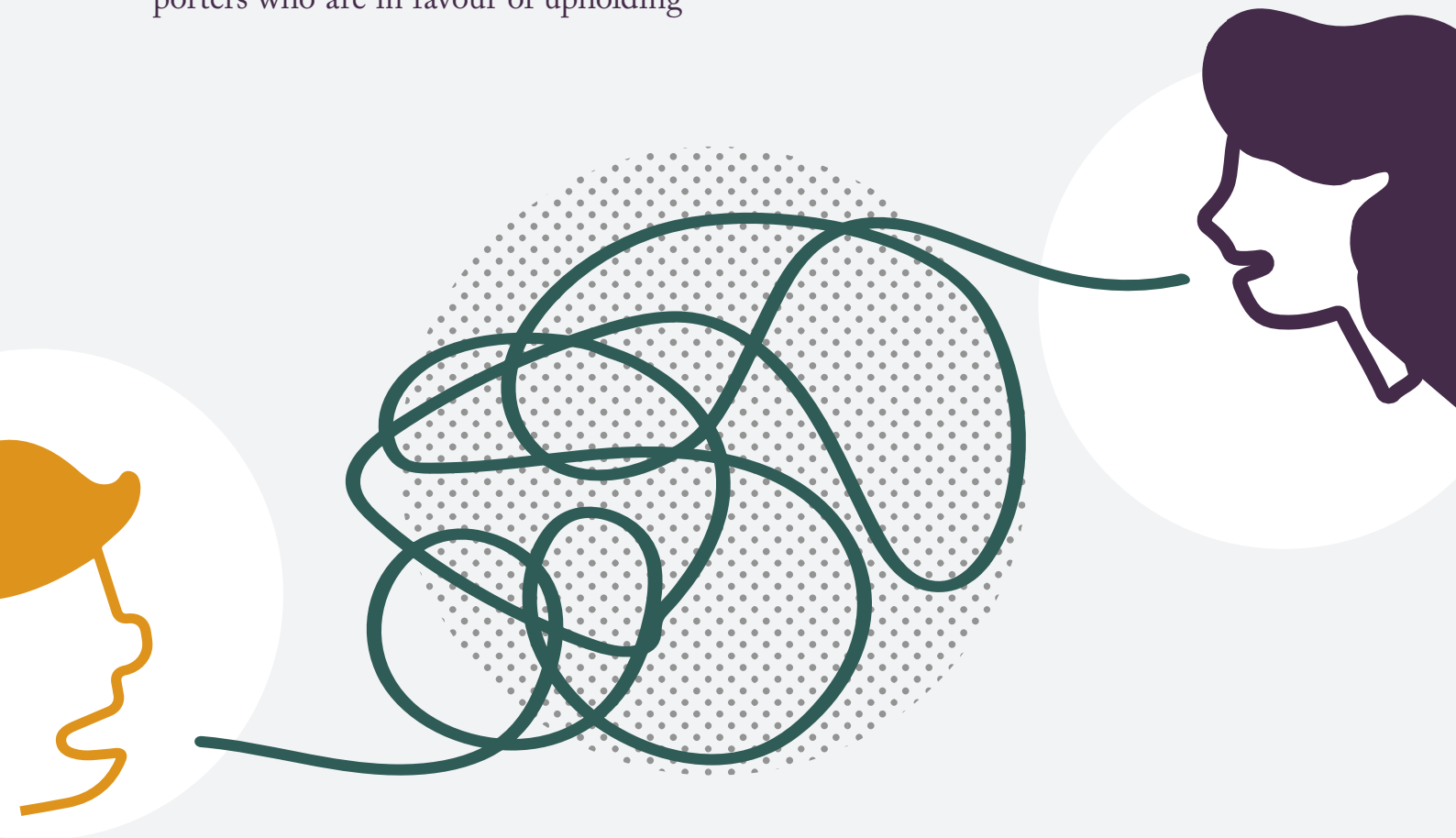


About this short guide

If proponents of the rule of law keep talking in legal abstractions rather than focusing on what this principle delivers for people, they will continue to play into the hands of aspiring autocrats. This short guide explains why current messaging is problematic and suggests alternatives, drawing on research and practice from communicators working on similar topics. The guide is aimed at officials, activists and commentators who want to stimulate public support for safeguarding the rule of law. If your words are reported by media outlets that talk to people outside the EU bubble, then this includes you.

The messages in this guide are calibrated to be persuasive to a base of supporters who are in favour of upholding

the rule of law, and that part of society who holds conflicted views on the issue and are therefore persuadable. These messages will not sway committed opponents of the rule of law. But you don't need to. It's enough to get your base on board and move some people who are persuadable over to your side. In countries where a majority of media outlets is under government influence, it can be difficult to get persuasive messages to reach persuadable audiences. Instead, you need to use messages that your base is eager to repeat in conversation and through social media to people with conflicted views who are persuadable.



The struggle over rule of law conditionality

The EU may interrupt a Member State's access to Union funds where a systemic threat to the rule of law creates a risk that those funds will not be spent in line with EU rules. The Hungarian and Polish regimes have increased their attacks on the EU because they fear that the Commission may hold back recovery funds and/or activate the rule of law conditionality mechanism. In their messaging, these governments frame the EU as an imperialist power that is using financial leverage to impose foreign rules that threaten national culture and sovereignty.

The autocrats are battling for public opinion

The autocrats' arguments won't convince most MEPs, Commissioners and government leaders. But they're not meant to. The rhetorical battle is for domestic consumption. Even if the EU can mobilise international pressure on Orbán and Kaczyński, the latter know that, as long as they can engineer election wins, they will remain in power. So, when the EU applies pressure, the regimes spin it to cultivate support from their own population. It's jiu-jitsu politics. The fact that majorities in both countries support EU membership doesn't stop Fidesz and PiS from convincing enough voters that, on certain issues, the EU is treating them unfairly.

We brought a legal dictionary to a gunfight

The way that proponents of the rule of law are framing their arguments may be helping Orbán and Kaczyński win over domestic support. Those of us on the side of the rule of law tend to use one or more of the following arguments: you signed up to these rules when you joined so you should stick to them and you're not allowed to cherry pick; you can't expect EU money if you don't follow EU rules; the EU can't work properly without legal integrity, so you have to respect the primacy of EU law; the EU is not just a market but a union of values, and you have to respect EU values.

These arguments are fine between politicians, activists, academics and think-tankers. But this debate is taking place in public, and the media is relaying it to public audiences. And the way these arguments are framed is problematic in two ways.

First, not many people outside our nerdy bubble really understand the terms we're using, like 'rule of law', 'primacy', 'EU values', or 'integrity of the legal system'. The sophistication of the language you use has to be adapted to the level of expertise in your audience. Research shows that if your audience considers your language overly complicated and full of jargon they will tune out, be more likely to oppose what you're saying, think you're not so smart, feel like they know little about

the topic, and not want to get actively involved in the issue.

The second, bigger, problem is that the terms we use are abstractions to most people. Even if someone understands that the rule of law means that judges should be independent, they probably can't take the next step and see what that means in their daily lives. And some of the abstractions we use actively obscure how the EU benefits people. When we refer to 'EU values' or even 'European values', it hides the fact that we're talking about values our audience holds dear, not values that come (or are imposed) from outside. Similarly, when we say that a government should do something because 'the EU' or 'EU law' requires it, we're making it hard for the audience to appreciate that ordinary people are the ultimate beneficiaries. In other words, we need to stop saying 'because EU law said so'. Instead, we need to talk about why 'the EU' or 'EU law' or 'EU values' require governments to do something and how that something delivers a result people value.

From the abstract to the concrete

It's well established through testing by communications experts that trying to persuade people by appealing to abstract concepts is much less effective than pointing out what those principles give them: the result that delivers something they find important. In the marketing community, this is referred to as selling the brownie, not the recipe.



For example, researchers in the USA found that the message ‘we should have a minimum wage’ garnered much less support than ‘people who work should be paid enough to make ends meet’. Similarly, ‘we should have paid sick leave’ was much less popular than ‘people who work should be able to recover at home from an injury or illness’.

Aspiring autocrats are counting on the fact that proponents of the rule of law will talk in technical abstractions, while they appeal to values that their audience connect to emotionally, like national pride, attachment to tradition, religion, culture and concern for our children.

What does this mean for those of us who want to protect EU values? Here are some tips on how to message to disrupt Fidesz’ and PiS’ manipulation of public opinion.

Make it tangible

When you want to talk about concepts your audience might see as abstractions, like the ‘rule of law’ or ‘fundamental rights’, focus on explaining the ways in which people will experience a better life when these principles are put into practice.

<i>Don't say</i>	<i>Try instead</i>
Country x should uphold the rule of law because it's an obligation of every EU Member State and one of the EU's founding values.	Independent judges make sure politicians fund the things our communities rely on, like schools and hospitals, instead of pocketing our resources for themselves. That's why every country needs them.
The proposed reforms violate EU law because they compromise judicial independence.	We don't allow a football team to pick its own referee. Judges, like referees, have to be independent. That's how we make sure everyone, including the government, plays by the same rules.
We are not trying to impose an EU version of the rule of law. The core principles of the rule of law are common to all Member States and are set out clearly in international documents that we have all agreed to. Country x cannot argue that their rule of law is different.	Most of us agree that no matter who we vote for, our leaders are supposed to work for all of us. The contributions citizens make should be funding schools for our children or roads for us to travel on, not going into the pockets of a few politicians. No matter what country we live in, we all rely on judges who are independent of politicians to make sure they fund the things our communities need.



Primacy means freedoms for everyone everywhere

Explain the primacy of EU law by focusing on the rights that it gives to everyone, regardless of what EU country they live in. Having a uniform interpretation of EU law isn't just about

facilitating free movement of goods or serving the god of legal integrity. It means that when EU law guarantees certain freedoms, anyone anywhere in the EU gets to enjoy them, and a government can't take that away by deciding national law can block those rights.

Don't say

All governments and national courts must respect the primacy of EU law and implement EU law and judgments of the Court of Justice. Otherwise, we lose the integrity of the EU legal order.

Try instead

Most of us believe everyone should have the same opportunity to find work, see a doctor or send our children to school, no matter who we pray to, the colour of our skin or who we love. We guarantee those freedoms to everyone. A government can't decide on a whim to take that away from everyone in a country.

Or

None of us should have to choose between putting food on the table and being there the first time our newborn smiles. We all get to enjoy paid parental leave. A government can't suddenly decide to take that away from everyone in a country.

Or

All of us should be free to share our opinions, get informed, watch entertainment or shop on the internet knowing we aren't being watched. We guarantee that freedom to everyone. A government can't take that away from a whole country of people just because it feels like.

Say what you stand for, not what you stand against

The more an idea is repeated, the more embedded it becomes in your audience's thinking. And this is true even if you're contradicting an idea.

The argument that 'the EU is not a cash machine' is similar to greeting your loved one on your anniversary with: 'I have not had an affair' rather than saying: 'I'm so happy we're together'. When you say what you stand against, you're effectively repeating your opponent's messaging and framing of the issue.

Even though it's expressed as a negative, the cash machine metaphor prompts your audience to apply their understanding about the purpose and workings of a cash machine to the EU: the government is entitled to this money and can use it however it wants. Whereas what proponents of the rule

of law really want to get across is that EU funds have to be used in a particular way for a particular purpose. But this is also too abstract and needs to be broken down further so that your audience can understand where the money comes from and what – in tangible terms – it's for.

Talking about 'EU' funds hides the fact that these finances are made up of contributions from citizens. Either taxes that they pay or taxes that are collected on their behalf. And, as already mentioned, saying that governments have to respect 'EU values' in order to get access to funds makes it harder for your audience to appreciate how this connects to their daily lives and the values that they themselves hold. A more helpful metaphor might be that the EU holds contributions collected from and by citizens 'on trust' to be used for them.

Don't say

The EU is not a cash machine. If you don't respect EU values you can't have EU money.

Try instead

The EU is entrusted with ensuring that contributions from and by citizens are used for citizens. We have a duty to make sure these contributions fund the schools, roads and hospitals our communities rely on and don't disappear into the pockets of corrupt politicians and businesses.'

Or

We hold citizens' contributions on trust to help build schools for your children, or renovate hospitals so your loved ones get the care they need. These funds are from and for our communities. They're not for lining politicians' pockets.

Don't fall for dead cats

If you need to counter misinformation, use a 'truth sandwich'. Aspiring autocrats will often use misinformation in a 'dead cat' tactic. That is, to distract public debate from news that is damaging to them, they will do or say something outrageous hoping attention will shift onto the latter. In a truth sandwich a) lead with your own message b) explain why your opponent is misleading the public and allude to (but don't repeat) the lie c) return to your message.

Because you only allude to the lie, it may feel like you're avoiding the issue.

What you're actually doing is pulling the debate back to where you want it and away from the attempted diversion. As you just read, repeating an idea will help to embed that information in your audience's mind, even if you're contradicting it. That's why it's important to avoid repeating or engaging with the lie directly.

Don't say

The EU is not trying to impose same-sex marriage on country x.

Try instead

Most of us want our representatives to fund the things that are important in our lives, like the roads and buses we travel on to get to work and visit loved ones. But some politicians are giving lucrative contracts to their corporate friends that line their pockets without delivering what we need. When we try to stop these problems, they point the finger at the EU. We're demanding that your contributions are used to fund the services that your communities rely on.

Or

No matter who we vote for, most of us believe that the leaders we elect should govern for all of us. But some politicians are so desperate to hold onto power that they fuel divisions. They try to divide us based on where we live, who we love or who we pray to. They hope we will blame each other, rather than them, for the damage their policies have caused us. We believe in bringing people together. Because it's when we join across our differences that we can demand that our representatives work for all of us.

Where to next?

This short guide offers suggestions on how to message more effectively to stimulate public support for the rule of law. It applies lessons and research from communicators promoting causes in the field of social justice and human rights. Readers who are interested in pursuing this further or who would like to receive a workshop introducing them to values-based framing, should contact the author via: i.butler@liberties.eu.



The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

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