

ILLIBERALISM IN THE V4: PRESSURE POINTS AND BRIGHT SPOTS

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EXECUTIVE SUMMARY

- Democratic backsliding has definitely become a trend in the Visegrád countries with Hungary and Poland leading the charge. Meanwhile, shifts in Slovakia and the Czech Republic did not result in deeper changes to the institutional system.
- The main difference between the Hungarian and the Polish model is that while the power political methods and the institutional makeup of the Orbán-regime showcases authoritarian traits, the Kaczyński regime, still in the infancy of illiberal state building, can still be described as a watered-down democracy where some institutional checks and balances are still functioning.
- When it comes to **constitutional arrangements, Poland remains more stable than Hungary due to factors such as the more extensive role and direct mandate of the president, a proportional electoral system** that helps blocking the formation of constitutional supermajorities, and the **multi-level structure of local self-governments**. The latter provide at least some balance to the central administration.
- The increasingly undemocratic political culture – **rapidly shifting institutional standards and illegal procedures – is the main culprit of undermining Polish liberal democracy**. The 2015 election result does not legitimise the extent of systemic changes introduced by Jarosław Kaczyński, whose party usurped the right to change constitutional arrangements without changing the law itself. Moreover, the overhaul of the judiciary system is in an advanced stage, while in Hungary the judiciary is independent of the government – at least for the moment.
- There are two main characteristics of the Orbán regime. It does not want to dissolve democratic institutions completely but strives to empty them of content. Consequently, they have become unable to restrict the government. Additionally, the informal exercise of power plays a central role in illiberal system-building in Hungary. The essence of the system is dissolving social autonomy through the establishment of feudal relationships of dependence. The Hungarian government is “untouchable” for Brussels partly because – for instance – the EU procedures aimed at monitoring the institutional and legal system cannot deal with informal power politics.
- Both Orbán and Kaczyński are abandoning the achievements of the democratic transition, and they are both referring to the failure of this period when they are altering the political system. This is ironic given that they were around the roundtables deciding on their respective countries’ futures themselves. However, since 2015, references to the threats posed by migration is an even more essential characteristic of the Orbán regime’s authoritarian political system-building efforts.
- The key traits of the Orbán and the Kaczyński regimes are that they are authoritarian, exclusionary in a sense that they reject pluralism and depict critical actors independent of these governments (civil society, opposition, etc.) as the enemy of the state. In Poland, Kaczyński delegitimized the entire opposition by labelling them “Poles of the worst sort”, “murderers” “with treason in their genes”.
- Authoritarian populist tendencies are also present in Slovakia and the Czech Republic but to a lesser extent. Robert Fico has often depicted journalists as prostitutes, while the sustainability of populism in the Czech Republic is being ensured the by pro-Russian, Eurosceptic Milos Zeman and Prime Minister Andrej Babis. In Slovakia, there is a possibility for moving towards a less democratic system of governance based on the “tyranny of the majority”, but the relatively non-ideological nature of the government and the strong institutional checks and balances on the executive branch can rein in such political efforts. The Czech Republic is an even more stable democracy given the steady post-transition constitutional framework.
- **While the Fidesz government’s full-scale attack on independent civil society is about to shift into high gear, civil society in Poland has more manoeuvring space. However, ever since PiS came into power some concerns have been raised that the centralisation of funding leaves many NGOs in lack of financial resources.**

- The Slovak and Czech civil society continues to be a cornerstone of democratic change and consolidation against any illiberal changes.
- **Both the Hungarian and Polish governments restricted the public sphere significantly.** The party colonization of the media has largely been successful in Hungary where the public space has undergone unprecedented centralisation efforts. The public broadcaster has been under the direct political control of the Polish ruling party since 2015, but compared to the Hungarian case the Polish media market is still diverse.
- In Slovakia and the Czech Republic, the role of independent media could be constrained by politically motivated economic groups, oligarchs acquiring a larger share in the media market or by popular disinformation sites.
- While Orbán and Kaczyński are using similar power political methods, **Jarosław Kaczyński is rather an ideologue aligned with the Polish Catholic Church. In contrast, Viktor Orbán, with state corruption as the main feature of the institutional design of the regime, is a pragmatic non-ideologue aligned with oligarchs.** Even though oligarchs have not blossomed in Poland so far, a significant degree of clientelism is part of the local political culture.
- Political/economic corruption is also a systematic feature of the Slovak and Czech political establishment. In the former, the phenomenon was strengthened by Smer-SD after 2006, and there is a potential for the further consolidation of kleptocracy and clientelism by employing “selective justice”. The Czech political system’s weak point is rooted in clientelism around the prime minister’s vast economic empire.
- Orbán’s anti-EU, anti-immigration and pro-Russian, anti-Western rhetoric underpinned by an unprecedented mass of fake news and conspiracy theories in mainstream pro-government media undermines trust in the Western institutional system. Meanwhile, PiS remained traditionally in favour of transatlantic ties, although its anti-Russian views do not prevent the party from using Russian-style rhetoric about the decadent West.
- Their anti-EU stance fits into a wider discourse on sovereignty on the basis that there is a potential cultural conflict between the Hungarian and Polish nation and the decadent West that is unable and unwilling to protect its values from migration. Consequently, they claim that strengthening national sovereignty is indispensable for the survival of the nation and of Europe.
- Speaking of geopolitical attitudes, in Hungary, Slovakia or the Czech Republic **more than 40% of the respondents from the respective states would place their country between the East and the West.**¹ Polish society’s vulnerability stems from the fact that young Poles, surprisingly, have least pro-Western attitudes in the V4.
- New/social media and the bias of media outlets are definitely weaknesses both in Hungary and Slovakia where societies are more prone to conspiracies, while Czechs and Poles are the most impervious to such theories. **As a consequence, a significant portion of the Hungarian and Slovak population is susceptible to populist/extremist political actors and their xenophobic, anti-immigration or anti-West (anti-EU, anti-NATO, anti-American) narratives.**
- The constraining role of the EU is rather small due to its limited leverage with regards to Article 7, but the new proposal about making the mechanisms for monitoring the spending of EU funds more rigorous by being more forceful about the independence of judicial bodies could exert some influence on Hungary and Poland in the long-run.

¹ Daniel Milo, Katarína Klingová, and Dominika Hajdu, “Globsec Trends 2017,” 2017, https://www.globsec.org/wp-content/uploads/2017/09/globsec_trends_2017.pdf.

INTRODUCTION

The Visegrád group will celebrate the 30th anniversary of the fall of communism in 2019, but the political landscape has changed dramatically since the democratic transition in the region. According to the Nations in Transit report, Hungary is no longer considered a “Consolidated Democracy,” and Poland got closer to being denied this title as well after having suffered the largest fall in the history of the survey. In the past 8 years, the region has been characterized by political instability and a low level of predictability among political actors, and these similarities have serious implications for the state of democracy and the future of European integration. This study focuses on the Visegrád countries and the similar patterns in them that play a role in the new illiberal trend in Central Europe. The study’s is to systematically analyse and compare illiberal tendencies in the Visegrád countries mainly in Hungary and Poland but with an outlook on the Czech Republic and Slovakia as well. The main goal of the study is to identify the potential of illiberal system-building in the Visegrád countries and its limits based on the following aspects, among others:

- Checks and balances
- Constitutional arrangements
- Centralization of power
- Electoral system, party system
- Structure of the public sphere, state of the media and civil society
- Attitudes towards democracy, values and the West

The starting point of this study is that the post-democratic transition Hungarian and Polish liberal democracies were transformed into illiberal regimes by the anti-democratic efforts of nationalist-populist governments. Democratic backsliding has definitely become a trend in the region, with Hungary and Poland leading the charge. There has been a significant deterioration of both political and civil rights in Hungary and Poland. The Orbán and Kaczyński regimes both rolled back such rights considerably, and the quality of democratic governance has worsened as well. This means a different type of regime is in the making, although there are significant differences between the Hungarian and Polish cases as well. Viktor Orbán has successfully built an authoritarian hybrid regime in the heart of the EU, inhabiting the grey zone between consolidated democracy and closed authoritarianism. The similarities between illiberal regimes have serious implications for the state of democracy and the future of European integration in the long-run. Additionally, as Ivan Krastev highlighted, the assumption that EU integration will guarantee the irreversibility of democratic changes in the post-communist countries of Central Europe has been questioned.² The legitimacy of democratic systems is tied to economic performance, and various difficult reforms have been implemented in these countries during the transition to join the EU and achieve convergence with Western economies, but these failed to satisfy local societies later. Unfulfilled economic expectations with regards to the EU accession were followed by multiple crises of the integration project such as the Eurozone debt crisis after 2007, and then the escalation of the migration crisis led to the destabilization of political systems through the exploitation of anti-establishment, populist sentiments. The depth of democratic consolidation has also been tested especially because the erosion of trust in democratic institutions had taken place even before the abovementioned crises. A Gallup International poll³ already emphasized in 2007 that Central and Eastern Europeans were the most sceptical about the state of democracy and only about one-third trusted democratic processes.

² Ivan Krastev, “The Central European Paradox.,” *Globalaffairs.Ru*, February 22, 2018, <http://eng.globalaffairs.ru/book/The-Central-European-paradox-19379>.

³ <http://voiceofthepeople.net/>

Therefore, attempts to visualise a new type of democracy and to “correct the transition” fell on a highly fertile ground among certain layers of the electorate. Most importantly, these phenomena were in line with global trends especially after the similarly populist Donald Trump was elected in the United States, setting an example for the entire region. Moreover, the US has traditionally been an actor restricting and monitoring these governments. Meanwhile, the European Union has been distracted by its own problems as Western populists have been on the rise and liberal forces within the EU have lost popularity as well.

HUNGARY: A UNIQUE LABORATORY IN THE EU

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Ever since Viktor Orbán announced the construction of an illiberal regime at Baile Tusnád in 2014, there has been a longstanding debate in Hungary and Europe on how the Hungarian political system should be defined. There is an almost unanimous consensus on that 2010 can be considered the start of a new era in the post-transition history of Hungarian politics, but there is still no agreement among political scientists on what kind of political structure is being built since the second Orbán government's accession to power.

When placing Hungary on a scale ranging from dictatorship to democracy there are various names in circulation besides the most frequently cited phrase, illiberal democracy, such as simulated democracy,⁴ populist democracy⁵ and illiberal democratic capitalism.⁶ András Körösényi prefers to describe the system as "leadership democracy," which is based on the strong legitimacy of the leader and competition between charismatic persons rather than party programs.

There are approaches which try to avoid placing the current Hungarian political structure on the dictatorship-democracy scale and aims to describe the characteristics of the regime,⁷ capturing the essentials of how it operates and constructing some kind of frame for understanding it. One option is the "post-communist mafia state" phrase used by Bálint Magyar, which the writer defines as a special sub-type of authoritarian systems.⁸ **As András Bozóki and Dániel Hegedűs rightly pointed out this is more of a hybrid regime externally constrained by the European Union, which supports and legitimises the regime at the same time.**

Contrary to András Körösényi, who previously argued that the political practice of the Orbán regime became authoritarian but the system remained democratic, we argue that both the political practices of the government and the system itself showcase authoritarian traits. **On the basis of the last 8 years of system-building, our argument is that Hungary is closest to the model of a "competitive authoritarian" hybrid regime, where free elections are held on a regular basis but the government systematically abuses its power to hinder the opposition to secure its own place in power.** According to the research of Levitsky and Way, constitutional channels allowing opposition parties to compete for executive power exist, but the incumbent violates at least one of the three defining attributes of democracy: free elections, broad protection of civil rights and a reasonably level playing field.⁹ **A change of the government is possible in an election, but the political environment built by Fidesz after 2010 does not provide the opposition with equal opportunities. Therefore, the political competition is formally open, but unfair.**

⁴ Ulrich Sedelmeier, "Anchoring Democracy from Above? The European Union and Democratic Backsliding in Hungary and Romania after Accession," *JCMS: Journal of Common Market Studies* 52, no. 1 (2014): 105–21, <https://doi.org/10.1111/jcms.12082>.

⁵ Andras Bozoki, "The Illusion of Inclusion: Configurations of Populism in Hungary," Working Paper, 2012, <http://cadmus.eui.eu/handle/1814/26934>.

⁶ Iván Szelényi and Tamás Csillag, "Drifting from Liberal Democracy," *Intersections. East European Journal of Society and Politics* 1, no. 1 (2015): 18–48.

⁷ In our study, we use the phrases „regime” and „political structure” similarly to András Körösényi because this allows for a wider description than „political system” does.

⁸ Magyar Bálint, *A magyar maffiaállam anatómiája*, 2015, https://www.libri.hu/konyv/magyar_balint.a-magyar-maffiaallam-anatomiaja.html.

⁹ Steven Levitsky and Lucan A. Way, *Competitive Authoritarianism: Hybrid Regimes after the Cold War*, 1 edition (New York: Cambridge University Press, 2010).

CONSTITUTION

First of all, the ruling Fidesz-KDNP used its first supermajority in the National Assembly to dismantle the rule of law from the top down: the competences of the Constitutional Court (AB) were severely curbed in 2010, and then a new constitution entitled The Fundamental Law of Hungary was enacted, coming into force on January 1, 2012.^{10,11} According to András Jakab, it became obvious that in certain cases the Constitutional Court simply does not dare or does not want to take the legally necessary decision because they are trying to avoid confrontation with the government. The most spectacular example was the delaying tactics used by the Court in the lex-CEU case, which is still pending. These delaying tactics by the president of the Constitutional Court are strictly speaking legal, but these show the public that the court is not independent.¹² Constitutional amendments also enabled the pro-government head of the National Judicial Office (OBH) to re-assign legal proceedings from one court to another, although this provision breaching the rule of law principles had to be revoked in the fifth amendment upon the request of the European Commission in 2013.¹³ In April 2016, the National Assembly approved the sixth amendment that allows the government to declare a "state of emergency" because of the threat of a terror attack and consequently authorises it to severely restrict human rights. Still, the state of emergency requires a two-thirds majority in the National Assembly.¹⁴ There was another failed attempt by the government to amend the constitution the 7th time in 2016 to prevent the European Union from "resettling" immigrants to Hungary without following regulations framed by the Fundamental Law and the individual vetting of each case by Hungarian authorities.¹⁵

After having gained another supermajority in the 2018 general election, the government announced its intent to revisit the 7th amendment against mass migration.¹⁶ Given the fact that the "Stop Soros" legislation package aimed at countering migration is also on the table and Fidesz-KDNP's campaign mainly ran on the false premise of the need to fight against the (imaginary) "plan" of George Soros or the European Commission to repopulate Europe with Muslim migrants to change the continent's ethnic composition and its Christian culture, the amendment can be viewed as another attempt to attack Hungarian human rights organizations and turn public opinion against the European Union. There are three possible scenarios given that the Union's law prevails even over national constitutional regulations according to the verdicts of the European Court of Justice (ECJ).¹⁷ First, the government can use a media campaign to score points among the Hungarian electorate for passing the amendment. Second, the European Commission might launch an infringement procedure if the government were to claim that the Fundamental Law cannot be questioned by any European-level decision or regulation on migration. **However, this would possibly take a year to unwind, which is when the Hungarian government could continue to bash the EU for this issue.** Third, the ECJ might give a verdict on the issue and penalize the Hungarian state until the Fundamental Law is in line with European regulations once again.

¹⁰ Christoph Grabenwarter et al., "OPINION ON THE NEW CONSTITUTION OF HUNGARY," 2011, [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2011\)016-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)016-e).

¹¹ Miklósi Gábor, "Mit hoz az Alaptörvény módosítása?," March 11, 2013, http://index.hu/belfold/2013/03/11/mit_hoz_az_alaptorveny_4._modositasa/.

¹² Jakab András, "Miért nem működik jól a magyar jogrend, és hogyan javíthatjuk meg?," *index.hu*, February 19, 2018, https://index.hu/velemeny/2018/02/19/jakab_andras_tanulmany_elemzes_jogrend_hibai/.

¹³ MTI, "Megszavazták Az Ötödik Alkotmánymódosítást," *Hvg.Hu*, September 16, 2013, http://hvg.hu/itthon/20130916_otodik_alkotmanymodositas_atment.

¹⁴ Sean Lambert, "Amendments to the Fundamental Law," *The Orange Files* (blog), October 21, 2013, <https://theorangefiles.hu/amendments-to-the-fundamental-law/>.

¹⁵ HVG, "Terrorveszély: jöhet az alaptörvény hatodik módosítása," *hvg.hu*, April 26, 2016, http://hvg.hu/itthon/20160426_terrorveszelyhelyzet_hatodjara_modositanak_az_alaptorvenyt_mar_szerdan_na_pirenden_lesz.

¹⁶ HVG, "A Fidesz újra nekifut a migrációellenes alaptörvény-módosításnak," *hvg.hu*, May 3, 2018, http://hvg.hu/itthon/20180503_A_Fidesz_ujra_nekifut_a_migracioellenes_alaptorvenymodositasnak.

¹⁷ László Blutman, "Szűrületi Zóna: Az Alaptörvény És Az Uniós Jog Viszonya," 2017, http://hvgorac.hu/pdf/KJSZ_2017-1_2_140.pdf.

CHECKS AND BALANCES

Since 2010, the ruling Fidesz-KDNP coalition and government has systematically taken over, weakened or eliminated all democratic intuitions serving as checks and balances to executive power, while a new power structure has been created around PM Viktor Orbán to enable him direct personal control over state affairs. The Office of the President of the Republic of Hungary has been given to party loyalists Pál Schmitt (2010-2012) and János Áder (2012-).¹⁸ Although the president's role is mainly ceremonial in Hungary, he or she has political or constitutional veto rights over legislation. Áder only used his constitutional veto in one significant case (successfully) concerning the transparency of finances of the Central Bank of Hungary (MNB), otherwise he and his predecessor quietly assisted the institutional dismantling of the system of checks and balances built into the Constitution.¹⁹ The Constitutional Court (AB) was among the first to be legally reined in by the government through increasing the number of judges from 11 to 15 and extending their mandate to 12 years from 9, allowing the strongest parliamentary group (the Fidesz-KDNP) to decide on new appointees, limiting its competences on – for example – judging budgetary or tax-related issues and, finally, enabling legislation ruled to be unconstitutional by the AB to be ingrained into the Fundamental Law of Hungary.²⁰ As a result, the Constitutional Court ceased to be a counterbalance to the legislative branch and it ruled in favour of the government in 77% of cases between 2010 and 2014.²¹ The number of ombudsmen were reduced from 4 to 1, so Dr. László Székely, a former government commissioner, was appointed as the Commissioner for Fundamental Rights in 2013.²² The new regulation on the Prosecutor-General's Office and Péter Polt, a Fidesz-loyalist appointed as Prosecutor-General in 2010 for 9 years, allowed the Hungarian prosecution to essentially block all significant (politically charged) corruption cases with ties to the governing party, amounting to around 100 instances.²³ Consequently, the number of investigations into state corruption dropped by 300% after 2010.²⁴ While the aforementioned institutional changes were mainly used to rid the government from any passive or "outside" checks, the State Audit Office of Hungary (ÁSZ) was proactively used as a weapon against the political opposition. The ÁSZ first fined the far-right Jobbik party for a total of HUF 663 million (EUR 2,1 million) for receiving illegal party financing for political campaigns, thus financially crippling the organization. The decision was followed by smaller fines for four leftist parties. At the same time, Fidesz was exempt from similar financial audits despite the fact that government has been running joint public-funded campaigns with Fidesz for years.²⁵

¹⁸President Áder used his political veto to make the National Assembly reconsider legislation 31 times, while he made use of his legal veto requesting the Constitutional Court of Hungary to review legislation only 3 times, a low number compared to the more than a dozen similar decisions of his predecessors.

"A Köztársasági Elnök Szerepe a Törvényalkotásban," *parlament.hu*, accessed May 30, 2018, http://www.parlament.hu/fotitkar/tvalk/kozt_elnok_ossz.htm.

¹⁹Miklósi Gábor, "Áder jogállami bizonyítványa: ellensúly vagy paszomány?," *index.hu*, March 12, 2017, http://index.hu/belfold/2017/03/12/ader_jogallam_bizonyitvany/.

²⁰"Háttéranyagok az Alaptörvény negyedik módosításáról," *Magyar Helsinki Bizottság* (blog), April 17, 2013, <https://www.helsinki.hu/hatteranyagok-az-alaptorveny-negyedik-modositasa-kapcsan/>.

²¹Zgut Edit, "Visegrád jövője az illiberalizmus és az uniós makropolitika árnyékában," 2017., http://www.politicalcapital.hu/pc-admin/source/documents/FES_PC_Tanulmany_Visegrad_Illiberalizmus_171107.pdf.

²²"The Commissioner and the Deputies - AJBH," *ajbh.hu*, accessed May 30, 2018, <http://www.ajbh.hu/en/web/ajbh-en/the-commissioner-and-the-deputies>.

²³Zoltán Ágoston, "Több Mint Száz Fideszhez Köthető Korrupciós Ügy Eltussolásával Vádolják Polt Péter Ügyészségét," *168ora.Hu*, November 12, 2017, <http://168ora.hu/itthon/tobb-mint-szaz-fideszhez-kotheto-korrupcios-ugy-eltussolasaval-vadoljak-polt-peter-ugyeszseget-12408>.

²⁴Oroszi Babett and M. Tóth Balázs, "Polt Péter kinevezése óta meredeken zuhan a politikai korrupciós ügyekben indított büntetőeljárások száma," *Átlátszó* (blog), accessed May 30, 2018, <https://atlatszo.hu/2015/02/06/polt-peter-kinevezese-ota-meredeken-zuhan-a-politikai-korrupcios-ugyekben-inditott-buntetoeljarasok-szama/>.

²⁵Lengyel Tibor, "A Jobbik után a többi ellenzéki pártra is rászállt az ÁSZ," *Zoom.hu*, December 21, 2017, <https://zoom.hu/hir/2017/12/21/a-jobbik-utan-a-tobbi-ellenzeki-partra-is-raszallt-az-asz/>.

The new supermajority Fidesz-KDNP gained means that the political-institutional power around PM Orbán is going to be even more centralized and the remaining independence of the judiciary will be restricted. First, Viktor Orbán announced the creation of the new Government Office of the Prime Minister that will receive authorisation from the Prime Minister's Office to directly control governmental decision-making and enact decrees.²⁶ Second, since the self-regulating National Judicial Office (OBH) created in 2012 to essentially make Tünde Handó, the wife of Fidesz MEP József Szájer the head of the judiciary was not entirely successful in subordinating the judiciary branch to the government, new appointment rules for judges adopted in 2017 allow the government to flood the system with at least 200 new government appointees.²⁷ Meanwhile, the OBH could be eliminated entirely to allow judges to be placed directly under the authority of the Ministry of Justice. An early sign of what's to come is that four members and one substitute member of the OBH have already voluntarily resigned from their positions in April.²⁸ These steps could reinvigorate a plan from 2016 – which was abandoned at the time – to create regional “special administrative courts” where the most politically sensitive cases, corruption scandals could be adjudicated separately.²⁹ PM Orbán has already mounted a direct attack against judiciary independence by accusing the Supreme Court (Curia of Hungary) of having “interfered with the election” and “taking away” a parliamentary mandate from Fidesz by upholding the National Election Office’s ruling on several thousand ballots being invalid due to them having been mailed improperly.³⁰

MEDIA

Hungarian public space has undergone an unprecedented centralization comparable only to efforts in the socialist era under the second Orbán-government as a result of the state-led transformation of the public broadcaster, a new media regulation enacted in 2010 and the domination of all media sub-markets other than online news media and social media by oligarchs close to Fidesz. According to the Freedom House’s Freedom of the Press 2017 Index, the Hungarian media is only partly free with a score of 44 out of 100.³¹ In media lawyer Gábor Polyák’s opinion, the Hungarian media situation resembles South American dictatorships where private media was still profitable for its owner, however, it became entirely a tool of politics.³² State-funded public media have lost all their independence after being forced under the umbrella of the newly created MTVA (the Public Service Media Fund) that currently runs 6 television and 7 radio channels on a yearly budget of HUF 80 billion (EUR 258 million), while the main public channel M1 has been turned into a 24/7 news broadcast. Act CLXXXV of 2010 on media services and mass media established the National Media and Infocommunications Authority (NMHH) headed by Dr. Mónika Karas, who was appointed for 9 years by the president upon the recommendation of the prime minister, with broad sanctioning powers which at first seemed to impose self-censorship and the force independent media to reveal their investigative sources.³³ Instead, the NMHH has so far lead the way in providing oligarchs with ties to Fidesz with radio and television frequencies through public

²⁶ Dániel Bitai, “Orbán új jobbkezet talált magának,” *24.hu*, May 2, 2018, <https://24.hu/belfold/2018/05/02/orban-kormanyalakitas-biro-marcell/>.

²⁷ Péter Erdelyi, “Eddig Nem Engedték Be a Kormány Embereit Az Igazságszolgáltatásba, de Most Félretolták Az Útból Az Akadékoskodó Bírakat,” *444*, November 15, 2017, <https://444.hu/2017/11/15/eddig-nem-engedtek-be-a-kormany-embereit-az-igazsagszolgalatasba-de-most-felretoltak-az-utbol-az-akadekoskodo-birakat>.

²⁸ László Domokos, “Tömeges Lemondás a Bírói Szervezet Élén,” *Napi.Hu*, April 19, 2018, https://www.napi.hu/magyar_gazdasag/tomeges_lemondas_a_biroi_szervezet_elen.66o883.html.

²⁹ Teczár Szilárd, “Kinézték maguknak,” *magyarnarancs.hu*, October 15, 2016, <http://magyarnarancs.hu/belpol/kineztek-maguknak-10o811>.

³⁰ Dull Szabolcs, “A Kúria finoman helyre tette Orbán Viktor legfőbb vádját,” *index.hu*, May 8, 2018, https://index.hu/belfold/2018/05/08/kuria_valasz_orban_beavatkozas_valasztas/.

³¹ Freedom House, “Freedom of the Press 2017 Hungary,” April 27, 2017, <https://freedomhouse.org/report/freedom-press/2017/hungary>.

³² Lendvai Péter, “Zsákmánnyá vált az egész média » FÜHÜ,” *FÜHÜ* (blog), May 12, 2018, <http://fuhu.hu/zsakmannya-valt-az-egesz-media/>.

³³ Judit Bayer, “Az Új Médiatörvény Sajtószabadságot Korlátozó Rendelkezései,” *Médiakutató*, 2017, http://www.mediakutato.hu/cikk/2011_01_tavaszi/02_uj_mediatorveny.

procurement procedures.³⁴ The government-controlled re-structuring of the Hungarian media space happened via state or private ownership and with the aid of advertisement spending. In this process, pro-Fidesz oligarchs acquired the second biggest commercial channel TV2, several radio frequencies and all the local printed newspapers, which have an aggregate readership of over one million people every day.³⁵ Currently, Fidesz controls all the major private national newspapers after the leftist daily *Népszabadság* was shut down in 2016 and the major conservative daily *Magyar Nemzet* was closed by former oligarch close to the ruling party in 2018.³⁶ Another tool influencing the media space falling more and more under the government's clout was the allocation of government advertising through state subsidiaries aided by the acquisition of private companies (for example, the MKB Bank, Antenna Hungária). Government advertisement spending rose from HUF 95.2 billion (EUR 306 million) before 2010 to HUF 199.5 billion (EUR 642 million) under the third Orbán cabinet in 2017,³⁷ which made the state the single largest player on the advertising market after 2016.³⁸ The Hungarian media market is further distorted by the NMHH-controlled main Hungarian news agency MTI that is freely disseminating not only news from the world but government propaganda as well.

The consequence of the further tightening of the government's grip on the public space means that it has to revert to a more normative/traditional control of this space rooted in the new media law and the formal authority of the NMHH since there are almost no significant private media companies left to purchase. After PM Orbán severed ties with the single most important media oligarch Lajos Simicska in 2015, the new post-Simicska media empire around the government is nearing its completion in 2018. Simicska voluntarily closed down the main right-wing daily *Magyar Nemzet* and *Lánchíd Rádió* immediately after the election to acknowledge Fidesz' electoral victory, which left only the leading online news portal *index.hu* and *Hír TV* as the only functioning pieces of Simicska's media empire. Fidesz's future goal will be to enforce the closing of *Hír TV*, and close, buy or economically cripple (via special taxes) *index.hu* along with the leading commercial TV channel *RTL Klub* currently owned by the German Bertelsmann group. The next strike against independent media is already being prepared by the pro-government *Figyelő*, which published a list of 200 intellectuals who they claim to be "George Soros's mercenaries."³⁹ Altogether, the already more than 500 government-controlled media outlets ensure that the ruling Fidesz-KDNP will continue to dominate the Hungarian political discourse with its anti-West, anti-immigration, pro-Russian rhetoric built on an unprecedented mass of fake news, conspiracy theories framing independent NGOs and the political opposition as enemies of the state.⁴⁰ In Hungary, this rhetoric is being disseminated not only by fringe outlets but by pro-government mainstream media as well.

CIVIL SOCIETY

Due to the apparent weakness of the political opposition that provided Fidesz with a third consecutive supermajority in the National Assembly, the government focuses on cracking down on other pockets of democratic criticism among independent media and the civil society. **The government devoted several media campaigns and at least four separate pieces of legislation to threaten, discredit and legally**

³⁴ Polyák Gábor, "Irányított nyilvánosság," *atlatszo.hu* (blog), October 11, 2014, <https://atlatszo.hu/2014/10/11/polyak-gabor-iranyitott-nyilvanossag/>.

³⁵ *Népszava*, "A Fidesz oligarcháihoz került a teljes vidéki sajtó," *NÉPSZAVA online*, July 31, 2017, <http://nepszava.hu/cikk/1136338-a-fidesz-oligarchaihoz-kerult-a-teljes-videki-sajto>.

³⁶ Szalay Dániel, "A bezárt népszabiskok üzentek a bezárt nemzeteseknek," *24.hu*, April 11, 2018, <https://24.hu/media/2018/04/11/a-bezart-nepszabisok-uzentek-a-bezart-nemzeteseknek/>.

³⁷ Ágnes Urbán, "Állami Hirdetések Magyarországon 2006-2017," *Mérték* (blog), February 23, 2018, <https://mertek.atlatszo.hu/allami-hirdetesek-magyarorszagon-2006-2017/>.

³⁸ Szalay Dániel, "Nagyot nőtt a magyar reklámtorta," *24.hu*, February 28, 2018, <https://24.hu/media/2018/02/28/nagyot-nott-a-hazai-reklambevetelek/>.

³⁹ Molnár Zoltán, "Megszülte a Soros-zsoldosok új listáját a Figyelő," *24.hu*, April 17, 2018, <https://24.hu/kozelet/2018/04/17/megszulte-a-soros-zsoldosok-uj-listajat-a-figyelo/>.

⁴⁰ Kerekó Péter, Magyarország egyfajta post-truth laboratórium – Kerekó Péter a kormányzati álhírgyárakról, *atlatszo.hu*, May 9, 2018, <https://atlatszo.hu/2018/05/09/magyarország-egyfajta-post-truth-laboratorium-kreko-peter-a-kormanyzati-alhigyarakrol/>.

stigmatize, criminalize human rights organizations. It all began with the National Investigation Office and the Rapid Deployment Police raiding the Ökotárs Foundation and detaining its leader Veronika Móra to her apartment to collect evidence on the unlawful use of EEA and Norway Grants funding in 2014.⁴¹ Although, the court has found the charges to be unfounded, PM Orbán himself accused civil society organizations regularly monitoring the government's human rights' record of being "political activists paid from abroad" to attack Hungary.⁴² **The Hungarian prosecution's oversight and financial sanctioning power over NGOs was significantly strengthened in 2016 when the National Assembly adopted the Hungarian anti-NGO law modelled after the similar Russian regulation to administratively register "foreign funded organizations" receiving more than HUF 7.2 million (EUR 23000) from abroad on the grounds of "national security."**⁴³ The first proposal entitled the "Stop Soros" legislation package was submitted to the National Assembly in February 2018. The package target NGOs working on immigration-related issues by originally requiring them to be listed by the Ministry of Interior, vetted by security agencies and subjecting them to a special levy of 25% on all of their foreign funding – a detail that was removed from the latest draft.⁴⁴ The current format of the bill announced on May 29 suggests punishment of up to a year in prison for individuals or organizations that help migrants submit requests for asylum when they are not entitled to protection. **The government's unrelenting attacks on NGOs is framed as an anti-immigration issue and accuses Hungarian-born philanthropist George Soros and his Open Society Foundations (OSF) of a conspiracy to help at least one million illegal Muslim immigrants settle in Europe.** PM Orbán and his affiliates not only accused organizations receiving funding from the OSF of being "agents of Soros," including the pro-government Figyelő publishing an actual list of living or deceased Hungarian and foreign intellectuals,⁴⁵ the government acted in practice as well when it amended the higher education law to ban the operation of the George Soros-founded Central European University in Budapest.⁴⁶

The combination of negative government campaigns and anti-NGO legislation seem to further limit the scope of activity of human rights organizations. The office of the Open Society Foundations decided to leave Budapest after 30 years and move to Berlin citing fears for the safety of the staff and the pending "Stop Soros" legislation.⁴⁷ The CEU has also opened the possibility of leaving Budapest for good by signing an agreement with Vienna to establish a new campus there, which will be operational in 2019.⁴⁸ The proposed "Stops Soros" act is clearly designed to corner, criminalize and sanction any civil society organization or political opposition citing "national security" concerns and "anti-immigration" arguments for the foreseeable future. While, the current anti-NGO legislation already provides the Hungarian authorities enough administrative power to limit the activity of any independent organization, more and more legislative steps involving different governmental actors (like the State Audit Office) can be expected to justify the government's increasing repression against society in general. The last couple of years anti-NGO communication and legislation is already bearing fruit as 54% of Hungarians support the anti-NGO law because it makes the sector more "transparent" and 45% would

⁴¹ Sean Lambert, "The Orbán Government and EEA and Norway Grants," *The Orange Files* (blog), August 30, 2014, <https://theorangefiles.hu/the-orban-government-and-eea-and-norway-grants/>.

⁴² Orbán Viktor, "A munkaalapú állam korszaka következik" (XXV. Bálványosi Nyári Szabadegyetem és Diáktábor, Tusnádfürdő, July 26, 2014), <http://www.kormany.hu/hu/a-miniszterelnok/beszedek-publikaciok-interjuk/a-munkaalapu-allam-korszaka-kovetkezik>.

⁴³ Zgut, "Visegrád jövője az illiberalizmus és az uniós makropolitika árnyékában."

⁴⁴ Helsinki Bizottság, "THE HUNGARIAN GOVERNMENT'S PROPOSAL ON THE STOP SOROS LEGISLATIVE PACKAGE, Unofficial Translation" (2018), <https://www.helsinki.hu/wp-content/uploads/STOP-SOROS-LEGISLATIVE-PACKAGE-PROPOSAL.pdf>.

⁴⁵ Origo, "Itt a lista Soros György hazai embereiről," <http://www.origo.hu/>, April 12, 2018, <http://www.origo.hu/itthon/20180412-soros-emberei-lista.html>.

⁴⁶ Justin Spike, "Lex CEU: The Hungarian Government's War on Two Fronts," *The Budapest Beacon* (blog), August 16, 2017, <https://budapestbeacon.com/lex-ceu-hungarian-governments-war-two-fronts/>.

⁴⁷ Murányi András, "Kényszervallatásra is felkészítették a Soros-alapítvány munkatársait," *Zoom.hu*, April 20, 2018, <https://zoom.hu/hir/2018/04/20/kenyszervallatasra-is-felkeszitettek-a-soros-alapitvany-munkatarsait/>.

⁴⁸ HVG, "Lesz ugyan bécsi kampusza a CEU-nak, de maradni akarnak Budapesten," *hvg.hu*, April 10, 2018, http://hvg.hu/itthon/20180410_lesz_ugyan_becsi_kampusza_a_ceunak_de_maradni_akarnak_budapesten.

even terminate the operation of organizations not making their foreign funding public according to a Median poll from 2017.⁴⁹

CLIENTELISM AND CORRUPTION

Hungary has developed its own network of wealthy businessmen linked to political parties and politics since the transition in 1989. The second Orbán-cabinet has changed this dynamic in three main aspects: Fidesz has achieved a monopolistic position among political parties in determining the Hungarian economy's trajectory in terms of the distribution of resources; the regression of the rule of law and intuitional checks and balances have made the Hungarian state vulnerable to systemic corruption; and a new string of pro-government oligarchs is contributing to the construction and the long-term survival of the Hungarian illiberal regime. **As a result, Hungary has developed a reverse-engineered "state capture": instead of strong interest groups getting hold of a weak public institutional system, a very strong, centralized administration is wilfully cooperating with business circles to establish a complex, impenetrable and systemic corruption scheme. Another feature of Hungarian corruption is its mafia-like organization around PM Orbán.** After parting ways with Fidesz's former business strongman Lajos Simicska in 2015, Orbán purposefully created a new circle of oligarchs (Lőrinc Mészáros, Andy Vajna, István Garancsi etc.) only dependent on him personally. Moreover, Orbán is using his personal ties to drive and control corruption, he made the mayor of his birthplace, Lőrinc Mészáros the wealthiest man in Hungary, whose worth skyrocketed to approximately HUF 345 billion (EUR 1,1 billion) in a mere four years, and his son-in-law István Tiborcz is involved in a corruption scheme resembling the methods of organised crime according to the European Anti-Fraud Office (OLAF).⁵⁰ Thus, it is no wonder that Hungary declined to join the European Public Prosecutor's Office established by 20 states in 2017.⁵¹ The Hungarian government also refused to publish the Council of Europe's 2017 GRECO report on the state of corruption in Hungary.⁵² Domestic "crony capitalism" involves numerous major projects and public institutions. For example, the construction of the Paks 2 nuclear plant financed by an EUR 10 billion Russian credit line is already being targeted by Lőrinc Mészáros;⁵³ the Hungarian National Bank headed by the former Fidesz-nominated minister of economy used around HUF 300 billion (EUR 1 billion) to create a network of special foundations; and media oligarchs received HUF 40 billion (EUR 130 million) in advertising money from the state in 2017 alone.⁵⁴ Still, European funding is the primary target of corruption: Hungary will receive about HUF 8900 billion (EUR 28,7 billion) from the EU between 2014 and 2020. According to the Corruption Research Center Budapest, 5.1% of the total value of public procurements was affected corruption tied to Orbán's inner circle between 2010 and 2016, while the total level of "grand corruption" is about 15-20% of the Hungarian GDP or EUR 15-20

⁴⁹ Origo, "Medián: A többség támogatja a civilek átláthatóságát," <http://www.origo.hu/>, August 7, 2017, <http://www.origo.hu/itthon/20170807-civil-torveny-fidesz-tamogatottsag-median-szazadveg.html>.

⁵⁰ HVG, "Elkészült a szupergazdag magyarok listája: csak a lapzártá állította meg Mészároset," hvg.hu, May 10, 2018,

[http://hvg.hu/gazdasag/20180510_Elkeszult_a_szupergazdagok_listaja_csak_a_lapzarta_allitotta_meg_Meszaro st](http://hvg.hu/gazdasag/20180510_Elkeszult_a_szupergazdagok_listaja_csak_a_lapzarta_allitotta_meg_Meszaro_st).

⁵¹ Balázs Pivarnyik, "European Public Prosecutor's Office Established without Hungary's Participation," *Budapestbeacon.Com*, June 9, 2017, <https://budapestbeacon.com/european-public-prosecutors-office-established-without-hungarys-participation/>.

⁵² Bálint Szalai, "Index - Gazdaság - Eltitkoljuk a Korrupciós Jelentést," *Index.Hu*, May 4, 2018, https://index.hu/gazdasag/2018/05/04/eltitkoljuk_a_korrupcios_jelentest/.

⁵³ Előd Ferenc, "Mészárosnak beindult az atombiznisz: 800 milliós megbízás kezdésnek," *index.hu*, November 20, 2017,

http://index.hu/gazdasag/2017/11/20/meszarosnak_beindult_az_atombiznisz_800_millios_megbizas_kezdesnek/.

⁵⁴ Szalay Dániel, "Nagyot nőtt a Magyar reklámtorta," *24.hu*, February 28, 2018, <https://24.hu/media/2018/02/28/nagyot-nott-a-hazai-reklambevetelek/>

billion a year.⁵⁵ Transparency International's Corruption Perceptions Index 2017 ranks Hungary the 66th most corrupt country in the world and the second most corrupt EU member state after Bulgaria.⁵⁶

Despite the jaw-dropping volume of Hungarian corruption, perceived by 57% of Hungarians as a highly problematic issue, the phenomena in itself does not contribute to the downfall of the Hungarian illiberal regime. Instead, systemic corruption has become the government's main tool for resource distribution to create a loyal elite and economically dependent nation-wide electorate. The high level of corruption is causing a decline in Hungary's competitiveness, the country's World Economic Forum competitiveness index dropped to 60 in 2017 from 28 in 2001. The competitiveness of public administration measured by the quality of the rule of law, public services, etc has deteriorated even further, ranking Hungary at 101st among all countries.⁵⁷ At the same time, Hungarian corruption and clientelism is becoming increasingly dependent on PM Orbán personally and his family, which bears a resemblance to the Putin regime where over two-thirds of all decision-makers have a personal/carrier relationship with the Russian president. Thus, competitiveness in all economic sectors void of foreign investment, know-how and technology will further contribute to substituting merit-based achievements with "political loyalty." The three main interconnected elements needed for the long-term survival of the Hungarian illiberal regime will remain intact for the foreseeable future. The abovementioned requirements are: European funds are redirected towards pro-government oligarchs; the redistribution of funds in society happens through systemic corruption; and the lack of checks and balances creates the institutional environment needed for state capture.

ELECTORAL SYSTEM

In hybrid regimes candidates of the major opposition forces are rarely excluded and they are able to participate in the campaign. **Although Russian-type electoral fraud was not undertaken either in 2014 or in 2018, the Hungarian governing party abuses its powers on all levels from reshuffling the media environment to practically bending economically or politically vulnerable people to its will.**

Under the electoral rules currently in force a change of government in Hungary is a possibility, however, the institutional environment built since 2010 does not provide equal opportunities for the opposition, and almost all components of the new electoral system benefit its creator: Fidesz. Due to the changes implemented by the Orbán government, some 53% of parliamentary seats (106 out of 199) are won on a "first-past-the-post" basis in individual constituencies up from 43% in the previous system, while the remaining 93 seats are won on a broadly proportional basis shaped by votes cast on parties' national lists.

The second round of voting, which was a great opportunity for opposition parties in the previous system, was eliminated. The additional weight accorded to individual constituencies, the elimination of the second round, the infamous "winner compensation"⁵⁸ are elements that favour the largest political power in relative terms. Fidesz would have won under the previous electoral system as well, but without winner-compensation and the votes of Hungarian minorities from abroad the governing party would have got 7 mandate less, so it could not even have approached a two-thirds majority without just these

⁵⁵ János István Tóth and Miklós Hajdu, "Cronyism in Hungary - Empirical Analysis of Public Tenders 2010-2016" (CUB – Kornaigo, Budapest, February 21, 2018), http://www.crcb.eu/wp-content/uploads/2018/02/kornaigo_2018_ijt_mh_presentation_180221_.pdf.

⁵⁶ Kornelia Abel, Nacho Espinosa, and Svetlana Savistkaya, "Europe and Central Asia: More Civil Engagement Needed (Part I)" (Transparency International, February 21, 2018), https://www.transparency.org/news/feature/europe_and_central_asia_more_civil_engagement.

⁵⁷ Transparency International, "CPI 2017 - Történelmi mélypontra süllyedt Magyarország korrupciós megítélése," *Transparency International Magyarország* (blog), February 22, 2018, <https://transparency.hu/hirek/cpi-2017-tortenelmi-melypontra-sullyedt-magyarorszag-korrupcios-megitelese/>.

⁵⁸ The 'surplus' votes of the losing candidate(s) in the individual constituencies is added to the party list votes (this is rather common in several European elections). However, in an element unique to Hungary, the election system includes what might be called the winner's 'surplus boost' component, meaning the excess votes of the winning candidate (those that were not required for the win) are also added to the party list.

two provisions.⁵⁹ Numerous elements of the electoral system consistently favour right-wing forces (e.g. gerrymandered constituency map), while others provide advantages to the governing party (e.g. the complicated campaign rules which gives a chance for the government to conduct permanent political campaigns while disguising it as social advertising).

Several details in the current rules and the increasing control of the government over the media all raise the chances of the incumbent's re-election. Parties have to share no more than 470 minutes of advertising time in various organs of the public service media, which could hardly be called independent, whilst there is no time limit on promotional messages by the government. There is also no limitation whatsoever on NGOs campaigning activities and their accounting duties are far less rigorous than those of parties, which is tantamount to granting disproportionately large advantages to forces with the largest financial backing.

In 2018 the State Audit Office started to punish opposition parties during the campaign, which was an unprecedented act since it had been put in charge of overseeing the finances of political parties in 1989. According to the decision made by the authority on January 8 (three months before election day), Jobbik was obliged to pay HUF 331.5 million and to be deprived of an additional HUF 331.5 million in state support. Opposition parties such as LMP and Democratic Coalition were also fined later on.⁶⁰ According to the latest nation-wide representative research poll conducted by Závecz Research, the majority of Hungarian respondents know or at least feel that the electoral system implemented in 2011 favours the largest party at the time of the election to an even greater extent than the previous one had done. Even more than half of Fidesz voters think that the electoral system benefits the governing party – they are the least likely to think so with that result –, and only around one-fourth of them thought that the system was unbiased.⁶¹

PARTY SYSTEM

After Fidesz's third victory in a row, we can say that – in accordance with the definition of Giovanni Sartori – the Hungarian party system has become predominant. The fact that the regime is bound to an individual has existed from the very beginning: the histories of Viktor Orbán and Fidesz became interconnected in the transition period.⁶² **This overcentralised system is the one Orbán tries to implement for the whole political system. The dominant position of Fidesz in the party system is the result of the strategy called "central political power field" that was first described by Viktor Orbán in 2009.** The essence of this was that there should be a relatively strong far-right party (JOBBIK) on one side of Fidesz and a divided left-wing of the same size on the other: this way Fidesz is in the middle and against both, which enables them to define themselves as the only force capable of governing the country, while protest votes are shared between the right and the left. The existence of a relatively strong Jobbik was also in the interest of Fidesz at the time because it let them sell themselves abroad as the only guarantee for keeping the far-right away from being on government. The nature of this concept has been changed in a sense that in this campaign Orbán divided the political field into two antagonistic parts: Fidesz, the party defending national interests, fought Soros's mercenaries – the latter is a platform for every actor who are critical of the government regardless of their arguments or

⁵⁹ Róbert László, "Nem Hozott a Külhön Mandátumot a Fidesznek, a „győzteskompenzációval” Együtt Viszont 7-et Is," *PC* (blog), April 16, 2018, <https://pcblogger.atlatszo.hu/2018/04/16/nem-hozott-a-kulhon-mandatutumot-a-fidesznek-a-gyozteskompenzacioval-egyutt-viszont-7-et-is/>.

⁶⁰ Fábrián Tamás, "Mi lesz a pártokkal, amelyek nem fizetik ki az ÁSZ-büntetést?," *index.hu*, January 10, 2018, https://index.hu/belfold/2018/01/10/allami_szamvevoszek_nav_imp_jobbik_dk/.

⁶¹ László Róbert, "Ismeretek és attitűdök a magyar választási rendszerről" (Budapest: Political Capital, April, 2018), http://www.valasztasirendszer.hu/wp-content/uploads/ValasztasiRendszer-kutatas_180419.pdf.

⁶² Orbán, during the past decade, has centralised the party more and more; in 1994 the liberal wing of the party left, from that point it was certain that Orbán is the one who defines the party's policies. His leading role was not seriously questioned even after the election losses in 2002 and 2006. Since the party reform in 2003, he is the one in Fidesz who decides on issues ranging from the selection of the heads of election districts and MP candidates down to the most mundane issues, thus the party follows the leader's ideological U-turns without uttering a word.

worldview. While Fidesz has had a unified voter base for a long time, the opposition is deeply fragmented and weak. In the last general election they failed to coordinate efficiently and they also missed a chance – not for the first time – to focus on developing their local organisational structure in the countryside and reach out to the people. Therefore, the opposition bears considerable responsibility for its own defeat as it failed to agree on effective cooperation in past years and build up candidates with a real chance to win. It was unable to benefit from the change in the public's mood in the wake of the mayoral by-election in Hódmezővásárhely, while Fidesz learned from its defeat there and put considerable effort into mobilisation. Due to the weakness of the opposition parties, coordination in single-member districts could have worked as a counter-strategy against the relative majority of Fidesz. However, opposition parties were not interested in comprehensive solutions and they did not set themselves up for victory, only for inter-opposition rivalry. Instead of focusing on beating Fidesz they were monitoring “fragment votes” and the campaign funding lane limits (the parties are entitled to varying amount of campaign funding depending on the number of candidates nominated by them in single-member districts). In order to be able to challenge the structure of the current party system, the opposition should also establish a positive narrative based on a common political identity and not only react to the narratives of the government. However, that would only be possible in the long-run and given that Fidesz has another two-thirds majority and a chance for further repression, catching up to the governing party would not be easy. Another important question arises about how the system could be changed if a politically divided opposition coalition came to power with a slight majority. Hypothetically they could remove the heads of the police and secret services as that is possible with a simple majority and then they could call for a referendum on amendments to the constitution – even if it is not possible in legal terms. However, if they enjoyed a strong domestic legitimacy and if law enforcement bodies were independent of Fidesz it would be feasible.

CENTRALISATION OF POWER, OUTSOURCING POWER

Power is concentrated in the hands of the prime minister, which was characterized as central vertical coordination based on a hierarchical command system by János Kornai.⁶³ The further increase of the prime minister's influence has been mirrored accurately by the new structure of the government including a brand-new institution (Government Office of the Prime Minister) allowing Viktor Orbán to control more policy areas than before.⁶⁴

The Hungarian political institutional system had granted the elected parliamentary majority and the government a chance to be highly efficient already before 2010, but since then government's power has been boosted further by the erosion of the system of checks and balances. There are hardly any institutions or dominant groups capable of vetoing governmental resolutions without Viktor Orbán's approval. At the same time, political and economic decision-making is being removed from the legally formalized institutional frameworks by involving actors with indefinable status.⁶⁵ The Orbán regime is focusing on decentralization in a sense that it is outsourcing the power of the state. **The government deliberately outsources state functions to ensure that the fundamental rights that limit the state's scope of action do not apply in politically sensitive situations.**⁶⁶ Therefore, the Orbán regime should be characterised by traits of the far right, which outsources some state functions to extra-constitutional organs under the personal, informal authority of the leader. This role is partly similar to that of an overlord because the system entails rewarding the loyalty of subjects – the oligarchs – with a variety of possession such as business opportunities and transfers. The physical obstruction of the opposition's

⁶³ Kornai János, *Láttelel* (Budapest: HVG Könyvek, 2017), https://www.libri.hu/konyv/kornai_janos.lattlelet-3.html.

⁶⁴ Népszava, “Hatalomba betonozná magát,” *NÉPSZAVA online*, May 19, 2018, <http://nepszava.hu/cikk/1160184-hatalomba-betonozna-magat>.

⁶⁵ Kerner Zsolt, “Orbán Ráhel nem közszereplő, de Bahreinben tárgyalt az energiaügyi miniszterrel a gázügyekről,” *24.hu*, August 30, 2016, <http://24.hu/kozelet/2016/08/30/orban-rahel-annyira-nem-kozszerelo-hogy-bahreinben-o-targyalt-az-energiaugyi-miniszterrel-a-gazugyekrol/>.

⁶⁶ Teczár Szilárd, „Ez nem a Kádár-korszak – Tamás Gáspár Miklós önkényuralomról, pesszimizmusról és ellenállásról,” *Magyar Narancs*, November 23, 2017, <http://magyarnarancs.hu/belpol/ez-nem-a-kadar-korszak-107769>

referendum initiative in 2016⁶⁷ was a milestone in Hungarian post-transition history in a sense that this type of political violence had never been committed during an electoral act before, used to send a message that challenging those in power is not worth it.

The cabinet deliberately weakened local municipalities as a form of horizontal checks and balances. Instead, local political autonomy became part of a national, top-down hierarchical power structure in the new Fundamental Law reshaping local authority and the way the government finances municipalities. Act CLXXXIX of 2011 on municipalities relocated important competences of local authorities and administrative services related to education, welfare benefits to the new commune system (járási rendszer).⁶⁸ Municipalities under 2000 inhabitants cannot have an independent mayor's office and almost all local self-governments have lost their educational and medical facilities formerly owned and regulated on a local territorial basis. Even more importantly, local municipalities mostly lost their financial independence as they receive funding mainly through government financing allocated for specific tasks and they are always required to have a balanced budget. Moreover, they can only take loans if they are approved by the government. As a consequence of the dismantling of local authority and institutional power, municipalities' share in public investments dropped from 60% to 25% after 2011. The high level of centralization enabled the government to strengthen political control over local matters as well, so pro-government municipalities' state-backed investments were given a green light in 89% of the cases, while the same number for "non-Fidesz" municipalities was only 70%.⁶⁹ **When it comes to electoral attitudes and concerns, how mayors of smaller settlements were tightly bound by Fidesz was less visible during the campaign.** Small town mayors were openly campaigning for the candidates of the party by spreading the main message that local municipalities will only be able to receive financial support if the single-member district the settlement is located in is won by Fidesz's candidates. Exerting political pressure in an informal way must have been a significant local mobilizing factor for the party.

As a final strike, the National Assembly severely limited the lobbying power of local authorities after 2014 by banning mayors from parallelly holding a parliamentary seat citing conflicts of interest. Due to the positive election results and further centralization plans, there is a window that Fidesz might want exploit to change local election rules in the capital by abolishing the direct election of the mayor of Budapest.

SOCIAL PRECONDITIONS

Examples of illiberal systems such as Turkey and Russia show that authoritarian regimes could only succeed in the long-run if they are able to transform the way of thinking of the respective societies through its institutions and agents. Between 2010 and 2018, the Orbán regime could successfully polarize and mobilize society through references to national identity, targeting identity-based anxieties and nationalist sentiments by presenting enemies and amplifying fears. In the countryside, issues such as the external threat posed by migration, terrorism and George Soros resonated well with the rural population where government-organized media disseminated this message via a massive fake news industry and created some sort of informational ghetto. **According to the Globsec Trends survey, Hungarians are the second most vulnerable to believing in conspiracy theories in the V4 countries: only 43% of Hungarians disagree with the anti-Semitic conspiracy about Jews having too much power and secretly control the world. Also, 27% of young Hungarians do not know whether Al-Qaeda or the US government organised the 9/11 terror attacks.**⁷⁰

⁶⁷ Thüringer Barbara, "Kopaszok az NVI-nél: az MSZP az ügyészséghez fordul," *index.hu*, August 23, 2016, http://index.hu/belfold/2016/08/23/kopaszok_nvi_mszp_ugyeszseg/.

⁶⁸ Erika Steiner and Ida Darázs, "THE CHARACTERISTICS OF THE HUNGARIAN LOCAL AUTHORITY SYSTEM AND THE MUNICIPAL ECONOMIC MANAGEMENT" (Budapest: TÖÖSZ, 2005), <http://xn--tosz-5qa.hu/uploads/dokumentumok-kiadvanyok/thecharacteristics.pdf>.

⁶⁹ Vasvári Tamás, "A kormány túltolta az önkormányzati központosítást," *index.hu*, February 27, 2018, https://index.hu/gazdasag/penzbeszel/2018/02/27/a_kormany_tultolta_az_onkormanyzati_kozpontositast/.

⁷⁰ Daniel Milo, Katarína Klingová, and Dominika Hajdu, "GLOBSEC Trends 2018" (Bratislava: GLOBSEC Policy Institute, 2018), <https://www.globsec.org/wp-content/uploads/2018/05/GLOBSEC-Trends-2018.pdf>.

In Hungary, the political polarisation of opinions is high even in a European comparison, while trust in institutions is low. According to research conducted by Tárki, the value structure of Hungarian society is far from that of the Western “core” and close to the values of Orthodox countries. It shows attributes of a relatively closed society lacking trust, where corruption is seen as highly important for citizens to accumulate wealth. Sociologist István György Tóth⁷¹ quoted a summary report of the Life in Transition Survey (LITS) carried out in 2016 by EBRD which concluded that “When respondents were asked a hypothetical question about whether they would rather live in a country with full political liberties but weak economic growth (country B) or in one with limited freedoms and stronger growth (country A), about 70% of them reported that they would rather live in country A.” Further, as Tóth emphasized, at subsequent elections (in the last 20 years) Hungarians increasingly expressed their preferences for parties offering more protection to them even when (especially at the three most recent elections) some of the civil liberties were clearly at risk. Trust in political institutions have been decreasing, in 2017 only 17.4% trusted politicians and 20% trusted the National Assembly.⁷² Hungarian society is open to paternalism and expects the state to do way more than it is capable of. István György Tóth also highlighted the importance of the economic contributing factors: Hungarian society was not simply “bought” with fearmongering and lower utility costs, the country’s improving economic performance also became visible for them. As Tóth pointed it out, Fidesz could appeal to the leftist electorate with leftist messages such as the social referendum and lowering utility costs even before 2010. Then the party was able to provide an accommodating (protectionist and paternalistic) narrative for the very same electorate.

The upper-middle class was one of the main beneficiaries of the economic measures taken by Fidesz between 2010 and 2016, the highest 40% of the Hungarian society saw their incomes grow, while corporate tax in Hungary is one of the lowest in the EU (9%).⁷³ According to a poll conducted by Závecz Research, Fidesz’s electorate voted for the party simply because they felt they the general benefits of its economic measures.⁷⁴ Meanwhile, competitiveness-related issues and a sizeable economic gap opening between various regions is less visible for the electorate. Redistribution towards the middle class was at the expense of the poor, Fidesz could mobilize among the deprived strata of Hungarian society with populism, which is based more on identity than economic gains. The poorest might feel even poorer than before, but they might feel proud again as well as being protected. According to András Bozóki⁷⁵, while probably the top 10% is a strong supporter of the regime due to financial benefits, the lower classes that are concerned about a downfall in their quality of life are approached by the propaganda based on ethno-nationalism and fearmongering. The operation of the system is based on feudal dependency on Fidesz especially in smaller settlements where voters are concerned about losing their jobs and opportunities to accumulate wealth if they do not vote for Fidesz. At the same time, the voting base of Fidesz has been replaced: the popularity of the party grew considerably among those living in villages, small towns, the less educated and old people.⁷⁶ The younger generation did not vote for Fidesz, they took to the streets of Budapest after the election. As a consequence of low birth rates and emigration, young people are a small and shrinking minority, and one-third of Hungarians between

⁷¹ Interview with István György Tóth, 22 March, 2018.

⁷² Magyar Nemzet, “A politikában rég nem bízunk, de a civilekben egyre jobban,” *MNO.hu*, September 28, 2017, <https://mno.hu/belfold/a-politikaban-reg-nem-bizunk-de-a-civilekben-egyre-jobban-2419056>.

⁷³ Balázs Jarábik, “Viktor Orbán’s Survival Games,” *Carnegie Europe*, April 10, 2018, <http://carnegieeurope.eu/strategieurope/76030>.

⁷⁴ Munk Veronika, “Nem is a migránszás volt a fő csodafegyver,” *index.hu*, May 16, 2018, https://index.hu/belfold/2018/valasztas/2018/05/16/zaveczeni_felmeres_valasztasok_utan_kozvelemenykutatas_fidesz_ketharmad_migranszas/.

⁷⁵ Interview with András Bozóki, 28 May, 2018.

⁷⁶ Zsolt Bodnár, “A Vidéki Egyéni Mandátumok 96,59 Százalékát Szerezte Meg a Fidesz, Nem Jött Be Az Átszavazás Az Ellenzéknek,” *444*, April 9, 2018, <https://444.hu/2018/04/09/videken-9659-szazalekkal-nyert-a-fidesz-nem-jott-be-az-atszavazas-az-ellenzeknek>.

15 and 29 would consider moving abroad.⁷⁷ Around 500 000 Hungarians have already left the country since Orbán came to power.

ATTITUDES TOWARDS DEMOCRACY AND VALUES

Pew Research's 2017 study found that the Hungarian population is the least committed to representative democracy among the nations included in the research. In general, support for democracy is higher in wealthier societies, but both countries are leaders in the approval of non-democratic alternatives as well. Only 18% of Hungarians identified themselves as committed to representative democracy, and 60% considered less democratic alternatives acceptable.

In 2009, after former Prime Minister Ferenc Gyurcsány resigned, a highly unfavourable public mood caused by political-economic crises resulted in an extremely high level of anti-establishment opinions, 46%. After 2010 Orbán had a good opportunity to moderate Hungarian society, solidify his system and consolidation, but instead he has been maintaining a constant perception of there being a crisis, a special situation ever since because he believes this facilitates staying in power more effectively. Hungarians are the least likely in the region to perceive the fall of communism in 1989 positively, only 62% claim they do. This is due to the lack of awareness among the younger generation in Hungary, where respondents between the age of 18 and 24 could not tell whether the lives of people like them were better before or after 1989.⁷⁸

We consider societal attitudes on terrorism and cultural identity-based fears even more significant than the economic factor. By 2016, according to Derex, the share of individuals with extremely exclusionary attitudes had increased the most in three "Visegrád" states: from 45 to 54% in Hungary, from 32 to 39% in the Czech Republic and from 18 to 25% in Poland (Slovakia was not examined in this Derex poll). **One of the main conclusions to take away from post-democratic transition surveys is that Hungarians are characterised by a high level of intolerance, and the further increase of xenophobic attitudes after the start of the migration crisis led to a record-high value in this regard in 2016, which is also partly the consequence of anti-immigration attitudes being incorporated into government policies.** This was confirmed by Tárki's study, which revealed that xenophobia reached its highest level in Hungary in 2016 (58%), which rose even further until January 2017 (60%). After seven years of gradual decline, Derex's prejudice and welfare chauvinism sub-index reached its peak once again, which is primarily the result of the government's communication campaign designed to counter-balance Fidesz's loss of popularity at the end of 2014. The continuous anti-immigration campaigns ongoing since early 2015 yielded considerable political benefits for Fidesz: the party's popularity had fallen to 25% among eligible voters by December 2014, but support for the governing side consolidated by the end of 2015. The fact that party preferences barely have an influence on the anti-immigration views of Hungarian society was a solid foundation to build on (extreme rejection of immigrants is over 50% even among left-wing party supporters).

When it comes to geopolitical attitudes and sentiments towards the West, the public attitudes in Hungary are complex.⁷⁹ Even though 47% of Hungarian respondents would still like to see the country somewhere between East and West, support for the West increased slightly, by 6%, to 45% and the share of those with a pro-East orientation dropped (3%). Hungarians can still be considered the second most pro-European in the V4: according to Globsec trends 2018, 58% of respondents claimed that the EU is a good thing, although this is a 3 percentage point decrease compared to 2017. Positive public perceptions of NATO have decreased from 61 to 56% in Hungary.⁸⁰

⁷⁷ Budapest Business Journal, "A Third of Young Hungarians Seek Fortunes Abroad," *Budapest Business Journal*, November 22, 2017, https://bbj.hu/analysis/a-third-of-young-hungarians-seek-fortunes-abroad_141930.

⁷⁸ Milo, Klingová, and Hajdu, "GLOBSEC Trends 2018."

⁷⁹ Milo, Klingová, and Hajdu, "GLOBSEC Trends 2018."

⁸⁰ Milo, Klingová, and Hajdu, "GLOBSEC Trends 2018."

ANTI-WEST RHETORIC

Since 2010, the Orbán government has perfected its anti-West rhetoric to both alienate Hungarians from the EU/Transatlantic Community to politically legitimise the new illiberal regime and to dominate the Hungarian domestic political agenda. The 2015 immigration crisis and the numerous related anti-immigration campaigns of the cabinet further advanced this rhetoric by claiming that the West is weak and ridden with terrorist acts, “no-go zones” and crimes committed by immigrants, making the Hungarian government the sole defender of the European Christian civilization and traditional values against Muslim mass-migration. In 2018 Viktor Orbán ramped up his populist rhetoric ahead of the Hungarian elections to claim that Hungary’s way of life is being threatened by “politicians from Brussels, Berlin and Paris”. Fidesz’s centralized media empire was essentially turned into a mainstream fake news/conspiracy industry producing all kinds of “news” on the threat immigration poses.⁸¹ In this regard, Hungarian propaganda is directly adjacent to the Kremlin’s international propaganda that also tries to “weaponize culture” by presenting President Putin as the worldwide leader of Christianity, traditions and family values, as well as by depicting Russia as the “moral compass” in contrast to the decaying, liberal West.⁸² It is hard to overstate the cultural narrative’s importance since illiberal regimes cannot provide the electorate with proper economic growth or political freedom, so they denote the defence of “cultural identity” as one of their main social achievement. As a result of this identity politics, the majority of the Fidesz’s electorate could be turned against the West and towards Kremlin in a few years’ time despite the fact that the Hungarian population has traditionally been pro-West, pro-EU and anti-Russian for historical reasons.⁸³

The Orbán regime has been trying to “stop Brussels” for eight years. It is characteristic of this government that the ‘protective state’ defending the country against enemies such as ‘foreign interests’ or ‘aliens’ increasingly interferes with the economy, culture and education. All this fits into a wider discourse on sovereignty on the basis that there is a potential conflict between the Hungarian nation and the dangerous West advancing in the wrong direction politically and economically, which means that strengthening national sovereignty is indispensable. The prime minister is riding the wave of depicting the “death of the nation state”⁸⁴ – which resonates well with Hungarian historical grievances (Trianon, Hungary being a buffer zone between regional powers) – by reviving the archetype of the “freedom fighter”.

Although after his third landslide victory in a row Orbán has toned down his rhetoric against Brussels, due to the nature of the Hungarian government it is going to engage in conflicts with the European Union more confidently than before. The strong domestic legitimacy can help Orbán in achieving his goals on the European level. He wants to reform the nature of the European Union: in contrast to Western European liberalism, he would turn the EU towards politics built on preserving religious and national self-identification, in which societies would be based on ethnically homogenous, Christian, traditionalist values. All this fits into a wider discourse on sovereignty on the basis that there is a potential conflict between the Hungarian nation and the dangerous, decadent West advancing in the wrong direction. Therefore, the basic principle of Hungary’s foreign policy is that 2018 would be a “year of great battles” with Western states that, according to Viktor Orbán’s claims, want to move Europe into a “post-Christian and post-national era”.

Orbán is depicting himself as the anti-Merkel of Europe who protects traditional values and saves Christianity. According to the dominant narrative on the Hungarian right, Merkel is the symbol of liberalism in general, the decadent liberal elite causing the defeat of Europe by inviting millions of

⁸¹ Juhász Attila and Szicherle Patrik, “Migrációs álhírek, dezinformációk és összeesküvés-elméletek politikai hatásai” (Budapest: Political Capital, July 11, 2017).

⁸² Péter Kerekó et al., “The Weaponization of Culture: Kremlin’s Traditional Agenda and the Export of Values to Central Europe” (Budapest: Political Capital, August 4, 2016).

⁸³ Péter Magyarai, “A Fideszesek Nagyon Megszerették Putyint És Oroszországot,” 444, March 14, 2018, <https://444.hu/2018/03/14/a-fideszesek-nagyon-megszerettek-putyint-es-oroszorszagot>.

⁸⁴ Népszava, “Orbán: ki akarják cserélni a talajt Európa fája alatt,” *NÉPSZAVA online*, June 21, 2017, <http://nepszava.hu/Cikk/1132707-orban-ki-akarjak-cserelni-a-talajt-europa-faja-alatt>.

refugees and working on adopting a federalist approach for the EU. Meanwhile, Fidesz will continue its destructive, anti-EU strategy with the aim to undermine the legitimacy of EU institutions and prevent them from interfering with national policies on justice and home affairs. The Hungarian government might even approve a constitutional amendment in order to be able to overwrite EU decisions. If Hungary refuses to implement EU decisions referring to this, it would have serious consequences for the future prospects of integration.

IDEOLOGY

When it comes to the ideology which underpins the system, the Orbán regime cannot be described by a coherent ideological worldview. Even though Fidesz is positioning itself as one of the most consistent conservative Christian Democratic party in Europe, it is using only those elements of conservative-collectivist values which serve the interest of the hybrid regime in terms of clientelism and state-corruption.⁸⁵ As András Jakab emphasised, for instance, that although the protection of private property formally remained part of the legal system (even though its protection by the Constitutional Court has largely been revoked since October 2010), several government measures were aimed at and practically resulted in taking over private property either by the state or private actors, mainly pro-government oligarchs.⁸⁶ The regime also utilises several elements from Hungarian intellectual history, it equates the nation with the governing party and the state, while blaming liberalism and liberal democracy for all hardships. It is national collectivist, it prioritises the national community to the individual in the name of which it supports strong state intervention in the economic, social and cultural spheres. Contrary to the first, pro-Western Orbán-government in 1998, the regime was built on opposition to the West which gives preference to individualism instead of collectivism, liberal democracy instead of state power, and liberty instead of bureaucratic order.

After gaining a two-thirds majority for the third time in a row, Orbán has declared that the era of liberal democracy is over and the Hungarian government is building an “old-school Christian democracy rooted in European traditions”. He stressed that they have replaced a shipwrecked liberal democracy with a 21st-century Christian democracy which guarantees people's freedom and security.⁸⁷ The phrase “Christian democracy” was used for the first time three days after Orbán met the leaders of the European People's Party (EPP) in an attempt to calm intra-EPP tensions generated by illiberal state-building and systemic corruption in Hungary. **Christian democracy seems to have replaced the “illiberal regime” label attributed to the system in 2014, which has not been used very often by Orbán ever since because of international criticism.** In 2015 he claimed in the European Parliament that “Illiberal democracy sounds perfectly OK in Hungarian, but in English it sounds like blood libel”.⁸⁸ By making that statement, Orbán upheld the government's argument that he only brought into doubt the liberal foundations of state organization and his interpretation of the notion of illiberal democracy does not coincide with the definition adopted by Anglo-Saxon political science. Using Christian democracy as the main label of the system suits the illiberal regime-building efforts of the government well, which are based on an anti-Islam and anti-immigration views. Similarly to the era between the First and the Second World War when the authoritarian Hungarian system defined itself as Christian to depict it as non-Jewish, Christianity is now being used in order to identify Hungary as non-Islamic.

Another important characteristic of the regime is that it is strongly populist: in his analysis of Hungarian populism, Zsolt Enyedi already considered Fidesz to be on a platform similar to that of Jobbik. Using an ideological approach, we are following Cas Mudde's minimal definition about populism, which is a thin-centred ideology based on the Manichean distinction between ‘the pure

⁸⁵ Magyar Bálint and Mitrovits Miklós, “Lengyel–magyar párhuzamos rendszerrajzok,” *Élet és Irodalom*, August 19, 2016, <https://www.es.hu/cikk/2016-08-19/magyar-balint8211mitrovits-miklos/lengyel8211magyar-parhuzamos-rendszerrajzok.html>.

⁸⁶ Interview with András Jakab, 28 March, 2018

⁸⁷ Orbán Viktor, *Magyarország középre tart* (Budapest, 2014), <https://www.youtube.com/watch?v=f8A8w7pWQXY>.

⁸⁸ HVG, “Orbán: Az illiberális demokrácia magyarul jól cseng,” *hvg.hu*, May 19, 2015, http://hvg.hu/itthon/20150519_orban_fekete_barany.

people' and 'the corrupt elite' and focusing on the defence of popular sovereignty at any cost. Last year Orbán declared that in 2016 people all around the world had had enough with "Money, the media, global governance, and an open global society," which was defined as the right-wing populist manifesto by Cas Mudde.⁸⁹ **One of the main targets of Orbán's populism is the European Union, which is working on undermining national sovereignty and statehood.** Given that external enemies must be rhetorically present permanently, the Hungarian government has been trying to channel the frustration of anti-establishment voters towards the International Monetary Fund, Brussels and, later, George Soros. **As it was rightly pointed out by Jacques Rupnik, the EU as liberal, elitist, supranational project is the perfect target since it represents a combination of the most important grievances.**⁹⁰ **Additionally, Soros as the main enemy of the state resonates with the general populist concept of the "corrupt elite" often portrayed as a global liberal actor strongly embedded in market capitalism.**

On the basis of Jan Werner-Müller's definition of populism, we define the Orbán regime as an exclusionary authoritarian populist government claiming that it and it alone represents the people and their true interests.⁹¹ It is authoritarian and exclusionary in a sense that it rejects pluralism and depict civil society and the opposition as the enemy of the state. Based on its principled anti-pluralism and commitment to "the sole representation" of the people, the regime delegitimises the entire opposition.⁹² This anti-pluralist approach results in anti-democratic measures such as the securitisation and criminalisation of civil society (Stop Soros, lex-CEU) and the exclusion of independent media in Hungary. The results of the last election serve as proof that Fidesz could successfully polarise Hungarian society and mobilise through nationalist identity politics and conspiracy theories that were further promoted by the state and pro-government media. Orbán's authoritarian populism is not economic populism, it rather targets identity-based fears and nationalist sentiments: his goal is to polarise and mobilise society by presenting enemies and amplifying fears.

Xenophobia and anti-Islam sentiments became the ideological trading stock of Fidesz, which is based on the conflict of civilisations, ethnic groups, religions and cultures. The Orbán regime has framed migration as an international ethnic, religious and cultural war, claiming that Hungary's way of life is now being threatened by "politicians from Brussels, Berlin and Paris".⁹³ While the anti-Soros campaign induced anti-Semitic sentiments, Fidesz has attempted to present itself as the protector of Jewish people in Hungary and Europe. Meanwhile, Fidesz has been using the migration issue consciously to transform the political system by the securitisation and criminalisation of civil society (NGOs, CEU and critical journalists, intellectuals) and the delegitimization of the entire opposition. When it comes to criticism from abroad, the EU and its member states are unwilling to step up against Fidesz as long as there is no alternative to its rule domestically. One of the recurring arguments is that Fidesz is the bastion against the advance of the far right in Hungary. However, Fidesz practically took pages from Jobbik's programme in 2010 and implemented its promises since then, and the Hungarian government's shift towards the far right accelerated in 2017 because of its strong xenophobic rhetoric.

⁸⁹ Cas Mudde, "Trump's Victory and Brexit Have Emboldened Hungary's Prime Minister to Lead a Populist Revolt in Europe," *VICE News*, February 21, 2017, https://news.vice.com/en_us/article/a3jmmba/trumps-victory-and-brexite-have-emboldened-hungarys-prime-minister-to-lead-a-populist-revolt-in-europe.

⁹⁰ Jacques Rupnik, "Populism in Central Europe," *Eurozine*, September 10, 2007, <https://www.eurozine.com/populism-in-eastern-central-europe/?pdf>

⁹¹ Jan-Werner Müller, *What Is Populism?* (Philadelphia: Univ of Pennsylvania Pr, 2016).

⁹² Müller, *What Is Populism?*

⁹³ Magyar Idők, "Orbán Viktor: Európa nem Brüsszelben, hanem Berlinben, Budapesten, Varsóban és Párizsban van," *Magyar Idők*, January 14, 2018, <https://magyaridok.hu/kulfold/orban-viktor-europa-nem-brusszelben-hanem-berlinben-budapesten-varsoban-es-parizsban-van-2678584/>.

POLAND: ILLIBERALISM IN THE MAKING

Wojciech Przybylski

Since 2015 Poland has been undergoing a process of the illegitimate centralisation of power that vaguely resonates with the illiberal political process taking place in Hungary since 2010. The ruling party has been taking advantage of a historical opportunity when in 2015 the elections gave PiS a simple majority allowing it to seize power and carry out constitutional changes. **It is important to stress that the electoral result does not legitimise the extent of systemic changes introduced by Jarosław Kaczyński, whose party usurped the right to change constitutional arrangements without changing the law itself.** However, according to sociological studies, by 2015 Poles did in fact show a preference for a major change of an unspecified nature and Law and Justice (PiS) took this opportunity along with the much more radical Kukiz'15 movement.

Although racist incidents are increasing at an alarming rate, Poles show significant trust towards other nations – notably, the three most trustworthy nations are Visegrád Group partners. **It is therefore not surprising that during the 2015 campaign PiS unconditionally embraced the radical anti-immigrant narrative of Viktor Orbán that became the distinctive feature of the whole V4.** Poland had not shown such strong sentiments before.

Moreover, PiS is building its narrative mostly around the topic of dignity, which helps it build political ideology ranging from nationalistic pride (related to historical grievances and self-victimisation) as well as new social policy proposals ('500 plus' subsidies program for families with children). This sort of populist tactics helps generate popular support and it is a mobilising factor at elections. Importantly, despite ardent support for the EU, at some point a slight majority of Poles claimed that they would be willing to leave the EU if it Poland had to implement the EU relocation mechanism. Currently this is not being exploited by the political narrative in Poland - certainly not to the extent it is Hungary.

Political culture – rapidly shifting institutional standards and illegal procedures – is the main culprit of undermining Polish liberal democracy rather than the grand political narrative. In the Polish case Jarosław Kaczyński is one of the most distrusted politicians⁹⁴ (in April 2018 41% distrusted him, less than PO's Grzegorz Schetyna with 46%) and, therefore, his political narrative is more often contested than in the case of Viktor Orbán.

At the heart of the illiberal drive in Poland is the violation of the Constitution and *de facto* its modification by what one could call its "creative interpretation" by the president, the government and the parliament. It serves the purpose of the centralisation of power by the party going hand in hand with an unprecedented mass employment scheme of party loyalists in public companies, public administration and the media dependent on the party, which in effect constitutes the construction of party oligarchy structures. This is called the exchange of the elites, which is a phenomenon further undermining the foundations of democratic institutions and procedures. However, when such schemes are highlighted to the public it is quickly reflected in the opinion polls and PiS can expect even sudden 12 percentage point drops in popularity - like in the case of spring 2018 revelations about the high salary bonuses the Beata Szydło government awarded to itself.⁹⁵ Importantly, corruption indices rank Poland about 30 places higher than Hungary.⁹⁶

Ever since PiS's beginnings in the 1990s it has questioned foundations of the democratic political system and claimed the democratic transformation process had been undermined. Modern history plays a much more important role in the political narrative than grand geopolitical visions of Jagiellonian or

⁹⁴ Agnieszka Cybulska and Krzysztof Pankowski, "O Nieufności i Zaufaniu" (Warsaw: Centrum Badania Opinii Społecznej, 2018), https://www.cbos.pl/SPISKOM.POL/2018/K_035_18.PDF.

⁹⁵ PK, "Sondaż: PiS Znacząco Traci. Coraz Mniejsza Przewaga Nad Platformą," *TVN24.PL*, March 28, 2018, <https://www.tvn24.pl/r/825476>.

⁹⁶ Budapest Business Journal, "Hungary Sinks to 66th on TI Corruption Ranking," *Budapest Business Journal*, February 22, 2018, https://bbj.hu/analysis/hungary-sinks-to-66th-on-ti-corruption-ranking_145827.

Intermarium concepts. The dissent towards liberal democracy finally coincided with global trends present in most western democracies. As Maciej Kisilowski - a professor of strategic public management - argues in an interview for this study, **a deepening chasm emerges between, on the one hand, progressives benefitting from the freedoms of postmodern society and the creative economic value generated within the knowledge-intensive, post-industrial model, and—on the other hand—a potentially growing group of illiberal population rejecting postmodernity and globalisation even if it (indirectly) benefits from these trends.** The Polish case is particularly telling in this regard, as after the neoliberal team of Leszek Balcerowicz was sidelined in the mid-1990s, Poland combined rapid economic growth with substantial levels of economic redistribution. With incomes growing substantially across all social layers, a relatively small number of Poles can conceivably be described as "losers of globalisation", at least in purely economic terms. And yet the opponents of the current socio-economic changes still managed to mobilise and express their reactionary dissatisfaction by electing PiS to power.

As Andrzej Leder - a professor of philosophy and a psychoanalyst - observes, the democratic transformation in Poland has been carried out by an ideological alliance of liberals and conservatives. Public morals and culture were shaped by conservatives, while the institutional arrangement of the state was up to liberals. The conservatives were less involved in deciding on specific policy areas and were not so effective politically until now, when they chose to embrace and in fact take over the nationalist agenda and legitimize the growing nationalistic movement, he remarked. Hence, one can say that the first decades of the transition were part of a liberal project, while nowadays the main political project is a nationalist one.

CONSTITUTION

Recent violations of the Constitution and the ongoing political debate about them have quite a history in post-transformation Polish politics and it is an important rationale for action for all parties.⁹⁷ The 1997 Constitution is often branded as a compromise version due to several provisions introduced to the final text balancing the powers of the directly elected president and the government, references to the religious and pre-war and pre-partition heritage of Poland and protection of life provisions without defining the beginning of human life. The latter consequently left the question of when human life begins a topic of fervent debate ongoing even today. The new president was a key contributor to finalising the legislative process since Lech Wałęsa had been trying to enforce his vision of political culture with strong prerogatives for himself as the head of the state, including nominating the members of government and an active role in the legislative process, meaning that he would have been unlikely to approve a new text curbing his powers. **In fact, after the presidential election in 1995 the provisions curbing presidential powers have been softened and gave the president considerable executive functions.**

⁹⁷ Already in period between 1989 and 1997 there was a conflictual political culture resulting from the lack of consensus regarding the Constitution. In 1989, according to the contract between the communist elite and the democratic opposition, new institutions were introduced to the political system that would guarantee the transition of power from the party to the people. These were the Senate, the president and National Council of the Judiciary. In 1992, a so-called Small Constitution was adopted that gave the president – then Lech Wałęsa (1990-1995) – a chance to interpret new legislation in his favour and often in creative way that led to several governmental and parliamentary crises, de facto strengthening this role. The current Polish Constitution dates back to 1997 and it is the third fundamental law of Poland since 1989. It was adopted on April 2, then confirmed by a referendum on May 25 and signed by the president on July 16 and entered into force on October 17. Although the National Assembly strongly supported the adoption of the Constitution (451 for, 40 against, 6 abstained), it was rejected by majority of the right-wing MPs (from Akcja Wyborcza Solidarność, AWS - right-wing post-Solidarity party) in both the upper and lower chambers. Also, the referendum results were equally questionable: 53.45% for and 46.55% against with a turnout of only 42.86%, yet the Supreme Court found it valid.

The right-wing AWS (Akcja Wyborcza Solidarność - Solidarity Electoral Action, a political party coalition) questioned the legitimacy of the process by referring to the opinion polls concluding that 67% of society⁹⁸ preferred that voters be allowed to choose between the second version of the text prepared by Solidarity ("Solidarność," a labour union with ties to the AWS) and the one drafted by Parliament. In the same poll, 34% respondents declared they would vote for the Solidarity text and 25% for the parliamentary one. Shortly after the adoption of the new basic law, the September 1997 general election gave a decisive victory to an AWS-UW (UW: Unia Wolności, Freedom Union - a liberal democratic party) government. This is one of the examples of the liberal institutional make-up described above by Andrzej Leder.

Subsequently, the reinterpretation of the Constitution has been a *modus operandi* for successive governments in a few but important areas of conflict. **It quickly became clear that in order to rule effectively the government needed to strike a compromise with the president, whose veto powers could pose a challenge to the implementation of government policies.** The president has found itself in a conflict with the government a few times in key policy areas (such as foreign affairs and defence). President Lech Kaczyński interpreted the Constitution as giving him powers to represent Poland's position abroad, including in the EU, which clashed with the prerogatives of Donald Tusk's government. Subsequently, the government won and established priority over the president in foreign policy decisions. Another major conflict, this time over control of the army, broke out after 2015 when Minister of Defence Antoni Macierewicz was trying to sideline President Andrzej Duda in decisions about top positions and access to information from the military.⁹⁹ The conflict was decided later when Antoni Macierewicz was recalled from the PiS government in January 2018.

Moreover, the president, according to most legal experts,¹⁰⁰ has violated the Constitution by 1) pardoning PiS politician Mariusz Kamiński despite the fact that his trial had not been concluded - he was appointed as a Minister – Member of the Council of Ministers, Special Services Coordinator, 2) by not swearing in the judges of the Constitutional Tribunal legally appointed by the previous Parliament, and 3) by swearing in judges who were unlawfully elected by the new Parliament. The latter two decisions have paralysed the Constitutional Tribunal and undermined its legitimacy in the verification of the legislative process.

In May 2018 the president also initiated a Constitutional referendum on changes to the basic law that is supposed to take place on November 10-11, 2018, although the date is awaiting confirmation by the Senate. If approved, it is going to be controversial due to 100th anniversary of Polish independence celebrated exactly on November 11, 2018. The president argues that the Constitution needs to be amended and announced the establishment of expert groups requested to prepare questions for the referendum and called for high public participation in the vote. The PiS government and PiS speakers in the Parliament have so far distanced themselves from the ambitions of the president, which could be interpreted as too risky for the ruling party in case the referendum confirmed the legitimacy of president's claims for more say in the political process. **This would mean that the current Constitution, although abused and criticised by the right-wing, would still remain the only realistic institutional arrangement.** Importantly, PiS has never returned to the new draft fundamental law that was considered for a debate during its stint in government between 2005 and 2007.

⁹⁸ OBOP, "Konstytucja i Referendum Konstytucyjne" (Warsaw: Osrodek Badania Opini Publicznej, 1997), http://tnsglobal.pl/archiv_files/022-97.pdf.

⁹⁹ Lidia Kelly, "Polish President at Loggerheads with Ruling Party over Army," *Reuters*, August 9, 2017, <https://www.reuters.com/article/us-poland-defence-president/polish-president-at-loggerheads-with-ruling-party-over-army-idUSKBN1AP1VO>.

¹⁰⁰ Dziennik, "'Prezydent Złamał Konstytucję Przynajmniej Trzykrotnie'. Promotor Andrzeja Dudy Krytykuje Swojego Doktoranta," *Wiadomosci.Dziennik.Pl*, December 3, 2015, <http://wiadomosci.dziennik.pl/opinie/artykuly/507262,prof-jan-zimmermann-z-uj-prezydent-andrzej-duda-zlamal-konstytucje-trzykrotnie.html>.

The structural tensions between the president and the government may also slow down some reforms to the political system including the one concerning the independent judiciary. The Constitution allows Poland to have a semi-presidential system as the directly elected head of state is granted a free choice of who becomes prime minister, legislative and veto powers, the right to represent Poland and ratify foreign agreements and a supervisory role over army in addition to honorary functions. The entire judiciary reform prevailed under the guise of anti-communist rhetoric: Kaczyński has claimed that after the transition the judiciary was never vetted properly and that the judicial elite of Poland is made up of the same people who had benefitted from the regime before 1989. However, it is very telling that Kaczyński's anti-communist sentiment does not apply to figures such as Law and Justice's communist-era prosecutor, MP Stanisław Piotrowicz, who became a key figure in pushing new legislation on the judiciary through Parliament.¹⁰¹ In summer 2017 the Parliament adopted new laws that shorten the terms of members of the National Council of the Judiciary, Supreme Court judges and put those organs under the political control of the executive branch in violation of the wording of the Constitution. The president vetoed some of those provisions and proposed his own version of judiciary reform giving the president a bit more of influence based on the office's legitimacy stemming from its direct election. **Changes to the laws finally passed in December 2017. The new text – while contradicting the Constitution – dismissed Council members and appointed a new panel, aims at removal of the President of the Supreme Court along with nearly 40% of its judges and allows for the reopening of court cases going back 5years¹⁰² on the grounds of "social justice" as well as the establishment of a new chamber in the Supreme Court responsible for disciplinary proceedings and overseeing electoral cases. The new chamber will be comprised of appointees elected by the new NCJ that is de facto under the political control of PiS.¹⁰³ These decisions triggered public protests of unprecedented size later in the summer across the whole country in defence of the judiciary independence - virtually every town with its own court had a protest of its own (250 across the Poland).¹⁰⁴ Additionally, the EU initiated Article 7 procedure against Poland because of violations to the rule of law.**

MEDIA

Both private and public media are important parts of the public sphere in Poland, which are undergoing serious transformations due to new trend of digitalisation and freshly emerging business models. The media market is diverse on the national level, while local media is much less diversified. Since 2015, the public broadcaster has been under the direct political control of the ruling party and demonstrated clear political bias materialising – among others – in disproportionality in the air time devoted to PiS versus other parties.¹⁰⁵ Public TV channels have become a major source of smear campaigns against opposition parties and protesters from civil society. For example, Freedom House noted that news reporting has also been selective to the point of disinformation for instance when the

¹⁰¹ Inside Poland, "Communist Era Prosecutor to Keep Job with Poland's Governing Party," December 9, 2016, <http://inside-poland.com/t/communist-era-prosecutor-to-keep-job-with-polands-governing-party/>.

¹⁰² This was limited from 20 years to a 5-year period due to pressure from EC in May 2018 but the Article 7 procedure is still ongoing. **For the first three years after the enactment of the new legislation it allowed for the reopening any court case since the current Constitution came into force in October 10, 1997, and afterwards there would be a 5-year period for all new cases.**

¹⁰³ Ewa Siedlecka, "„Dobra zmiana" wracza do Sądu Najwyższego," *polityka.pl*, April 3, 2018, <https://www.polityka.pl/tygodnikpolityka/kraj/1744016,1,dobra-zmiana-wracza-do-sadu-najwyzszego.read>.

¹⁰⁴ Biqdata, "Wszystkie protesty na jednej mapie. W obronie sądów spotkaliśmy się w ponad 250 miastach," *biqdata.wyborcza.pl* (blog), July 24, 2017, <http://biqdata.wyborcza.pl/biqdata/7,159116,22176137,wszystkie-protesty-na-jednej-mapie-w-obronie-sadow-spotkalismy.html>.

¹⁰⁵ In the first half of 2017 the PiS party members were broadcasted in all channels of the public TVP during 43 hours and 45 minutes while other members of the ruling coalition (who formally entered parliament from PiS party lists) were visible for additional 6h 36min (Solidarna Polska) and 2h 43min (Polska Razem Zjednoczona Prawica) giving total of over 53h vs. Civil Platform visibility 4h 22min or Nowoczesna 4h 15min
Elżbieta Rutkowska, "PiS Najczęściej Pokazywany w TVP. Reszta Partii Daleko w Tyle," *Wiadomosci.Dziennik.Pl*, October 11, 2017, <http://wiadomosci.dziennik.pl/media/artykuly/562194,txp-wrzesien-wyniki-partie-polityczne-pis.html>.

public broadcaster mistranslated and selectively cut President Obama's critical remarks at the NATO summit in Warsaw.¹⁰⁶

Traditional newspaper readership is in a sharp decline, i.e. in 2007 the circulation of the most popular newspapers Fakt (Axel Springer) and Gazeta Wyborcza (Agora) were around 500 thousand copies each, but in 2017 they only sold 279 thousand and 118 thousand copies, respectively.¹⁰⁷ The government also issued orders to numerous departments of budgetary units and state companies to cancel subscription plans to media that were not openly supportive of the government. Moreover, public companies limited or cancelled advertisement campaigns in those media.

The minority share Agora, the publisher of the most prominent liberal daily Gazeta Wyborcza, used to belong to a branch of the public firm PZU, but in 2016 PZU's fund manager agreed to sell it to the Media Development Investment Fund tied to George Soros, sparking a controversy in the right-wing camp. Another major development in this area before autumn 2017 were the plans to nationalise or enforce the sale of media owned by foreigners to other owners. Details of those plans were not disclosed but the government has refrained from implementing this so far. Shortly afterwards, in December 2017 KRRiT fined TVN for approximately 360 thousand Euro for reporting on protests in Sejm a year earlier - a decision withdrawn in January 2018.

CIVIL SOCIETY

The vibrant Polish civil society has been a defining element of the country throughout its history. A recent survey by the Edelman Trust Barometer published in January 2018 shows that 54% respondents trust NGOs (10 percentage points ahead of business organisations and 30 percentage points ahead of the government). In this regard Poland is ahead of France, the UK or Germany in international rankings. Protest and opposition culture are strong regardless of political preferences. In 2016 TVP (Public TV) launched a smear campaign to discredit several NGOs whose staff had family links (as children) to public officials from the previous government. This was cut short by Minister of Culture Piotr Gliński, who also asked for forgiveness from those targeted. Anti-government protesters were often targeted with hate speech from ruling party members (called "whores", "thieves", "second class citizens" etc. and in general they were branded "leftist" - lewactwo - in a derogatory sense). While Poland continues to have a system in place allowing optional donations of 1% of an individual's yearly tax, several changes have been implemented to centralise public funding for civil society, which is managed by the central government. In 2017 the National Institute of Freedom replaced the Center for Development of Civil Society to become the new executive agency responsible for civil society under the direct supervision of the Prime Minister's Office. Public funds for NGOs, including the 1% donations, have since been supervised or administered by this agency, which sparked protests from the Ombudsman's Office, OSCE and NGO representatives who were not even offered the opportunity to take part in consultations on the new law.

Civil society in Poland is more vibrant than in other countries in CE, including Hungary. Their structure and financial means are in better shape and many are publicly active, not solely in protests against government policies but especially in decentralised activities related to the work of local self-governments. In 2015 there were about 70 thousand active foundations and associations (voluntary

¹⁰⁶ The main media regulator is the National Broadcasting Council (Krajowa Rada Radiofonii i Telewizji, KRRiT) elected by the Parliament (both chambers of the parliament and the president) and public media are supervised by the newly established National Media Council. Approximately 70% of the population has access to all tv channels (subscription-based and open access to over 36 channels with concession in 2017 according to quarterly KRRiT) and the size of radio audience is similar, while internet penetration in Poland is above 75%. For social and political news the main media types in March 2017 (declared) were the following: 36% public TV and radio, 32% commercial TV and radio, 21% online sources, 11% major newspapers - Public Opinion in Poland, March 2017, Ipsos for the Center for Insights in Survey Research. International Republican Institute 2017

¹⁰⁷ Top five services used online in Poland (based on PBI/Gemius report from March 2017) are: Google sites have 96% reach among internet users, Facebook 82.6%, Onet 77.6% (web portal), Wirtualna Polska 76.4% (web portal), YouTube 72.3%. Several other news media connected with traditional press and tv reach between 25-59% of internet users.

fire brigades excluded) in Poland.¹⁰⁸ 20% of Poles say they volunteer for or on behalf of NGOs. At the same time, 13.4% Poles said they are members in any type of civil society organisation (including religious groups, parties and different councils).¹⁰⁹ Nearly 25% of those are in an unknown type, and the same proportion are members of religious organisations, around 15% partake in sport clubs, 13% in common interest clubs, 10% in labour unions, and the lowest participation rates are observed among ecological organisations with 3%, local councils with 3-4% and parties with 3-4%. Membership and active participation is correlated with level of education (the more educated are more likely to participate) and degree of public trust, which is low in Poland. The government also tried to take over control of the next rounds of EEA/Norway Grants, including the Norwegian funds for civil society, but the Norwegian government stood firm on its position to have an independent agent – in previous years the Stefan Batory Foundation – responsible for the distribution of those funds. A report¹¹⁰ on the financial structure of the NGO sector published in 2016 indicated that 14% of NGOs had yearly budgets of 250 thousand Euro, while 6% had 250 thousand Euro or more. However, since PiS came to power and introduced new reforms¹¹¹ as well as selective ideology-driven funding, **some concerns have been raised that the centralisation of funding leaves many NGOs focused on minority rights or public education (i.e. sexual orientation or tolerance in schools) without resources.**

LOCAL GOVERNMENTS

Reforms that were introduced in 1999 made local self-governments a very important branch of public life and in 2016 they enjoyed the trust of 64% of respondents (23% distrusted them). In comparison, 50% distrusted the national government (38% trusted it), 56% trusted the EU (27% distrusted it) and 62% trusted NATO (17% distrusted it).¹¹² Additionally, most civil society organisations usually are active on the local level. Local self-governments' independence stems partially from financing, as 40% of revenue from the personal income tax as well as property and some other taxes go directly to the local budget, and to a large degree from direct democratic legitimacy. PiS lawmakers tried to curb the independence of local self-governments in 2017 by introducing a new law¹¹³ that would allow the central government to directly control local government budgets, and dissolve and nominate provisional authorities in case fraudulent activities were revealed in a local authority. This law was vetoed by the president and it has not been revisited since then - it was the president's first veto of government policy. In 2018 changes to the electoral law extended mayoral terms (5 years) and set a two-term limit for mayors - a change that did not cause major controversies. Also, Voivodships in Poland are functioning not merely as territorial administrative units, but also as regional self-governments a main function of whom is the distribution of EU structural funds independently of the national government. Currently, out of 16 Voivodships in Poland 15 are led by the opposition, including Warsaw and the major rural towns. Given the diversity of the political affiliations of these territorial units, it is not easy for the PiS to reach out to liberal-conservative voters in the Western and Northern cities.

¹⁰⁸ Piotr Adamiak, Beata Charycka, and Marta Gumkowska, "Kondycja Sektora Organizacji Pozarządowych w Polsce 2015" (Warsaw: Stowarzyszenie Klon/Jawor, 2016), http://www.nck.pl/upload/attachments/318004/Raport_Klon_Kondycja_2015.pdf.

¹⁰⁹ Dominik Batorski et al., "Social Diagnosis 2015 : Objective and Subjective Quality of Life in Poland," *Contemporary Open Economics. Quarterly of University of Finance and Management in Warsaw* 9, no. 4 (2015), <http://yadda.icm.edu.pl/yadda/element/bwmeta1.element.ekon-element-000171499958>.

¹¹⁰ Adamiak, Charycka, and Gumkowska, "Kondycja Sektora Organizacji Pozarządowych w Polsce 2015."

¹¹¹ Kg/tr, "Idealy Wolnościowe i Chrześcijańskie". Pomysł PiS Na Organizacje Pozarządowe," *TVN24.PL*, July 1, 2017, 24, <https://www.tvn24.pl/wiadomosci-z-kraju,3/zmiany-w-przyznawaniu-srodkow-dla-organizacji-pozarządowych,753343.html>.

¹¹² Małgorzata OMYŁA-RUDZKA, "Zaufanie społeczne" (Warsaw: Centrum Badania Opinii Społecznej, 2016).

¹¹³ Js//now, "Teraz Samorządy. Opozycja Oburzona. Kolejny Etap Zaorania," *TVN24.PL*, June 9, 2017, <https://www.tvn24.pl/r/747478>.

CLIENTELISM, CORRUPTION

A huge achievement of previous administrations was that they managed to avoid “oligarchisation”, partly because of the strong role of foreign capital in the economy. However, this does not exclude a significant degree of clientelism in the political culture that was recently examined in a book entitled “Wyjście awaryjne” by a political scientist Rafał Matyja.¹¹⁴ The book is based on Matyja’s research on the country’s elites in Poland’s regions. Nowadays, the ruling party (PiS) is becoming a quasi-oligarchical network linking political and corporate power. Appointments of party loyalists rather than experienced managers to state-controlled firms as well as cash transfers from these firms to pro-government media and foundations are lowering good corporate governance standards and creating an unofficial financial backstop for the ruling party, observes Adam Jasser.

Poland’s economy is highly developed and its GDP grew by 5.1% in early 2018, with public debt standing at about 50% GDP and income levels have gradually been rising without such crises as observed in Hungary in 2006 and especially in 2008. Employment in public companies amounts to about of 14% of total employees and has been decreasing. The Polish budget’s revenues predominantly come from payroll taxes (49%) and consumption taxes such as VAT (30%), while wealth-related taxation only makes up 4% of state income.¹¹⁵ That clearly shows that the sources of Poland’s prosperity are results of work in the private sector and consumption dependent on it. The PiS government heavily promotes Polish public companies as the main engines of growth and embraces the so-called economic nationalism. The argument is that they are the biggest companies in Poland and the country’s wealth depends on them. Indeed, public companies are the largest firms, and only some foreign companies on the market can match their results. However, SMEs account for 99.8% of all companies, they are an equally important source of growth (50% of GDP) and a major source of employment (69% of all employed; and 56% of all income).¹¹⁶

Economic nationalism is one of the pillars of the incumbent government’s ideology, but the question of maintaining a significant share Polish ownership in the national economy has been part of the public debate since 1989 - argued Adam Jasser. He added that this became more apparent during the 2008 financial crisis that showed how foreign-owned banks increased systemic risks for the national economy because they withhold financing due to balance-sheet problems in their home markets. However, the current government is not just seeking to re-balance this, it reimposes strict state operational control in the financial sector and others, which might decrease competition and efficiency over time. In the broadly understood industrial sector, despite the pro-Polish capitalism narrative from the government, considerable efforts have been focused on encouraging more foreign investments through tax breaks and incentives. At the same time, the stance on Polish capital is more repressive, as evidenced by increased tax control, rule of law-related uncertainty, covert pressure and rapid regulatory changes introduced without proper impact assessments, said Jasser.

Since 1989 the attitude of Poles towards capitalism has mostly been positive and not correlated with GDP growth: the early enthusiasm of the 1990s matched an economic downturn. In the period between 2000 and 2006 support for the free-market economy was falling to 40-30%, but by 2014 this had bounced back to 50%. At the same time Poles show a strong preference for democracy (70% in the 2016 CBOS survey), while their opposition to other forms of government in special circumstances fluctuates (50% in 2016; but in 2004-2005, when Poland was hit by corruption scandals, and in 2010 - a month before the Smolensk plane crash – a near majority would have accepted non-democratic rule).¹¹⁷

¹¹⁴ Matyja Rafał, *Wyjście awaryjne. O zmianie wyobraźni politycznej* (Warsaw: Karakter, 2018), <http://www.empik.com/wyjście-awaryjne-o-zmianie-wyobraźni-politycznej-matyja-rafał,p1184950589,książka-p>.

¹¹⁵ “Mapa Dochodów Państwa 2015,” <http://www.mapawydatkow.pl>, 2015, <http://www.mapawydatkow.pl/mapa-dochodow-panstwa-2015/>.

¹¹⁶ PARP, “20. Edycja Raportu o Stanie Sektora Małych i Średnich Przedsiębiorstw w Polsce” (Warsaw: PARP, 2017), <https://www.parp.gov.pl/20-edycja-raportu-o-stanie-sektora-malych-i-srednich-przedsiębiorstw-w-polsce>.

¹¹⁷ Michał Feliksiak, “Opinie o demokracji” (Warsaw: Centrum Badań Opinii Społecznej, 2015).

One of the first moves by this government was to stop privatisation and introduce plans for rebuilding public companies. Mateusz Morawiecki, as minister of economy and later also as minister of finance, argued before being appointed as PM that Poland's economy needs to have a larger amount of big companies in order to secure future growth and, thus, it cannot privatise more. The Ministry of Treasury - overseeing privatisation - has been disbanded but its portfolio including the main public companies was spread mainly between Prime Minister's Chancellery, the Ministry of Economy and the Ministry of Defence (numerous defence-related companies). For the first two years of the governing cycle, each of the three were reshuffling the management structures of large public companies, which is also seen as a Jarosław Kaczyński-led effort to keep the political balance between.

ELECTORAL SYSTEM

Since 1989, no single party in post-communist Poland has ever achieved a majority and every government had been a coalition government until 2015, when PiS gained 235 seats. It was, among other factors, the result of the failure of the United Left (Zjednoczona Lewica) coalition to meet the required parliamentary threshold (7.55%), which gave a bonus to the winning party.¹¹⁸ Since 1991, elections have been supervised by National Electoral Commission (Państwowa Komisja Wyborcza), whose administrative division is called the National Electoral Office (Krajowe Biuro Wyborcze). **In January 2018, Poland introduced two administrative reforms concerning the National Election Commission and the National Election Office centralising the electoral process and how the government appointed officers.** Election experts did not raise an alarm however, although some noted that there are risks that the system might be dominated by political appointees.¹¹⁹ The risk increased in spring 2018 when it turned out that the recruitment process in many electoral districts still missed up to 90% of applications for positions in the new system.¹²⁰ This means that government would be able to nominate mostly its employees or individual external contractors to fill in these jobs, which would in turn endanger the transparency and fairness of the process. Local elections to be held in autumn 2018 will be the first stress test of the new system. The proportional system makes it possible for the opposition to win even if they are unable to cooperate. **At this time, opinion polls show that PiS can expect even sudden 12 percentage points drops in popularity,** but in May 2018 it was the party with the most popular support according to opinion polls. According to Ipsos, the biggest opposition party, PO was at 27%, while PiS had 35% of support in April 2017.

PARTY SYSTEM

The party system remains somewhat open for new competitors. Challenges to newcomers include high campaign costs and a relatively low cap on private donations to parties. The dominant political parties have remained the same since 2004.¹²¹ New political parties emerge on the scene from time to time; however, so far they have lacked the ability to last for more than one term: the last election brought the liberal-libertarian Nowoczesna and the libertarian right-wing Kukiz'15 political movement (but not a party) into the Parliament. Jarosław Kaczyński was the chairman of the PiS both in 2005 and 2015 but decided not to assume the office of the prime minister and delegated his mandate to a proxy. It has been part of the Polish political culture before to not have a chairman of a political party as the leader of the

¹¹⁸ Local and regional elections elect every five years (as of 2018, previously 4 years):

- mayors (with two term limit, as of 2018),
- council members local (rada gminy), county (rada powiatu) and regional levels (sejmik województa)

¹¹⁹ Jaroslaw Flis, Zmiany w kodeksie wyborczym to przepis na chaos? „Istnieje poważna groźba”, <http://www.newsweek.pl/>, January 18, 2018, <http://www.newsweek.pl/polska/polityka/kodeks-wyborczy-pis-wprowadza-zmiany-w-ordynacji-wyborczej-,artykuly,422035,1.html>.

¹²⁰ Anna Gmiterek-Zabłocka, "Pensja 4,5 tys. zł, ale chętnych niewielu. Dlaczego brakuje kandydatów na urzędników wyborczych?," *tokfm*, March 21, 2018, <http://www.tokfm.pl/Tokfm/7,130517,23169280,ktorzorganizuje-wybory-samorzadowe-wciaz-brakuje-chetnych-na.html>.

¹²¹ Prawo i Sprawiedliwość - right-wing, Platforma Obywatelska - centre-right liberal economy, Polskie Stronnictwo Ludowe - centre-right social economy, Sojusz Lewicy Demokratycznej - centre-left (not in parliament now by missing coalition threshold by 0.45%, but rising to 10% in 2018 opinion polls).

government,¹²² but 2015 was the first time a simple majority government was formed and yet the chairman decided to stay beyond the formal decision-making circle.

At the same time, the actual decision-making process has been subordinated to the party leadership. Its headquarters at Nowogrodzka street, which lack constitutional control and accountability, is delegating tasks both to the Parliament and the government.¹²³ This move may be seen both as an attempt to escape justice for violating the law, but it is also a necessity taking into account the fact that PiS is in fact a united right coalition of three parties that agreed to field its candidates under the party list of PiS. Withdrawal from any governmental position allowed Kaczyński to keep better control over diverging political interests in the coalition and to direct a risky political scheme without constitutional accountability.

The key element of the political strategy of PiS was to win democratic elections by hiding its real agenda that was in fact anti-democratic. In order to do that PiS had to hide key decision-makers who generated distrust (like Jarosław Kaczyński or Antoni Macierewicz) behind the scenes for as long as necessary, while designing a decision-making structure allowing for the party chairman and its leadership maximum control.

PiS also mastered a parliamentary manoeuvre allowing the government to pass draft laws without the necessary long-lasting consultation process if the draft would formally be submitted by a group of parliamentarians. By adopting critical changes to the law – especially in case of the judiciary – without the otherwise required public consultation and curbing parliamentary debate by referring to majoritarian rationale, PiS effectively limited Parliament's role in crafting a legislative debate.¹²⁴ Thus, votes by disciplined and unanimous party members gave de facto full control to the party leadership over the legislative process. The political will of the party leadership can only be altered by external pressure, e.g. the mass demonstrations in autumn 2016 against the proposed restrictive abortion law.

The institutional independence of the president once served to block a serious attempt to limit independence of local self-government. Since 1999 a local government is semi-autonomous: directly elected with an independent local council and mayor, funded from approximately 40% of the income tax generated by the local population and with a high degree of control over its budget. In July 2017 the president vetoed a new law¹²⁵ that would have allowed the government to directly control local government budgets, giving power to dissolve and nominate provisional authorities in case of discovered fraud. Although the motives of the president remain questionable, the law would have added to the centralisation of the country's decision-making structure and limit one important sphere of political autonomy. Despite preparations to accept or abstain from the re-election of Donald Tusk for the EU Council presidency by PM Beata Szydło, in March 2017 the government was forced by the party leadership to assume a completely contrary position only few weeks before the vote that Poland lost 27-1, thus putting the country even more on the sidelines of EU decision making circles. New PM Mateusz Morawiecki, having even less political background in the party, remains even more dependent on the decisions of the party leadership.

¹²² eg. in 1992 Hanna Suchocka in a multiple parties coalition government, in 1997 Jerzy Buzek i AWS-UW government, in 2005 Kazimierz Marcinkiewicz PiS-LPR-Samoobrona government

¹²³ Zbigniew Parafianowicz, "Prezes Spraw Zagranicznych z Nowogrodzkiej, Czyli Trumpizacja Polskiej Dyplomacji," *Wiadomosci.Dziennik.Pl*, March 8, 2018, <http://wiadomosci.dziennik.pl/opinie/artykuly/570246,prezes-spraw-zagranicznych-z-nowogrodzkiej.html>.

¹²⁴ Grażyna Kopińska, "Jakość procesu stanowienia prawa w drugim roku rządów Prawa i Sprawiedliwości" (Warsaw: Obywatelskie Forum Legislacji, 2017), http://www.batory.org.pl/upload/files/Programy%20operacyjne/Odpowiedzialne%20Panstwo/X%20Komunikat_OFL.pdf.

¹²⁵ Andrzej Duda, "Prezydent Przekazał Sejmowi Do Ponownego Rozpatrzenia Nowelizację Ustawy o RIO," July 12, 2017, <http://www.prezydent.pl/prawo/ustawy/zawetowane/art,3,prezydent-przekazal-sejmowi-do-ponownego-rozpatrzenia-nowelizacji-ustawy-o-rio.html>.

SOCIETAL PRECONDITIONS

According to Globsec trends, 74% of Poles believe that the fall of communism was a good thing: the strongest proponents of the regime change are young people and the most educated. That means that Poles perceived the fall of communism the most positively in the V4. **Although the democratic transformation has been by large successful, it left behind a part of society that felt the transformation did not benefit everyone equally. This is the base electorate of Jarosław Kaczyński, whose political narrative has not changed ever since the beginning of his political career.** The integral part of his political narrative has been to point to the injustice during the transformation done to those less economically capable and (real or imagined) benefits that were shared among both liberal and post-communist elites. **This allowed PiS to claim that the transformation process went wrong and bore no democratic legitimacy as it was a deal between elites (and institutions) disapproved by the people.** This approach often resulted in boycotting public meetings with representatives of competing political forces or spreading conspiracy theories suggesting that several protagonists of the democratic elite were in fact voluntarily cooperated with the communist security apparatus.

As Andrzej Leder¹²⁶ observed, the democratic transformation has been carried out by an ideological alliance of liberals and conservatives, in which public morals and culture was at the disposal of conservatives, while the institutional arrangement of the state was up to the liberals. The conservatives were less involved in decisions on specific policy areas and were not so effective politically until now, when they chose to embrace and in fact take over the nationalist agenda, he remarked. Hence, one can say that the first decades of the transition was part of a liberal project, while now the main political scheme is a nationalist one, he concluded.

During the entire transformation period democratic elites were unable to establish widely accepted forms of public celebration related to the successes of the democratic transition. Even during the two subsequent terms of the Civic Platform, the public was not overly involved in celebrating the first semi-democratic elections on June 4. Instead, right-wing groups dominated Independence Day celebrations on November 11 (related to 1918), displaying nationalist symbols on the annual march and taking over the spotlight from public officials in terms of the attention and participation of the public (approximately 50,000 demonstrators).

IDEOLOGY

Poland's new memory law approved in February 2018 brought a lot of international controversy for criminalising the freedom of speech, especially in relation to the debate on Poles' participation in the Holocaust. However, the opposition did not protest at home and opinion polls shown general support for the new bill.¹²⁷

Polish political language is dominated by historical references and imagination. Grand interpretations and reinterpretations of Polish history were part of the political discourse especially in the 19th century when Poland was partitioned among three empires and political elites sought explanations of failure or sources of solace concerning Polish accomplishments. The 20th century brought independence for Poland after the First World War (which otherwise is neglected in Polish public memory) and shortly after its occupation by Nazi Germany and Soviet Russia.

History lessons in schools usually stop at the Second World War and the positive role of Poland in this era of world history, exploiting the myth of Antemurale - the defendants of Europe since medieval times. This myth is an important element of Polish identity and relates in modern times mostly to defending or taking first blows for the rest of Europe from invading barbarians, usually from East (the Red Army's march towards Europe was halted by the Polish army in 1920), but also from barbarians of the West (Nazi Germany acting together with USSR during the 1939 occupation of Poland). The narrative about historical experiences questions most alliances with the West as usually they were proven to be

¹²⁶ Andrzej Leder, Interview for the case study, April 18, 2018.

¹²⁷ CBOS, "Czy Polacy Rozumieją Obawy Żydów?," *CBOS News*, 2018, <https://www.cbos.pl/PL/publikacje/news/2018/05/newsletter.php>.

ineffective or came too late, while at the same time there is little critical examination of the political or strategic realities of the time.

Russia dominates the picture of the political villain as the arch-enemy of Polish struggle for independence. Its role in the Katyń massacre of 1940, when 22 000 members of the Polish elite were secretly murdered on Stalin's orders, has been a symbol of mistrust between the two nations. Therefore, the plane crash at Smolensk airport carrying an official Polish delegation to commemorate the 70th anniversary of those deaths easily evoked suspicion about Kremlin's role in the crash. The Polish elite's collaboration with Russia over the centuries of partition was also a stereotype that easily found its way into the conspiracy theory about the crash that has dominated the narrative of the Polish right-wing for the past few years.

The fact that Donald Tusk is the president of the European Council is the reason why the PiS government is in conflict with the EU. It is not ideological but personal, claims Marcin Zaborowski. As members of the ECR caucus they should focus on strengthening the European Council (Europe of nations) and weaken the Commission. The current PiS government meets the Commission regularly, but it does not meet the Council's president at all. There is large disparity between the official ideology and practice, says Zaborowski, hinting at personal animosities that drive many current policies. In fact, none of the ideological elements apart from hostility towards the rest of the political and social elite remained as key elements of the PiS's political narrative. Neither the sovereign democracy concept nor conservative revolution remained a part of government ideology for long. **The cornerstone of the PiS's political messages is references to dignity (unspecified and used in reference both to the dignity/authority of the nation state and poorer social groups) and social policy – the social program 500 plus that allocates 120 Euro a month to families with at least two children introduced by the PiS government as a demographic policy measure at the beginning of its term.** The PiS tried to meet its hardliner electorate's expectations linked to historical grievances by depriving officers in service under communist rule of any benefits beyond basic pensions and leaving many of them at the brink of poverty. This law was sloppy and it backfired especially in the part of the electorate that saw it as social injustice and the weakening state responsibility. This agenda was quickly taken over by SLD, which recently reached 10% in polls despite being out of parliament. **Another ideological policy related to politics of memory was a new law that enforced the renaming of public spaces relating to the communist past, branded in general as an anti-totalitarian memory law.** This piece of legislation was often ineffective and was blocked or delayed due to court cases launched by local administrations which followed the preferences of local populations, often disliking such a top-down approach to the life of their community.

The Roman Catholic church and religious references have always been strong in post-1989 Polish politics - a post-communist government even struck a deal with the Vatican and signed a concordat granting numerous privileges for the clergy and the church. The Church was reportedly actively involved in lobbying for the PiS during the last election and many of its leaders supported the Smolensk crash conspiracy theory. **Kaczyński himself called Catholicism the ideology of Poland and sought the support of the Catholic right-wing Radio Maryja media conglomerate.** When it comes to real policy choices, Kaczyński has to balance between a hardcore radical right electorate and large public protests against abortion amassing an unprecedented number of female demonstrators against such policies and also against Church ideology.

ATTITUDES TOWARDS DEMOCRACY AND VALUES

Pew Research's 2017 study found that the Polish population is one of the least committed to representative democracy among the nations included in the research.¹²⁸ The summer 2016 results of the Derex Index measuring the most extreme societal attitudes revealed that the presence of anti-establishment attitudes in Poland increased to an extraordinary level, from 29 to 36%. However, it is

¹²⁸ Richard Wike et al., "Democracy Widely Supported, Little Backing for Rule by Strong Leader or Military" (Washington: PEW Research Center, October 16, 2017), <http://www.pewglobal.org/2017/10/16/democracy-widely-supported-little-backing-for-rule-by-strong-leader-or-military/>.

important to mention that data was collected at the time when the migration crisis was escalating and covered the 2015 Polish general election as well. (When data is collected not long before an election, anti-government and anti-establishment attitudes typically get stronger.) The increase in anti-establishment attitudes was the result of the spread of extreme distrust in the political institutional system (the Parliament, politicians, the government) and international organisations (the European Parliament and the UN). Among Poles, representative democracy enjoyed somewhat higher support than among Hungarians: 31%. The total share of attitude radicals in Poland is 11%, meaning that the increasing trend of the period between 2010 and 2013 continued, and thus the Polish value overtook the Hungarian one in 2016.¹²⁹

At the same time, conspiracy theories – notably, the Smolensk crash conspiracy - are either insignificant or in decline except for major health related theories like anti-vaccination and anti-GMO ones that are popular in Polish society. 72% of Poles disagree with conspiracy theories concerning 9/11. Popular support for other conspiracy theories – especially racially charged, e.g., antisemitism – that used to be strong among the older generation are today negligible. However, only 46% of Poles oppose the anti-Semitic conspiracy that Jews have too much power.¹³⁰

ATTITUDES TOWARDS THE WEST

Among the V4 countries, Poles can still be considered the most pro-European: 62% of the respondent claimed that the EU is a good thing.¹³¹ At this time, Polish respondents are sceptical about Euro adoption, but according to Eurobarometer¹³² there are more people who simply do not know the consequences of such a change than there are firm opponents to the Euro. **However, it is noteworthy that Poles mobilised against the EU relocation mechanism and a July 2017 poll for Polityka weekly indicated a that 51.2% of respondents would be ready to leave the EU if Poland was forced to accept the scheme, with 37.6% in opposition.**

As a result, Poles are not buying the narrative concentrating on a more sovereign Poland and in general they support more EU integration: in April 2017 24% said EU integration went too far, but 48% did not think so. Importantly, pro-EU integration sentiment is stronger in the PiS electorate than those opposed to it: 41% support it and 29% oppose it.¹³³ Poles, perhaps contrary to intuitive perception, in general disapprove of authoritarian power and prefer a laissez-faire approach, albeit they favour the exclusion of extremist or radical positions from public sphere. **It would be unsurprising if limiting Poland's role in the EU had no effect on society since, as mentioned earlier, Poles want Poland to be more integrated in the community.**

Regarding preference towards other nations, Visegrád Group (V4) members are ranked the highest in terms of trust, **while Ukraine and Russia rank lowest.**¹³⁴ **Although Poles tend to be sceptical about Russia, it does not mean that Law and Justice is not quite Putinesque in character and methods - observed Marcin Zaborowski.** Germany remains the country's most important partner for security-related reasons, which is a new approach developed after Radosław Sikorski's (then MFA) 2011 speech in Berlin. In contrast, the UK is the main preference for the majority of Poles seeking a job abroad and the main political preference for PiS. However, after Brexit, there was a reorientation towards Germany, adding to the confusion of the public. The V4 surged during the migration crisis and has been heavily promoted by the political leadership, but now political attention to it is fading, while the government keeps cordial relations with Hungary. Positive public perceptions on NATO are still the highest in the

¹²⁹ Political Capital, "DEREX INDEX Poland," accessed May 30, 2018, <http://derexindex.eu/countries/Poland>.

¹³⁰ Milo, Klingová, and Hajdu, "GLOBSEC Trends 2018."

¹³¹ Milo, Klingová, and Hajdu, "GLOBSEC Trends 2018."

¹³² Eurobarometer, "Introduction of the Euro in the Member States That Have Not yet Adopted the Common Currency" (Brussels: Eurobarometer, May 12, 2017), http://data.europa.eu/euodp/en/data/dataset/S2157_453_ENG.

¹³³ Beata Roguska, "Jakiej Unii Chcą Polacy?" (Warsaw: Centrum Badań Opinii Społecznej, 2017), https://www.cbos.pl/SPISKOM.POL/2017/K_050_17.PDF.

¹³⁴ Olga Gyárfášová, "CSES and Slovakia ISSP 2016" (Bratislava: TNS Slovakia, 2016), http://sasd.sav.sk/en/data_katalog_abs.php?id=sasd_2016002.

region with 67%, although public support for the alliance has been decreasing in Poland since 2017 (81%).¹³⁵ **Vis-a-vis other V4 partners Poles are strongly supportive of American policy and the USA in general.** Regarding Poland's place in the world, Polish society experiences externally-induced sentiments as societies elsewhere in the region, which are also related to marginal historical experience of ultra-conservative culture. Marcin Zaborowski observed that under the PiS government Poland became a country driven by typically Russianesque rhetoric about the „decadent West“ and resonating with Christian-conservative sentiments. According to a recent Globsec trends survey, published in May, 2018 young Poles are the least pro-Western in the region: only 27% of the respondents said that they would like to see their country belong to the West.¹³⁶

¹³⁵ Milo, Klingová, and Hajdu, “GLOBSEC Trends 2018.”

¹³⁶ Milo, Klingová, and Hajdu, “GLOBSEC Trends 2018.”

ILLIBERAL TENDENCIES IN SLOVAKIA: PROPONENTS AND OPPONENTS

Grigorij Meseznikov

Transition to democracy in Slovakia has been accompanied by a sharp struggle for the preservation of the democratic nature of the political regime in the '90s and by the efforts to maintain the achieved quality of democracy in the 2000s. Even after accession to the EU in 2004 development was not straightforward and the advancement of democratic reforms was oscillating between progress and regression with manifestations of illiberal politics. Slovakia's case demonstrates the coexistence of two mutually contradicting groups of factors – unfavourable and favourable – in the sustainability of liberal democracy.

The first group includes the existence of political forces with illiberal tendencies in politics and in governance, the growing support for populist, anti-systemic and extremist formations, clientelist and corrupt practices, problematic patterns of political culture and the value orientations of a considerable part of the population inherited from the past (paternalism, demands of state interventionism, nationalism, geopolitical illusions) and anti-democratic ideological indoctrination from the outside.

The second group includes a vibrant civil society firmly resisting illiberal practices, pro-democratic and pro-Western political and cultural elites committed to liberal constitutionalism, independent media, well-established democratic institutions, and membership in EU and NATO.

CONSTITUTIONAL AND ELECTORAL SYSTEM

The Slovak Republic is a state characterised by a parliamentary form of the government, the division of power into three branches, a two-level system of public administration (state executive power and local and regional self-governments), a standard system of checks and balances and a multiparty system.

Generally, the country's institutional system during the transformation was functional enough, however, the compliance of its functionality with the basic principles of democracy and the rule of law depended on a variety of broader socio-political factors. The most serious problem was the discrepancy between the established institutional foundations of the country's political system and the way individual political actors used executive power.

The proper functioning of democratic institutions was complicated by a syndrome of majoritarian governance (the "tyranny of majority") manifested by political forces emerging on the wave of resistance to liberal socio-economic reforms and cumulated broader support from some parts of the population. The governing national populist parties refused almost all legislative proposals submitted by opposition parties in Parliament, ignored opposition initiatives and doubted the opposition's prerogative to criticize the government.

Governments that implemented a majoritarian model of governance in 2006 – 2010 and 2012 – 2016 have been unable to change the basic institutional fundamentals of liberal democratic model in the end since the principles of constitutional liberalism were relatively firmly anchored largely due to successful process of democratic institutionalization in 1990 – 1992 and democratic consolidation in 1998 – 2006.

Political parties preferring the consensual way of solving social problems (programmatic pro-democratic and pro-European parties) contributed to cooperative relationships and less problematic interactions between different branches of power. On the contrary, populists with an illiberal view on the execution of power (HZDS, SNS, Smer-SD) caused power deformations by trying to concentrate power in their own hands. Their steps led to institutional confrontation between the president, government, Parliament, and constitutional and supreme courts.

There are no alternative centres of power to those which are defined by the constitution. However, considering the fact that all governments in Slovakia after 1990 (with one exception in 2012 – 2016) were multiparty coalition governments, a special political weight could be attributed to the so-called “coalition councils” – peculiar political (however not legally formalized) bodies created to regulate intra-coalition relations and to coordinate common coalition policies. Coalition councils served as platforms for reaching the principle political agreements between the coalition partners on particular issues and policies.

The Slovak electoral system is proportional. **The use of a proportional electoral system not only affected the configuration of the party system, but positively influenced the whole process of democratic transition as a guarantor of the adequacy of the system of representation and participation of different segments of Slovak society.** It prevented the country from the overconcentration of power in the hands of dominant political forces. **Occasional efforts of political actors (mostly majoritarian populists) to change the electoral rules and to replace proportional system by majoritarian or mixed ones failed.** The real benefit to the application of a proportional system was essential: it acted as an inhibitor of authoritarian tendencies.

MEDIA

The attitude of political actors to the media de facto copied their approaches to democratic transformation, reforms and execution of power. **Illiberal populists with authoritarian tendencies (members of HZDS, SNS, partially Smer-SD) tried to occupy the public space using all available channels of communication, including public service media and shrinking the space for independent media by the adoption of restrictive regulatory provisions.** A struggle for free space for independent media was part of the confrontation between media, civil society and pro-democratic political actors on one side and illiberal populists on the other.

Apart of usual problems typical for the media in the countries in transition,¹³⁷ in recent years one additional and quite significant problem emerged in Slovakia (similarly to other Central European states): changes in the ownership structure of media outlets and the concentration of media in the hands of certain economic groups, including the national “oligarchs” with strong political ambitions.¹³⁸

As far as the role of media in delivering information to public is concerned, substantial changes are observed as new media (online resources, social networks, bloggers) are competing with “traditional” media for attracting the audience. The number of consumers who use new media are growing.¹³⁹ The degree of accuracy and credibility of information varies in different types of media. Serious (“major”) media outlets (printed and electronic) with established fact- and source-checking rules are gradually losing their audience in favour of new media (especially networks) acting as non-regulated channels that do not employ reliable fact-checking procedures. **As a result, Slovakia’s media sphere today is an**

¹³⁷ Like the pressure on independent journalists from various actors – active politicians, businessmen, bureaucrats, celebrities and judges who sued journalists in courts -, conflicts with officials, uneven quality of journalism, “tabloidization” of the media outlets, lack of funds for investigatory activities.

¹³⁸ Among them J&T Group, Penta, Agrofert, EPH (the latter two are Czech-Slovak companies operating in Slovakia).

¹³⁹ According to the representative survey conducted by International Republican Institute (IRI) in 2017, the main sources of daily social and political news for the population in Slovakia are: commercial TV and radio (for 33% of respondents), public TV and radio (for 30%), online news sources (for 23%) and major newspapers (for 14%). However, a big gap can be observed in the use of various types of media as sources of information by younger and older generations. While among people over the age of 60 26% receive their news from commercial TV and radio, 56% from public TV and radio, 16% from major newspapers and only 2% from online news resources, among the generation between 18 – 29 years the proportion is substantially different: 32% are recipients of news from commercial TV and radio, only 16% from public TV and radio, 9% from major newspapers and 43% (!) from online news resources.

arena of competition between toxic and credible contents with radically different attitudes to the basic principles of liberal democracy.¹⁴⁰

CIVIL SOCIETY

The growth of civil society and the higher involvement of citizens in the activities of civil society organizations played a pivotal role in the process of the consolidation of democracy. Despite a generally complicated environment for development of civil society,¹⁴¹ **in Slovakia it showed itself to be vibrant, potent and strongly committed to the basic values of democracy and freedom. Actors of civil society were non-institutional protectors of liberal democracy and democratic institutions and procedures.**

Evidence for this can be taken from the end of the '90s, when civil society actors constituted the integral parts of broad democratic alliances which ousted the authoritarian government of Vladimír Mečiar from power or from the 2000s when NGOs and civic initiatives were engaged in the implementation of reforms. In March 2018, the broad civic movement "For a Decent Slovakia" that emerged in reaction to the murder of investigative journalist Ján Kuciak succeeded in forcing the ruling Smer-SD to make substantial personnel changes in the government. It happened as a result of strong pressure from thousands of citizens participating in protest rallies throughout the country.

Although the degree of embeddedness of different types of civil society organizations is different, the overall reputation of NGOs among the population is positive despite the efforts of illiberal forces to discredit them.¹⁴²

CLIENTELISM AND CORRUPTION

Corruption is one of the country's most pressing issues both on the level of practical policy and the perceptions of the population. According to the June 2016 IVO survey almost nine in ten respondents expressed their concern about this problem.¹⁴³ The discourse about corruption is marked by a strong conviction that the whole political class, state institutions, including judiciary and many elements of business environment are corrupt, that the existent regime is based on corruption, cronyism and thievery of public property. As the 2016 ISSP survey conducted by the Institute of Sociology of the Slovak Academy of Science showed, almost three fifths of respondents in Slovakia suspect that many or almost all politicians and state officials are corrupt.¹⁴⁴

The phenomenon of „state capture“ (spread of political corruption and clientelism in governance) decreases the significance of the legitimate democratic institutions and undermines the principle of impartial governance. In a "captured" state impartial governance is de facto replaced by governance in favour of selected groups of organized interests interlinked with the ruling political establishment when personal nominations to important posts in public administration and the results of public tenders are

¹⁴⁰ According to IRI survey, 40% of respondents admitted they used social networks as sources of information every day, another 32% use them occasionally (once or twice per week). 11% of respondents use the "alternative" media outlets ("alt-right" with xenophobic and conspiratorial content) and another 23% used them occasionally. Only 38% of respondents fully trust major media and consider them professional and unbiased (all quoted data in this section are taken from *Opinions of the National and Regional Context* (ppt presentation). Center for Insights in Survey Research. International Republican Institute 2017).

¹⁴¹ Like the insufficient material base, illiberal, etatist and paternalist views inherited from the past by large part of the population, hostile or indifferent attitude on the side of some segments of political elite)

¹⁴² Grigorij Mesežnikov and Boris Strecansky, *Občianska Spoločnosť Na Slovensku: Krízy, Križovatky a Výzvy* (Bratislava: Institute for Public Affairs, 2017),

https://www.researchgate.net/publication/314101642_Obcianska_spolocnost_na_Slovensku_Krizy_krizovatky_a_vyzvy.

¹⁴³ Grigorij Mesežnikov et al., *Stav, Trendy, Potreby a Možnosti Rozvoja Občianskej Spoločnosti Na Slovensku* (Bratislava: Inštitút pre verejné otázky, 2016),

http://www.ivo.sk/buxus/docs/publikacie/subory/Stav_trendy_potreby_moznosti_rozvoja_OS_na_Slovensku_2016.pdf.

¹⁴⁴ Miloslav Bahna and Jozef Zagrapan, "Tlačová Konferencia k Zisteniam Výskumov CSES a ISSP 2016" (INSTITUTE FOR SOCIOLOGY OF SAS, 2016), <http://www.sociologia.sav.sk/en/podujatia.php?id=2543&r=1>.

concerned, while legislative proposals are often adjusted to the interests of select corporations or informal groups. This system has systematically been built by the Smer-SD after 2006 (with short intermezzo in 2010 – 2012).

The elements of “state capture” are boosted the by practice of “selective justice,” which is a result of ill-linkages between party politics, business circles and inefficient and corrupt law enforcement institutions. “Selective justice” prevents the full implementation of the principle of equality because it favours some groups or persons linked with ruling political forces. It is a consequence of a generally unfavourable situation in the judiciary, which clearly lagged behind in transition process compared to other social spheres. Institutional changes here were not accompanied by personal changes and old habits in the behaviour of judges persisted. **As a result, the population perceives the judiciary as one of the most corrupt sectors, and the level of public confidence in the judicial system is low.**¹⁴⁵

The recent events in Slovakia should be seen in the context of corruption, clientelism and clandestine links between top officials and business groups. The murder of young investigative journalist Ján Kuciak served as a trigger for mass protests in March – April 2018¹⁴⁶ **His tragic case symbolically represented the combination of multiple challenges which are testing the functionality and legitimacy of democratic institutions, the stability of rule of law, principles of equality of citizens, transparency of governance and freedom of the media.**

ATTITUDES ON DEMOCRATIC VALUES, TRUST IN INSTITUTIONS, ROLE OF CONSPIRACY THEORIES

After almost three decades of democratization and democratic development the support for liberal democracy among Slovak citizens (60% of respondents in the survey) outweighs its opponents, however, with visible inclinations towards the necessity to strengthen the institutions of direct democracy, for example, referenda (supported by 58.2% of respondents), which indicates the lack of confidence in the standard institutions of representative democracy (Parliament, government).

Popular support for governance with a “strong hand” is not insignificant: 32.4% of respondents opted in the survey for such a political system, in which at the expense of removing some civil liberties and concentrating power in the hands of a strong leader would ensure “order in the country”.

Sociological surveys revealed the low level of overall trust among people in Slovakia. In 2016, only 17% of respondents declared that most people can be trusted, while 81% felt the necessity to be cautious.¹⁴⁷ The phenomenon of general distrust corresponds with a prevailing low level of trust in political and state institutions. **Around two-thirds of the population distrust the three branches of power: the government (63%), the Parliament (62%) and the judiciary (67%). Political parties are untrustworthy for almost three-fourths of citizens (71%).**

Beliefs in conspiracies constitute an organic part of anti-establishment political discourse. **In a representative survey conducted by IVO in 2017, 61% of respondents agreed with the statement “Reality is mostly different than it is presented; the powerful secret groups govern the world in accordance with the secret plans”, while the statement “World is a complex, however we know substantial things about important events” was endorsed only by 34.2% of respondents.**

¹⁴⁵ Lucia Lauková, “Slovensko sa v dôvere v súdy prepadlo na chvost Únie,” *slovensko.hnonline.sk*, March 8, 2018, <https://slovensko.hnonline.sk/1706989-slovensko-sa-v-dovere-v-sudy-prepadlo-na-chvost-unie>.

¹⁴⁶ Ján Kuciak wrote about corrupt links between economic groups, state bureaucracy and the leaders of Smer-SD. His and his fiancée Martina Kušnírová’s violent death sparked the public protests demanding the resignation of Prime Minister Robert Fico and other members of government. The publicized information that people close to Smer-SD and linked with persons suspected of being members of the Calabrian organized crime syndicate directly reached the centre of executive power, which caused a decline in the trust of a large part of the population in state institutions. Massive public protests throughout the country caused the resignations of the prime minister and two ministers of interior.

¹⁴⁷ Mesežnikov and Strecansky, *Občianska Spoločnosť Na Slovensku: Krízy, Križovatky a Výzvy*.

Slovak society is rather susceptible to conspiracy theories: 53% of Slovaks think secret groups seek to establish a totalitarian world order.¹⁴⁸ **Typical elements of conspiracy narratives in Slovakia include xenophobia, racism, anti-Semitism, resistance to immigration, anti-Western (anti-EU, anti-NATO, anti-American) sentiments, pan-Slavic ideas, hostility to liberal democracy, vehement preference of the alleged “Christian values” over values attributed to other confessions, and support for fundamentalist ideas and norms. The pivotal point of the conspiracy discourse is a narrative about small Slovakia being a target and a victim of numerous ploys inspired and implemented by external enemies that try to subordinate or conquer the country in order to use or even usurp its natural and economic resources for their “unholy” purposes.**

At the same time, Robert Fico’s attempt to employ the conspiratorial narrative about George Soros as a mastermind of the events that followed the death of Ján Kuciak (massive protests constitute a “coup d’état” in Fico’s terminology) in March 2018 was unsuccessful. It was endorsed only by the neo-fascist ĽSNS (and partially by the nationalist SNS), all other relevant parties clearly distanced themselves from Fico’s remarks and condemned him. New Prime Minister Peter Pellegrini did not continue this line of interpretation in his public communication.

ATTITUDES TOWARDS THE WEST

According to a public opinion survey conducted by Globsec, more than half (56%) of Slovak respondents would prefer to position their country between the East and West. The positive perception of the EU has increased slightly in Slovakia, where 53% of respondents said that the EU is a good thing. While perceptions of NATO in Slovakia remained the lowest in the V4 (37%) divisions have emerged among the age groups: more Slovaks aged 18-24 years perceive NATO as a good thing. The proportion of Young Slovaks who approve of NATO increased by 16 percentage point compared to 2017.

All Slovak governments, including the incumbent one formed in 2016, officially supported the country’s pro-Western foreign and external security policy. However, the commitment of ruling parties to the full-scale implementation of the declared goals varied. Moderate centre-right parties in government implemented an unambiguous pro-Atlantic line, while national populists, including Smer-SD, flirted with the alternative “all-vectors-policies” (Russia, China, BRICS etc.). Although the current Smer-SD – SNS – Most-Híd coalition presents itself as a guarantor of a pro-EU and pro-NATO course (Smer-SD even propagates the “Slovakia-in-core-of-EU” option), the almost openly pro-Russian geopolitical credo of the SNS undermines the perception of Slovakia as a loyal and committed member of the Western community of states. The case of the poisoned former Russian spy Sergey Skripal could serve as an example for pro-Russian elements in the administration succeeding in preventing the expulsion of Russian diplomats from Bratislava.

In Slovakia, Russian state propaganda and its local agents spread narratives aimed at undermining citizens’ confidence in the country’s membership in EU and NATO. Promoting the ideas of the preference of ethnically or religiously defined values (pan-Slavic solidarity, traditional Christian patterns of behaviour) over universal values of democracy and freedom, interpreting liberal democracy in a twisted way as an improper form of social organization for Central Europeans and disseminating the misleading theories about alleged disadvantages of the participation of smaller countries in Western integration groupings, Russian propaganda is trying to weaken the bonds between Slovakia and EU and NATO, attempting to disconnect the country from its democratic allies in the West.

¹⁴⁸ Milo, Klingová, and Hajdu, “GLOBSEC Trends 2018.”

APPROACH TO MARKET ECONOMY AND CAPITALISM, DEMAND FOR A STRONG STATE

According to opinion poll conducted by EBRD in 2016, support for market economy among Slovak citizens decreased from 35% in 2010 to 29% in 2016. 35% of respondents believed that a planned economy might be preferable to a market-based one. 36% of interviewed Slovaks believed that “for people like me, it does not matter” which economic system is in place.¹⁴⁹

Public support for the idea of a strong social policy and citizens’ expectations of the state playing an active role in regulating the basic social characteristics of society are both high. According to an ISSP/CSES opinion poll conducted in 2016, 72.2% of respondents in Slovakia agreed with the statement that the government should take decisions to reduce differences between people’s incomes. According to the quoted survey, “it is the responsibility of the government” to regulate prices (84.6% of respondents), to help industry to develop (89.8%), to provide a good standard of living for elderly people (96%), to provide health care for sick people (97.1%) and to secure jobs for everybody who wants to work (90.6%).¹⁵⁰

Capitalism as a social system did not enjoy a high level of popularity among the population.¹⁵¹ According to an opinion poll conducted by the Institute of Sociology of the Slovak Academy of Sciences in 2014, only 7.8% of respondents thought that capitalism is the “best social system for the protection of human dignity”. 15.6% of respondents thought that socialism is the best system for such protection, however, the biggest share of respondents – 51% – thought that the best protector would be a mixed system (“something in between capitalism and socialism”).¹⁵² According to Globsec trends 2018, even though 67% of Slovaks perceive the fall of communism positively, more people (41%) claimed that their lives had been better before 1989. The older generation’s feeling of nostalgia is prevalent in this regard: while 60% of people aged above 55 years believe their life had been better before the transition, only 19% of 18-24 year olds shared this view.

IDEOLOGY

Ideology was not the strongest motivating factor for politicians in government and as they tried to create institutional or procedural framework for their governance. Two parties that used to be the strongest in Slovakia – the populist HZDS and Smer-SD – were not “visionary” formations. Neither these two parties nor other, smaller ones (including the programmatic centre-right), had their own original ideological concepts of the nation state which they would try to implement in practice. **The highest value for them was political power itself. The occasional employment of ideology for the justification of power practice (for example, nationalist mythological narratives about “old Slovaks”, the Great Moravian Kingdom with “King” Svätopluk or the left-leaning ideology of a paternalist state providing social justice) had a rather episodic nature and did not influence the real process of nation state building.** Conversely, efforts to consolidate and concentrate power had a substantial impact on the modus operandi of the state institutions. Ideology played a rather secondary role, while power-related considerations were in the spotlight.

According to the Constitution, the Slovak Republic is an ideologically neutral and secular state. However, there is no formal separation of the Churches and the state. The officially registered Churches and religious communities are financed from the state budget. Churches, including the biggest one, the Roman Catholic Church, restrain themselves from direct participation in political life (membership in political parties, support for individual politicians or participation in elections). At the same time,

¹⁴⁹ European Bank, “Slovak Republic | EBRD LiTS” (London: EBRD, 2016), <http://litsonline-ebrd.com/countries/slovak-republic/>.

¹⁵⁰ Gyárfášová, “CSES and Slovakia ISSP 2016.”

¹⁵¹ However, it needs to take into account the negative connotation of this term inherited by large part of the population from times of communist propaganda.

¹⁵² James Krapfl and Miroslav Tízik, “Porovnanie Percepcie Súčasnej a Minulej Situácie Obyvateľov Slovenska,” accessed May 30, 2018, <http://sociologia.sav.sk/en/podujatia.php?id=2038&r=1>.

Churches, especially the Catholic Church, actively participate in public debates, including the ones concerning some issues relevant to democratic development.

Generally, country's religious leaders express their support for the democratic order, endorse membership in the EU, criticize negative social phenomena (corruption, criminality, poverty) and condemn extremist activities. However, in selected areas (human rights, reproductive behaviour, family model, gender equality) the major Christian congregations, including the Catholic Church, present illiberal, strictly conservative approaches and try to influence state policies in this manner. The Catholic Church and its allied civic groups constantly reject the approval of legislation considered "friendly" towards or "soft" on the alleged "left-liberal trends" coming to the country from the outside (ergo from the EU). For instance, they tried to block the adoption of the National Strategy of Human Rights and they firmly object to the ratification of the Istanbul Convention on Violence against Women.¹⁵³ Such stances inflame the "cultural struggle" in the country that leads to division among citizens and lowers the degree of trust.

¹⁵³ Denník Postoj, "110 organizácií protestuje proti ideologickej príprave Celoštátnej stratégie ľudských práv," *Denník Postoj*, accessed May 30, 2018, <https://www.postoj.sk/3663/110-organizacii-protestuje-proti-ideologickej-priprave-celostatnej-strategie-ludskych-prav>.

AN ILLIBERAL DRIFT IN THE CZECH REPUBLIC? RISKS OF A “SO FAR SO GOOD” APPROACH

Vit Dostal

The Czech Republic is often perceived as the country with the most liberal political environment in the Visegrád Group and not as an EU troublemaker in terms of rule of law standards, unlike other Central and Eastern European member states.¹⁵⁴ However, the Czech Republic faces many similar societal problems as its neighbours (including Austria) and experiences the same political phenomena other V4 countries do. **Thus, the “so far so good” approach might be misleading, the stability of various controlling institutions should not be overestimated and the independence of judiciary, civil society and public media needs to be guarded.** If not, the current political stalemate which followed the autumn 2017 general election might evolve into a decline rule of law standards.

The future trajectory of Czech politics is in the hands of Andrej Babiš, who before 1989 had been an aspirant of nomenclature cadres, a member of the Communist Party of Czechoslovakia and a collaborator of the secret service. After the regime change he became a businessman known for well-established contacts with the political elite, and since 2011 he has been a hyperactive politician with excellent PR skills and the ability to dominate Czech politics. Babiš does not have a detailed masterplan for the Czech Republic (although he often claims he has). His approach is eclectic, transactional, pragmatic, non-ideologic and opportunistic. He is definitely not the man one would trust with a delicate matter such as the (liberal) democratic system. **Nevertheless, there are various control mechanisms, rivalling political institutions and a pluralist party system in the country, which may keep Andrej Babiš within admissible limits.** The quality, persistence and most importantly the credibility of Babiš's opponents will be crucial. Last, but not least, political forces in opposition have to address the reasons why Babiš's protest and anti-establishment rhetoric sounds so appealing to a critical mass of the population. Without being able to rehabilitate their image and finding credible policy solutions, the political opposition would eventually collapse.

The Czech Republic has been ranked as a consolidated democracy by Freedom House's “Nations in Transit” report and it has been in a good position over past decades.¹⁵⁵ There has been a slight decrease in the country's score since 2013, yet the Czech position remains stable. Interestingly, the year 2013 is also the year when Andrej Babiš entered the Parliament with his party. Public trust in the government and democracy has improved since 2013.

CONSTITUTION, ELECTORAL SYSTEM

The Czech constitution remains untouched, and there have not been any significant changes to it since its introduction in 1993. The institutional system has thus proved functional in the transition period, as there have been no serious attempts to rewrite it or change the competences of key institutions.

The last significant amendment was the introduction direct presidential elections before 2013. However, some ideas on how to change the constitutional framework have surfaced recently. **The most important modification would concern the introduction of a general referendum instrument into the legal system.** There are several proposals on what kind of laws could be amended through referenda, and whether it should involve international obligations such as membership in NATO and the EU. However, even Andrej Babiš's ANO party seems to be reluctant to incorporate such a risky instrument which could eventually lead to a “Czexit” vote into the constitutional framework. However, a general referendum

¹⁵⁴ Vera Jurová, Evropský rozpočet je o solidaritě. Slušný balík peněz by ale měly dostat i státy, které si vedou dobře, říká Jourová, May 9, 2018, <https://plus.rozhlas.cz/evropsky-rozpocet-je-o-solidarite-slusny-balik-penez-ale-mely-dostat-i-staty-7202234>.

¹⁵⁵ Freedom House, “Nations in Transit 2018: Czech Republic Country Report” (Freedom House, April 11, 2018), <https://freedomhouse.org/report/nations-transit/2018/czech-republic>.

instrument with some limitations could be introduced during the current term of the Chamber of Deputies (lasting until the 2021).

The current electoral system has been introduced in 1993 and have not undergone any significant changes. General elections are held under a proportional system with a 5% parliamentary threshold and 14 regional lists. 200 Members of Parliament are elected every four years. The Senate, an upper chamber, is composed of 81 members. One third of the Senate (i.e. 27 senators) is elected every two years in single-member constituencies in two-rounds.

There should not be a huge change in the **electoral system**. Although Andrej Babiš himself suggested it in his book entitled “What I dream of when I happen to sleep” and prepared as a marketing tool for the most recent electoral campaign. **Babiš proposed a unicameral parliament with fewer members elected in a British-style first-past-the-post system.**¹⁵⁶ Nevertheless, such a proposal has not been circulated during government negotiations and Babiš even decided not to incorporate it into ANO’s actual election programme. The only potential change in the electoral system would concern the direct election of mayors. This idea has been around for some time and it seems to have much higher cross-party support.

A successful constitutional amendment is improbable as it is quite difficult to push it through. One needs not only a constitutional majority (2/3) in the Chamber of Deputies, but also the consent of the supermajority in the Senate. Babiš – even together with his supporters in this matter – has inadequate strength to push any significant constitutional change through Parliament. Moreover, the fact that every two years only one-third of the Senate is up to a vote provides stability for the Czech polity. **The distribution of mandates to political parties in the Senate only seldomly mirrors the composition of the lower chamber and the Czech Republic – for the sake of the stability of the constitutional system – benefits from the pluralist party system.** The smallest number of parties elected into the Chamber of Deputies was five in the period of 1998-2010, and then this number started to grow. Seven parties made it to Parliament in 2013. Today, nine parties are in the Chamber of Deputies. **There has never been a hegemon on the political party scene in the Czech Republic.**

Even though the system might be stable, simply ignoring it could carry risks. The language of the Czech constitution is not rigorous and in many aspects it leaves some space for interpretation. This fact strengthens the role of the president who should often act as an initiator. In case he does not act, there are only a few and extreme methods to force him to do so, such as prosecuting him for treason. It is worth noting that Zeman often misuses this constitutional ambiguity and follows unilateral interpretations of the basic law.

Despite proposals regarding general referenda and the direct election of mayors, ANO is in fact a leadership-focused party. ANO is definitely not a traditional party, and the party leader has a decisive role in it. ANO has standard party structures (regional committees and local branches), but some standard mechanisms (like the removal of the leader) are hardly imaginable. Moreover, the internal rules have been changed to allow Babiš to remain the party leader after he was charged with a criminal act. As ANO has been leading a minority government since December, Babiš’s power has even been reinforced. Yet, if ANO formed a government with coalition partners or needed majoritarian Parliamentary support, this trend would be reversed.

¹⁵⁶ Andrej Babiš, *What I Dream of When I Happen to Sleep* (Prague: Czech Print Center, 2017), https://issuu.com/andrejbabis/docs/what_i_dream_of_when_i_happen_to_sl.

ATTITUDES TOWARDS DEMOCRACY AND INSTITUTIONS

The majority of the public is satisfied with the way the democracy functions in the Czech Republic and such attitudes have been on the rise since 2013.¹⁵⁷ The level of satisfaction with the political situation has not changed significantly since 2014, and data shows that the Czech population is neither satisfied nor unsatisfied with it.¹⁵⁸ The public trusts the police (66%) and the army (69%).¹⁵⁹ Trust in the government has been between 40-50% since 2014. **The president is in general seen as more trustworthy – currently trusted by around 50% - but public attitudes towards him have also proven to be more volatile in past.**¹⁶⁰

MEDIA

Interestingly, the **media** are less and less trusted in Czech society. A gradual decline of their credibility in the eyes of the public could be observed since 2008. **Czech media has also gone through a transformation of ownership in past years. Foreign investors have been pulling back from the Czech media market and their assets have been bought by domestic moguls. Andrej Babiš himself indirectly owns a significant share of the media market.** As a reaction to this reshuffle of media ownership in the Czech Republic, several new projects – some of them focusing on investigative journalism – have been launched. Although the media acquisitions indicate that at least some moguls want to secure a part of the market to help advance their own interests, the market itself remains free and pluralistic.

Nevertheless, the public media have been under siege. The Czech TV and the Czech Radio have been often criticized by various politicians including Prime Minister Babiš and President Zeman. The Czech Republic has dropped eleven places in the 2018 World Press Freedom Index of Reporters without Borders compared to 2017 and now holds the 34th position.¹⁶¹

CIVIL SOCIETY

Civil society remains in a relatively stable position as the sector has not suffered from any crackdown and it has faced a positive environment for development. However, as political developments leading the Czech Republic towards a consolidated democracy were rather linear, civil society did not mobilise on a massive scale to push the political scene in any given direction. The only exception to be noted was the Czech TV crises of 2000-2001, when the public protested against political intervention into the management of the Czech public TV.¹⁶² Nevertheless, trust in NGOs has gradually dropped over the past decade – the ratio of those trusting and distrusting them was 40 and 32% respectively in 2008 and 36 and 51% in 2018. Actions against NGOs are limited and the legal system does not restrict their activities.¹⁶³ However, the environment has been turning more hostile towards civil society and, in particular, towards some specific NGOs. Some members of the far-right Sovereignty and Direct Democracy party, the Social Democrats and the far-left Communist party as well as disinformation sites

¹⁵⁷ Naděžda Čadová, "Tisková Zpráva Názory České Veřejnosti Na Úroveň Demokracie a Respektování Lidských Práv v ČR – Únor 2018" (Prague: Centrum pro výzkum veřejného mínění, 2018), https://cvvm.soc.cas.cz/media/com_form2content/documents/c2/a4553/f9/pd180316.pdf.

¹⁵⁸ Jan Červenka, "Tisková Zpráva Důvěra Ústavním Institucím v Březnu 2018" (Prague: Centrum pro výzkum veřejného mínění, 2018), https://cvvm.soc.cas.cz/media/com_form2content/documents/c2/a4568/f9/pi180403.pdf.

¹⁵⁹ Radka Hanzlová, "Tisková Zpráva Důvěra k Vybraným Institucím Veřejného Života – Březen 2018" (Prague: Centrum pro výzkum veřejného mínění, 2018), https://cvvm.soc.cas.cz/media/com_form2content/documents/c2/a4580/f9/po180405.pdf.

¹⁶⁰ Červenka, "Tisková Zpráva Důvěra Ústavním Institucím v Březnu 2018."

¹⁶¹ Reporters without borders, "Czech Republic : Journalists Welcomed with AK-47" (Paris: Reporters without borders, 2018), <https://rsf.org/en/czech-republic>.

¹⁶² Jolyon Naegele, "Czech Republic: TV Crisis Continues," *RadioFreeEurope/RadioLiberty*, January 4, 2001, <https://www.rferl.org/a/1095450.html>.

¹⁶³ Hanzlová, "Tisková Zpráva Důvěra k Vybraným Institucím Veřejného Života – Březen 2018."

and some private media also scapegoat NGOs, and especially the People in Need and Open Society Foundations.

CLIENTELISM AND CORRUPTION

Public oversight is now needed more than ever because Babiš indirectly (i.e., through trust funds) owns a huge business empire. Given the power vertical centred around him, he has enormous opportunities to access information and follows an uncontrolled approach to legislation and norms concerning economic competition, taxation or the environment. **That opens a huge space for clientelism. Some issues in which public state institutions act according to the Babiš's business interests on various levels from the national to the local have already been described.¹⁶⁴ Thus, the regulatory scheme could be amended to suit Babiš's economy interests in the future.**

The Czech Republic has improved its rating in the Transparency International Corruption Perception Index in past years; its 2013 score was 48, while in 2017 it scored 57 points.¹⁶⁵ This progress was mirrored in Czech society as well.¹⁶⁶ The peak of corruption perception was in 2013 and 2014. Afterwards, the corruption and clientelism-related scandals led to the fall of Petr Nečas's government. The public claims that political parties and the distribution of the European funds are the most affected by corruption.¹⁶⁷

APPROACH TO MARKET ECONOMY

Babiš himself is not an ideologue concerning state intervention into the economy. He claims that "the state should be run as a business," but the key message of this appeal is improving efficiency and the acceleration of lengthy administrative and political procedures, not a turn towards neoliberal capitalism. In fact, Babiš is ready to increase social benefits and subsidies. The strong Czech economy situation and its stability puts him in an excellent situation. Moreover, he does not have critical economic problems to solve. A favourable economic situation has been also noted by the public – some 45% of the population considers the state of the Czech economy good, 36% says it is neither good, nor bad, and only 17% see it as bad. In January 2013 the proportions of these assessments were 5%, 25% and 69%, respectively.¹⁶⁸ What rises concerns are societal issues such as social cohesion, poor control of distains or rocketing housing costs in Prague and regional centres. These are the issues the government will need to fix.

IDEOLOGY

Babiš attracts a significant group of voters who feel they are the losers of the economic transformation and globalization. The extreme left and extreme right parties are aiming for the same voter groups, although they combine populist messages with more radical content (e.g., demanding to leave the EU or NATO). Given the favourable economic conditions, such strategy works well for him. Babiš is also a marketing machine which is hard to stop. Moreover, the mainstream opposition political parties protest against and angry with Babiš and his practices, but they are unable to sell their policies to the public.

Babiš does not have any ideology rooted in culture and history. His populism is a strange "mélange" of reactions to current societal concerns stretching from social issues to the topic of migration. A part of

¹⁶⁴ Jakub Patočka and Zuzana Vlasatá, *Žlutý baron - Skutečný plán Andreje Babiše: Zřídít stát jako firmu - Jakub Patočka, Zuzana Vlasatá* (Prague: Vydavatelství Referendum, 2017), <https://www.kosmas.cz/knihy/231308/zluty-baron-skutecny-plan-andreje-babise-zridit-stat-jako-firmu/>.

¹⁶⁵ Transparency International, "Corruption Perceptions Index 2017" (Transparency International, 2018), https://www.transparency.org/news/feature/corruption_perceptions_index_2017.

¹⁶⁶ Jarmila Pilecká, "Tisková Zpráva Názor Na Rozšířenost a Míru Korupce u Veřejných Činitelů a Institucí – Březen 2017" (Prague: Centrum pro výzkum veřejného mínění, 2018), https://cvvm.soc.cas.cz/media/com_form2content/documents/c2/a4278/f9/p0170407.pdf.

¹⁶⁷ Pilecká, "Tisková Zpráva Názor Na Rozšířenost a Míru Korupce u Veřejných Činitelů a Institucí – Březen 2017."

¹⁶⁸ Jan Červenka, "Tisková Zpráva Občané o Hospodářské Situaci ČR a o Životní Úrovní Svých Domácností – Březen 2018" (Prague: Centrum pro výzkum veřejného mínění, 2018), https://cvvm.soc.cas.cz/media/com_form2content/documents/c2/a4588/f9/ev180412.pdf.

his image is also an anti-political and thus anti-ideological approach. **He claims that “traditional” political parties were unable to solve key problems because of various deals struck behind the curtains. On the contrary, he, as a practical man, has the right recipes as he does not have to bother with the ideological superstructure.** This allows him to be extremely flexible and to sit in a government with the Christian Democrats, and then form another cabinet backed by the communists. The main problem for potential coalition partners is not the ideology but Babiš himself.

Even though influential members of the Church such as Prague’s Primas Cardinal Duka are supportive of Miloš Zeman mostly on migration-related issues, the role of the Church is insignificant in the Czech political discourse.

ATTITUDES TOWARDS THE WEST, ROLE OF CONSPIRACY THEORIES

Foreign policy is not a fundamental part of Andrej Babiš’s political toolkit. His approach is eclectic, transactional and instinctive. **He has never questioned the “pro-Western”, pro-EU and pro-NATO orientation of the country, and it was even confirmed in his first statement after his victory in the general election in October 2017.** Therefore, a U-turn in Czech EU policy cannot be expected. Of course, there are several red lines in Czech EU policy which Babiš will never cross. **The Czech Republic will not introduce Euro and will not accept the mandatory relocation scheme for refugees or asylum-seekers. Both issues are very sensitive and around 80% of population reject further integration in these areas.** Nevertheless, Andrej Babiš has been very active on the international scene since he became prime minister.

The next government will probably continue the country’s current EU policy. Interestingly, the leadership change in the Social Democrats after the last election fiasco put a nationalist clique in charge of the party and half of the members of the presidium would now support a referendum on EU membership. **Therefore, Babiš, who has repeatedly confirmed the importance of Czech EU membership, is now paradoxically a safeguard against a Czech exit from the EU.**

Czech society values NATO membership¹⁶⁹ and keeps its distance from the EU. However, trust in the EU has risen since 2016 when it hit its nadir most probably because of the so-called EU migration crisis. According to Globsec trends, the Czech Republic remained the least pro-EU member of the V4.

The conspiracy discourse has become a huge issue in past years, although it is hard to measure its real impact on society. Fake news stories have been spread by some politicians, most importantly by President Miloš Zeman. The most radical disinformation scene is made up of fringe portals. The main disinformation media influencers are the web portal Parlamentní listy and TV Barrandov.

These also have privileged access to some politicians like President Zeman and the leader of the far-right Sovereignty and Direct Democracy party Tomio Okamura. Therefore, a key role will be played by public institutions, independent or public media and civil society in keeping Babiš within the limits of the rule of law. Appropriate external pressure would contribute to this as well. Babiš wants to keep good contacts with Western European leaders and gain a positive image in the international press.

¹⁶⁹ Naděžda Čadová, “Tisková Zpráva Občané o Členství České Republiky v NATO – Leden 2018” (Prague: Centrum pro výzkum veřejného mínění, 2018), https://cvvm.soc.cas.cz/media/com_form2content/documents/c2/a4524/f9/pm180222a.pdf.

THE ROLE OF THE EU

So far, the European Commission has not claimed that the rule of law is under systemic threat in Hungary, Brussels is focusing on Poland instead. The main tactic of the Hungarian government has been to try ironing out its rule of law conflict with the EU in the form of separate infringement procedures and other legal procedures while transforming the political system in order to centralize power and weaken checks and balances. What we have seen since Orbán came to power is that the hearings and debates in the European Parliament, the infringement procedures, OLAF's investigations, the temporary suspension of EU payments and other procedures had only limited effects. Although the Hungarian government has retreated on a couple of issues, for instance it respected the judgment of the Court of Justice of the European Union on the early retirement of judges, but the damage had already been done before the verdict was given. Meanwhile, Fidesz's goal was fulfilled, they could get rid of most of the head judges of courts and replace them with loyalists. In case of the Orbán regime, which is firmly based on the informal exercise of power, the EU has had a limited leverage so far given that most of the legal and political practices of the community were designed for formal institutional issues. Moreover, these procedures even play into the hands of Fidesz domestically: the government is able to refer to these when it depicts itself as the protector of national sovereignty against Brussels. Fidesz depicts reports on the state of the rule of law in Hungary written by the LIBE Committee as "left-liberal rear-guard action" coordinated by George Soros. Viktor Orbán says that his markedly different stance on migration is behind these Western attacks, and everything else is irrelevant.

The Commission has drawn a distinction between Hungary and Poland on the basis that it has always been feasible to cooperate with Orbán, who often operates in the grey zone but used to act with two-thirds majority. Meanwhile, the Polish government that has taken unconstitutional measures without a supermajority did not even want to respond to Brussels after it launched a rule of law procedure against Warsaw two years ago. After the implementation of the judiciary reform last summer, the Commission launched the Article 7 procedure against Poland, an unprecedented act in the history of the integration project. PiS changed its strategy recently partly due to the governing party's domestic loss of popularity and the Poles' rather weak negotiating position in the debate on the next EU budget. In 2018 the Polish government submitted the legislative proposal that would soften a criticised part of the judicial reform allowing eight Polish public institutions to re-open closed court cases. The amendment states that only the Prosecutor General (who is also the Minister of Interior) and the ombudsman has a right to do so. The Polish Law and Justice party, which was not even willing to negotiate with the Commission first trying to keep the country in line with the rule of law dialogue and then with the Article 7 procedure, is striving to look visibly more cooperative with this amendment. At the same time, the submitted amendment at best restricts but not repeals the special measures allowing closed court cases to be re-opened even 20 years after a verdict was given. Another cosmetic change is that Interior Minister Zbigniew Ziobro would have to ask for the already government-controlled National Judicial Council's permission to fire judges instead of being able to remove them without justification. In light of these issues, Brussels will presumably sense the change in Warsaw's approach, but it is likely to ask for further amendments from Poland.

Regarding Article 7, Brussels has a limited leverage because of the unanimity requirement and the defensive and defiance-based alliance of PiS and Fidesz in this sense. In addition, they called binding EU payments to adherence to the principles of the rule of law unacceptable, claiming that EU-level criteria on the rule of law are non-existent; adding that in most cases all member states mean whatever they want under them. According to András Jakab, one of the most promising ways to conceptualize the values of European constitutionalism in a judicially enforceable manner is to extend the application of the EU Charter of Fundamental Rights through a creative reinterpretation of Article 51(1) in it.¹⁷⁰

Nevertheless, the European Commission's recent suggestion about making the mechanisms monitoring the spending of EU funds more rigorous by being more forceful about the independence of judicial bodies could succeed in practice. Article 322 of the EU treaties contain a paragraph obliging member

¹⁷⁰ Interview with András Jakab, 28 March, 2018.

states' authorities to manage EU funding legally and adequately. Consequently, the EC wants to transform this idea into something tangible by proposing the creation of a new mechanism with a Council resolution allowing the EC to suspend or cut EU subsidies to a member state when the general deficiencies in the operation of the judiciary constitute a threat to European taxpayers' money.

Hungary is concerned in two points: first, the share of EU subsidies affected by fraudulent practices is the highest in the country among member states, while the proportion of investigations concluded in cases the European Anti-Fraud Office (OLAF) found problematic is the lowest.¹⁷¹ The proposal would also create a legal basis for suspending EU funds in case the Orbán government does in fact restrict the independence of the judicial branch in Hungary.¹⁷²

These amendments proposed by the Commission could be approved without the Hungarian-Polish alliance's consent, since it is a resolution draft independent of the budget framework, which is approved in an ordinary legislative procedure in the Council using qualified majority voting (55% of member states, 65% of the population). Also, Hungary and Poland can only block the proposal if it succeeds in forming a blocking majority (at least 15 countries that represent the 65% of the EU population).

The Fidesz government is going to retrace Brussels's restrictive attempts mainly to Hungary's different opinion on migration, emphasising that Hungary is being punished for opposing the migration quota. This process will partly run parallelly to the negotiations in June on an EU mechanism fit to solve the migration crisis in the long-term. Fidesz's anti-EU rhetoric is expected to become even sharper before the 2019 EP-elections. The governing party will strive to strengthen the perceived division between the West and the East signalling to Hungarians that the EU is employing double standards and thus lets Eastern member states down.

In the case of Hungary, practically the European People's Party (EPP) remained the only actor which could exert political pressure on Fidesz. But despite growing tension within the EPP, the German delegation continues to stand up for Fidesz in debates about the rule of law. Although Hungarian-German bilateral relations are frozen, CDU-CSU function as a protective umbrella for Fidesz against critics because the 12 MEPs of Fidesz help secure the majority for the EPP, which is crucially important before the upcoming EP-elections in 2019. Given that the EPP have no other potential member party in Hungary, the CDU-CSU are of the opinion that they can at least somewhat control Orbán as long as his party is an EPP member.

¹⁷¹ HVG, "OLAF-jelentés: Magyarországon csalták el a legtöbb EU-támogatást," *hvg.hu*, May 31, 2017, http://hvg.hu/gazdasag/20170531_olaf_toplista.

¹⁷² According to the proposal, the EC would evaluate whether conditions necessitating suspension (cuts) are fulfilled and the Council (member states) would make the decision; members could only reject the EC's opinion with reverse qualified majority voting. This means that 55% of member states and 65% of the EU population would be needed in a vote to stop the EC from sanctioning a misbehaving member state for rule of law-related concerns. When submitting its proposal to "pull the breaks" the EC would – among other factors – take the verdicts of the Court of Justice of the European Union (CJEU), the reports of the European Court of Auditors and the conclusions of international organisations into account, but participation in the European Prosecutor's Office would not be a prerequisite for the withdrawal of EU funds.