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Is Transition Reversible?

The Case of Central Europe

by Anton Shekhovtsov

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INTRODUCTION

In 2008, just before the international financial crisis, the World Bank published a report, *Unleashing Prosperity*, which concluded that the era of democratic transition in Central Europe was over. All the countries that had joined the European Union (EU) in 2004—Estonia, Latvia, Lithuania, the Czech Republic, Slovakia, Poland, Hungary, and Slovenia—as well as Romania and Bulgaria, which had joined in 2007, were now functioning liberal democracies.¹ They had met all the “Copenhagen criteria” which were set up at the time they applied to join the EU. They had built “stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”; they had “functioning market economies”; and they had “the ability to take on and implement effectively the obligations of membership”.²

Since then, much has changed. The transatlantic economic crisis undermined the Western European “model” that the eastern half of the continent had long sought to emulate. Russia began to pursue an aggressive foreign policy in the region, aimed both openly and covertly at destabilising Central European governments and weakening their ties to the rest of Europe. The European recession led to unemployment in Central Europe as well as in the south. The impact of these changes took on a dramatic form in Hungary, where Prime Minister Viktor Orbán declared, in the summer of 2014, that his party was going to build “an illiberal state”.³ Orbán’s argument confirmed the fears of political observers: since his second term as prime minister, liberal democracy in Hungary has suffered severe setbacks, not only in the realm of politics and the media but also in market freedom.

The dramatic changes in Hungary represented a turning point. The question now is whether they are unique—a reflection of Hungary’s recent experiences and the specific nature of its political establishment—or whether they represent a trend in Central Europe and possibly beyond. Can a democratic transition be reversed? Might Western-style liberal democracy simply be a temporary stage in a country’s development into something else? This thought was raised back in 1997, when Fareed Zakaria argued that illiberal democracy was not necessarily “a temporary or transitional stage” in a country’s presumed development into a liberal democracy: “Western liberal democracy might prove to be not the final destination on the democratic road, but just one of many possible exits.”⁴ As this paper will argue, this sometimes controversial and certainly inexact term—“illiberal democracy”—has now been adopted by some in Central Europe as a positive description. More recently, Turkish prime minister Recep Tayyip Erdoğan made the same point: “Democracy is like a train—we shall get out when we arrive at the station we want.”⁵

Perhaps, for some in Central Europe, this “station” was accession to the EU. Having joined the EU, did their commitment to liberal democracy, a required condition for entry, come to an end? To answer these questions, this paper traces the development of Hungary, Slovakia, the Czech Republic, and Romania, with a very brief look at the current situation in Poland.

HUNGARY

In contrast to some of its neighbours, the process of democratisation in Hungary was straightforward. Since the first free parliamentary elections in 1990, the government has passed between centre-left and centre-right parties. Hungary firmly pursued democratic and market reforms, and was the first post-communist country to apply, in March 1994, for membership of the EU—a move that was supported by the overwhelming majority of the Hungarian population.

To the outside eye, Hungary was a model country in transition to democracy. This approach was rewarded by Hungary's admission to the EU in 2004. But the country's balance was slowly undermined after a socialist government elected in 2002 began to pursue policies that were seen as corrupt and partisan. Soon after his election, the new prime minister, Péter Medgyessy, was forced to admit that he had been part of the communist secret services, but despite widespread outrage, he did not resign. The perception that the socialists were lacking in candour and unresponsive to public opinion was reinforced just after their second victorious election in 2006, when a leaked tape of a closed meeting of the socialist party appeared in public. On the tape, Prime Minister Ferenc Gyurcsány told his colleagues that "we lied":

We screwed up. Not a little, a lot. No European country has done something as boneheaded as we have. Evidently, we lied throughout the last year-and-a-half, two years. It was totally clear that what we are saying is not true. You cannot quote any significant government measure we can be proud of.⁶

The government explained in vain that the speech was self-flagellation, intended to encourage politicians to work harder. The comments had an ominous resonance for the majority of voters, who were angered by the socialists' cronyism and their links to the former communist party, and disillusioned with democracy in general. The scandal sparked mass protests against Gyurcsány and his government, the largest since the Soviet occupation in 1956. Gyurcsány still refused to resign and his government survived a no-confidence vote a few weeks after the protests. But his centre-left government never really recovered. The 2008 financial crisis hit Hungary very hard; the country was finally bailed out with a \$25 billion rescue package from the International Monetary Fund. Gyurcsány finally left office in 2009.

The leaked tape scandal, and the social unrest that followed, heralded a major electoral change in 2010. The socialists saw their support fall below 20 percent. Fidesz, led by Viktor Orbán, won a clear majority, with 52.73 percent of the vote. The far-right Jobbik Movement for a Better Hungary won 16.67% of the vote, making it one of the largest far-right parties in Europe. This election, and especially Jobbik's strong result, clearly reflected growing discontent with the established political order, an increasing demand for authoritarian and law-and-order policies, a weak civil society, and lack of confidence in the market economy. Some of the popular anger was channelled into increased prejudice against the Roma population and new forms of political anti-Semitism.⁷

The year 2010, however, brought even broader changes in its wake. Fidesz's result gave it not just a majority but—together with its political partner, the Christian Democratic People's Party (CDPP)—two-thirds of the seats in parliament. The consequent constitutional majority allowed it to modify the country's constitution, and this it did in less than a year. The new constitution, adopted in April 2011, marked the beginning of a wide-scale attack on liberal democratic policies and practices in the country.

From the beginning, Orbán's attack on Hungarian democracy was explicitly designed not to attract too much attention abroad. His tactic was to push the boundaries, wait for the response from EU structures, take a step back—and then push the boundaries again. This tactic of "strategic retreat" allowed him to change the fabric of the country in a gradual, yet ultimately dramatic manner. He thus managed to stay within the EU and to continue receiving EU subsidies and benefits, even while adopting legislation that put him well outside European norms.

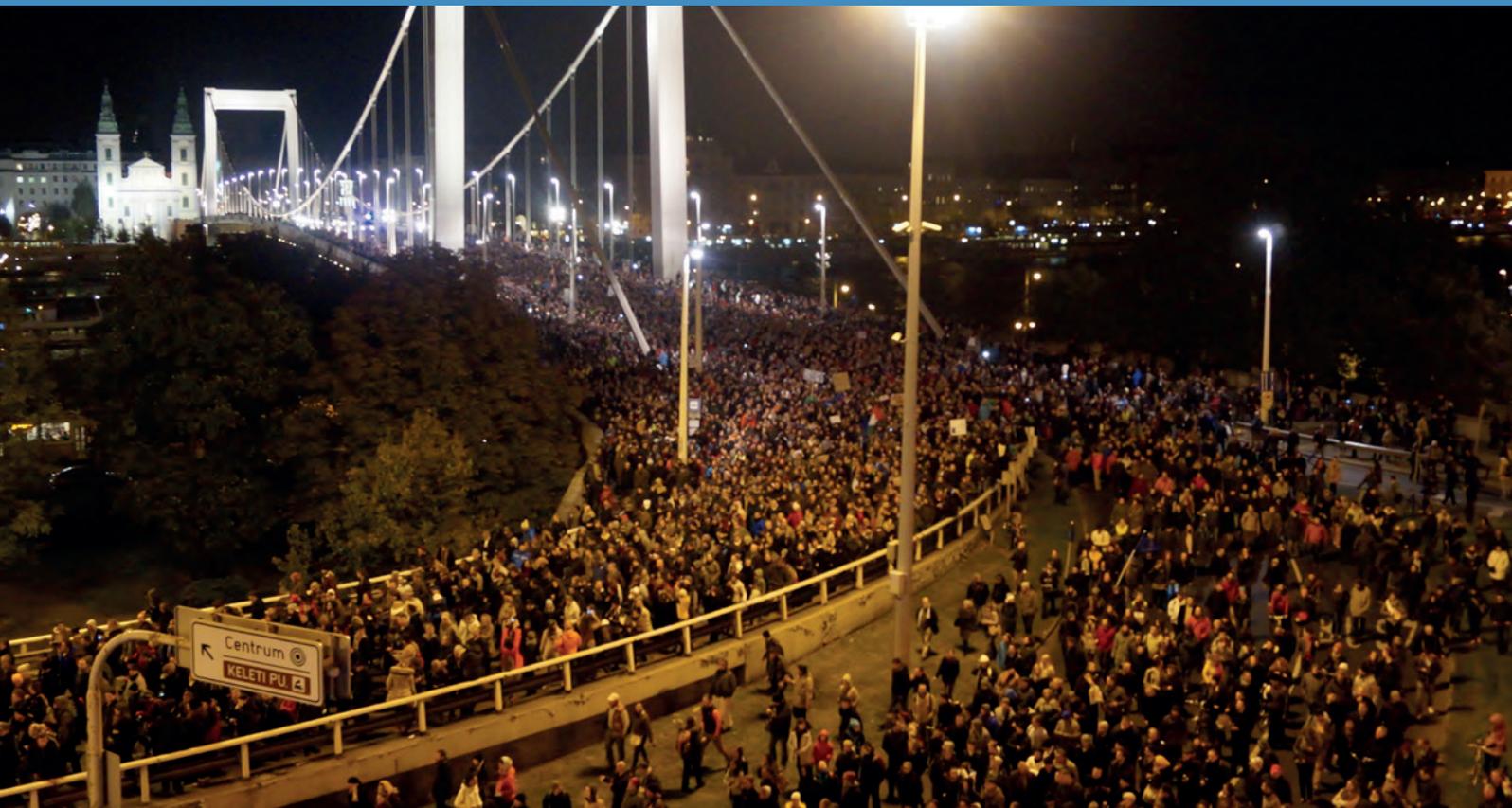
Orbán's new constitution did draw criticism from the Council of Europe, the European Parliament, and especially the European Commission for Democracy through Law (the Venice Commission). The last of these condemned the hasty process, which it said had been "affected by lack of transparency, shortcomings in the dialogue between the majority and the opposition, the insufficient opportunities for an adequate public debate, and a very tight timeframe". The Venice Commission also noted that "cultural, religious, moral, socio-economic and financial policies", which are normally the province of parliaments and subject to change, had been "cemented in a cardinal law"⁸

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Over time, Orbán's government effectively undermined the separation of powers, weakened the independence of the judiciary, and curtailed the powers of the Constitutional Court. This last was particularly important to Fidesz, as in any parliamentary democracy the constitutional court is the only counterweight to the parliamentary majority. Research on the performance of Hungary's Constitutional Court between 2011 and 2014, carried out jointly by the Eötvös Károly Institute, the Hungarian Helsinki Committee, and the Hungarian Civil Liberties Union, argued that "the ruling Fidesz government has succeeded in shaping the Constitutional Court into a loyal body". Eleven of the 15 judges had been appointed by the Fidesz-CDPP parliamentary majority without consultation with the opposition.⁹

Change in the constitution was followed by change in the judiciary. After 2010, members and sympathisers of Fidesz took over the courts at all levels. Fidesz party-members also filled the leading positions in what had been apolitical independent institutions. Campaigns were initiated against representatives of previous governments and certain parts of the intelligentsia. A new anti-terrorist unit was formed, and Orbán's personal bodyguard became the first head of the unit.

Fidesz applied many different kinds of pressure on its opponents to further consolidate its grip on the country. For example, after the president of the independent Fiscal Council, György Kopits, criticised the proposals of Orbán's government, Fidesz first cut the budget of the Fiscal Council, then dismissed it. In January 2011, the government created a new Fiscal Council with only three members, all of whom were loyal to Fidesz. The Council also acquired the right to veto the budget, which—the opposition fears—is potentially an important political weapon in the hands of Fidesz in the event that they lose power. According to the new constitution, the President of the Republic (also close to Orbán) has the right to dissolve the parliament if it fails to adopt an annual budget by March 31, so the Fidesz-controlled Fiscal Council can indirectly force new elections.¹⁰



At the beginning of 2012, in response to some of the more controversial developments in Hungary, the European Commission launched accelerated infringement proceedings against Hungary over the independence of the central bank, judiciary, and data-protection supervisory authority.¹¹ Orbán's government then began to deploy what would become its frequently used tactic of "strategic retreat". It gave ground on some issues, but found other ways around the rules. Despite the fact that the European Commission was in a strong negotiating position, given that Hungary receives financial assistance from the EU, these tactics worked again and the Commission relaxed its pressure on Hungary.

Apart from undermining the institutional pillars of democracy, Orbán's government and the Fidesz-controlled parliament launched an offensive against the opposition, especially the socialists. A new electoral law was adopted, creating electoral districts favourable to Fidesz. Orbán also gave voting rights to non-resident Hungarian citizens who, according to public opinion polls, were predominantly loyal to Fidesz. As the think-tank Political Capital Institute established, these electoral reforms ensured that, even if the governing coalition "was leading by a small margin against its biggest rival (whoever that might be),

Above: Protest in Budapest against the Orbán government and its proposed tax on the internet, October 2014.

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the system would provide the party with a majority in Parliament without having to resort to seeking support from a coalition partner”.¹² To weaken and intimidate the socialists still further, the government also began to “introduce legislation that would allow the state to charge three former prime ministers with ‘criminal’ mismanagement of economic policy”.¹³

In addition, Orbán delivered a heavy blow to press freedom, attacking the media both directly and indirectly. Under the guise of a “media reform package”, Fidesz merged the National Radio and Television Commission with the National Media and Communication Authority to create the National Media and Infocommunications Authority (NMHH). Under this new system, the president, on the recommendation of the prime minister, appoints the President of the Media Authority for indefinitely renewable nine-year terms. The President of the Media Authority also chairs the five-member Media Council, which regulates media content. This body has the power to fine television and radio stations for allegedly unbalanced coverage—fines against which there is no appeal—and can ban public subsidies of media outlets. The four other members of the Council were also appointed for nine-year terms by the Fidesz-dominated parliament. To date, both chairs of the NMHH/Media Council—the late Annamária Szalai and Monika Karas—have been associated with Fidesz.

Currently, 80 percent of the population have access only to the Fidesz-dominated media.

At the same time, all the assets of the three public-service media companies (MTV, Duna TV, and Hungarian Radio) and the National News Agency (MTI) were joined under the auspices of the Media Support and Asset Management Fund, which is now supervised by the Media Council. Public broadcasters are denied the right to produce their own news and are obliged to use the news produced by MTI. In addition, the Fidesz-controlled parliament has amended the Hungarian constitution so as to remove the previous ban on information monopolies.

Hungary’s media reform package generated international concern and was criticised by many EU institutions and media watchdogs. For example, Freedom House downgraded Hungary’s status from “Free” to “Partly free” after being listed in the former category for over a decade. Following criticism, Orbán’s regime resorted to familiar tactics. Some of the provisions of the media reform package were removed, but then different kinds of obstacles to press freedom appeared, in the form of economic pressure and court rulings.

In 2013 the parliament adopted an amendment that banned political advertisements in commercial media during election campaigns. This created a situation in which candidates were obliged to turn to the public media—which were, of course, heavily influenced by Fidesz.¹⁴ The government also stopped placing advertisements in the independent media, while private companies, fearing loss of government contracts, gradually decreased the share of advertisements they placed in the independent media. Currently, 80 percent of the population have access only to the Fidesz-dominated media.¹⁵

Fidesz’s grip on the country did not win over everybody. In 2014 the popularity of the party declined: it received 44.54 percent of the vote, more than 8 percent less than in 2010. The Organization for Security and Co-operation in Europe (OSCE) criticised the 2014 elections, arguing that Fidesz “enjoyed an undue advantage because of restrictive campaign regulations, biased media coverage and campaign activities that blurred the separation between political party and the State”.¹⁶



Although Orbán's party retained a two-thirds majority in parliament and he kept the post of prime minister, fear of declining support seems to have inspired Orbán to change his tactics. Institutional control was not enough: now he wanted ideological change. In the summer of 2014, speaking at a party gathering, he declared that he was going to build an illiberal democracy in Hungary:

The new state that we are constructing in Hungary is an illiberal state, a non-liberal state. It does not reject the fundamental principles of liberalism such as freedom ... but it does not make this ideology the central element of state organisation, and instead includes a different, special, national, approach.¹⁷

Although he articulated this idea in summer 2014, it had been clear since the beginning of the 2000s that, for Orbán, political liberalism was "anti-national". Perhaps he also disliked it because, by definition, it would have allowed his party to lose. In any case, his advocacy of "illiberal democracy" was only a public restatement of Fidesz's existing policy.

Above: A Hungarian joke party's billboard campaign against the Hungarian government's anti-immigration billboard campaign.

Tiszavasvari, Hungary,
17 July 2015.

Once he had publicly stated his case, however, Orbán's tactics did change, and he began to use national rhetoric in new ways. He sought to create internal political cohesion in Hungary by arguing that the Hungarian nation was threatened by external and internal enemies such as foreign NGOs and "national traitors"—an argument reminiscent of the right-wing conservative turn of Vladimir Putin's regime in Russia since 2013.

Mainstreaming ultra-nationalism, making it more acceptable to the general public, became a double-edged sword for Fidesz, as the party was not the only political force that benefited. In the 2014 parliamentary elections, Jobbik won 20.54 percent of the vote and became the third-largest party in the country. Many of these were votes that had earlier gone to Fidesz. In April 2015 Fidesz lost to Jobbik in a by-election. This was an important symbolic victory for Jobbik, bringing its first ever individual constituency seat in parliament.¹⁸ And as Fidesz lost a seat in parliament, it also lost its constitutional majority.

To win votes back, Fidesz radicalised its rhetoric further. In spring 2015 Orbán began to argue for "keeping the issue of the death penalty on the agenda", thus directly challenging the European consensus. At the same time, the government launched "a national consultation" on immigration, among other things sending out a questionnaire which was designed to vilify Hungary's immigrants, fan xenophobic sentiment, and promote harsh anti-immigrant measures. After raising largely imaginary concerns about terrorism in Hungary, the questionnaire immediately asked: "Do you agree that mistaken immigration policies contribute to the spread of terrorism?"—thereby implying that Hungary's "terrorism" problem was linked to EU immigration policy. The questionnaire also referred to "the Hungarian people" (*magyar emberek*) rather than "Hungarian citizens" (*magyar állampolgárok*), thus framing the immigration issue in ethnic terms and appealing to xenophobic sentiment. The "stricter immigration regulations" it mentioned could involve, it implied, building "internment camps" where illegal immigrants would be held before they were returned "to their own countries".¹⁹

Some observers began to ask whether Orbán was "inspired by a genuine ideology", or had adopted an "opportunistic strategy in order to fend off the Jobbik challenge".²⁰ The similarities between Fidesz and Jobbik were not limited to language. As the Political Capital Institute noted, by spring 2015 Fidesz had "implemented several measures that were originally part of Jobbik's program".²¹

Finally, Orbán began to pursue policies of economic nationalism. These included outright nationalisation or re-nationalisation, especially of banks, and high taxation, again of banks but also of telecoms, insurance, supermarkets (which had become a particular focus of popular anger), and advertising—a tax which has hit foreign media companies particularly hard.²² Companies connected to Fidesz are widely seen to enjoy special favour. In 2014 the US government laid a visa ban on six senior Hungarian officials alleged to be corrupt.

Many of Orbán's policies were echoes of policies adopted by the Putin regime in Russia, a fact which has led many to ask whether there was any direct influence of the latter on the former. Certainly there have been direct links between Russia and Jobbik; these had already started by 2008, when Béla Kovács, a member of Jobbik who had studied in Soviet Russia in the 1980s, arranged a trip for Jobbik's leader, Gábor Vona, to Moscow. Since then, Jobbik's leaders have regularly attended events and conferences in Russia and promoted rapprochement with Russia in Hungary. Jobbik's members often appear in the Russian media as well, offering a positive view of Russia's foreign policy,²³ and several took part in the "observation" of illegitimate electoral processes in Russian-occupied Crimea and Eastern Ukraine in 2014.²⁴ Currently, Kovács is being investigated in Hungary on charges of espionage for Russia against EU institutions.²⁵

So far, Orbán's relationship with Moscow appears to be driven by pragmatic rather than ideological considerations. In 2014 Hungary imported 89 percent of its oil and 57 percent of its gas from Russia, and Fidesz's base is very sensitive to gas prices, since Orbán has promised to cut them.²⁶ Low energy prices can only be secured with the help of Russian companies, in particular Gazprom.

The big winner in this is Vladimir Putin and his regime in Russia.

However, the Hungarian government has taken some steps to reduce this oil and gas dependency: in 2011, for instance, Orbán bought out the Russian company Surgutneftegaz's shares (21.2 percent) in MOL Group, the most important energy company in Hungary.²⁷ At the same time, however, it has struck a nuclear energy deal with Russia that is deeply cloaked in secrecy. In 2015 Orbán accepted the first tranche of a loan of 10 billion euros from Moscow for the expansion of the Paks nuclear power plant. Fidesz kept the exact nature of the contract secret and has classified all material related to the deal for 30 years.²⁸ One of the Hungarian officials who promoted the deal was Ernő Keskeny, then deputy chairman of the Hungarian–Russian Intergovernmental Commission on Economic Cooperation.²⁹ Keskeny is a Russophile politician who has known Putin since the 1990s, when Keskeny lived in Saint Petersburg. He arranged the first meeting of Orbán and Putin in 2009 and has been advising him on the relationship ever since.³⁰

Hungary's descent into what its own leader calls "illiberal" politics is a striking sign of the weakness of Europe's post-1991 order. Not only did the "transition" from one-party communist rule fail to put down roots or gain momentum to withstand the challenge from Orbán's (in effect) anti-systemic policies, but external monitors and constraints proved powerless to intervene effectively. The big winner in this is Vladimir Putin and his regime in Russia. They now have a bridgehead in Central Europe which, although not explicitly pro-Russian in every respect, does—like the Kremlin—disdain both Western values and European institutions. Even if Orbán's approach towards Russia is, as his diplomats and officials claim, one of mere pragmatism, Russia is already a major beneficiary. If "Orbánisation" spreads further, not only the European Union but NATO stand to be severely weakened.

SLOVAKIA

Since the fall of socialism and the breakup of Czechoslovakia, democratisation in Slovakia has been turbulent and uneven. But although Orbán's new Central European version of illiberal democracy has had some ideological impact in Slovakia, especially on the large Hungarian minority, the country's indigenous former communists have played a far greater role in holding back Slovakia's democratic development. Like other former communists in the region, they reinvented themselves as nationalist populists and immediately began to convert their former political power into economic influence through clientelism and cronyism.

As a result, Slovakia in the 1990s seemed to be the country least likely to complete a democratic transition. Unlike its neighbours—the Czech Republic, Hungary, and Poland—Slovakia did not join either the OECD or NATO. Russia offered it a security guarantee in exchange for its neutrality, although this was never accepted. Slovakia was not originally invited to join the EU along with its neighbours.

The primary reason for this exceptionalism was Slovakia's first prime minister, Vladimír Mečiar, himself a former communist, who led the country after the breakup of Czechoslovakia. His party, the Movement for a Democratic Slovakia, backed up by the far-right Slovak National Party and the far-left Union of the Workers of Slovakia, established a semi-authoritarian regime. It had all the characteristics of a democracy, but Mečiar exercised power in an illiberal way. As Peter Zajac, professor at Humboldt University in Berlin, has explained, Mečiar's government "passed numerous laws that undermine[d] constitutional and legal norms, as well as fundamental human rights".³¹

The political situation changed dramatically in 1998, when Mečiar failed to form a governing coalition after a general election. Mikuláš Dzurinda, leader of the liberal-conservative Slovak Democratic Coalition, became prime minister. During the two terms of his premiership (1998–2002 and 2002–6), Slovakia saw rapid reform. Especially successful were changes to the taxation and pension systems, public finances, social security, and labour regulation. Market reforms strengthened Slovakia's economy and encouraged foreign investment. The country gradually became a consolidated democracy. These developments led Slovakia to join the OECD in 2000 and NATO and the EU in 2004.

Dzurinda's reform programme came to an end with the 2006 general election, when another former communist, Robert Fico, leader of the social democrats—a party created from the remnants of the old Slovak communist party—became prime minister, with the support of both the far-right Slovak National Party and Mečiar's old party. But Fico found it impossible to return to the semi-authoritarianism of the past. Of crucial importance in this respect was EU membership. As Grigorij Mesežnikov notes, Fico and the extremist parties which supported him were restrained by the boundaries established by the country's membership of the EU and NATO, as well as the reforms carried out by Dzurinda's government.³²

Fico did try to take steps to consolidate his power by undermining the press and civil society.³³ In 2008 Fico's government drafted a new press law, which included the controversial "right to reply". This entitled any individual who "feels that a newspaper article offends his or her honour, dignity or privacy" and any legal entity who "feels that its reputation has suffered" to demand that the offending journal print a response.³⁴ In response, several leading newspapers published issues with blank front pages and

black frames, and many observers of press freedom, including the International Press Institute, called for the removal of the right-of-reply provisions.³⁵ Although similar laws exist in other EU countries, critics of the new Slovak press law argued that it threatened freedom of the media and that "the press would be forced to publish too many corrections, replies and additional announcements, especially by politicians".³⁶ Fico did not respond.

Fico has also tried to undermine the independence of Slovak courts. He appointed as Supreme Court Chairman Štefan Harabin, a former Mečiar colleague and a Minister of Justice in Fico's cabinet. In that capacity, according to one report, Harabin "continued to oppose systemic reform measures, confronted individual judges and even initiated repressive measures with respect to those judges who publicly criticized particular aspects of [his] performance".³⁷ Harabin's work became pernicious for the country's already weak judiciary and "conveyed the impression that his overriding desire was to make the country's judiciary serve his own ideas and his political patron's [i.e. Fico's] interests".³⁸

Fico's political association with the far-right Slovak National Party and its xenophobic leadership caused trouble for him abroad. The Party of European Socialists (PES), one of the two largest parties in the European Parliament, suspended the Slovak social democrats in 2006 because they had failed to adhere to the PES requirement that members "refrain from any form of political alliance or co-operation at all levels with any political party which incites or attempts to stir up racial or ethnic prejudices and racial hatred".³⁹ The EU member states as a whole resisted imposing sanctions on Slovakia as they had on Austria in 2000, when the Austrian centre-right party formed a coalition with the far-right Freedom Party. In the Austrian case, the diplomatic sanctions were judged to have backfired: they led to the rise of Euroscepticism and nationalism in the country and were lifted a few months after they had been imposed.

While the PES suspension of the Slovak social democrats may have strengthened the party's nationalist and isolationist wing,⁴⁰ this relatively mild sanction did have some impact, at least in the coalition's statements directed at foreign audiences. Fico and the far-right leader Ján Slota wrote a letter to the PES leadership in which they pledged to respect minority rights. Such assurances did not prevent the governing coalition from using hateful and racist rhetoric at home, employing ultra-nationalism as a tool to mobilise voters. Viktor Orbán, then in political opposition, certainly would have taken note of the EU's lack of response.

Fico's first term ended after parliamentary elections brought Iveta Radičová's minority liberal-conservative government to power in 2010, but, even in the opposition, Fico's associates managed to undermine the constitutional order. In 2011, President Ivan Gašparovič, whose re-election in 2009 was supported by Fico and the far right Slovak National Party, refused to appoint Jozef Čentéš as General Prosecutor even though 79 out of 80 present MPs had voted in favour of his candidacy.^{40a}

A snap general election in 2012 brought Fico back to power. This time, there was a direct parallel with developments in Hungary, for the campaign before the snap elections was shaken by wire-tapping scandals. Some of the bugging had been carried out by Slovak military intelligence and included strategically leaked conversations going back to 1998; other tapes had been made by domestic intelligence, which has been accused of manipulating them to imply corruption. The tapes delivered a particular blow to Dzurinda and, indirectly, to his political associate Radičová, so Fico benefited again.⁴¹ The parallel with Hungary is clear. Socialist Prime Minister Ferenc Gyurcsány's leaked speech led to the downfall of his government and, eventually, to the rise of Orbán's Fidesz. In Slovakia, the same pattern was followed.

By obtaining 44.41 percent of the vote, Fico's social democrats are now able to rule without coalition partners. Although the worst fears about the potential decline of democratic institutions have not materialised, Slovakia during Fico's second premiership has not become more democratic either. Unlike Orbán, who undermines Hungarian democracy through radical institutional changes, Fico undermines Slovak democracy through his failure to make changes. Dubious practices persist. Fico now refrains from straightforward attacks on the media, instead refusing to answer questions at press conferences and other events from media that he does not see as friendly.⁴² Fico's government has also imposed an informal ban on communication with the independent media by treating requests from journalists as requests from ordinary citizens, who, according to the Freedom of Information Act, do not get priority and can acquire information only after long delays.⁴³

Unlike Orbán, who undermines Hungarian democracy through radical institutional changes, Fico undermines Slovak democracy through his failure to make changes.

Not all Slovak media are ignored. Some, for example TA3 TV news channel, seem to benefit from their more positive approach towards the government; unofficial reports say Fico is channeling European funding to such "friendly" media. Fico has also benefited from the anti-Western and/or pro-Russian "alternative" new media that have mushroomed in the Slovak information space in the wake of Russia's war on Ukraine. At the beginning of 2015, Slovak media expert and activist Juraj Smatana identified 42 new websites that spread Moscow's propaganda in Slovak and Czech languages.⁴⁴

While some pro-Russian media in Slovakia are of low quality and quite marginal, others are well funded. After the Daily Mail and General Trust sold *Pravda*, a major Slovak socialist democratic newspaper, to a Slovak businessman, it started to publish material which opposed reform, opposed the political opposition, and supported Russian and anti-Western views, for example in its "Letters to the Editor" section. In 2013 a new glossy magazine appeared, *Zem a Vek*, which was at first subtitled "Classified information without censorship", before being changed in 2015 to "Geopolitical and cultural monthly", in the wake of the Russo-Ukrainian war, *Zem a Vek*, like so many similar publications, disseminates conspiracy theories and attacks the EU, NATO, and US. Fico clearly benefits from such publications, as they help legitimise his policies.

Slovakia's political situation differs from Hungary's in one very important respect: the Fico camp does not have an effective monopoly on the political system. Fico lost the presidential election in 2014 to the non-aligned millionaire and philanthropist Andrej Kiska, who became Slovakia's first president without a communist past. As political scientists Marek Rybář and Peter Spáč argue, "Andrej Kiska successfully captured and exploited a public mood that came to be increasingly critical of the single-party government but did not see the parliamentary opposition as a credible alternative."⁴⁵ Opposition parties do retain control of substantial parts of local government, but the parliamentary opposition to Fico remains relatively weak and divided.



Unlike Orbán, Fico has not articulated an alternative worldview or praised “illiberalism” either. Nor are his policies consistently pro-Russian, although he sometimes echoes Russian anti-Western or anti-American views. When pressed by the EU to sell gas to Ukraine by reversing an east–west gas export pipeline, he initially demurred, but quickly found a way to co-operate. His government, unlike its Hungarian counterpart, does not berate foreign investors or pursue economic nationalism. Instead, soft, tactical resistance to inconvenient internal and external pressure to reform is the hallmark of Slovakia’s slide away from the explicit liberalism of the Dzurinda era. The persistent reluctance of the parliament to reform the judiciary system that President Kiska insists on is an example of such tactical resistance.⁴⁶ However, there is no hard strategic challenge of the kind seen just across the border.

Above: Selection of *Zem a Vek* covers. From left to right, the main headlines read: *Homosexualisation or traditional family?; Israel, Holocaust and anti-Semitism: on the altar of Zionism; The world under the supervision of Big Brother; Migration or invasion?; The war on cancer is a hoax.*

THE CZECH REPUBLIC

The Czech Republic's initial transition to democracy resembled that of Hungary rather than that of Slovakia, its closest neighbour. Former dissident and philosopher Václav Havel served as President of Czechoslovakia from 1989 until 1992, and then as president of the Czech Republic until 2003. He was followed in office by his political opponent, Vaclav Klaus. Together with Poland and Hungary, the Czech Republic became a member of NATO in the first wave of the Eastern enlargement in 1999 and joined the EU in 2004. But since 2014, the commitment of some of the Czech Republic's top officials both to the transatlantic alliance and to democratic institutions has begun to fray.

Of course Czech democracy was never perfect. Corruption remained a significant problem in the country after 1990. In 2012 the European Commission suspended payments for some funding programmes to the Czech Republic amid suspicions of corruption and mismanagement. On the other hand, civil society in the Czech Republic has been vigilant about corruption, and frequent exposures of high-level corruption by the media have usually led to ministerial resignations.

The media, which were initially quite strong by regional standards, have also come under attack. In 2005 public Czech Television cancelled its Sunday satirical political show *Bez obalu* ("Telling it straight"). Officially, the cancellation was for economic reasons, but it took place directly after its criticism of the then-prime minister, Jiří Paroubek, prompting suspicions that it was politically motivated. In 2009 investigative journalist Sabina Slonková publicised photos taken by a surveillance camera showing a meeting between Jiří Weigl, head of President Klaus's office, and political lobbyist Miroslav Šlouf. Despite the constitutional right of journalists to protect their sources and the fact that the footage was taken in a public space, a criminal case was opened against Slonková and a court imposed a fine on her for "damage to private life".⁴⁷ The case angered journalists and the International Press Institute warned that the fine against Slonková raised "fresh concerns about a backslide in media freedom in the Czech Republic".⁴⁸

Democratic institutions in the Czech Republic came under more dramatic attack in 2013. In January of that year, outgoing President Klaus granted amnesty to more than 6,000 inmates, more than a quarter of the country's jail population. In effect, the amnesty stopped ongoing criminal proceedings against people associated with several notorious embezzlement and fraud cases, many of which had taken place during Klaus's term as prime minister between 1992 and 1998.⁴⁹ Despite the nature and extent of the scandal, little could be done. The Czech Senate impeached Klaus, but this turned out to be merely a symbolic gesture, since Klaus's second consecutive presidential term had already ended. The Senate also accused Klaus of high treason and voted to refer him to the Constitutional Court, but the latter rejected the charges on procedural grounds, as he was no longer in office.

In June 2013 another scandal erupted after 400 police officers raided the office of Prime Minister Petr Nečas, as well as the homes of various entrepreneurs and lobbyists. Several high-ranking politicians and officials close to Nečas were arrested on charges of abuse of power, corruption, and bribery. One of the arrested officials was Jana Nagyová, Nečas's mistress and chief of staff of the prime minister's office. She had, it emerged, ordered the Czech intelligence service to spy on Nečas's estranged wife, for private reasons.⁵⁰ Nečas resigned from the post of prime minister, but the arrested politicians and officials were released in July the same year: some had been members of parliament at the time and

thus had immunity, while others were deemed no longer able to influence the witnesses. Nagyová and three intelligence officers were acquitted in 2015, partly because Nečas took the blame upon himself by claiming that he had ordered the secret services to spy on his wife out of fear for her security.⁵¹ Although the acquittal is not final (state prosecutors appealed it), this case has already cast doubt on the ability of the Czech police to address the problem of high-level corruption in any significant way.

One of the results of these multiple crises was the election, in January 2013, of President Miloš Zeman, a politician who had been out of office for more than a decade. Three years earlier, Zeman, who had retired from politics in the mid-1990s—he had been a leading member of the Czech social democrats—had established a new Party of Civil Rights, together with Martin Nejedlý, managing director of Lukoil Aviation Czech (a subsidiary of the Russian Lukoil oil company),⁵² and the political lobbyist and former communist youth leader, Miroslav Šlouf. Riikka Nisonen, a researcher at the Aleksanteri Institute, argued that Zeman's presidential campaign "received money from the head of Lukoil's Czech office [i.e. Nejedlý]", but Zeman claimed that the money was "a personal donation".⁵³

Once in office, President Zeman adopted vigorously anti-Western, anti-European, and pro-Russian language.

In the Czech political system, the president, although popularly elected, has very restricted powers. Nevertheless, President Zeman's illiberal views manifested themselves almost immediately. In May 2013 he refused to agree to the appointment of Martin Putna to a professorship at Charles University, apparently because Putna had attended a gay pride parade in 2011.⁵⁴ Eventually, Zeman agreed to his appointment, but declined to award the diploma personally; instead, the diploma was handed to Putna by the Minister of Education, rather than the president, as had been accepted practice until then.⁵⁵ Even more importantly, Zeman refused to agree to the appointment of Miroslava Nemcová as the new prime minister, even though she had been chosen by the parliament. Instead, Zeman demanded that his former finance minister Jiří Rusnok take the job—a move that was widely interpreted as an unconstitutional attempt to seize power.⁵⁶

Once in office, President Zeman adopted vigorously anti-Western, anti-European, and pro-Russian language. In 2014 he condemned the Western sanctions imposed on Russia for the annexation of Crimea and its war against Ukraine.⁵⁷ That same year, he was the only EU leader who participated in the "Dialogue of Civilizations" forum on the island of Rhodes, organised by the Russian oligarch and railway CEO Vladimir Yakunin sanctioned by the US.⁵⁸ A series of public protests followed, but they had little impact on the president.⁵⁹

Like Slovak prime minister Robert Fico, President Zeman benefits from the proliferation of pro-Russian, anti-Western, and illiberal new media. As the formerly independent media have been reduced in scale—a significant share of the Czech mainstream media is now owned by Finance Minister Andrej Babiš—even marginal websites have had an impact. In 2014 AE News (<http://aeronet.cz>) published a series of articles alleging that anti-Zeman protests earlier that year had been sponsored by the same "puppet-masters" in the USA who "orchestrated" the Euromaidan protests in Ukraine in 2013–14. AE News portrayed an epic struggle between foreign plotters and heroic, "lion-like" President Zeman, "the only European politician who defends the national interests of his country".⁶⁰ These "revelations" created a sensation in the Czech public sphere, and the Security Information Service (BIS) publicly stated that it considered AE News "a source of dangerous Russian propaganda".⁶¹



Above: Demonstration in Wenceslas Square, Prague, against Islam, immigrants and refugees. November 2015.

But the case of AE News was not an exception. In Prague it is sometimes difficult to distinguish the anti-Western and pro-Russian conspiracy theories promulgated by fringe anonymous websites and published media. One example is Our Media a.s., controlled by Michal Voráček, a media businessman and one of the major pro-Putin figures in the Czech Republic.⁶² Our Media a.s. owns several websites and newspapers, including *Parlamentní listy*, *Protiproud*, *Euserver*, *Euportal*, and *FreeGlobe*, which regularly attack Western liberal democracies, promote Czech left-wing and right-wing radicalism, spread Islamophobia, propagate pro-Putin sentiments, disseminate conspiracy theories, and deplore the alleged loss of sovereignty.

President Zeman has both benefited from the mainstreaming of conspiracy theories and contributed to it with xenophobic and anti-immigration rhetoric. During the 2015 refugee crisis, on several occasions Zeman made comments and statements that drew criticism from journalists, human rights activists, and international structures. During one of the debates, Zeman said:

Islamic refugees will not respect Czech laws and habits, they will apply Sharia law so unfaithful women will be stoned to death and thieves will have their head cut off ... We will be deprived of women's beauty since they will be shrouded in burkas from head to toe, including the face.⁶³

In November 2015 President Zeman even attended an anti-Muslim rally organised by the far-right Bloc Against Islam group, standing side-by-side with the leader of the group, Martin Konvička. At the time of writing, Konvička faces up to three years in prison for inciting hatred against Muslims by, among other things, writing on Facebook that “Muslims should be put into concentration camps or that they should be made into meat and bone meal”.⁶⁴

Unsurprisingly, the far right, previously somewhat marginal in the Czech Republic, has also grown. In 2013 the newly formed Dawn of Direct Democracy won 6.88 percent of the vote in the parliamentary elections. Its former leader, Tomio Okamura, then left and founded another party, Freedom and Direct Democracy, in 2015. Both parties advocate direct democracy and increased use of referenda to decide law and policy, and both are Eurosceptic and opposed to immigration.

The consolidation of political and media power in the hands of Babiš led some observers to speak of the “oligarchisation” or “Berlusconisation” of the Czech political space.

But the major opposition to President Zeman nowadays comes not from either liberal democrats or ultra-nationalists, as in Hungary, but rather from a new force led by the Czech businessman Andrej Babiš. Babiš, the second wealthiest person in the Czech Republic, founded his own political party, ANO 2011, in November 2011 “to fight corruption and other ills in the country’s political system.”⁶⁵ Eighteen months later, in 2013, Babiš’s company Agrofert bought the MAFRA media group, previously owned by a German company.⁶⁶ As already noted, this gave him a significant percentage of Czech media. In the parliamentary elections of October 2013—the first parliamentary elections that ANO 2011 contested—the party obtained over 18 percent of the vote and became the second largest in the country. At the beginning of 2014, Babiš was appointed finance minister and deputy prime minister in Bohuslav Sobotka’s cabinet.

The consolidation of political and media power in the hands of Babiš led some observers to speak of the “oligarchisation” or “Berlusconisation” of the Czech political space.⁶⁷ After he bought the MAFRA group, several popular journalists resigned and founded new media projects. One of them, Daniel Kaiser, went to work for Echo24.cz, a new website which has been critical of Babiš. At one point, Babiš indirectly threatened Echo24.cz by saying that he, as Finance Minister, “hoped the investor of Echo24.cz had completed his tax returns”.⁶⁸ Adam Černý, president of the Czech journalist association, fears that freedom of the Czech media is threatened today: “The legal framework has not changed, but the system has. This will have an impact on press freedom.”⁶⁹

In the Czech Republic, in other words, another kind of creeping illiberalism has taken hold. Perhaps the most distinctive feature is money. During Zeman’s presidency, the legal framework of democracy—the constitution, the legal system—has not changed. There has been no open assault on the courts. But individuals with major financial or political power are undermining democracy by adopting undemocratic practices and fostering an illiberal political culture. This in turn has created a new environment—an “uncivil society”—which may facilitate future attempts to openly undermine the constitution or to subvert democratic institutions. On the positive side, the Czech Republic retains a robust civil society with vocal anti-corruption activists and organisations. They have toppled governments in the past, notably in 2010. It is not unimaginable that they could do so again.

ROMANIA

In the 1990s the idea of democracy in Romania seemed distant. The popular uprising against Nicolae Ceaușescu's vicious communist regime in 1989 was not followed by a radical overhaul of the political system. The leadership of the Romanian Communist Party was deposed, but replaced by new leaders from the same party. Former communist Ion Iliescu was president of Romania from 1989 to 1996; during this period, the government was run by a coalition of former communists and three extremist parties of the far left and far right. Both political and economic progress were slow; many worked hard to prevent a truly radical transformation. And yet today, despite many unresolved issues, Romania, unlike many of its neighbours, is democratising quickly.

As in Slovakia, where the reform-oriented Mikuláš Dzurinda replaced left-wing authoritarian Vladimír Mečiar as prime minister in 1998, reform-oriented Emil Constantinescu replaced Iliescu as Romania's president in 1996. However, the reforms initiated during Constantinescu's presidency were rather inconsistent and incoherent, and his rule resulted in loss of popular trust in pro-democratic political forces.⁷⁰

However, pro-democratic reforms did start during the premiership of Adrian Năstase, a social democrat, who embarked on a number of significant political and economic changes. Outside pressure was extremely important: the clear prospects of joining the EU and pressure from Romanian society consolidated the mainstream right and centre-right parties in the country, resulting in the decline of the extremist political forces. During Năstase's term, Romania joined NATO in 2004 and made progress in its negotiations with the EU.

The election of President Traian Băsescu of the liberal-conservative Democratic Party in 2004 confirmed the country's course. Particularly important was the fact that, during Băsescu's presidency, Romanian authorities laid the foundations of the constitutional design that made state institutions less vulnerable to undemocratic practices. They also set up a number of structures designed to enforce the rule of law. One such structure was the National Anticorruption Directorate. Created at the EU's behest during Năstase's term, it worked effectively only after Băsescu appointed Monica Macovei, a leading civil society activist, as Minister of Justice. Her success owed much to personal factors. Macovei was personally committed to fighting corruption and reforming the judicial system, and Băsescu defended her even against the majority of his own party.⁷¹

The work of Macovei as Minister of Justice and the National Anticorruption Directorate received praise from the EU, and, a year before Romania's accession to the EU, Olli Rehn, who was then responsible for EU enlargement, stated that "sound and solid structures have been set up for this purpose, and investigations into high-level corruption cases have been launched ... It gives a signal to the society that for the first time in the history of the country, nobody is above the law."⁷²

But the insistence of EU pressure also had a negative side. As Cristian Ghinea explains, Romanian politicians "behaved themselves" in the run-up to EU accession, but changed tack abruptly afterwards.⁷³ In 2007, just after joining the EU, the Romanian Senate passed by secret ballot a motion calling for Macovei's resignation. Despite international and widespread domestic support, she resigned in April. Nevertheless, the work of the National Anticorruption Directorate successfully continued under the leadership of chief prosecutor Daniel Morar.

In September 2007 Romanian legislators appointed a social democrat, Alexandru Sassu, as head of the TVR public TV station, which held around 20 percent of the TV market in Romania. Since then, staff members of TVR have repeatedly complained about political pressure on their work. In 2008 the Senate passed a law that obliged the media “to present an equal proportion [i.e. 50 percent] of positive news to balance the ‘bad’ news”.⁷⁴ The law drew widespread criticism from the media and the public, but the Constitutional Court had the last word in this argument, and it abrogated the law.

Romanian politicians “behaved themselves” in the run-up to EU accession, but changed tack abruptly afterwards.

Further conflicts over the Constitutional Court followed. A dispute between the president and the prime minister over who had the right to represent Romania at meetings of the European Council wound up in the court. After a ruling in favour of the president, the government of Prime Minister Victor Ponta deliberately blocked its official publication, thus preventing it from becoming law. Shortly afterwards, Crin Antonescu, co-president of Ponta’s political alliance, the Social Liberal Union, demanded the dismissal of some of the judges.⁷⁵ In response, the European Commission voiced its concern about “developments in Romania, especially regarding actions that appear to reduce the effective powers of independent institutions like the Constitutional Court”,⁷⁶ and the Commission president, José Manuel Barroso, summoned Ponta to Brussels. The European Commissioner for Justice, Viviane Reding, stated that “politicians must not try to intimidate judges ahead of decisions to be taken, nor attack judges when they take decisions they do not like”.⁷⁷ Under pressure from the EU, Ponta’s government backtracked on this issue, but it subsequently passed another emergency ordinance, removing the Court’s power to review acts of parliament. Again, this was in defiance of constitutional law.⁷⁸

Ponta’s struggle against Băsescu continued and, in July 2012, parliament voted to carry out impeachment proceedings. The day before the impeachment vote in parliament, Ponta’s government tried to change the referendum law; the Constitutional Court overruled their decision. This ruling saved Băsescu from dismissal. At this time, Băsescu was unpopular, largely because he took responsibility for austerity measures which were required by international institutions. In the referendum vote, more than 88 percent voted to impeach him. But because the Constitutional Court upheld rules which declared that a referendum was valid only if 50 percent of registered voters took part, Băsescu remained in power.

The referendum affair had an international context: as a pro-Western, pro-NATO politician, President Băsescu was a clear obstacle to Russia’s interests in the region. For this reason, in the run-up to the referendum, the Romanian edition of the now-defunct Voice of Russia media service indirectly supported the impeachment of Băsescu.⁷⁹ Commenting on Băsescu’s suspicions about Russian involvement in Ponta’s moves against him, Monica Macovei argued: “I do believe that there was a Russian influence. Russia would like to see Romania fail in its fight against corruption; it would like to see Romania destroyed by corruption, undermined by corruption.”⁸⁰

Ponta’s contacts with Russian business resemble those established by Czech president Miloš Zeman. Like Zeman, he has close connections with the Russian company Lukoil. After the company was suspended on suspicion of tax evasion and money laundering in autumn 2014,⁸¹ the Russian embassy in Romania issued a series of threats: the Romanian economy would be damaged and social unrest would follow if thousands of Romanian employees of Lukoil lost their jobs. Ponta publicly declared that he hoped



Above: Protests following the tragic accident in the Bucharest club Colectiv.

© Constantin Opris/Dreamstime.com

that the investigation of Lukoil’s activities in Romania would not damage the country.⁸² His statement was widely interpreted as an interference in the judiciary and the Superior Council of Magistrates ruled that Ponta’s statement infringed judicial independence.⁸³ Certainly it reflected his own political concerns. Among other things, Ponta, who was then engaged in a presidential campaign which he eventually lost, had received donations from Lukoil—legal in Romanian law—for his electoral campaign.⁸⁴

The political crises in Romania provided an important test for the country’s judiciary, and especially for its ability to resist the “Berlusconisation” visible elsewhere. After the 2008 financial crisis, several important international media companies withdrew from the Romanian market, and since then, all major Romanian media have been controlled by domestic moguls. Not only did they have both political and business interests in the country, several have been accused of and sentenced for multiple crimes. The Intact Media Group, which belongs to Dan Voiculescu, a former collaborator of the Securitate, owns the Antena network, which has been under investigation by the National Anticorruption Directorate since 2007. Voiculescu was sentenced to 10 years in prison in 2014. Sorin Ovidiu

Vântu, who owns Realitatea TV, has served two short jail sentences since 2012. In two other trials, he was sentenced to six years in prison, though these cases are now under appeal. There were several criminal cases against Dinu Patriciu, owner of the newspaper *Adevărul* and the Rompetrol oil company, but they were closed after his death in 2014. Adrian Sarbu, then CEO of Central European Media Enterprises and owner of Pro TV, was held at the beginning of 2015 on charges related to money-laundering and tax evasion. Dan Adamescu, owner of the daily *Romania liberă* (otherwise a quality, pro-Western newspaper), has also been charged with corruption and served a few months in preventive detention. Although the prosecuted media moguls have accused the National Anticorruption Directorate and Băsescu of political repression, most Romanian political experts agree, in this case, that the accused were guilty. There was no significant public or civic solidarity with the prosecuted media moguls.

Romania has jailed more corrupt politicians than the rest of the region combined

Unsurprisingly, most of the above-mentioned media have, over recent years, been inclined to attack the National Anticorruption Directorate as well as pro-EU politicians such as Băsescu. In 2009 the OSCE observed that several major television stations, including Pro TV, Antena 1, and Realitatea TV, were giving very biased coverage of Băsescu's presidential campaign.⁸⁵ The newspaper *Adevărul* refused to cover the election campaign at all, though this seems to have been a brave decision by its editor: by refusing to cover any of the candidates' campaigns, the newspaper resisted pressure from its owner to attack Băsescu.

However, although in a settled democracy with reliable independent media this situation would seem catastrophic, the case of Romania offers grounds for optimism. For one thing, the Romanian judiciary's strong stance against the corrupt practices of media moguls and politicians is a clear regional success, an example of the proper functioning of state institutions that were not easily undermined through undemocratic procedures.

Civil society also remains an important guardian of the democratic order in the country. Anger at corruption led to the election in 2014 of President Klaus Iohannis, the mayor of Sibiu, who had a good record as a competent and honest administrator. Popular discontent also led to the resignation of Ponta. In July 2015 he was indicted on charges of tax evasion and money-laundering, but refused to resign. Public disapproval exploded, especially after a fire in a Bucharest club in the autumn of 2015 killed and severely injured dozens of people. Protesters saw the fire as the "direct result of deep, systemic corruption in the Romanian government—the kind of corruption that would allow nightclub owners to operate without inspectors noticing their improper safety precautions".⁸⁶ After more than 20,000 joined a protest against him, Ponta finally resigned.

Romania continues to face many challenges, both economic and political. But its politics are open and contested in a way that those of others in the region are not. In the end, politicians such as Victor Ponta were not able to turn political and economic power into a lock on the political system, as Orbán did in Hungary. The country's embattled anti-corruption prosecutors have survived multiple attempts to cripple their efforts. Romania has jailed more corrupt politicians than the rest of the region combined (admittedly, not a very impressive benchmark). Romania also has some strong, well-run local governments, especially in Transylvania, where President Iohannis was mayor. These local leaders may well become the source of the political class of the future.

POLAND: WHAT NEXT?

Poland, described by Ivan Krastev as “the poster child of post-Communist success and Europe’s best economic performer of the last decade”,⁸⁷ seemed until recently to be the ex-communist country least likely to flirt with illiberalism. Over the past decade, Poland became a leading European foreign policy power and the target of the most investment in the region. But very recent developments in the country have led some to fear that even here it could prove possible to weaken or dismantle democratic institutions. Poland has also shown how techniques practised in other countries can be copied and repeated. Jaroslaw Kaczynski, leader of the ruling party, Law and Justice, had long expressed admiration for Viktor Orbán’s destruction of his political opposition and his neutralization of the courts and of the free press. In the election campaign of 2015, Kaczynski’s party also began to advocate Hungarian-style economic nationalism, including re-nationalisation of banks and media, heavy taxes on supermarkets, and populist redistribution.

As in Hungary and Slovakia, the illiberal turn in Poland began with a bugging scandal. In June 2014 *Wprost* magazine published a series of private conversations between Polish politicians and businessmen which had been illegally recorded, over hundreds of hours in 2013 and 2014, in Warsaw restaurants by a businessman with links both to Russia and to Law and Justice. Although no corruption was revealed, the frank conversations—after careful editing by newspapers sympathetic to Law and Justice—discredited many top public officials. The tapes were further manipulated in order to suddenly “appear” at key moments in the political cycle, disrupting the ruling Civic Platform party’s ability to sell its programme.⁸⁸

Poland has also shown how techniques practised in other countries can be copied and repeated.

In the autumn of 2015, the refugee crisis in the EU also added an unexpected twist to Polish politics. Although Poland has no significant Muslim population, anti-Islamic rhetoric became a major feature of the Law and Justice election campaign. Far-right, anti-liberal voices appeared in Polish politics as a serious mainstream force for the first time. The cumulative result was a narrow victory for the Law and Justice presidential candidate, Andrzej Duda, as well as slight majority—though not a constitutional majority—for Law and Justice in the parliament. Representatives of the extreme right also appeared in the Polish parliament, under the leadership of an eccentric rock musician, Pawel Kukiz.

After winning the election, Law and Justice, a party which was founded as a pro-European conservative party and which had run a very moderate and careful campaign, almost immediately began to change its language and its tactics. President Duda refused to swear in five new judges onto the 15-member Constitutional Tribunal chosen by the previous parliament. Instead, he swore in five Law and Justice judges in a highly irregular ceremony which took place after midnight. The Constitutional Tribunal eventually ruled, at the beginning of December 2015, that three of the Civic Platform judges and two of the Law and



Justice judges were legitimate. In response, Law and Justice denounced the court, initially refused to publish its decisions, and launched a radical and unconstitutional reform of the entire institution.⁸⁹

During its first days in office, the Law and Justice government nullified civil service regulations in order to eliminate competition for leadership roles, including the CEOs of state companies, preferring instead to appoint party members, even if they had no qualifications. It also changed the law in order to politicize the public media and immediately replaced the heads of public television and radio with party loyalists. At the time of writing, the outcome of these disputes and others was still unclear. Unlike Hungary, Poland still has strong opposition parties, independent media which are not reliant on politicised oligarchs, and civic organisations and other groups that can prevent "Orbánisation". One of the immediate results of the attack on the Constitutional Tribunal was a series of mass demonstrations in Warsaw and all across the country, as well as public protests by university law professors, the government ombudsman, and many other groups and associations. The legal community in particular was united in its condemnation of the changes to the court system.

Above: Protest organised by the Committee for the Defense of Democracy (KOD) against the new Law and Justice government.

Krakow, Poland,
19 December 2015.

PATTERNS OF ILLIBERALISM

Can a democratic transition be reversed? The lesson of Central Europe since 2008 is a clear and depressing “yes”. The backsliding ranges from the deliberate and systematic demolition of independent institutions and political pluralism in Hungary, to the aggressive actions of Law and Justice in its first weeks in power in Poland, to the soft decay of Slovakia’s institutions and the “Berlusconisation” of the Czech Republic. Any of these approaches can be a blueprint for politicians in Central Europe, or indeed Western Europe, who aspire to secure full control over their states by transforming and degrading their democratic institutions. Indeed, “Berlusconisation” itself is of course imported from Italy.

The division of political parties in Central Europe into liberal and illiberal has, in some places, replaced the traditional gap between left and right.

A full explanation of the reasons why societies confer power on illiberal politicians lies beyond the scope of this paper. But given that democratic transition is—contrary to the received wisdom of the past 25 years—potentially reversible, it is worth highlighting the most important factors. One is the division of political parties in Central Europe into liberal and illiberal, a division which in some places has replaced the traditional gap between left and right. When liberal parties fail—when they become vulnerable because of a poor record in office or disunited because of personality clashes or political disagreements—then democratic alternatives are not necessarily available. Civil society may not be strong enough to compensate for the weakness of the liberal political parties; EU institutions are often unwilling to take stands against illiberal trends; the media may become dependent on moguls who promote illiberal voices out of ideological preference or because it makes them money; ultra-nationalism remains a strong mobilising force.

The analysis presented in this paper also suggests that there have been patterns to the growth of illiberalism in Central Europe:

- » Democratic governments and ruling parties in Central Europe have often been victims of wire-tapping and bugging scandals, which have subsequently been manipulated to bring them down. These actions usually involve domestic or foreign secret services, motivated either by the promise of economic reward or by ideological considerations. In some cases, it is clear that bugging operations were deliberately designed either to undermine the democratic order in a country or to change its foreign policy orientation.
- » Once an illiberal political force acquires power through elections, it assails the country’s constitutional court as the main body safeguarding democratic institutions. Illiberal politicians have repeatedly sought either to curtail the powers of a constitutional court or to replace constitutional court judges with people loyal to themselves.

- » State media, if they are not separated from elected politicians by clear laws and rules, are liable to ignore attacks on democracy as well as corruption scandals involving serving politicians. At the same time, private media are controlled by oligarchs who purchase newspapers and television stations—paying above the market price if necessary—with the aim of keeping or gaining power.
- » Illiberal political forces develop non-transparent business relations with domestic and international actors (especially with Russia), in order to secure the economic basis of their rule. The energy sector is of particular importance, because the populist nature of illiberal regimes requires that governments provide cheap utilities for their electoral base.
- » The mainstreaming of illiberal discourse often heralds a change in government. Since a strong civil society is one of the major obstacles to establishing or maintaining an illiberal regime, promotion of anti-democratic discourse through various conspiracy theories and ultra-nationalism aims at mainstreaming an “uncivil society” in order to undermine the opponents of an illiberal regime. In some cases, it is clear that websites and internet activists are being funded or organised by Russia, with the aim of undermining democratic governments and eventually weakening EU unity.
- » The ineffectiveness of European institutions. Several Central European countries which had problematic regimes in the 1990s were pressured to change through the NATO and EU accreditation processes. Now that these countries are full members of both structures, that pressure has vanished. EU and NATO structures have proved to be much worse at monitoring the behaviour of current members than they were at persuading outsiders to join.

CONCLUSION AND RECOMMENDATIONS

Central Europe's problems are actually part of a much broader EU political crisis. The refugee emergency; the rise of the far right in France, Austria, Sweden, and Finland; jihadi-inspired terrorist attacks; Berlusconi's rule in Italy; endemic corruption in Greece; a sense of grievance at both EU institutions and the global economic order: all are now common throughout the continent. So is post-2008, post-euro crisis anger, as well as the sense that national governments are no longer able to cope with international events. The desire to shut borders, protect national identity, and promote economic as well as political nationalism transcends the East–West divide.

Nevertheless, the condition of democracy in Central Europe does have a special significance, both in Europe and beyond. For the past decade, the region's transitions have been studied and admired by democracies around the world. Poland actively trained would-be democrats in Iraq, Tunisia, Egypt, Moldova, Belarus, and many other places. Czech and Hungarian diplomats worked to promote democracy in countries as varied as Libya and Cuba. If Central Europe is now widely seen to have "failed" or backtracked, that will reinforce the many groups who oppose democracy in the Arab world, Eastern Europe, and beyond. Certainly, the idea that EU enlargement has already "failed" is a constant theme of the Russian disinformation war on the West. As this report shows, pro-Russian and Russian-backed media have helped to intensify dissatisfaction within Central Europe as they have across the rest of Europe. Russian businesses and business interests have helped to promote illiberal and anti-EU politicians. If the trend continues, the Russian prophecy of democratic collapse will become self-fulfilling, with especially profound consequences in nearby countries with large Russian-speaking populations: Ukraine, Moldova, Belarus, and of course Russia itself.

If government and governing organisations in Europe and the US do not want to see a further decline in democratic standards on the continent—a decline which would inevitably lead to the breakup of the EU and NATO, and the exclusion of the US from Europe—then they should take immediate steps to strengthen democracy in the region. The EU and NATO accession processes have shown that European institutions can exert a positive influence when they are firm in their determination to uphold liberal democratic principles.

Yet there is little to be gained from public censure or hand-wringing. Aggressive language, whether from US ambassadors or from EU officials, may backfire. Instead, European and transatlantic institutions should immediately consider the following steps:

- » Engage and invest in energy projects that make the region truly independent from Russia. A European "energy union", greater energy integration, and a more efficient market would help. More importantly, Europe should negotiate gas and oil purchases from Russia as a union, rather than leaving each member to secure its own deal—a system which puts pressure on smaller and weaker countries.
- » Find ways to support and stabilise both public and private media. State media need to become truly "public", with checks and balances that separate them from elected politicians and local oligarchs. European institutions could advise on the drafting of media laws and regulations which would meet

democratic standards and encourage rational and free public debate. The “journalism training” programmes created in the 1990s are insufficient in the current climate. Without legal support, the press will easily be manipulated both by Russia and by extremist groups seeking to overturn power, whatever the quality of individual journalists.

- » Both the EU and NATO need to step up their strategic communications in the region, and indeed across the continent. European leaders spend far too little time communicating their views to the public in other countries.
- » Corruption in Central Europe, which is often connected to Russia, needs to be understood as a vital security issue for the entire continent, not least because allegations of corruption, whether true or false, are so often used to discredit pro-American and pro-EU political parties. International economic institutions need to come up with better means of identifying and sanctioning law-breakers, especially those who use offshore banking systems and other techniques that are difficult for smaller governments and poor bureaucracies to investigate.

Finally and more generally: although it is (again) beyond the scope of this paper, European political institutions should be reformed so that they answer more directly to ordinary Europeans. The institutions that manage European economic policy need to be more responsive to the public too. The institutions that manage European foreign policy, and especially European immigration policy, should be reformed and strengthened so that they meet the challenges of the present. The refugee crisis and the wars in the Middle East have the potential to destabilise European politics for many years to come.

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