

Edit Zgut: Sonderweg of the Eastern member states of the EU

At the time of the democratic transition, the ultimate geopolitical goal of the V4 was to position their countries into the core of Euro-Atlantic alliance. They wanted to ensure that their integrity in times of turmoil is attached to the EU and to the transatlantic institutions. While the Visegrad countries are celebrating the 30th anniversary of the fall of communism this year, the most eminent students of the democratic transition are showcasing authoritarian traits. While the region is far from being homogeneous, one of the most significant systemic developments is democratic backsliding that captured a trend especially in Hungary and Poland, but there are harrowing signs in Slovakia and the Czech Republic as well.

According to the assessment of global democracy indexes¹ and comparative regional analysis² the quality of democratic governance fell considerably in the poster boys of the transition. Moreover, political and civil rights have also been rolled back in a significant manner. In Hungary, Orbán has been successfully completing his competitive authoritarian regime by further restricting civil society and the otherwise divided and weak opposition. Also, another 2/3 majority of Fidesz resulted in an unprecedented centralisation of the media, and the establishment of a new administrative court system where the politically most sensitive issues are being adjusted separately. According to the latest evaluation of the Venice Commission has claimed, the new courts would concentrate “very extensive powers” in the hands of just a few stakeholders, and that there are “no effective checks and balances to counteract those powers”. Significant systemic changes also occurred in terms of academic freedom: after Central European University has been forced to leave Hungary, the government has turned towards the Hungarian Academy of Science by placing research under governmental funding and direct political control.

Although the Polish government has respected the decision of the EJC and restored the status of the Supreme Court, the PiS government is willing to complete the judiciary reform to subjugate the judicial branch under the executive power, affecting essentially the whole spectrum of the judiciary from the prosecutor’s office through the ordinary courts. One of the most indicative decisions of the Polish government was the creation of an additional chamber within the Supreme Court: the Chamber of Extraordinary Control and Public Affairs, whose members are appointed by the newly politicized National Council of the Judiciary.³ This body usually investigates judges who are active in the field of defending the rule of law, among others by educational actions, discussing these issues with citizens and international activity as well. As the Supreme Court has posed a question to the Court of Justice of the European Union (CJEU) whether it’s Disciplinary Chamber can be considered as politically independent, due to the fact that the members of the Chamber were appointed by the otherwise government-dominated National Judiciary Council. The final decision will be made on May 23, only three days before the EP elections when the Advocate General of the CJEU will issue the opinion regarding the case. So far the European Commission has shown no intention to either withdraw the article 7 procedure or its complaints to the CJEU.

While Slovakia and the Czech Republic are not under the disciplinary hearings of the EU, there are growing concerns about the shape of democracies in the rest of the Visegrad group as well. In Slovakia, the murder of Ján Kuciak shed lights on the systemic malfunctions, raising concerns about

¹ <https://freedomhouse.org/report/freedom-world/freedom-world-2019/democracy-in-retreat>

² http://www.politicalcapital.hu/pc-admin/source/documents/pc_fnf_v4illiberalism_pressurepoints_20180605.pdf

³ <https://freedomhouse.org/report/freedom-world/2019/poland>

state corruption, the lack of horizontal accountability, and suspicion over political interference into the high-profile investigation in the criminal case. Journalists critical of the governments have also had to face more and more verbal attacks: former Prime Minister Robert Fico labelled journalists investigating the abuse of public procurements as “dirty, anti-Slovak prostitutes” in 2016. Also, there is a growing appetite to restrict the otherwise diverse media sphere. Although media capture is a global phenomenon, the Visegrad countries are serving as a warning system to the West where a low level of trust in democratic institutions and mainstream media make societies even more vulnerable to political manipulation. According to the legislative concept of the “right to reply”, politicians would be given the right to react on factual statements that they feel “interferes with their dignity or privacy”. In case the proposal will be approved by the government, the media in question would be obliged to publish politicians' challenges to claims already printed, not just limited to missing or incorrect information.⁴

Speaking of the Czech Republic, it is certainly unique in a sense that the Prime Minister, Andrej Babiš, may exert considerable influence on the local media through his own empire which includes a publishing house, along with the largest Czech radio station. As foreign investors have gradually withdrawn and their assets have been purchased by local moguls, the Czech media market has undergone a major transformation in recent years. Prime Minister Andrej Babiš has shown substantial interest in these investor networks led by Czech oligarchs that bought up most of the existing German media's assets after the economic crisis in 2008. Despite the fact that PiS has transformed the public media into a propaganda channel, and the government has frequently tried to limit⁵ foreign subsidiaries to 15%, the Polish media market is much diversified. Given that the illiberal system is most advanced in Hungary, it reflects the current condition of the media there as well: 90% of the media outlets have been put under the direct or indirect control of the Orbán government.⁶ After the successful party-colonization of the media, another 2/3 majority of Fidesz resulted in an unprecedented centralisation by creating a huge right-wing media conglomerate, that makes it even harder to operate for the few remaining independent media companies since they will have to stand against a single, giant competitor.⁷

Another regional systemic feature worth examining is corruption and clientelism that is part of the local political culture, but to a different extent. In the Czech Republic and Slovakia, the key feature of state corruption is that legislative proposals are often adjusted to the interests of informal groups or select corporations. As Grigorij Mesežnikov has pointed out, the elements of the Slovak state capture has been ‘boosted by practice of “selective justice,” which “prevents the full implementation of the principle of equality because it favours some groups or persons linked with ruling political forces.”⁸ The Czech political system's weak point is rooted in clientelism around the prime minister's vast economic empire. Compared to the classic oligarchic state capture in the Czech Republic, a centralized system of legalized corruption has prevailed in Hungary. Speaking of this reverse-engineered “state capture”, a very strong, centralized administration is wilfully cooperating with business circles to establish a complex ecosystem of state corruption.⁹ Moreover, the share of EU subsidies affected by fraudulent practices is the highest in Hungary among member states, while the proportion of investigations concluded in cases the European Anti-Fraud Office (OLAF) found problematic is the lowest.¹⁰

⁴ <https://www.ecpmf.eu/news/ecpmf/slovakia-right-of-reply-proposition-raises-concerns>

⁵ <https://www.newsweek.com/polish-government-american-companies-medialaw-donald-trump-649232>

⁶ <https://blogs.lse.ac.uk/mediapolicyproject/2017/08/29/the-state-of-hungarian-media-endgame/>

⁷ <https://visegradinsight.eu/total-centralisation-and-the-illiberal-takeover/>

⁸ http://www.politicalcapital.hu/pc-admin/source/documents/pc_fnf_v4illiberalism_pressurepoints_20180605.pdf

⁹ <https://freedomhouse.org/report/nations-transit/2018/hungary>

¹⁰ http://hvg.hu/gazdasag/20170531_olaf_toplista.

Meanwhile, it is increasingly apparent that Brussels is not able to restrict the Hungarian and the Polish government within the framework of Article 7 procedure. Due to the high level of politicization, it is structurally unsuitable to constrain authoritarian system-building. So far only the confrontation with the Court of Justice of the European Union (CJEU) partly succeeded in slowing down system-transforming efforts by the Polish government. Contrary to the previously cautious practices, Brussels used a quite progressive law-enforcement by referring to the principle of judiciary independence in the case of the Polish Supreme Court. Additional tools are also on the agenda such as tying payment of EU subsidies allocated to member states in the next MFF framework to compliance with the rule of law; those might get disapproved by the Council. Therefore, a significant constraining potential might be at CJEU with the infringement procedure being pushed onto a new level. Also because - as R. Daniel Kelemen has pointed it out in his upcoming study - the EU has politicized enough that there are strong incentives for Europarties to protect the parties of national autocrats that deliver significant amount of votes to their coalitions.¹¹ It has been mirrored accurately by the recent developments in the European People's Party that has provided Viktor Orbán with further space to manoeuvre ahead of the EP-elections. As the suspension¹² of Fidesz is suitable to safe face for both sides, Orbán's authoritarian regime could keep flourishing without practical interference in the short run. However, should there be a split between Fidesz and the EPP, the lack of the strongest political shield would have an impact on Orbán's political playing field in the EU, along with his Eurosceptic populist approach.

Eurosceptic anti-imperialist populism

Another regional trend is a new kind of Eurosceptic populism that seems to prevail in the governmental discourse of Fidesz and PiS, underpinned by strongly anti-immigrant rhetoric. As it was rightly pointed out by Jacques Rupnik, the European Union as a liberal, elitist, supranational project is a perfect target for populist nationalists since it represents a combination of important grievances.¹³ The key feature of Orbán's and Kaczyński's system is that both of them were abandoning the political achievements of their countries' democratic transitions, and both referred to these transitions as failures in order to justify their system-transforming efforts. But since the escalation of the refugee crisis in 2015, references to the threats posed by immigration became an even more essential characteristic of authoritarian political system-building efforts. Since Fidesz won another 2/3 majority, the government has used a more anti-Brussels tone than ever before in the EP-election campaign. Since 2015 the Hungarian government has spent more than 100 million Euros for a public advertisement campaign claiming that the Hungarian originated American billionaire George Soros together with the EU is willing to undermine the national sovereignty by flooding Hungary with illegal migrants. With the criminalization of the humanitarian aid for migrants and refugees, the Fidesz government has restricted the civil society to an unprecedented extent, and further polarized the Hungarian society. The Hungarian government not only keeps its messages directed against George Soros and his "agents", but started to bash its own political group, the European People's Party (EPP). During his latest speech at Bail Tusk he emphasized that 2019 should be a turning point of the integration by replacing the current, "European elite from '68," allowing people more closely aligned with Fidesz's politics to take over control. Now he openly accused the EPP that by now it has lost its sovereignty by being captured by the far left. The main narrative of his political discourse is that pro-migrant federalist forces within the EPP are willing to build an empire, the United States of Europe that would undermine the sovereignty of the pure Hungarian people. He is aiming to polarize both the national and European field by claiming that anyone who is criticizing the Hungarian government

¹¹ R. Daniel Kelemen, *Authoritarian Equilibrium*, *Journal of European Public Policy*, before publication.

¹² <https://www.reuters.com/article/us-hungary-eu-orban/europes-center-right-suspends-hungarys-ruling-party-idUSKCN1R11BV>

¹³ <https://www.eurozine.com/populism-in-eastern-central-europe/>

due to its increasingly authoritarian system is about to undermine national sovereignty, willing to destroy nation states and most certainly pro-immigrant.

Although there were no state-funded campaigns in Poland, the PiS government frequently employed anti-EU rhetoric, criticizing, in the EU's stance on migration and opposing mandatory quotas for refugee. As fearmongering played a central role in PiS's electoral victory in 2015, Jarosław Kaczyński's anti-immigrant rhetoric has shifted into higher gears ahead of the EP elections. He also renewed the cultural counter-revolution against the EU that is not able to defend traditional family values by insisting on political correctness for the sake of LGBTQ rights and Muslim minorities.¹⁴ Budapest's and Warsaw's anti-EU stance fits into a wider discourse on sovereignty on the basis that there is a potential cultural conflict between the Polish, Hungarian nations and the decadent West that is unable to protect its values from migration. Despite disagreements over migration, the current governments in Slovakia and the Czech Republic have plotted a more centrist course to maintain more harmonic relations with the EU.

Another element of Orbán's discourse is that the Western European countries are harbouring colonialist sentiments towards Central European countries that are performing better than them economically. According to Orbán, "everything is cracking to the West of us", and he explicitly compared the EU to the Nazis, Soviets and other imperial powers. Historic grievances have manifested in certain legislative packages in Poland where politics of history has become one of the most important priorities for the government. In 2018, PiS made it illegal to accuse the Polish nation or state of complicity in the Nazi Holocaust "in order to defend historical truth".¹⁵

Orbán is depicting his government as the only defender of national identity, Christian values and sovereignty against danger to Central Europe "coming from politicians in Brussels, Berlin and Paris."¹⁶ .When the PiS government hardened its position against the mandatory relocation quota and the discourse on limiting EU funds for those countries that are not accepting refugees has arisen, Kaczyński invoked the Nazi invasion of Poland and claimed that it is a moral obligation to provide subsidies to the country regardless of its stance on immigrants. Meanwhile Orbán keeps saying that when Poland is attacked from Brussels, the attack is against the whole of Central Europe, "and against us Hungarians". "To empire builders who seek to cast their shadow over Central Europe, we have this to say: they will always need to reckon with the strong bonds between Poland and Hungary" – he said on March 15. Their defence and defiance alliance is partly based on a mutual dependency regarding the disciplinary hearings of the EU, where Hungary and Poland are protecting each other with regards to the Article 7 procedure. When the PiS government hardened its position against the mandatory relocation quota and the discourse on limiting EU funds for those countries that are not accepting refugees have arisen, Kaczyński invoked the Nazi invasion of Poland and claimed that it is a moral obligation to provide subsidies to the country regardless of its stance on immigrants." We have not opened Europe for refugees — Ms Merkel has. And it is Ms Merkel and Germany that have to bear the consequences, not Poland," – he said in 2017.

In Hungary and Poland, governments have rejected multiculturalism along with LGBTQ rights: in contrast to Western liberal values, both Kaczyński and Orbán advocated for homogenous societies based on traditionalist, Christian values. While it is a matter of ideology for Kaczyński, it is instrumental for Orbán who is using it as a pretext to relegate human rights and transform its system. (Think of the Stop Soros legislative package for instance). Since 2015, Orbán has relegated human rights and procedural norms considered to be the foundations of liberal democracies to subservient

¹⁴ http://wiadomosci.gazeta.pl/wiadomosci/7,114884,24577993,pis-wraca-z-tematem-muzulmanskich-imigrantow-jaroslaw-Kaczyński.amp?__twitter_impression=true

¹⁵ <https://www.bbc.com/news/world-europe-42898882>

¹⁶ <https://visegradpost.com/en/2018/02/20/the-west-will-fall-as-europe-is-occupied-without-realising-it-said-viktor-orban-christianity-is-the-last-hope-full-speech/>

positions, using the issue of migration as a distraction to his policies. He has also restricted democratic space for refugees via a constitutional amendment that criminalizes poverty, threatens those who offer humanitarian and legal assistance with jail, and by further weakening the judiciary. Furthermore, Fidesz changed the constitution to ban same-sex marriage in 2012, the later elevated World Congress of Families to the state level by hosting the anti-abortion, anti-LGBT right summit in Budapest, waging a “spiritual war” for the “traditional family.”¹⁷ The right of the LGBT communities can get connected to issues like migrants and globalization as Russia weaponized these issues. Ahead of the EP elections, PiS has also identified LGBTQ rights one of the greatest threat especially to Polish children, after oppositional mayor of Warsaw, Rafał Trzaskowski has signed an LGBT declaration in order to protect sexual minorities, including special education of tolerance in the local schools. PiS which is often incorporating the narratives of the far right in order to dominate the entire right-wing political scale, has been exploiting identity-based fears of the Polish society – especially in the countryside – where human rights, such as feminism and LGBT rights are not going down very well. Furthermore, PiS can easily connect this narrative to its recently announced social welfare program that is partly focusing on Polish families with kids by expanding the 500+ program.

While both Orbán and Kaczyński want to 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, there different patterns in Slovakia and the Czech Republic. Recent developments in Slovakia have proved that left-leaning politicians of the governing Smer party chosen similar strategy to amplify fears. Domestic political landscape has been shaken after the assassination of Jan Kuciák and his partner. The Slovak journalist was investigating the business activities of Marián Kočner, who has been charged with the killing of the couple. While it resulted in the series of the greatest anti-corruption demonstrations since the fall of communism, and the resignation of Robert Fico, the narrative of “external enemies” has been elevated as a massive pushback of the government. Similarly to Viktor Orbán, Fico has framed the protests as being organized “from abroad”. Moreover, a criminal complaint has been filed against organisers of the protests, claiming that they were involved in organising a state coup and financed by George Soros.¹⁸ The narrative of “foreign interference” has been also raised by Luboš Blaha, the chairmen of the European Affairs Committee of the Parliament (Smer), who suggested that the Security strategy of the Slovakia, which identifies Russian federation as a possible threat was drafted by US agents.

But the first vote held since the murder of Kuciak reaffirmed that the society seems to reject this kind of approach and a there is certain change in generation in Slovakia. Liberal Zuzana Čaputova’s landslide victory in the first round of the presidential election showed that part of the Slovak society do not resonate to exclusionary populist methods and demands change. The fact that the presidential candidate of Smer, Maroš Šefčovič has set his priorities by sharpening his rhetoric of anti-immigration, foreign influence and LGBTQ issues shows that the EU Commissioner incorporated the agenda of the Slovak far-right. It remains to be seen whether he will be able to mobilize with a nationalist, sovereigntist agenda, along with criticism against Brussels. The latter is especially ironic given that Šefčovič as a vice-president of the EU Commission has been the former candidate for the *Spitzenkandidat* position of the S&D caucus. Although the president has limited powers, it serves as an opinion multiplier that is able to shape the national political discourse to a significant manner; therefore Čaputova with her anti-corruption, pro-democratic and pro-EU agenda could potentially counteract the incumbent populist government. Unlike Hungary, Poland and Slovakia, the Czech Republic is one of Europe’s most secular societies¹⁹ and religious groups have a relatively weak voice. Therefore, the Czech government’s rhetoric is not only markedly different, but the issue of legalizing gay marriage has been proposed by a member of the biggest governing party, ANO, and Andrej Babis

¹⁷ <https://www.theguardian.com/world/2017/may/26/hungary-lgbt-world-congress-families-viktor-orban>

¹⁸ <https://spectator.sme.sk/c/20960772/police-investigate-protest-organisers-over-soros-allegations.html>

¹⁹ <https://www.pewresearch.org/fact-tank/2017/06/19/unlike-their-central-and-eastern-european-neighbors-most-czechs-dont-believe-in-god/>

himself is openly supportive towards the initiative. Pro-Russian Eurosceptic Czech President Milos Zeman, often employing xenophobic and Islamophobic rhetoric is on a markedly different page as he has said he will veto the same-sex marriage bill should it be passed by Parliament.²⁰

Reality check on the unity of the V4 group

The V4 countries' joint opposition against the relocation quotas definitely helped the respective countries to cover their otherwise contradicting policy interests on many fields. The group has been always a cooperative platform based on mutual costs and benefits, its fluctuating internal dynamics was dependent on how the cooperation was used or abused by its leaders. It has been always dominated by both domestic politics. Therefore, a potential shift in domestic politics could also result differentiated dynamism within the group. There is a window of opportunity for an oppositional takeover in Poland, where the governing party and the united opposition has been neck to neck according to the recent polls. If the ideologically heterogeneous European Coalition, led by Civic Platform (PO) could make an agreement with the progressive leftist Robert Biedroń, they could keep PiS off the balance after the upcoming general elections this fall. That would mean a different ballgame with the Commission as the new government would suspend the judiciary reform and Fidesz might find itself without a Polish protective shield in the Council regarding Article 7 procedure.

Contradicting interests regarding vis á vis relations towards both the West (Germany) and the East (Russia) should not be underestimated. While the Hungarian government considers cooperation with Russia "both a national economy and national security interest", the PiS governments are keeping Russians away from the economy." With its Eurosceptic, populist, antidemocratic approach PiS might serve the geopolitical interests of the Kremlin, but the Polish government is definitely trying to counter Moscow. After years of diplomatic fights with Berlin, bilateral relations with Germany could be also fine-tuned by the Polish opposition as it might showcase a more cooperative approach. Early elections should not be excluded in Slovakia where tension has been growing within the Slovak government that is based on the fragile coalition of Smer, the nationalist Slovak National Party (SNS) and inter-ethnic Híd-Most. After Slovakia's Ministry of Defence led by SNS has just cut off negotiations regarding a Defence Cooperation Agreement with the United States, Miroslav Lajčák (Minister of Foreign Affairs, Smer) has criticised the decision claiming that the defence minister had consulted neither the government nor the Coalition Council before announcing the suspension of the talks. In response, SNS has threatened Smer that they would rather leave the coalition than accepting the role of the Americans in this regard.²¹

The future of the EU integration is another significant issue where the V4 states are not on the same page. In Hungary, there is hardly any substantial discussion on relevant EU policy issues: the Orbán government is mainly embedding it into a discourse that the EU is being divided between those who are against migration and want to preserve national sovereignty and those who are on the side of "open society", migration, and a United States of Europe.²² Together with PiS, Fidesz is advocating for the "Union of nation states" to curb the competencies of Brussels, and perceive further EU integration as a threat against national sovereignty. While Hungary, Poland and the Czech Republic are against setting up any exclusive parallel structures because they are concerned that it might create a second tier of membership, Slovakia is on a bit different page. Because of its Eurozone membership, Bratislava seemed to be more open for to Brussels to take further competences from Eurozone members. Two of the most important policy issue where Slovakia took a markedly different stance is their readiness to discuss coordination, or harmonisation of tax policies, as the Smer government was also supportive towards Macron's idea on the Eurozone budget. The Czech Republic

²⁰ <https://foreignpolicy.com/2019/03/21/can-the-czech-republic-tear-down-europes-rainbow-curtain/>

²¹ <https://emerging-europe.com/news/slovakia-suspends-defence-talks-with-us/>

²² <https://euractiv.sk/wp-content/uploads/sites/8/2018/12/EUROPOLICY-ANALYSIS-Visegrad-countries-and-multispeed-Europe.pdf>

has been in the middle of the scale with a rather Eurosceptic agenda, but contrary to the previous leftist government, Andrej Babiš is seemingly adopting harsher rhetoric against the competences of Brussels. Hungarian, Polish and Czech governments might want to influence the debates at the highest levels of the EU, but yet they failed to commit themselves to further coordination within the Economic and Monetary Union, which would allow them to have a greater say in general.

When it comes to their weight in the EU decision making architecture, the V4 countries are determined by their European party affiliation, as the process became more and more politicised, and the respective governing parties are sitting in four different caucuses. Their voting patterns in the Council do not support the idea that there is a homogenous coalition amongst the V4 countries. Despite the group's common views on migration issues, its cohesion is overestimated, as they disagree on other important policy issues, and not even Poland and Hungary are particularly close to each other. It has been mirrored by Vote Watch, according to which Viktor Orbán's government has been voting together more often with the PO-government led by Donald Tusk and Eva Kopacz rather than with their "natural alliance", PiS. Also, Beata Szydło's (PiS) government was outvoted more frequently than the previous Polish governments: contrary to PiS, that is sitting in the less significant European Reformist and Conservatives (ECR), PO belongs to the most influential EPP group. Having Qualified Majority Voting as the dominant decision making procedure of the EU, it got even harder for small countries to prevent decisions undesirable for them. Given that ECR has been often on the losing side regarding budgetary, economic, agricultural and justice issues, increasing coalition-building potential is going to become even more important for PiS that is ahead of parliamentary elections this autumn.

Although the probability of the V4 uniting around one single caucus such as the ECR is very slight, PiS holds ground and becomes the main stakeholder in the European party, hoping that Fidesz might join them after the EP-elections. What is at stake for Orbán, is that without the protective shield of the EPP anything can happen to his corrupt, anti-democratic government in the European political sphere. The Hungarian government is trying to block new initiatives that would financially restrict member states undermining the rule of law. A new EU budget will be also on the table and Orbán would have fewer chips to trade with from the outside of the tent. Regarding the next multiannual financial framework, strives 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. Nonetheless, currently Fidesz seems to be in a wait and see position to identify how much political capital can be gained by the Eurosceptic populists during the upcoming EP-elections. Given their heterogeneity, they don't even have to join forces within a single partisan political group. Having around 33%²³ of the mandates, a better coordinated Eurosceptic, populist far right platform could hinder the EP to contribute to the decision-making efficiently even from various different caucuses as well. Should they succeed in this regard, the systemic risk is that the EP could get bypassed in the decision-making procedure more frequently, that would result in an increased democracy deficit, a reversed integration and a further strengthened intergovernmentalism – the latter which definitely not benefit smaller states such as most of the V4 countries that are often struggling to form blocking minority in the Council of Ministers.

²³ https://www.ecfr.eu/specials/scorecard/the_2019_european_election