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Emerging anti-pluralism in new democracies

After more than two decades of democracy since the system change in 1989-1990, and seven years of membership in the European Union since 2004, in some countries of the ECE region a new populism is on the rise, which questions the achieved consolidation of pluralist democracy. Although right wing populism is on the rise even in some Western European countries, in the “new democracies” in Europe it involves more risk for democracy. It is probably generated by general disappointment in the fruits of system change, exacerbated by the present hardships of economic crisis. We could discern signs of populist politics also in earlier time, but now it becomes more serious. In the case of Hungary, concerns about restrictions of democratic rights awakened already international interest. The policies of the Hungarian government in remodeling the political system faces criticism not only by political journalists and commentators, who may be biased, but meets also publicly announced concerns of officials of the EU commissioners, EP representatives and officials of other international organizations. An open debate about the new Hungarian media law and changes in the constitution got on the agenda of the European Parliament, and in some basic policy issues an infringement procedure against violation of EU norms has been launched on European Commission level, not to speak of close monitoring initiated by the European Council and the Venice Commission for Democracy by Law. From the USA foreign office even a diplomatic démarche has been handed over to the Hungarian government in the autumn of 2011, expressing concerns over violating the principle of checks and balances, curbing the autonomy of controlling institutions and a new media act restricting freedom of press. Such gestures are rather unusual among friendly powers belonging to the same alliance.

The Hungarian government lead by Viktor Orbán refuses the criticism and denies the necessity of such procedures. It claims the sovereign right of an independent nation state to change its constitution and remodel the whole

political system according to its concept on national causes, referring to its great electoral victory in the 2010 parliamentary elections, when the Hungarian Civic Union-Fidesz gained 53 % of the votes and, due to the disproportional electoral system and mandate distribution, acquired a decisive two-third majority in the parliament. The party leader called this a “revolution in the (electoral) booths”, and interpreted it as a general authorization by the people to change the whole political system. He asserted that the political system of the last two decade, which emerged from the round-table negotiations during the system change, was ill-conceived, transitory, and has served out, and must be replaced by a new “system of national co-operation”, a notion that has undeniable authoritarian overtones.

That the several waves of democratization may suffer setbacks was stated already in Huntington’s original concept as a historical fact. (Huntington, 1993.) My paper deals with the question, how serious the mentioned concerns now are in regard of democratic consolidation of the new member-states of the EU in the East-Central European region and what stands behind such an “authoritarian slide”.

Pluralist Democracy Wanted

Before the system change pluralism was with few exceptions (notably in Poland, see writings of St. Ehrlich, and in some publications on pluralism in Hungary since the beginning of the 80’s), heavily refused and condemned by the ruling monistic Marxist-Leninist ideology as a bourgeois political concept which veiled the class-character of capitalist society and served to obscure the class-rule of the capitalists. The democratic effects, the positive sides of pluralism which (even under capitalism) allowed for the non-propertied classes a right to self-defense, and vindicated rights and defended interests for groups of people against an overwhelming state power, was thoroughly dismissed (as such powers had to be feared also in the own statist-corporative system). The monolithic structure of power under state-socialism, with the organizational monopoly of the state-party was regarded by the rulers as the

only guarantee of maintaining public ownership of the means of production and a centrally administered socialist order. The dominant role of the state-party was unquestioned even in countries where the remnants of the earlier party system survived in the form of so called block-parties (as in Poland, Czechoslovakia and GDR), which could later on serve as a ground for revitalizing party pluralism during and after the changes. *Anti-pluralism has been a basic tenet of the official ideology in the whole socialist camp*, and its acceptance was a pre-requisite for entering public service or playing a public role in general.

But this decisive anti-pluralism affected not only party politics but the whole civil society which became paralyzed in its self-organizational capacity, as only licensed interest organizations were allowed to function under the supervision of the party-state power. (Therefore the interpretation of the “soft revolutions” of 1989 as a revolt of the civil society against an omnipotent state power, shared by many leftist activists and ideologues, was a small misunderstanding. This myth has been successfully refuted by Stephen Kotkin in his book on the Uncivil Society (Kotkin, 2010). Civil society could gain broad ground only after the changes.)

It is generally acknowledged that one of the great achievements of the 1989/90 „soft” revolutions in ECE has been the establishment of Western type pluralist democracies on the ruins of the imploded monolithic order of soviet type political systems. The speed of the political changes was astounding, especially in regard of the seemingly unmovable, stable authoritarian regimes that – despite small modifications – withstood decades. Within one year all the regimes in ECE collapsed in the vogue of the implosion and dissolution of the Soviet Union and its declared withdrawal from its position of a guardian (in critical term: imperial) power over the ECE region, a relation established originally after its victory over Nazi Germany and its war allies in 1945, sanctioned by Yalta Agreement and frozen by the cold war. (The Agreement of course did not foresee that the victor should impose its own political system upon the defeated countries by force.)

The dissolution of this geopolitical deadlock was an epochal event of the late twentieth century which offered new perspectives for democratic political

development in the region, not to speak about the new geopolitics of post-cold-war world order. More and more countries joined the “third wave of democratization”, a major trend that began with the fall of authoritarian regimes in South America and South Europe a decade before.

Poland has been the fore-runner in this development with its strong system-opposition of Solidarnosc, a movement which proved to be a major force in dissolving communist power. Its strength rooted in its massive social mobilization of working people which effectively questioned the self-legitimizing ideology of the regime as being a power in the interest of the workers. Hungary with its liberal economic reforms and a modestly tolerant political climate followed this trend from the mid 1980s, after the regime proved ineffective in dealing with its protracted economic stagnation and high debt-crisis. Parties of opposition emerged here already before the system change, and the Central Committee of USAP, the ruling state party, had to officially acknowledge and declare the principle of political pluralism as early as 1988. Sooner or later as if through a domino effect all existing state-socialist regimes with their monolithic, apparently solid power-structure fell apart in the whole region. (This proves how much the legitimacy of a regime is dependent on strong support of foreign powers that guarantee the stability of the system, if only by sheer force.) From social movements new (or new-old) political parties emerged that questioned the power monopoly of the ruling state party, whatever its name was. With the exception of Romania, where a palace revolt disguised as a genuine revolution of the street, broadcasted live in the state television, had to topple the autocratic and paranoid regime of Ceausescu, in all other countries in the East-Central European region a peaceful, negotiated „constitutional engineering” followed, whereby Western models of pluralist democracy were copied, colored by elements of local traditions. (The crisis and the secession war in former independent Yugoslavia falls out of this consideration, being a special case in this respect.)

All over Central Europe liberal-democratic parliamentary systems had been established with separation of powers, including new constitutional courts, a broad multi-party system, well established three-partite organized interests, a liberated media landscape, with guaranteed political freedoms for

expression and organization, and free elections. The founding elections in 1990 legitimated the new order and later constitutional modifications (such as the local self-government act) still completed it. The new system could be rightly called pluralist democracy (Bozóki, 2003). The new governments could begin with the difficult work abolishing the command economy and introducing institutions of a market economy, with all the conflicts this process involved. There existed, above all political differences of the major parties, a basic consensus in regard of the pluralistic parliamentary democracy based on rule of law, the necessity of the economic reforms (including privatization), and the joining of the Euro-Atlantic institutions (NATO and the European Community/Union).

I would like to stress here that *the reestablishment of democratic pluralism was greeted with great relief in the whole polity*. The new freedoms were largely enjoyed by all democratic (and by the same token, of course, also by non-democratic) forces. After the regime changes, new parties and civil organizations blossomed up and became part of everyday social life, even if many of them have been sooner or later occupied by the major parties which drew their elites foremost from the activists of civil societies and interest organizations.

Despite the emerging of a broad civil society with its numerous organizations and large networks, anti-pluralist attitudes remained nevertheless strong in the political culture of the large population, having firm roots in the authoritarian past of the prewar period. The specters of the past haunted soon when the social conflicts accompanying the economic reforms emerged. Decades of communist power which suppressed rather than resolved old historical cleavages did not help to overcome authoritarian attitudes of the past. While Robert A. Dahl's statement that a pluralist self-organizing of society emerges everywhere as soon as the brakes on freedom fall apart, proved to be fully right in the process of the system change, it turned out that engraved authoritarian habits could not easily disappear from one day to another. Especially when the rival political forces used different political traditions to fight each other, the old cultural and ideological cleavage of populists versus urbanites, nationalists versus liberal Westerners, modernizers

versus conservatives have soon emerged as a major division of political life. Such cleavages were not necessarily detrimental to pluralism, rather part of it. However, when it turned out that the system change could not fulfill the welfare expectations the population awaited from democracy, instead a new impoverishment set in for a large segment of population, criticism on “party quarrels” became soon loud in the public discourse. Instead of the fine pluralism and liberal tolerance of many interests, world views, life-styles and so on, they claimed that parties should rather unite in a big national consensus for resolving the basic economic problems and care for the needs of the common men. Concerned groups turned against the new democratic parties. In Hungary as early as 1992 the Society of “People Living Under the Existential Minimum” initiated a national referendum with the claim dissolving the first multi-party parliament. They managed to collect the necessary signatures, but the newly established Constitutional Court ruled out such an anti-parliamentary action by principle, even if the initiators called only for new elections and did not want a return to authoritarian rule.

Nevertheless, party pluralism took hold, even if participation in party politics remained generally very low ever since; trust in parties is the lowest among measured attitudes toward political institutions. After two decades of political freedom for many people politics is regarded still as a dirty business they do not wish to be involved in at all. As has been stated by surveying sociologists, we like democracy but do not use it. These are bad news for democratic consolidation in a changing society.

A return to anti-pluralism?

Since the world financial crisis, the debt-ridden euro-zone and economic recession holds on, the *demand for being protected by the state*, instead of a not so well flourishing free market economy, *became louder and more perceptible in the large population. This is the ground on which political populism and collectivist ideologies flourish and a new anti-pluralist trend comes strong on the political agenda.* Such problems stood already earlier

behind Meciarism in Slovakia, the populist government of the PIS with the Kaczynski twins in Poland, and now also behind the populist turn of Hungarian politics, where the government of the party-leader Viktor Orbán stands in for a strong state, for re-nationalization certain branches of the service sector and industry, strives for recentralization of power, taking rights back from the municipal self-governments, and tries to curb rights of his opponents.

In my paper I would like to concentrate on the Hungarian experience I know best, all the more because this stands in the centre of international debates. Hungary became in the last decade from a fore-runner to a laggard in the region and not only on economic turn but also in political sense. (See Transformationsindex BTI 2012.) The chance of democratic consolidation in the region under the strains of the present economic hardships became once more doubtful, as signs of a backslide to authoritarianism multiply.

I do not want to engage in discussion to what extent democracy is endangered because this may be misleading. A clear-cut distinction between democracy and dictatorship is anyway a difficult task, as government systems are very complex and ever more decisions are relegated to multiple levels of governance. Such contrasting ideal-types seem anyway to lie on the two ends of a linear. Also, there exist many types of democracies, institutionally better developed and less differentiated, stable and less stable ones, democracies of different quality due to duress and also depending on the established political culture in each country. Also, we should not forget the warning of Ralph Dahrendorf that a certain dose of populism is part of any democracy, and that political rivals often indict each other by this term. For my purpose I am therefore pleased with a minimalist definition of democracy used by Huntington, and concentrate rather to signs of a discernible anti-pluralist turn by the new political course of the Hungarian “system of national co-operation” conceived by Victor Orbán. This has been introduced since 2010, buttressed by a hastily pushed legislation process, is based on a new constitution (renamed to “Basic Law”) with a clearly ideological charge, and the creation of a lot of new institutions all labeled as “National”.

Huntington justified his “minimalist” definition of democracy with the argument that moral and material criteria cannot provide consensus about the essence of democracy. His main criterion is that the electorate, through periodically held elections, can peacefully remove the government by exercising its democratic oversight: “Free and fair elections give the essence of democracy, the inescapable sine qua non... Governments produced by elections may be inefficient, corrupt, shortsighted, irresponsible, and incapable of adopting policies demanded by the public good. These qualities may make such governments undesirable but they do not make them undemocratic. (...) Democracy is one public virtue, not the only one, and the relation of democracy to other public virtues and vices can only be understood if democracy is clearly distinguished from other characteristics of political systems.” (Huntington, 1993, pp. 9-10.) I think this is a well formulated argument which is to be taken to heart.

In the same vein Adam Przeworski states in his work on the relation of democracy and economic development: “democracy for us is a regime in which those who govern are selected through contested elections. This definition has two parts: government” and “contestation”. “ (Przeworski, loc. 262.) It is worth mentioning that Robert A. Dahl, in answer to criticism (he was indicted being apologetic about the uneven distribution of power in the US) discharged his former concept of pluralist democracy and opted for using the term “polyarchy”. This notion stressed two basic elements of political order: public contestation for and participation in power, and by crossing these two criteria he created his different types of political regimes in measuring their quality.

Therefore, despite the severe criticism on restraining democratic rights and freedoms (of which I find many arguments rightful) I resist to question the existence of democracy as a system of government in Hungary, as long as it is possible to change the government in free and fair elections. I concentrate rather on the issue, how far pluralism is stifled by the present governing power through its new ideology and power politics, and how far the necessary freedoms for free and fair elections will be impaired by the constitutional changes recently introduced in the country.

The new vision from a sovereign, unitary nation state

Every real political turn begins with a new vision and related conceptions. The political philosophy of the new course has been mapped out in a famous speech of the charismatic party leader Viktor Orbán shortly before the 2010 election held internally in front of a friendly circle of intellectuals:

“Until recently, Hungarian politics had been characterized by a dual field of force. In these days this duality of the system seems to cease, and a central political field of force is in the making...” And he follows: “There is a real chance that the next fifteen-twenty years has not to be determined by the dual field of force, accompanied by constant quarrels about values, generating devising, narrow and needless social consequences. Instead, a big governing party comes into being persistently, a central political power field, that will be able to restate the national cause – and all this not in continuous debates, but by representing this with its own natural weight.”

“Either we try to build up a system of government, which minimizes the chance to restore the dual field of force, being able to arrange the political issues, or we prepare for a counter-government, but then the dual field of force will be reestablished. It is my conviction that we should not pursue a counter-governance, but that we should establish a government of the national cause(s).” (Orbán’s speech in Kötöcs, 2010, quoted in my own translation.)

This vision about a great unified national party which stays persistently in the centre of the political field unrivalled by any real alternative force has its historic predecessor in the Hungarian pre-war authoritarian system dominated by the “Unified Party”. Such a system was not really a pluralist party system, even if some other parties were tolerated, but could be defined rather as a “dominant” or a “hegemonic” party system (see M. Duverger, G. Sartori), in which all other parties are doomed to secondary role due to a hierarchic clientele-policy of the ruling elite in a basically segmented society.

The cited text allows also a more benign interpretation: that the exemplary source of this vision is to find rather in a modern Christian

Democratic catch-all party like the German Union parties were under the long Adenauer period in Germany or later under Helmut Kohl (whom Orbán admired). The text allows such an interpretation when Orbán says: “my suggestion is that instead of the politics adjusted to the constant struggle, we should choose the politics adjusted to the continuous government; not perpetual fighting the opponents should determine our way of thinking but rather the convincing representation of certain national causes. *Naturally there will be competition and at the end the voters will decide.* The question is what kind of alternative we can provide.” (Italics mine.)

This text would support the democratic reading of the pronouncement. The critical test of this statement stands still out as the next election is coming only in 2014. The question is, what happens in the meantime, whether the possibility to form competing alternatives provided for the constituency to choose from will be maintained or restricted by various legal and political changes? The announcement of the prime minister, “you should look at my deeds, not my words”*, entitles one to judge on ground of experienced political and institutional changes made by the government whether it supports the more equitable interpretation of his vision or the other? The policy pursued since getting to power and the evolving shape of the new “system of national co-operation” suggests some doubts for a favorable reading.

First, Orbán’s national sentiment seems to go well beyond being an ardent patriot; he uses nationalism as a means of “identity politics” characteristic generally for populism. At the beginning of the system change a kind of neo-nationalism was more or less common in all related countries. In countries with changed borders it strengthened the new national identity; in other cases it served to support legitimacy of the more traditional, conservative parties. In Hungary a renewed nationalist ideology of the charismatic leader of the right serves to unite his own political camp of followers. (Another function is to draw votes away from the radical right.) It works by constant confrontation with opposing political forces that are often branded as un-

* In a speech hold for diplomatic delegations in Budapest, 2010, in excuse when confronted with some disturbing utterances of him, Budapest, 2010

national, alien-hearted or even enemies of the nation, who deny cooperation in his understanding. This is an extremely populist interpretation of politics – on the one side their stands an elite, alienated from the nation resp. from the people, occasionally even being indicted as of high treason, while on the other side the people with its self-appointed representatives, on top with the “eternal prime minister of the nation” (as Orbán was called since he lost election in 2002. “The homeland cannot be in opposition”, was his famous saying in those disheartening days.)

This reveals a kind of *Carl Schmittian world* in which every issue, should it be cultural, religious, economic or social, can and should be transformed to politics if it is able to group the people into friends and foes – a tactics Orbán used masterly as opposition leader in the last two legislative periods. (This is one reason why every attempt to serious reform of the economic and social system failed in Hungary with lasting consequences also for the present government.) Also akin with Schmitt’s political philosophy is his obsession with state sovereignty, and his condemnation of the plural political forces that tear apart the unitary state. (Other similarities relate to the use of language of political theology, but this would go too far to follow.)

From this vision emanates the political concept of the brand-new “system of national co-operation”. The basic political aims of the Orbán-government were clearly expressed already in the first Declaration on National Co-operation that has been issued just after the electoral victory; it was a small leaflet that summarized the mission of the new power to change the Third Republic, which they found all too liberal, toward the “System of National Co-operation.” The new government made it compulsory to hang it out on the walls of every public offices and government and municipal institutions. This partly programmatic, partly propagandistic text does not deserve any deeper analyses, as it only anticipates the following legislation process which concretized the original vision.

The new government and its qualified parliamentary majority began its course indeed by a large-scale remodeling of the whole political system. It changed not only the personal of many government offices, dissolved many existing institutions, but created new ones filling them exclusively with their

own loyal party delegates. The changes affected even the composition of the government, which was reduced to only eight ministerial posts, all other ministries being reduced to mere state secretaries (a fact that caused some problems during the EU presidency of Hungary).

One of the first legislation affected the media system of the country. The former multi-party supervising bodies, elected by the former parliament have been dissolved and a whole range of new administrative bodies was set up to control not only the public media but supervising the whole media landscape in the country, including the National News Agency that got (unconstitutionally) again under strict state control. All the new bodies have been filled with own political delegates, on the top with the leaders nominated for 9 years, i.e. well beyond one legislative period. Many other controlling instances have been reorganized only in order to bring them under control of the government. The Electoral Committee composed of multi-party delegations and experts, elected by the former parliament for 5 years, was the first to be dissolved, heading toward the municipal elections, and the new body has been filled with only ruling party delegates. The government curbed the role of the Constitutional Court in order not to endanger its financial policies (notably the nationalization of the private Pension Funds), but also as a kind of punishment because they throw back some other legislation they found as unconstitutional. (The Court was also completed by five new members, among them ardent party politicians in order to ensure decisive majority.) The earlier system of tripartite interest mediation was dismissed and replaced by a new consultative body with arbitrarily invited partners. (It is very characteristic what the prime minister answered to trade union leaders when they objected the new system: "I have been elected with overwhelming majority and this way I represent the working people with more right than you.") The Budgetary Council has been dissolved, and the Monetary Council President of the National Bank completed with new loyal members. The juridical system is also under change, at least on the top, and all serving judges beyond 62 years age have got pensioned (formerly they could serve until the age of 70.) The public and higher education system also undergoes major changes, and not only because of financial reasons. A much debated new law on religious freedom determined which religious nominations may count as churches and which

not. The new spirit of the government course is, however, best expressed by the new constitution which was introduced without real consultation with political partners and without broad public discussion, which is rather curious when it goes about the common normative ground of the political community everybody should respect. It had been accepted only with the votes of the ruling party-coalition.

It is impossible to deal with all the new policies initiated by the government, also because I lack the necessary expertise to judge the content of important policy innovations. (Among them the most debated new “un-orthodox” economic policy of the government which brought about conflicts with the EU, the IMF and with the international financial or political ranking institutions.)

In the following I deal only with those issues which have a detrimental effect on pluralism. These are the same around which an *infringement procedure* has been initiated by the EU Commission, which have been reviewed by the Venice Commission for Democracy by Law and the Council of Europe. I concentrate on the Media Laws, on the new constitution called “Basic Law”, and the change of the electoral system.

On the Media Laws

The Hungarian Parliament adopted two Media Acts, one on the freedom of the press and the fundamental rules on media content, usually referred to as Media Constitution, and one on media services and on the mass media. (Act CIV. of 9. November 2010, resp. Act CLXXXV. of December 30. 2010). Together these are called simply “media laws” that elicited serious criticism not only from the opposition but from the press home and abroad, and from international organizations like the European Parliament and the European Commission, the OSCE Representative on Freedom of the Media and the Commissioner for Human rights of the Council of Europe. The Acts changed the whole regulatory system of the print and electronic media and reshuffled

the structure of the public media, uniting different providers and submitting them to central control and supervision both in regard of financing, personal, content providing, news production.

Content requirements are included in the mentioned Media Constitution that include vague categories like the obligation to deliver objective and balanced information, to respect human dignity and human rights (the latter was taken out in a later amendment), protecting the majority from minority offences as well as the reputation of the church.

All the new decision-making powers, property and income of the public service media services (including the State News Agency) have been aggregated in the Public Service Fund, which is overseen and managed by the President of the Authority. The public media is allowed to use only the news of the Hungarian News Agency. Experience proved that news often became manipulated, and public service media outlets are politically lopsided.

The practice of appointment to the regulating bodies deserved also critical attention. The President of the Media Authority is appointed by the Prime Minister for nine years and may be re-elected any number of times. She is also Head of the Media Council, whose members was nominated exclusively by Fidesz, and got elected in Parliament also for nine years. It is noticeable that she can even serve much longer, if the next parliament will not be able to choose another person with a two-third majority. But all the other members also have been delegated by the governing party.

In case of violation of the law the Authority may impose a fine of up to EUR 722,000 (HUF 200,000,000) for electronic media and up to EUR 90,000 (HUF 25,000,000) for printed and online media. After repeated and severe violation of the law, it may also erase an audiovisual media service provider from the register. (Such decisions were made earlier by a body composed of delegated experts by the parliamentary parties.) In order to verify the violations, the Authority may access any data, even secrets protected by law, may hear witnesses even about secrets they hold, and may use this information in any other procedure anytime later. The Media Commissioner has the same investigate rights, even in cases when no violation of the law is

suspected, and report to the Authority. Investigative authority may oblige the journalist to reveal his or her sources, in the interest of “national security, public order, or the investigation or prevention of crimes”. If the information it demanded is not provided within the required time in the required format, the Authority may levy a fine up to EUR 180,000 (HUF 50,000,000) to any media outlet, whether print, online, etc. (This rule has been later annihilated by the Constitutional Court). If one who gets involved with the procedure – even if loosely connected to the media outlet against whom the procedure started – shows a behaviour which may potentially hinder the process, he or she may be fined up to EUR 3,600 (HUF 1000,000), or, if it is an organisation, up to EUR 90,000 (HUF 25,000,000). The Parliament commissioned the Media Authority also with certain legislative rights.

Although governmental influence on media bodies is known in some European countries, in older democracies the political culture guarantees that governments do not misuse such power. In Hungary with its protracted “*Kulturkampf*” such self-restraint is not to be expected, especially in case of a two-third majority of the government in office.

The above listed international organs stated that the new acts on media violate the European Convention on Human Rights, the European Convention on Transfrontier Television and recommendations of the Council of Europe regarding the freedom of expression. All critiques stated that the existence of a free, pluralistic media sector is a cornerstone of democracy. The regulatory system of media has to guarantee independence from political influence and control. Under the present overwhelming majority of the government in the parliament and the one-sided practice of appointment into the Media Council, the Board of Trustees of the Public Service Foundation, the Public Service Board cannot ensure political independence.

In the meantime findings of surveys conducted by media sociologists attested indeed heavy bias especially in the practice of news coverage for the governing parties and a negligence of broadcasting alternative rival messages. But the public sector is not the only which is affected by the “chilling effect” of content control. Community media content providers are not less endangered if they do not pare. (The most famous case being the quarrel around the Club

Radio, a broadcasting station which gives voice to opposition views. Despite two court decisions in favor of its continued contract the Media Authority is unwilling to prolong its registration resp. to renew its license for a next contact period, and the station is threatened by closure. Commercial linear radios and televisions are not less dependent on the Authority's decisions for their registration and licenses.

Due to these criticisms the media law has been since slightly modified by the government, e.g. certain content rules do not apply to the print media, but the infringement procedure and monitoring by the EC and Council of Europe still goes on. The latter's last report admits that some important changes came to effect due to amendments but expresses still some concerns about the guarantees of press freedom. Maintained are the criticism about the appointment practice and the constrained right to appeal against the verdict of the media authorities in the courts, two issues in which the government is reluctant to yield the international pressure.

The whole debate on the new media regulation is important in respect of ensuring the conditions of free and fair elections as a precondition for democracy. In this respect it is also worth noticing that the introduction of the switch to digital broadcasting, the deadline of which was foreseen for 2012, has been postponed by the government until the end of 2014, i.e. after the time of the next election. This fact is important in the light that in many households, especially in the countryside, only the public radio and television and the two (rather apolitical) commercial television broadcast can be received.

Constitutional engineering in second edition

During the election campaign of the party Hungarian Civic Union-Fidesz in 2010 there was not any mention of any intention to change either of the political system or the existing constitution. Experts of course knew that the leaders of the conservative camp were sternly committed to give the nation a new constitution which expresses their lofty ideas and their concern to

uphold the heritage of the great and glorious Hungarian past. This has been declared in the introduction to the new “Basic Law” under the title “National Creed”. This is not simply a usual preamble referring to human rights but it rather gives a short conservative narrative of the history of the Hungarian Nation. The text contains a reference to an unwritten *historical constitution*, whatever that be, to the role of Christianity in maintaining the Hungarian nation, and declares respect for the Holy Crown which would embody the continuity of constitutional statehood and express the unity of the nation. Further, the text holds that this continuity was broken from 1944 on and until 1990 Hungary was under occupation. This narrative served two aims: first to cancel the Nazi and Communist period from the historical continuity of the nation (including the short democratic period 1945-1948), second to deprive the existing Constitution of any legitimacy because of its alleged Stalinist origin. (It remains unmentioned that the National Roundtable of 1989 changed its content radically and founded the new republic on the principle of rule of law.) It would not make any sense to contest such an interpretation because it is not a scientific, i.e. debatable issue, but an expression of political will, written large into the Basic Law of the country. The Preamble allegedly “expresses the will of the nation“, and the “citizens of Hungary are ready to found the order of the country on the ground of national co-operation.”

As for the political system, some innovations were made, but the bulk of the text does not differ much from the previous constitution. The name of the country has been changed to Hungary, the word republic having been omitted. The number of the “cardinal” issues that require a qualified, two-third decision has been reduced by two (from 32 to 30), but it will cause problems that in some cases they include policy decisions which usually belong to the competence of elected governments. The Basic Law fixed e.g. the official currency in the constitution (while the introduction of the euro is envisaged in the foreseeable future, the new tax system is written into the constitution, and also budgetary restrictions constraining the government. Some new institutions are also casually written unnecessarily into the constitution such as the Hungarian Academy of Arts, an alternative institution to the existing Széchenyi Academy of Arts, an existing branch of the Hungarian Academy of Sciences.

It is impossible to analyze the whole new constitution here. For our purpose it suffices to state that it served two basic purposes: on the one hand, to anchor ideological commitments of the ruling party in the “Basic Law”, and on the other to ensure that newly created institutions should be protected against intended changes by any next government. Instead of going into details, I summarize shortly some criticism the report of the Venice Committee for Democracy by Law contains. This body of constitutional judges with international experience found the whole procedure of preparing and accepting the Constitution unsatisfactory because of a lack of broad consultation and hasty introduction with only the consent of the governing party faction. The report also objects some important issues in regard of the appointment practice of the government in regard to the Attorney General, and the President of the National Juridical Office. It criticizes the curbing of the rights of Constitutional Court, and the dismissing of the judges beyond the age of 62 years. It criticizes the high number of “cardinal issues” that require two third majority for changing. Some of the criticism affect the new electoral law (see below). (The whole report is accessible on the homepage <http://www.coe.int/20120321-hongrie>).

The Hungarian constitution required change indeed, also because it declared itself as provisional and to be modified later on. Since then there was only one occasion when it could have been changed, during the socialist-liberal coalition government which attained two third majority in the 1994-1998 legislation period. The government then restrained from changing the constitution because they could not find consensus among the parties. This time the Fidesz-government had not such scruples; its parliamentary majority imposed the new constitution upon the minority, and also against the public mood. The prime minister once told to journalists that he cannot feel any respect toward the old constitution. It remains to be seen, under such circumstances how much respect the new constitution will elicit from the citizens of the country.

Changes in the Electoral System

The Hungarian Parliament passed a new electoral law at the end of the last year. (Act CCIII. of 2011.) The former electoral system has been modified on many points. The electoral system remained a mixture of proportional and majoritarian system. A major innovation is that the number of the deputies became reduced from 386 to almost a half, to 199 members. 106 mandates come from individual electorates, where a relative majority decides over the mandate as against the former required absolute majority. 93 mandates come from a national list of party candidates. The election runs in one round, formerly there were two rounds, which provided a chance for smaller parties to coalesce in the second round. This means that parties challenging the present ruling party coalition have to decide before the elections whether they run a common list or not. A smaller parliament with an overwhelming majoritarian character reduces also the chances of smaller parties to get into the parliament. New is only a stronger disproportion in the assigning the mandates. While the former electoral system also favored the winner (in order to get stable majority for government formation), the new system exacerbates this by assigning the not used votes of the winner (i.e. the difference of votes between the winner and the second challenger) to the party list and thereby helps the winner to an overwhelming majority of mandates, a rather unique solution for getting premium mandates for the winner.

For national minorities a special list of candidates can be set up. More important is, however, that Hungarian citizens living beyond the border received voter rights.[†] Although they may probably vote only for the national list of party candidates, if they acquired Hungarian citizenship, their votes will probably influence the outcome of the next election. Until now their number is not too high (Slovakia even ruled out double citizenship for their citizens by

[†] This was one reason Fidesz joined a referendum in 2005 for providing Hungarian citizenship for ethnic Hungarians living beyond the border. But this was also the main reason why the socialist-liberal coalition did not support it. The referendum was unsuccessful, but allowed the opposition to push liberals and socialists into the corner of being un-national forces. One of the first acts of the present government was to remedy this grievance by an act on providing double citizenship.

law), and it stands open, how many people want to take part in the Hungarian elections at all. Nevertheless, according to a survey conducted in March 2011 53% of those ethnic Hungarians with double citizenship in Transylvania are opting for Fidesz.* The political landscape may change, however, until the next elections.

A next feature of the new electoral law is an outright gerrymandering of the electoral districts in favor of the governing coalition. In about 25 cases the borderlines were changed to disrupt districts with usually strong socialist voting preferences. There of course also some positive elements in the new law, such as the reducing of the necessary supporting signatures for party candidates, cancelling of the threshold for participation etc. As the regulations for implementation of the law still stand out, further surprises are not excluded. E.g. there is a new debate launched about the compulsory preliminary registration for voting. Other regulations foresee the exclusion of double posts for being municipal mayor and parliamentarian at the same time. (In the present parliament quite a few mayors have mandates.)

As stated earlier, the next elections will be a critical test for the new system in proving its real democratic character. Free and fair elections are a basic precondition for democracy, and this elevates the importance of the new electoral system. This is the reason that international organizations find it necessary to monitor the whole legislation process in this respect.

Instead of a summary

Pluralism is a much broader concept than being mere political. It is a multidimensional concept which includes religious, spiritual and cultural diversity, the right to follow different life-styles, represent social values, to protect social interests of groups and maintain cultural identities. Political pluralism is, nevertheless, much needed to safeguard all the other aspects of

pluralism. Clinging on a unitary concept of national community is, however, not an ideal ground for maintaining plural commitments and to foster that “bicameral orientation to political life” (W. Connolly) which furthers tolerance (as the most important value of pluralism) and peaceful settlement of unavoidable social conflicts. A narrow concept of national sovereignty (especially if it has ethnocentric or as in the case of the radical right, even racial connotations) denies pluralism and does not fit to the needs of people in a modern, complex, globalizing world. The political nation needed to be conceived rather as a “majority assemblage” (W. Connolly) in which alternative visions for the common good are provided and stand for electoral choice.

The German political scientist Wolfgang Merkel and his colleagues summarized some basic types of weaknesses of new and unconsolidated democratic systems in the critical notion of “defect democracies”. Two categories are of interests here if we ponder on the character of the present political changes in new democracies. The one is the type of “*delegated democracy*”, the other the “*illiberal democracy*”. In the former, the separation of powers comes short, and the control over the highest authorities is weak or missing. Presidential systems are prone to slip into this, reminding on the concept of “plebiscitary leader-democracy” coined by Max Weber. The parliament has here a mere sham-existence, the judiciary stands under constant political pressure, and the leader relies on direct popular mandate. Today the term “Putinization” refers to such a development. Charles Gati cites the words of Vaclav Havel in this respect: “Everything seems to follow the rules of democracy. There are parliaments, there are elections, and there are political parties. But there are also highly worrisome and unnaturally close ties between elected officials, the judiciary, the police, and the secret services.” (Gati, 2012)

As for the other type, *illiberal democracies* appear in countries where traditions of “Rechtstaat” (rule of law) are weak. Here the governments have been elected by majority votes, but there are no guarantees for the citizen’s equal rights and liberties. Independence of jurisdiction does not prevail; principles of rule of law are often violated. The realm of politics and administration is often corrupt. A strong patronage and clientele system is in

work, a “*cleptocracy*” finds its way into the state power, curbing also the development and functioning of the free market. A kind of *partocracy* is in the making, distorting political competition and constraining the emergence of new alternatives. The political culture shows strong populist characteristics, and political lethargy and exaltation alternate.

These are well formulated descriptions of possible defects we may find more or less realized in most young democracies. Some of these problems are inherited from an authoritarian past, but many new problems derive from the parallel introduction of capitalist market economy and political democracy and from their uneasy relation for the next future, under economic strains of crisis and deep-going social differentiation. Which path the Hungarian democracy will go in the next future, remains to be seen.

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