

# EUROPEAN ATLAS OF DEMOCRATIC DEFICIT

edited by  
Miłosz Hodun



projekt: polska®

#corruption  
#freedomofmedia  
#electionlaw  
#nationalism  
#justicesystem  
#islamophobia  
#accountability  
#populism  
#stateofemergency  
#hatespeech  
#politicalcorruption  
#checksandbalances  
#legitimacy  
#ruleoflaw  
#humanrights  
#xenophobia  
#stratification  
#elections  
#citizenship  
#representation  
#stability  
#brexit

European Atlas  
of Democratic Deficit

*European Atlas of Democratic Deficit*  
edited by Miłosz Hodun

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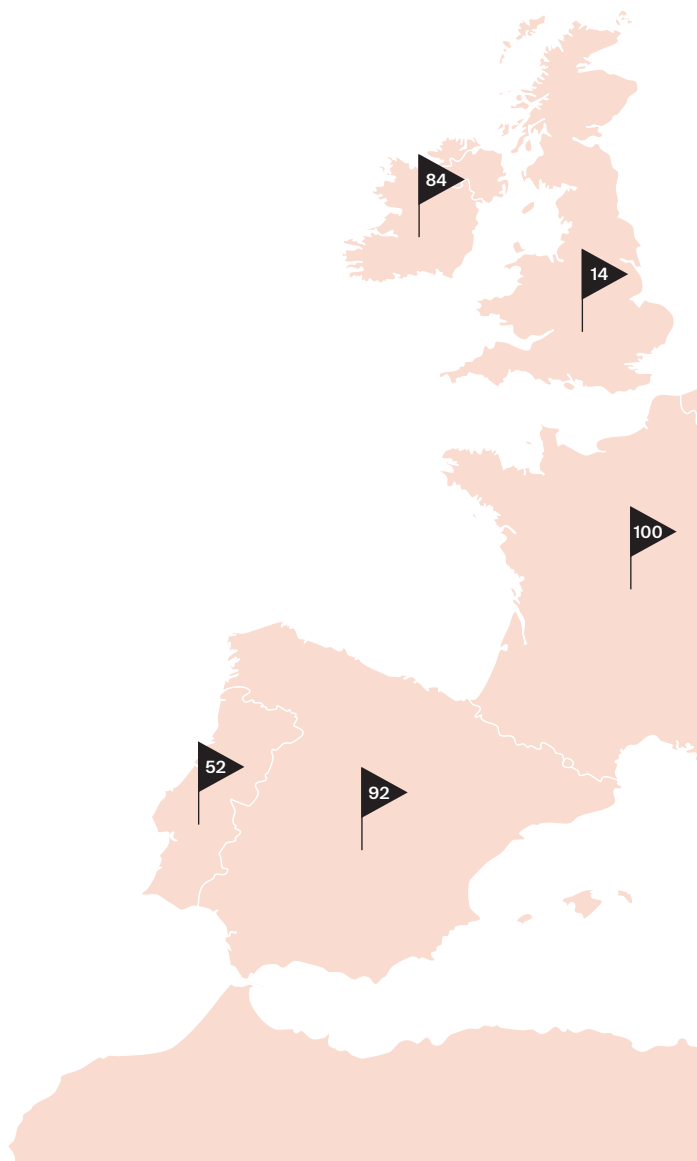
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# European Atlas of Democratic Deficit

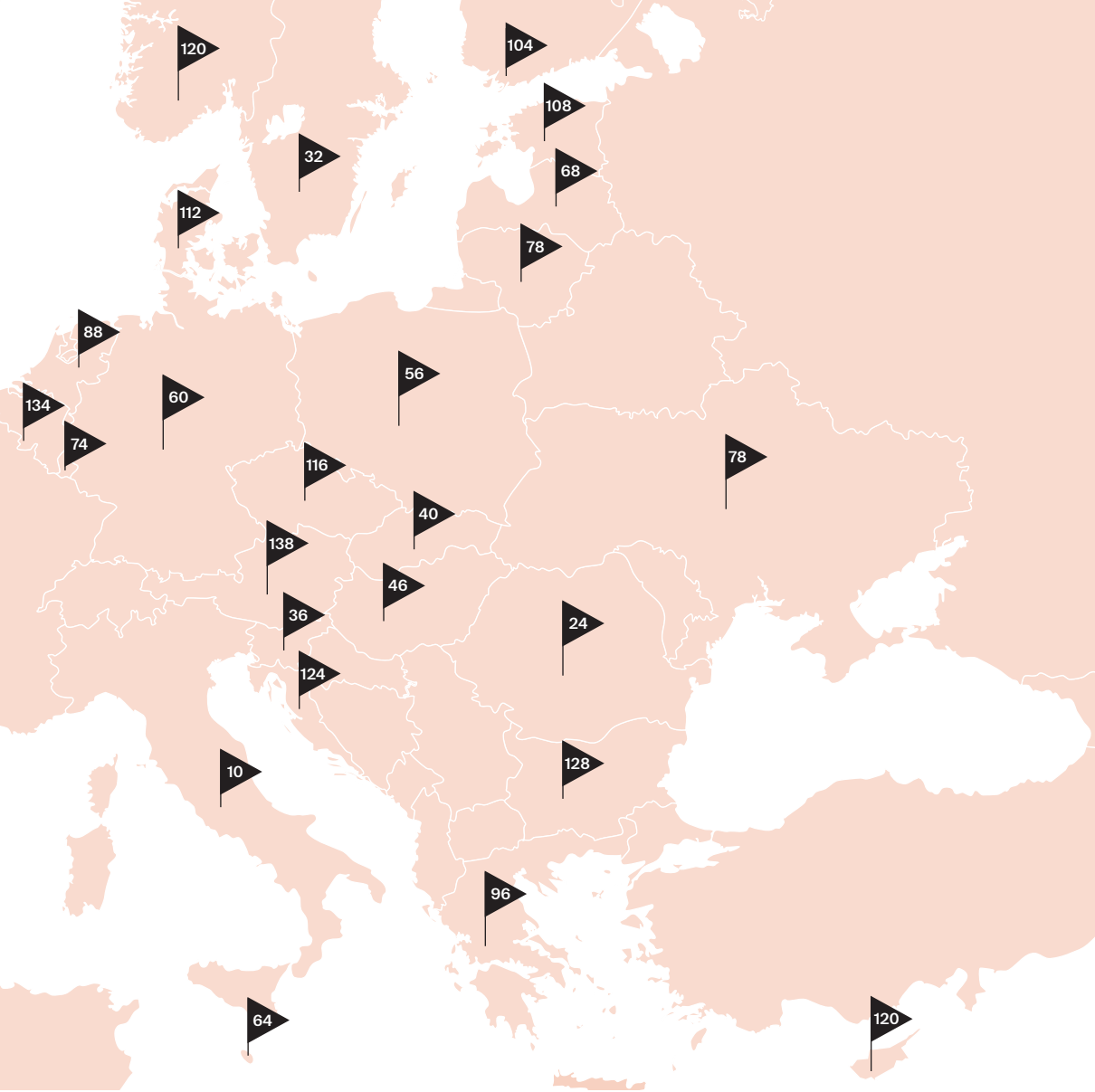
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# Democratic deficit in Europe — Is it indeed the main issue?

## **Neža Kogovšek Šalamon**

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The annual State of the Union Address of the President of the European Commission Jean-Claude Juncker of 13 September 2017 was a good opportunity to reflect upon the problem of democratic deficit in the European Union (EU). The usual problems discussed in the framework of democratic deficit basically refer to the question of legitimacy of the EU governance. They touch upon wide powers of the EU Council, the fact that the Council of Ministers that adopts laws consist of ministers who have not necessarily been elected on the national level, the fact that the EU president and the President of the European Commission are unelected officials, and the problem of a low voter turnout at European Parliament elections (which was 42,61% at the 2014 elections). The latter is believed to be a result of the low level of acceptance of the EU by the European citizens.

### **The Gap**

On the conceptual level, the challenges to the legitimacy of the EU governance are posed by the lack of representativeness of the EU citizens, failure to make the EU more accessible, and insufficient accountability of the EU institutions. The problem of the “structural democratic deficit” within the EU has also been pointed out by many, including the German Constitutional Court.

In the past, some of these problems have been addressed. For example, the role of the European Parliament has been strengthened vis-à-vis the Council and new citizen participation tools have been added to the EU governance structures, such as the right to petition and more recent rights to European citizens’ initiative.

While formally these tools provide for exchange between the European institutions and European citizens, the gap seems to be widening between the values of some segments of European societies on the one hand, and the EU values reflected as such on the EU level. Examples of such would be: values enshrined in the EU



treaties, the Charter of Fundamental Rights, and those in preambles of various directives, regulations and other sources of EU law (such as fundamental rights, non-discrimination, equality, transparency and similar). Namely, it is becoming very obvious that there are portions of the European populations that do not seem to accept these values anymore. For instance, many people in Europe do not recognize universality of human rights of people who are not EU citizens, or even of citizens of other EU member states. Also, the right to free movement of EU citizens within the EU territory, which has been gaining recognition since the adoption of the Citizens Directive in 2004, is now losing importance due to accusations that EU citizens moving from new member states to the old member states are only “jobseekers”, “welfare shoppers”, and hence are undesirable.

Further, nationalistic and racist sentiments within the EU societies are gaining significant prominence. The openly racist party Golden Dawn has been sitting in the Greek parliament since 2012. In 2017, the German parliamentary elections brought a shocking success to Alternative for Germany (AfD) that aggressively defends racist, anti-immigrant, and anti-refugee positions; this means that such positions will be officially represented in the German parliament for the first time after the Second World War. While Marine Le Pen has been defeated at the presidential elections in France in 2017, her party Front National remains a strong political actor pursuing a comparably nationalistic programme. The situation is similar in various other EU member states (e.g. Austria, the Netherlands, Finland, Slovenia) where nationalistic politics is not the winning option yet, but it enjoys a strong support of the local population.

Yet in other parts of Europe, most prominently in Poland and Hungary, similar, but slightly different adverse trends are on the rise. Along with strong anti-refugee sentiments additional illiberal trends are notable. They aim towards closed societies governed by strong central authoritarian governments which are interested in leaving only limited room for democratic oversight and judicial control. These governments are heavily criticized by the EU institutions for their methods of governance, due to their impediments for democracy and the rule of law.

At the same time, the trust of the EU citizens into the EU institutions is on decline. According to the Standard Eurobarometer opinion poll of 2016, only one third (33%) of Europeans trust the European Union, which is an extremely low share. Now, the question is: what if we tried to bring the EU even closer to its citizens? How would the EU have to change in order for this to happen?

### Identifying Identity

The fact is: we might not like the result. First of all, the often progressive-thinking EU institutions might not identify with what its citizens would like them to become. Further, EU citizens might not agree among themselves on how the EU should develop in the future. For instance, those that are more progressive already criticize the EU for not being sufficiently bold in proactively addressing migration challenges. They might also criticize the EU for its lack of action in cases of fundamental rights violations by the EU member states. Others criticize the EU for being too lenient towards migration, taking the risk of losing its “European identity”, whatever this might be. These voices demand even more closure of external and internal borders, more return, less immigration, and lower asylum recognition rates. Yet again, some want more democracy, transparency, and more accountability of the EU institutions. Others feel that there is a need for leaders who are more decisive, have stronger personalities, and would represent father figures to the European nations.

Next, the West might want something completely different than the East. The already significant economic and political differences between the two poles also cause different expectations from both, the EU, as well as from other member states. Taking all these differences into account it seems that Juncker’s plan, evident from the State of the Union Address of 2017, to further consolidate the EU, seems just right. In this process, reaffirmation of EU’s legitimacy and bringing it closer to the citizens would also be much needed. Consultations with citizens that Juncker (and before him the French president Macron) mentioned on several occasions would be more than appropriate in this process. Not only that they have to take place nationally, they have to be held locally. Not just in bigger cities, but also in towns and villages.

Namely, the EU is splitting into, if we resort to a bit of simplification, two universes — one consisting of societies profiting from EU membership, economic growth, scientific and technological development, and multicultural experiences offered by EU cities and another one composed of societies that are economically deprived, do not feel that their opinions are heard, and feel threatened by fast globalization and constant acceleration of mobility of people and information. It is not surprising that closing down into smaller circles, behind the seeming protection of the national borders, might seem as a good idea in these circumstances. Hence, new links between the two universes have to be established, and this has to be done both bottom-up and top-down. While there is definitely the need for

the societies to be aware of this problem and organize locally, there is also a need for the EU to know about these parallel universes and act accordingly. If these problems are not addressed, the gap between the two universes will widen. In such circumstances further decomposition of the EU might become the real threat.

### Two Universes

These issues are strongly visible in our daily lives. In our work on issues such as fundamental rights, the rule of law, and migration, we meet groups that seem to be coming from a completely different place, as they might for instance care much more for religion, tradition, patriotism, or national identity. This is not a problem by itself. The problem is if the two universes have nothing in common anymore, as they might despise each other and be not willing to listen to each other anymore. The political leaders should not overlook this. Furthermore, it is extremely short sighted for political leaders to abuse this gap by inciting some groups against others. They should be making sure to promote the EU values on the ground and at the same time to transfer the messages of the local populations to the EU level, so that the EU institutions remain aware of the local problems and opinions.

The cacophony of expectations, values, and ideas of how our European societies should look like further contribute to the existing problems of the European democratic deficit. It is difficult to address the institutional challenges, especially in a situation where the existing institutional structures are under threat of falling apart — just think of Brexit, the Greek financial crisis, or the possibility of triggering of Article 7.

In this situation, careful approaches aiming at further consolidation of the EU would be an appropriate way forward. Bold moves might threaten the persistence of the already fragile system which does not have a very strong popular support. At the same time, strong condemnations of the rise of racism and nationalism are most needed. After all, there is the need to remember why the European project has been initiated in the first place — to prevent future wars in Europe, alongside the aim of ensuring prosperity for Europe as a whole. These two goals have to retain the primary importance. Maintaining the EU and reforming it in small steps towards greater accountability and accessibility, including new member states to ensure further cohesion in wider Europe, while at the same time continuing to address inequality, racism, and nationalism are the pathways that should be followed for the EU to avoid less desirable scenarios.



# Weimar Scenario?

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In Italy the gap between the people and the politicians is deepening and widening. The people perceive politicians as the French aristocracy was perceived just before the 1789 revolution. There are many reasons for this, some actual and based on facts, and some based on simple feelings; the latter can be right or wrong but still, they exist.

## The piggish law

The current Parliament was elected by a law — the so called *Italicum* — ruled partially unconstitutionally by the Corte Costituzionale in 2014. Actually, in 2017 there is still no new electoral law to replace the *Italicum*. *Italicum* replaced in turn an even worse law called *Porcellum*: the piggish thing in Latin. What was common to those two laws was the fact that the voters could not choose a candidate but only a Party's list.

From 1994 to 2001, the Italians voted by virtue of a law based on a first past the post system for the 75% of the seats, and they liked it. But the first past the post system for the Italian politicians had a huge defect: it clearly states the winner and the loser. So the politicians devoted all their efforts to change that annoying circumstance by building up two laws that could never grant a stable majority in the Parliament.

In whole Europe a coalition is made by the bigger party that leads the way. In Italy the smaller the better — as long as the Lilliputian party has enough seats to guarantee the majority. Furthermore, some MPs are inventing new parliamentary groups and creating new parties never submitted to the popular vote. The foolish electoral law system has had consequences on party's discipline. In February 2017, according to *Il Giornale*, about 400 MPs, on a grand total of 945 elected MPs (Camera and Senato), switched from one party to another. And now, October 2017 just before the elections and

during the last five months of their term, Italian politicians are trying to approve a new electoral law, ignoring and by-passing the opinion of the Constitutional Court. At the same time, the Government is trying to pass a new Citizenship law to give citizenship to new groups of people. Or to new groups of potential voters... — as many Italians believe. People suspect they want to create new citizens to have their votes. The suspicion could be groundless but many Italians are wary of politicians.

In this quagmire three Prime Ministers have been changed: Gianni Letta, Matteo Renzi, and Paolo Gentiloni; the President of the Republic has been re-elected, that had never happened before in the republican history, and a constitutional referendum has been held.

### Looking for the good guy

Three Governments in five years is not a bad result for Italy, but Renzi was not an MP when he became Prime Minister — he was the mayor of Florence. The Constitution does not forbid for no-MP to become Prime Minister, but this had happened only two times: in the case of Carlo Azeglio Ciampi and Lamberto Dini. Matteo Renzi was the third non-elected premier, but his election reinforced the idea of a non-voted man in charge of the government.

The Constitution does not explicitly forbid the re-election of a President of the Republic either, but the constitutional conventions have always deplored the re-election of the Chief of the State, for the length of the presidential term of office of seven years. Despite this, Giorgio Napolitano was re-elected President of the Republic by a newly elected Parliament. In doing so the Italian politicians admitted that they had no credible person to stand for an office representing “the unity of the nation.” The Parliament was elected with the unconstitutional *Italicum*, and Giorgio Napolitano was not a beloved president like Sandro Pertini or respected like Carlo Azeglio Ciampi. He was an old communist apparatchik, who served as the Minister of Interior and as the Speaker of the Camera dei Deputati.

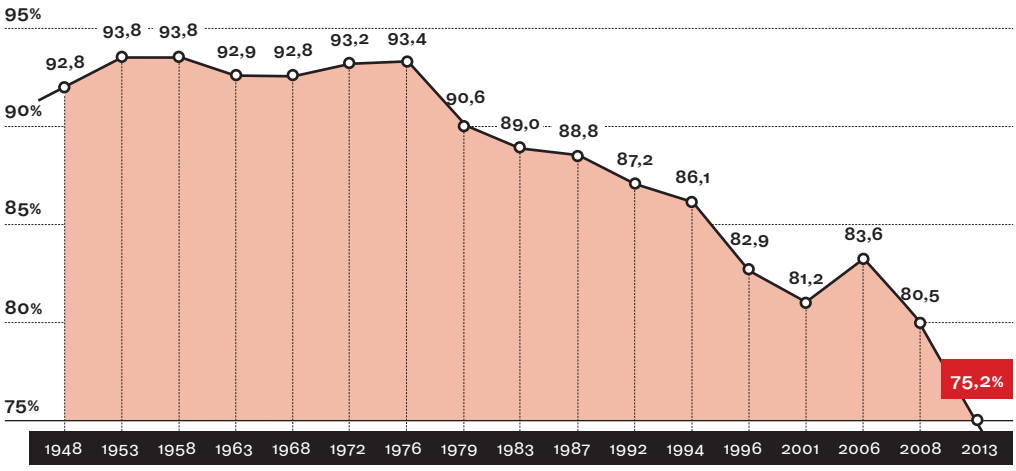
Last but not least, there is the issue of the constitutional referendum. Matteo Renzi tried to change the Constitution and his proposed reform was voted by the same Parliament elected with the same unconstitutional *Italicum*. The Italian Constitution provides for a referendum after two parliamentary votes in the case of constitutional reforms. It does not matter if Mr. Renzi’s constitutional reform was really needed as he said — actually it was not at all — the successive referendum outcomes recorded about 60% of the voters against the reform. The result doomed both the

constitutional reform and Matteo Renzi. Actually in the night of the defeat Matteo Renzi promised on TV he would retire from politics; currently he is still the Secretary of the Democratic Party, the party's candidate running for the office of Prime Minister.

The lack of credibility of politicians in Italy is underlined by the growing electoral absenteeism (see the graph).

### The turnout in the Italian parliamentary elections (Chamber of Deputies)

Source: ANSA



To these political and constitutional facts we must add the shocking persistence of the corruption, the high salaries paid to the politicians, and their incompetence. A gag said that there are more graduates in the kitchen of a fast food than in the government of the Republic. Quite true, in fact several Key-Ministers have no university degree: the Minister of Justice, the Minister of Public Health, and the Minister of Labour. The Minister of the Instruction, University and Scientific Research deserves a separate discussion, as she did not even attend a five-year high school course. She has a middle school diploma, and for all of her life she was a trade unionist; a textile trade unionist.

This unsettling panorama is common to all political parties both right and left; and both right and left are happily sawing off the

branch on which they sit blaming the EU for any unpopular measure. Meanwhile, they forget true liberal measures in the economy. Furthermore, like ostriches the Italian politicians are burying their heads in the sand and refuse to address the growing number of poor people and call the Movimento 5 Stelle fascist or populist. With all its huge defects, the Movimento will be remembered by the future historians as the last ditch against a resurgent Italian fascism. Although the Movimento is often accused of being a populist party with strong anti-EU feelings, it has hitherto demonstrated to be faithful to Democracy and Constitution. It has also brought common people closer to politics by appealing to them and encouraging them to participate in the elections. Obviously, the Movimento is not all sunshine and rainbows, but certainly it currently drew the votes of the disgruntled, preventing them from going to the far-right parties.

To conclude, the frightening flaw of the Italian politicians is the idea that they are brilliant and they rule by sort of a divine right over an illiterate crowd which must be guided for its own good even when not convinced if it is for the good. The democracy in Italy is near to commit suicide.



# The Greatest Test

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**Unwritten Constitution**

Brexit is the biggest challenge to British democracy this year and may well prove to be the greatest test that the UK has faced since the Second World War.

It is hard for many foreign people to believe it but the UK has an unwritten or ‘uncodified’ constitution. It is the only country in the world that does not have one single document to point to, so that people can say that is Britain’s fundamental law and that is the way things should be done there.

This is because the British constitution has evolved piecemeal since the Magna Carta was signed on 15 June 1215. The UK constitution consists of some written documents — such as the Magna Carta — but also many customs, conventions, usages, precedents and a variety of legal instruments that have been built up and been kept over centuries. The beauty of this way of doing things is that it has given the country a great deal of stability for a very long time.

However, Brexit is a test for British democracy and the country’s constitution for a whole host of reasons. One of the main reasons Brexiteers wanted the UK to leave the European Union was because of the way in which European Court of Justice rulings had to be accepted almost automatically by British courts. In the Brexiteers’ view this meant that Britain was losing its sovereignty and eventually the country would have a kind of written constitution decided at a European level.

Many British intellectuals felt that was ‘undemocratic’ because, of course, the judges are unelected (this position was reinforced by the fact that the European commissioners are not elected either despite their immense power).

But I think one of the biggest problems that Brexit has posed for the British constitution is the way in which it was decided: through a referendum. The UK has a parliamentary democratic



tradition stretching back hundreds of years. There are 650 MPs who represent around 92,000 people each. The tradition is that all major matters are decided by MPs without recourse to a plebiscite. They are the representatives of the people and are meant to use their best judgement and their conscience to decide what is right.

This does not mean to say there have never been referendums in Britain before. In 1975, one took place on whether we should remain part of the European Economic Community, the forerunner to the EU (that time round the answer was ‘yes’). But there was an 18-year gap between 1979 and 1997 when none took place.

In my opinion, Tony Blair has a lot to answer for in terms of creating many of the challenges that the UK – and the world – faces today but to that long list should be added the re-introduction of referendums. His government held them on Scottish and Welsh devolution in 1997 and they were then continued by the Conservative/Liberal Democrat administration of David Cameron (on electoral reform in 2011, Scottish independence in 2014, and then Brexit in 2016).

These plebiscites have undermined the parliamentary system that prevailed for centuries in the UK – what is the point of having elected representatives if you are going to have referendums regularly?

They also tend to be highly divisive and have made the British polity more fractious. Families were divided over Scottish independence and long-term friendships destroyed over Brexit. The motives of the man who murdered the Labour MP Jo Cox last year are not clear but it is true that the UK was living through a period of highly charged emotions in the run-up to the EU referendum.

The referendum questions tend to be ‘binary’, ‘yes’ or ‘no’. And life is not always that black and white. So, I would argue strongly that Britain must not hold any more referendums. They are not good for British democracy.

And last year’s Brexit referendum – which took place on 23 June – really ran a coach and horses through the British constitution. Some 52% of voters plumped to leave the EU while 48% opted to remain.

It has proved to be utterly divisive for the British people and probably the UK political system is now more fragmented than at any time since the start of the Second World War when a great debate took place about ‘appeasement’ towards the Nazis under Neville Chamberlain or a more aggressive stance under Winston Churchill.

To be fair to Cameron, he would argue that he had no option but to call the 2016 referendum, that EU membership is fundamental and that the British people must decide once and for all whether

they want to be members. Many people on the Left argue that Cameron held it as a way of dealing with rowdy Brexiteers in the Conservative Party; it was a way of managing the Thatcherite wing of the party. There is probably some truth to that.

Cameron almost definitely thought that the Remain side would win the referendum and it is unlikely that he would have called it if he knew the Brexiteers would triumph (it is a moot point whether he now rues having called it).

### **‘Why don’t we just leave?’**

Brexit divided Britain right down the middle. Some newspapers have run with stories this year saying the Queen did not understand why ‘we don’t just leave’ (the monarchy is meant to be strictly neutral on all political matters, according to constitutional convention).

But it is clear that most former British prime ministers, including Gordon Brown, Tony Blair, and Sir John Major wanted us to remain members. And the vast majority of the people who run Britain – referred to almost pejoratively as the Establishment – wanted us to stay. These include government ministers, top judges, top civil servants, chief executives of FTSE 100 companies, university chancellors, leading newspaper columnists, and the senior brass at the Bank of England.

There were notable exceptions, of course, who supported Brexit. They include Sir Mervyn King, a former governor of the Bank of England; Sir James Dyson, the entrepreneur behind Dyson vacuum cleaners; Charles Moore, a former editor of the Daily Telegraph; and Nigel Lawson, a former British chancellor.

However, the referendum outcome is posing special challenges for every branch of British government and it is true that Brexit is a historic moment that will shape the UK – and Europe – for the next 50 years, at least.

The referendum result is not legally binding. It is only advisory for parliamentary lawmakers but it would be a brave leader who ignored it. Both Primer Minister Theresa May and Labour leader Jeremy Corbyn have said they accept the outcome (though the latter is now speaking with a forked tongue probably to try to maximise his vote share).

I believe that now it has been called it is virtually impossible for politicians to ignore the ‘will of the people’. It would be very arrogant of the political class to turn round to voters and say, “I am sorry, guys, we know we live in a democracy but you have just not thought this one through, we know better than you”.

If politicians tried that it could result in even greater popular rebellion, something that Nigel Farage, the former UKIP leader, is already threatening because he believes Brexit is being watered down.

However, it is certain that both the country's main political parties – the Conservatives and Labour – are utterly divided over Brexit.

Theresa May is a Remainer but is the head of a government that has committed itself to Brexit.

This is a contradiction that has proved extremely hard for her to get around at a personal level. It seems that how ever much she wants to talk up Brexit, in her heart of hearts she really thinks the whole thing is a bad idea (at a Goldman Sachs event before the referendum she described Brexit as 'crazy').

### **The Opposite Problem**

On the other hand, Corbyn seems to have the opposite problem. He ran a lukewarm campaign in favour of EU membership but many people suspect that deep down he would like Britain to leave the Union so that he can pursue 'socialism in one country' in the UK.

Traditionally, the British Hard Left – he is a prominent member – has been against EU membership because the European Commission could enforce a competitions policy in the country that would stop the state ownership of key industries (Corbyn wants to take the railways, the Royal Mail and energy utilities back into state hands).

In my view, this has now become one of the biggest reasons in favour of us remaining a full member of the EU. The Brexit outcome has given a 'window of opportunity' to a socialist party to take power that would pose a threat to the tenets of liberal democracy. This unwelcome result has come about because many young people who supported Remain voted against the Conservatives at the General Election on 8 June. In a spasm of defiance or as a kind of protest vote, they opted for Corbyn at the election (despite him almost definitely being in favour of withdrawal deep down).

Many people on the continent do not realise just how left wing the Labour Party has become. John McDonnell – the shadow chancellor who admits to liking Karl Marx – believes in street action as well as parliamentary democracy. He also advocated the arbitrary seizure of property following the Grenfell Tower catastrophe in London in June. The current leadership of the Labour Party has a strong nexus with the regime that runs Venezuela.

And, so, this is one of the great challenges that Brexit has thrown up: how to come up with a good deal on our withdrawal at the same time as seeing off a socialist threat.

The Liberal Democrats are the only major national political party that fought the General Election on the basis of us remaining part of the EU (they wanted a second referendum to take place). They did badly!

Yet, Theresa May's lack of passion and of charisma was amply demonstrated at the General Election. She was not prepared to have a live television debate with Corbyn and most commentators think that the Tories put in their worst election performance ever. She was so certain that she would win handsomely that she even changed the law so that the election could be held (in 2011, the British parliament had passed a Fixed-term Parliaments Act which meant that the next British election was not necessary until 7 May 2020).

In the end, Corbyn did much better than most commentators expected. The Conservatives lost 13 seats and Labour gained 30, meaning May lost her overall majority in the House of Commons (the Conservatives now have a total of 316 and Labour 262). She had to enter into a coalition with the dreaded Democratic Unionist Party in Northern Ireland — which has ten seats — to remain in power (dreaded because it is seen as a highly reactionary party — its against gay marriage, for example).

The Liberal Democrats won only 12 seats at the General Election (up by three since the 2015 General Election) and the Scottish National Party took 35 (down by 19 from the 2015 General Election).

Overall, this is an extraordinary election outcome and one that no one was expecting. One Conservative wag said that May is the least successful PM since Lord North who lost the United States for Britain in September 1783!

And, so, the UK has one of the weakest governments since the Second World War at one of its most vulnerable periods. It faces an Islamic terrorist threat; must chart a new political course for itself outside the European Union; and has an opposition political party that wants to undertake a socialist transformation of the country.

It is not yet totally clear how Britain will navigate these choppy waters but I am optimistic that it will manage to do so.

It is now becoming more and more evident that the UK will not have a clean break from the EU. Within the last month, the Labour Party has changed its position on Brexit, from fully supporting it to now saying that the UK should remain a member of the single market.

I think it has done this because it wants to maintain the support of young Remain voters. The Labour Party has been extraordinarily divided over Brexit. Many of its MPs represent

metropolitan constituencies — including Corbyn in Islington in London — where the populations are strongly in favour of the EU. But many of Labour's traditional working class Northern seats are heavily pro-Brexit (these communities tend to think that the mass immigration that the UK has witnessed during the past decade has pushed up property prices and rents and has made the competition for jobs more intense).

The Labour Party wants the continuing support of both groups but by the time it has any chance of coming into power — probably from some time after 2019 — Brexit would have already happened and the debate would have moved on (clever Labour strategists such as Seamus Milne know this which is why the party is currently trying to be all things to all people).

The great challenge for British democracy this year and next is getting the right kind of Brexit deal.

The complexities of the Brexit process were highlighted at the start of the year when the British Supreme Court had to make a decision on whether Parliament should have a vote on triggering Article 50. This is the clause of the 1992 Treaty on European Union that sets out the process by which member states may withdraw from the union. Once invoked, the leaving member and the EU have two years in which to negotiate the terms of withdrawal.

Theresa May's government fought very hard to try to ensure that Parliament never had a final say on triggering Article 50 (they argued that it was a decision for the executive branch only). But this is another indication of how Brexit has proved to be a test for British democracy.

Checks and balances should be at the heart of any liberal democratic system but in this case the executive branch of government did not want the legislative wing to have a final say over a matter fundamental to the UK's future. This was a ludicrous posture for the government to take, given the British parliamentary tradition (the House of Commons is supposed to be the Mother of Parliaments, after all). It is little wonder that the Supreme Court sided with Parliament over this vital question.

In the end, the government invoked Article 50 on 31 March this year, following a vote in the House of Commons. This started the two-year countdown for Britain's withdrawal.

Theresa May has also now indicated that MPs will have the opportunity to vote on the final Brexit package negotiated by the government and the European Union. Of course, the legislatures of the other 27 members of the EU will also have to agree with the deal.

### Establishment Fought Back

One of the most interesting aspects of the Brexit process is how the country's Establishment has fought back against a full withdrawal from the EU. In September in Florence, Theresa May made a keynote speech in which she said that the UK would have a two-year transitional period following the country's withdrawal in March 2019.

Obviously, the term Establishment is amorphous but most people that make it up are terrified that the UK will leave the EU without some kind of deal – this is the so-called 'hard' Brexit that they claim amounts to 'falling off a cliff'. Earlier this year, Theresa May indicated that this was an option for Britain – that we would just leave and operate under WTO rules. At the time, commentators thought this was only a negotiating tactic.

However, since the General Election outcome, managing the Cabinet of the British government has become a balancing act for the PM. Every morning she wakes up and faces a new tightrope to walk. The chancellor Philip Hammond is very much in favour of Remain and is the main Cabinet cheerleader of the Europhile wing of the Conservative Party (whose leaders include former Tory ministers Kenneth Clarke and Sir Michael Heseltine).

It is widely rumoured that May would have sacked Hammond if she had had an election triumph (he oversaw a shambolic Budget at the start of the year and the relationship between the two is said to be tense). But May is now so weak that she cannot easily get rid of him. Her parliamentary majority is so paper thin that she requires the support of Europhile Conservative MPs, such as Clarke but also Nicky Morgan and Anna Soubry.

Yet, May's big problem is that she also needs the backing of Eurosceptic MPs, such as John Redwood and Jacob Rees-Mogg. These Brexit hardliners probably form the biggest cohesive bloc in her parliamentary party. In the Cabinet, they are mainly represented by the Foreign Secretary Boris Johnson and environment minister Michael Gove.

The tensions within the governing party are playing havoc with the British constitution. One of its vital components is 'collective ministerial responsibility', a constitutional convention in which government ministers must publicly support all governmental decisions made in Cabinet, even if they do not privately agree with them.

In July, Hammond tested this convention to its limits when he told the BBC Today radio programme that the EU may look similar to its current one for up to three years after Brexit, including free

movement, access to the single market and an inability to strike trade deals with other countries.

This was not the Cabinet's agreed position and Hammond's comments infuriated Boris Johnson and Michael Gove.

However, in September, in a clear breach of 'collective responsibility' Johnson wrote a long, upbeat article for the *Daily Telegraph* newspaper in which he said — among other things — that the UK should not have to pay to access the EU single market and that Britain should be able to strike its own free trade deals.

Its publication had not been cleared with May before hand and when she found out about it it is reported that she was livid (Johnson likes to paint himself as a kind of Churchillian figure and it is well known that he would love to have the top job).

In the end, the two patched matters up before May's Florence speech but it is a sign of her own personal weakness that she had to invite Hammond, Johnson, and David Davies, the secretary of state for Exiting the EU, along to witness her deliver it.

It is not clear how long this show of unity will stand as the biggest Brexit battles are likely to be fought within the next few months.

What is evident that a departure from 'collective ministerial responsibility' sets a bad precedent for the smooth running of British government. It is something that Margaret Thatcher, for example, would never have tolerated, as it is immensely hard to be effective when there is government in-fighting. Furthermore, it looks shambolic and makes voters think that politicians are just in it for themselves (which is not always the case). It also improves the chance of Corbyn one day winning the keys to Number Ten.

The Labour Party is probably as divided as the Conservative Party over Brexit but the Tories are in power and it is much harder for it to cover up the divisions.

### **Yes, Prime Minister**

For me, it is a spectacle in itself to see the British Establishment in action; there is no other show quite like it on the planet. Of course, this crowd of people feels that it runs Britain in some kind of Platonic sense. In other words, it is full of the 'great and the good', the 'experts', who know better than the 'little man' or the 'run-of-the-mill' voter. Undoubtedly, the Establishment sees itself as a benign force, as a kind of patrician figure that will ensure that the *status quo* prevails and that the boat is not rocked too much.

The Establishment is a pretty homogenous lump. Its members are almost always white, male, privately educated, live in London

or the Home Counties, well-to-do and maybe Oxbridge educated. *The Times* or the *FT* are their newspapers of choice. Their favourite weekly magazine is the *Economist* (which prefers to style itself as a newspaper but it is not). They also listen to the BBC's Today programme every day.

The Establishment has a kind of 'group think' and its current orthodoxy is, "we do not really want Brexit at all and, if we can stop it, great, but if we cannot stop it, it must be a 'soft' Brexit at any cost".

It is fascinating how this group think evolves and why it exists in the first place. In my view, this has something to do with social class. The UK is a highly class divided society (mostly along private/state school lines but also wealth). The upper classes tend to be very much in favour of Remain, though not always as Boris Johnson and Jacob Rees-Mogg both went to the UK's top boarding school, Eton, for example. The lower classes tend to be in favour of Brexit. The middle classes are somewhere in between depending on many factors, including age, job, location, and background.

I would argue that this upper/lower class division has a lot to do with the economic advantages that the higher echelons have derived from Brexit. The single market led to more immigration into Britain that pushed up property prices. It also meant that businesses could employ Eastern Europeans who are seen by many UK-owned firms as harder working than the native working class. Many of these people also have second homes on the continent or part of their family lives there. But the class element manifests itself in another way: many Establishment members relate better to European elites than ordinary Britons.

Whatever the reason, there is no doubt that the Establishment has fought a successful rear guard action against a 'hard' Brexit. This raises important issues for the British constitution. One of the most influential people in Britain is the Cabinet Secretary, Sir Jeremy Heywood. His background is archetypal Establishment: boarding school and Oxbridge, followed by the London School of Economics.

He is the most senior civil servant in the UK and is the senior policy adviser to the PM and the Cabinet and, as the Cabinet Secretary, responsible to all Ministers for the smooth running of Cabinet government. According to the porous British constitution, the Cabinet Secretary is supposed to be strictly neutral about political matters. But in reality — like all the top brass in the civil service — Sir Jeremy is a Europhile and it is rumoured that he has been pushing strongly for a 'soft' Brexit.



A famous TV sitcom used to exist in the UK called ‘Yes, Prime Minister’, in which a leading civil servant invariably agrees with the PM but secretly tries to change his mind or galvanise events in a certain direction. This is satire but Sir Jeremy undoubtedly holds a lot of sway. That can be a test for our democracy because Sir Jeremy is unelected and should always defer to elected Ministers.

Similarly, the most important department of state in Britain is the Treasury, in charge of economic matters. Again, this department has been very much against the Brexit process. It has been backed up by the UK’s Central Bank, called the Bank of England, whose Canadian governor Mark Carney spoke out against Brexit in pretty strong terms during the referendum campaign. In my view, he overstepped the mark and should have stuck to a strictly neutral position during the highly heated run up to the vote.

### The Battle Royal

The key issues that divide the Conservative Brexiteers and the Remainers revolve around whether to accept any new EU rules or ECJ rulings during the transition period and whether to rule out any further payments to Brussels for single-market access when the transition ends. In fact, it is not clear whether it would be legally possible to implement ECJ rulings in the UK during the transition period.

The two sides are also divided over whether the final post-transition deal would lead to Britain copying Brussels rules to ensure easy access to the single market.

Brexiteers want the trade deal already agreed by the European Union and Canada – known as Ceta – as a basis for the new bilateral arrangement after Brexit. This would enable the UK to make its own tariff-free trade deals around the world. The Ceta deal eliminates 98 per cent of all Canadian tariffs between the EU and Canada.

Brexit is such an enormous test for the Conservative Party – the world’s oldest political party dating back to 1834 – that it is possible that it will splinter into two. The battle royal within the party will centre around access to the single market.

Brexiteers insist that the government must put a stop to the freedom of movement of EU citizens and argue that this stance is not compatible with the single market but, as far as possible, Remainers want access to the single market to continue. Their position pivots around London’s position as Europe’s preeminent financial centre and they are concerned that so-called financial ‘passporting’ will also disappear when the UK leaves.

The issues can become highly emotive with some Remainers accusing Brexiteers of 'racism' or 'xenophobia'. Meanwhile, Brexiteers describe Remainers as 'stuck up' and looking down on the 'little people' who voted to Leave.

The whole thing has become quite toxic, sadly, and it is true that a level of vitriol has been injected into the political blood of the country that could take a generation to cleanse. Britons have not been at each other's throats in this way in a very long time.

The next 18 months are likely to be one of the greatest tests for British democracy and the constitution ever.

Even if a deal between the European Commission and the UK starts to take form, this must be approved in the House of Commons. The Labour Party is now playing hard ball with the government and it could well vote against this legislation. In which case, the Prime Minister will be heavily dependent on the DUP and will have to try to ensure that the Europhile Tories are on board.

Even if passed by the House of Commons, it needs House of Lords approval, as well. The Parliament Act of 1911 prevents the Lords from blocking a bill dealing with taxation and allows them to delay any other bill for a maximum of three sessions (reduced to two sessions in 1949), after which it becomes law over their objections.

The Lords has a total of 682 members, including 204 Tories, 195 Labour peers, 96 Liberal Democrat and 144 crossbench (the latter do not take the whip from any one party). Many peers are Europhiles and it is conceivable that they will attempt to delay the Brexit bill – known as the European Union (Withdrawal) Bill. They could make a lot of trouble for the government and it is possible that the whole thing could get messy. British tabloids tend to support Brexit and you can envisage headlines like, "The Lords blocks Brexit".

The bill will pass through both Houses and only take effect the day that the UK leaves the EU.

All existing EU legislation will be copied across into domestic UK law to ensure a smooth transition on the day after Brexit. But large swathes of UK law 'will no longer work' on exit, for example, because they refer to EU institutions.

The total body of European law – dating back to 1958 – is known as the *Acquis Communautaire* and consist of about 80,000 items, covering everything from workers' rights to environment and trade. And, so the, the British Parliament faces a monumental task in getting all of this passed.

A lot of existing EU law will need to be 'corrected' as it transfers over to the British statute book. The government plans to carry this

out through the use of what are known as 'Henry VIII' powers, after the Statute of Proclamations 1539 which gave that monarch the power to legislate by proclamation.

Between 800 to 1,000 'statutory instruments' – legally-binding measures approved by Ministers but not by Parliament – will have to be passed. Already the Labour Party is claiming that Ministers have been handed 'sweeping powers' to make hasty, ill thought-out legislation.

The government has said the devolved administrations – in Scotland, Wales and Northern Ireland – will be asked to consent to the bill but this does not amount to a veto. It is clear that the Scottish government would like a much bigger say in the Brexit process than it is having at the moment but ultimately Westminster rules supreme on this matter and it is unlikely to be given a greater role.

Clearly, Brexit is the biggest challenge facing British democracy since the Second World War. Handled well, it is possible that the country will discover a renewed sense of being and having its sense of nationhood reinvigorated. Only time will tell.



# Cultural, Not Simply Institutional

**András Radnóti**

is a foreign policy analyst, a regular contributor to the output of *The Economist* Intelligence Unit and *Oxford Analytica*. He is currently working on his doctoral research at Central European University in Budapest.

Hungary may be a fine instance of the ‘third reverse wave’ of democratisation Samuel P. Huntington foresaw in his landmark book, *The Third Wave*. Since his 2010 election landslide victory, Prime Minister Viktor Orbán has torpedoed the country’s democratic institutions. Today, Hungary does poorly on almost all of the usual markers of democracy: elections, ‘checks and balances,’ and fundamental freedoms.

These markers are not entirely adequate, however. Consider this: Hungary was a democracy on all these counts in 2009, and yet that was easily turned around in a matter of months. Certainly, the country’s democratic deficit runs deeper than flawed institutions, to the level of norms. For institutions do not operate in a vacuum; to be stable, they need roots in a democratic political culture.

Norms take longer than institutions to take root. Yet they are what democracy-builders need to be concerned with if they wish democracy to last.

**Institutions undone**

Fidesz has turned the institutions of democracy from checks on its power into the means of its power.

Hungary’s Constitutional Court, once considered to be among the most powerful in the world, now has a constrained jurisdiction and it is packed with Fidesz loyalists. It interprets the constitution unilaterally adopted by the Fidesz supermajority in spring 2011, after only a two-month debate in parliament, boycotted by all but extreme-right Jobbik.

What is true of the Constitutional Court is true of most independent institutions. The procuracy, the judicial supervisory body, the court of auditors, as well as the ombudsman’s office, to name a few, are all staffed by individuals with links to Fidesz.

With appointments typically lasting nine years, they would pose a significant threat to governability were Fidesz to lose in elections.

The opposition is weak and highly fragmented. It may well be subsumed in infighting: the very public horse-trading that came with negotiations about standing as a block in 2014 is gaining centre ground again ahead of the 2018 elections. The Socialists seem to have lost all growth potential as a dynamic new leader, László Botka, fights standpatter elements within the party. A variety of small parties hover around and under the 5% parliamentary threshold. Jobbik, the largest opposition party, is trying to reposition itself as a popular movement, but is struggling with credibility issues.

Independent media are few and far between. The state broadcaster has been turned into a propaganda organisation, shamelessly parroting government communications, spiked with half-truths and complete fabrications. The biggest independent national daily was shut down in 2016; regional papers, large online news portals and TV channels have been bought up by businessmen with links to Fidesz. A supervisory authority staffed by Fidesz loyalists has the power to impose crippling fines at will – although this power has not yet been used to restrict the freedom of the few remaining independent outlets.

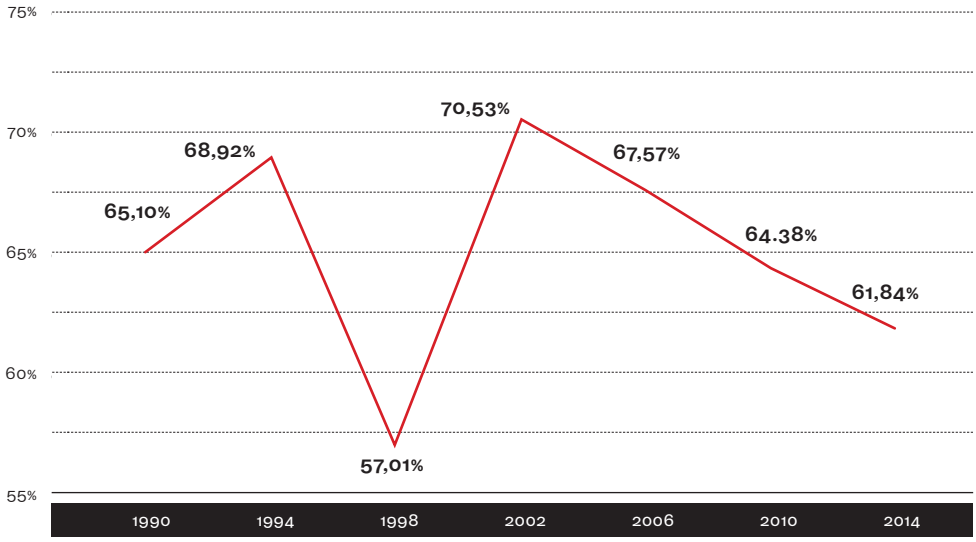
This immense imbalance is complemented by an electoral law crafted to favour Fidesz. One-round voting in individual constituencies ensures that one strong party wins over a popular but fragmented opposition. The option of postal vote for Hungarians in the Carpathian Basin but not for those in Western Europe – a violation of the principle of universal suffrage – as well as redrawn electoral districts tilt the field further towards Fidesz. The National Electoral Commission, which oversees the elections, is controlled by the party. Elections may be free, therefore, but are not fair, as observers of the Organisation for Security and Co-operation in Europe concluded.<sup>1</sup>

### **Culturally inapposite**

These attacks on democratic institutions would have been more difficult to carry out if the institutions had borne real legitimacy; if the norms and culture of democracy had been in place. Without solid civic engagement, voter participation, and more generally, an understanding of and attachment to democracy on the part of the people, Orbán did not have to face strong opposition to democratic backsliding.

## Turnout in parliamentary elections 1990–2014

Source: OSCE



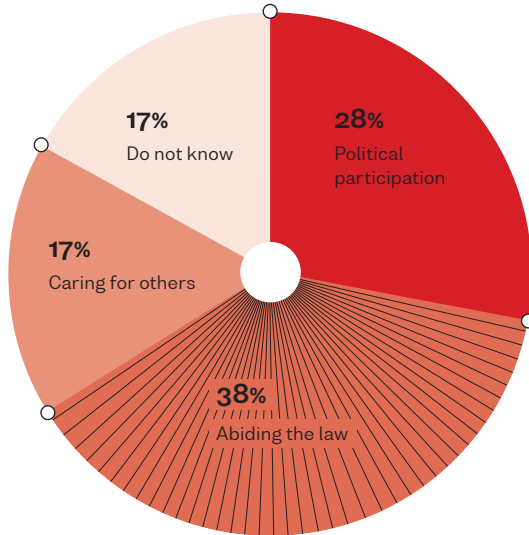
Measuring the penetration of democratic norms can be difficult, but voter participation is a useful marker. Turnout in Hungarian elections is low by European and average by regional standards. Since 2002, however, it has been in a slow but steady decline. This is likely a result of disillusion with democracy and market capitalism. Yet it also reflects the country's poor performance in democratic education in the period since 1990.

The more highly voters regard political participation and the more open they are to civic activism and playing a stronger role in their communities, the better the chances of democracy to survive. Research by pollster TÁRKI shows that the biggest group of Hungarian voters (38%) consider abiding by the law the most important component of being a 'good citizen,' suggesting that 'law & order' authoritarian instincts run high in Hungarian society. Considerably less (28%) think the most important condition of being a 'good citizen' is being politically active, which reflects democratic values.<sup>2</sup>

These numbers speak of a society where the democratic norms of active citizenship and political participation have roots, but are overshadowed by authoritarian instincts. A democratic political culture would be needed to care for the norms so they are not further eroded.

## What is needed to be a good citizen?

Source: TARKI Omnibusz



However, Hungarian political culture encourages passivity, hampering any chance of democratic socialisation. Orbán's rhetoric of war – against Brussels, against immigrants, against George Soros, etc. – is aimed at mobilising his own voters and rendering others inactive. The same is true of Fidesz' exclusionary identity-building: in Orbán's 'system of national cooperation,' only Fidesz-voters are considered a proper part of the nation. Much like the opposition's, Fidesz' speech is characterised by the extreme demonization of political opponents and the heavy use of 'negative campaigning,' mobilising voters against a certain person or idea, and inciting fear. Political speech, in general, is emotional rather than rational, thus forbidding dialogue with the other side. These are the building blocks of the culture of *ressentiment* that erodes the cohesion of society as a whole and that is unable to support democratic institutions.

### Building a democracy to last

If democratic forces win an election, independent institutions will need to be re-built. The system of checks and balances, fundamental freedoms, and the electoral law will have to be considered matters

of priority. Yet if better institutions are to last, some longer-term issues: those of norms and culture, will also have to be addressed.

Policy matters: democratic education, the state's encouragement of active citizenship, are important. The government can do a lot by limiting its own power and by communicating with citizens in an inclusive manner, for example. Civil society actors, who organise local communities better than the central government, are key for civic activism – the gateway to political participation – to flourish.

Politics may matter even more. Change can only start from those who shape it: they must bridge unbridgeable divides, overcome old dichotomies, leave behind the *ressentiment*, and establish a pluralist political discourse based on trust and decency. Only by articulating positive political identities and encouraging active citizenship can the inactive vote be galvanised – and since his regime depends on low participation, that is how Viktor Orbán can be toppled.

**1** OSCE/ODIHR, Limited Election Observation Mission Final Report, Parliamentary Elections Hungary, 6 April 2014. <http://www.osce.org/odihr/elections/hungary/121098?download=true>

**2** TÁRKI Omnibusz, June 2014. [http://www.tarki.hu/hu/news/2015/kitekint/20150216\\_joallampolgar.html](http://www.tarki.hu/hu/news/2015/kitekint/20150216_joallampolgar.html)



*Attacks on democratic institutions would have been more difficult to carry out if the institutions had borne real legitimacy; if the norms and culture of democracy had been in place.*

**András Radnóti**

# The changing media landscape of Sweden and possible implications for politics

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The focus of this essay is on the challenges facing the traditional media in Sweden – the “old” media as they are called by their critics – and how the changing media landscape and its financial difficulties affect both how and why the news media report what they do, and in consequence, how it affects politics.

By nature this essay will take a speculative perspective of future outlook, but one underpinned by both the rich trove of data accessible and in part by my own observations during a decade’s work as a press officer and head of press in politics. Given the scope of this essay, it serves as a brief introduction to the topic.

## Question of trust

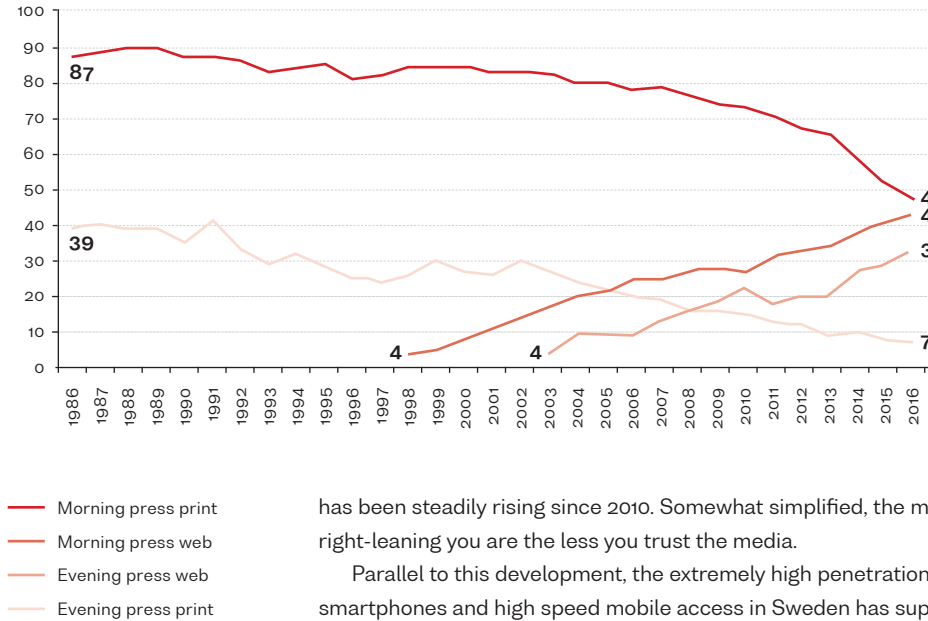
First off, it might be interesting to know that in spite of having a xenophobic and populist party flying high in the polls (The Sweden Democrats at around 18 percentage points), there is no real “crisis of the elites” in Sweden as Ipsos (Global Trends 2017) identified as a salient trend across the Western world.

7 out of 10 Swedes trust scientists; four out of ten think it would be a good idea to let experts decide more (the highest number in 18 years). Trust in parties is low but stable over time; and trust in institutions shows very small changes over time. Even though trust in politicians has decreased during the last half decade, from 2015 a modest shift upwards can be observed. It remains to be seen if it continues into this year. We also know that more than half of all Swedes trust TV and radio to a high degree.<sup>1</sup> Trust in print media is lower, at 29 percent with high trust, but this number has been stable for sixteen years.<sup>2</sup>

The troublesome development for the media, which runs parallel to its financial troubles and possibly to some degree explains the rise of the Sweden Democrats, is the strong and significant correlation between party identification and mistrust in the media that is

## Consumption of daily/morning and evening newspapers at least 3 times/week, in both print and digital from 1986–2016

Source: Ulrika Andersson. SOM institute rapport no. 70. University of Gothenburg, 2017, 283



has been steadily rising since 2010. Somewhat simplified, the more right-leaning you are the less you trust the media.

Parallel to this development, the extremely high penetration of smartphones and high speed mobile access in Sweden has supplied the infrastructure for people accessing news online anytime and anywhere. In general, Swedes are very interested in American politics and follow it more closely than some domestic issues (especially since last November). The net has also as is the case in most countries provided a platform for the anti-Muslim/anti-immigration voice, as is the case in most countries. In the Swedish case, it is in part directed by and helped by the afore mentioned party.

### Price of news

But the crisis of the media cannot be blamed on a political party. The core issue is instead the slow adaptation to the demand for digital distribution, the lack of demand, and the fact that the price of news is steadily above the demand. Most media companies lock in quality material – i.e. the material that is expensive to produce – behind pay walls. Particularly the print media based in rural areas are having problems attracting people to their paid services. Consequently, the news that is free is increasingly what is cheap and fast to produce, namely opinion journalism. The number of people

who have access to quality investigative journalism will most likely decrease in Sweden in the coming years to come.

This trend is aggravated by the kind of storytelling people demand and what the net lends itself to the best: The subjective, the personal and the controversial. The biggest daily in Sweden (Dagens Nyheter) has as many social media interactions as one of the anti-immigration “news” sites. A single social media savvy member of the conservative party has by himself more interactions than his entire party.

### **The subjective & the personal**

This changing dynamics highlights the dilemma. People seem to demand opinions, but why pay for them from news companies when you can get them for free from the plethora of voices online. By supplying what is potentially viral material, the news companies also seem to in part partially undermine their own business model of selling *de facto* news. As one editor expressed it, “people used to think we reported too much that is personal; nowadays, they think we withhold.”

These trends, of course, tie into the political realm. There is an increasing personification of politics where focus more and more shifts more and more from faceless parties to party leaders. The subjective and the personal is in demand in this arena also. A similar development is a personification of journalists, both as print/digital media lends itself more to opinion journalism but also as journalists become the faces of the news. Journalists are increasingly marketed as the a product rather than the news.

Given the complex (or possibly normal from a continental perspective) situation of forming a new government next year given and The Sweden Democrats’ swing role, which could complicate the formation of a3 liberal-conservative or socialist government, the media is increasingly focusing on game theory. One would be hard pressed to say it is not news worthy. But it is also a trend with economical underpinnings – it is indefinitely easier and faster to produce than investigative journalism that delves deep into policy. As such it is both a temperature gauge on the health of the news media, as it is worrisome. Research shows that populist political forces thrive in a media climate that focuses on persons and game theory rather than policy issues.<sup>4</sup>

#### **Catching the digital cat**

All in all, Swedish media has its challenges ahead of itself. But all is not dark. The biggest Swedish dailies have managed to shift at least somewhat successfully to a digital business model and remain

profitable. The Swedish media landscape in general is also significantly less cynical and decidedly more objective than for example British, Italian and French media.

But the question of profitability remains top of mind, mostly for print/digital media in the rural areas of Sweden. The digital cat is out of the bag, and it cannot be put back in. The core issue remains: print seems to be dying, but too few shift to digital subscriptions.

As of last year, the Department of Culture is has been preparing for a new financial support scheme for the media that is meant to be neutral to change forms of distribution.<sup>5</sup> It remains to be seen if it fixes the financial woes of Swedish print media. The jury is still out, but I am hard pressed to see any other stop gap measure.

**1** Note that Swedish radio and TV are dominated by public service companies, SVT (TV) and SR (radio). Commercial TV has, with but one exception, no news programs at all.

**2** *SOM institute rapport nr. 70*. University of Gothenburg, 2017, 20

**3** Strömbäck et. al. *Populist political communication in Europe*. Abingdon: Routledge, 2017, chapter 27.

**4** Some seventy newspapers in Sweden receive a special financial aid known as "presstöd" since they are deemed vital to democratic society and discourse.



# Broken Compass

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Modern Centre Party.

Same as all around Europe and the world, hate speech and xenophobia are on the rise in Slovenia. As a study conducted by Peace Institute (Slovenian nongovernmental organisation) shows, the number of reports of hate speech was the highest in the years of the economic crisis. Many people, especially those with low education and low income, lost their jobs. The only question back then was who would be blamed for it.

**Lost Authorities**

The first under attack of criticism was political elite. Citizens were sure that all politicians were corrupted by multinational corporations which bought once prosperous Slovenian companies. That caused political turmoil and none of the governments would finish their mandate. Dissatisfaction led to the biggest demonstrations since Slovenia became independent.

The second target of Slovenes was the Roman Catholic Church. It was involved in one of the greatest financial scandals in history and many shareholders were deeply affected by it.<sup>1</sup>

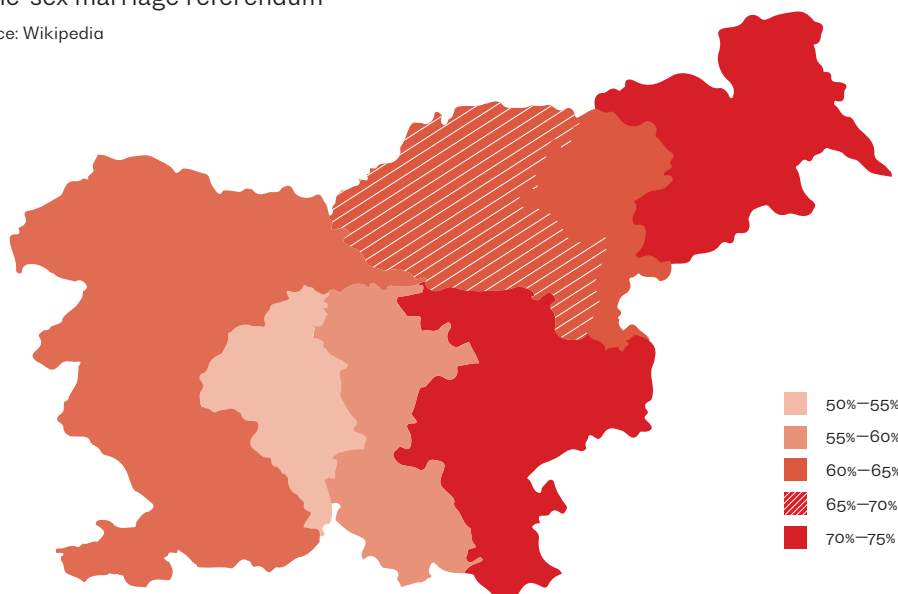
The Church became one of the most hated institutions in Slovenia and lost trust even among its strongest believers.

After the nation lost two moral authorities – politicians and the Roman Catholic Church – nobody could stop hate speech and xenophobia because Slovenes “lost their moral compass” as the phrase became known in Slovenia.

And that leads us to the third and most fragile target of the majority in the economic crisis – minorities. The first minority that had to confront hate speech and xenophobia were foreigners, especially those from ex-Yugoslavia. Some people came under impression they were “stealing our jobs”. A sad excuse – most of workers from ex-Yugoslavia were working in construction, cleaning and other low income businesses that Slovenians would not accept.

## Share of “No” votes in Slovenia same-sex marriage referendum

Source: Wikipedia



## Slovenian same-sex marriage referendum results

Source: Wikipedia

Choice	Votes	%
<b>No</b>	<b>394,482</b>	<b>63,51</b>
2016	226,651	36,49
Invalid or blank votes	2,356	0,38
<b>Total votes</b>	<b>623,489</b>	<b>100,00</b>
Registered voters and turnout	1,715,518	36,38

Also the LGBT community was harmed by xenophobia. In 2009, a well known same-sex rights activist was brutally attacked by unknown perpetrators in Ljubljana, the Slovenian capital and a city considered to be most liberal in the country. Perpetrators were screaming insulting words (for example “fagot”). The peak of hatred towards gays and lesbians came in December 2015. On December 22<sup>nd</sup>, just three days before Christmas, a referendum on same-sex marriage took place. After long and many times offensive campaign the law was rejected. What is worst is that the voters who were in favour of same-sex marriage would not get out to vote.

In the last couple of years, refugees were victims of excessive patriotism. Same as in Germany, for example, people were very helpful towards refugees coming to Slovenia. But it soon changed, after a couple of months. There were demonstrations in front of asylum homes, graffiti "Refugees go home" appeared etc. In the beginning of 2017, the Foreigners Act was adopted. It decreases possibilities of refugees to obtain asylum in Slovenia and is considered unconstitutional among the majority of Slovenian lawyers. In a couple of weeks, the Constitutional Court of the Republic of Slovenia will pass a ruling on this subject.

### **Fast-Track Course of Democracy**

Are economic crisis, lack of moral authorities and refugee crisis (or better: challenge) the only reasons for the rise of hate speech and xenophobia in Slovenia? I do not think so. They are not even the main reasons, they are only accelerators.

After almost 50 years of (so-called) socialism, oppression of the civil society and the dominance of the Roman Catholic Church (especially in ex-Yugoslavia a moral authority and one of the bases of the Slovenian nation) Slovenia became independent in 1991. Free speech, criticism of the authorities — it all became allowed in a very short period of time.

Before Yugoslavia, the Slovenian nation lived in the Kingdom of Yugoslavia, Kingdom of Slovenians, Croats and Serbs and in the Austro-Hungarian Empire, and we had no democratic tradition. When Slovenia became a democracy we took it by the handful. Since gaining independence, Slovenians are sure that human rights, including freedom of speech, are absolute. But no right is absolute — it is limited by rights of others and its own nature. With the exception of some intellectuals (and younger generations, I hope) the true meaning of democracy and limits of human rights are not yet implanted in Slovenian minds.

### **Brighter Future**

What is the right step forward towards more open and accepting Slovenian society? In my opinion it is education.

In primary schools and secondary schools, Slovenian pupils learn a lot about integrals, Newton's laws and Darwin's evolutionary theory. There is not enough emphasis on social studies, law, and citizenship education. It is no surprise that many young people want to study those subjects at universities because they did not get any knowledge of them in earlier years of their education (me included).



As said before, Slovenians lost moral authorities in economic crisis and now we have to readjust our moral compass. As a ray of hope, new generation of politicians is appearing, not troubled by corruption scandals and with a vision of Slovenia as one of the lighthouses of freedom and human rights in the European Union. Now, almost ten years after the beginning of the crisis and most importantly, at a time when democratic institutions are much more developed, the Slovenian nation trusts more the Government, the National Assembly and the judiciary system. But only to some extent.

Where to find true, long-standing moral authorities? In the future, when crisis perhaps reappears, who will be the one to tell Slovenians that hate speech and xenophobia have no place in modern society?

Firstly, it has to be parents raising young children nowadays. Nelson Mandela said people learn to hate and if they can learn to hate, they can be taught to love. It is parents' obligation to teach their children they should think of others and not only of themselves.

Secondly, teachers are the ones who influence young generations the most. They should teach pupils to look at the problems of modern society from critical distance. I strongly believe that the same emphasis should be put on Social Sciences, the Basics of Law, the European Union and the European Convention on Human Rights that it is on Physics, Mathematics and Biology.

**1** Two holdings owned by Maribor Archdiocese were involved in a financial scandal which resulted in a massive loss. A priest who was also head of Archdiocese's finances was accused of business fraud.

In September 2017, former archbishop from Maribor was summoned to court as well. Litigation is still pending. More on that: <http://www.sloveniatimes.com/top-church-dignitaries-step-down-in-wake-of-financial-scandal>.

# Seeing Minorities as Enemies: What Keeps Slovakia Behind

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“I wanted to flee from Slovakia. With our Slumdog Theatre, we performed in the Brussels and in Bratislava. I know one can live differently. When I was 26, I came to the capital city – Bratislava for the first time in my life. It was an enormous experience. Only in Bratislava I felt as a human. In Moldava, in the settlement that I live, I felt as a Gypsy... Now I am scared. Sometime I am so scared that I am unable to sleep. The worst are the evenings, when I start to think what would happen with my sister and her three sons... Who will help them, when I end up in jail?”<sup>1</sup>

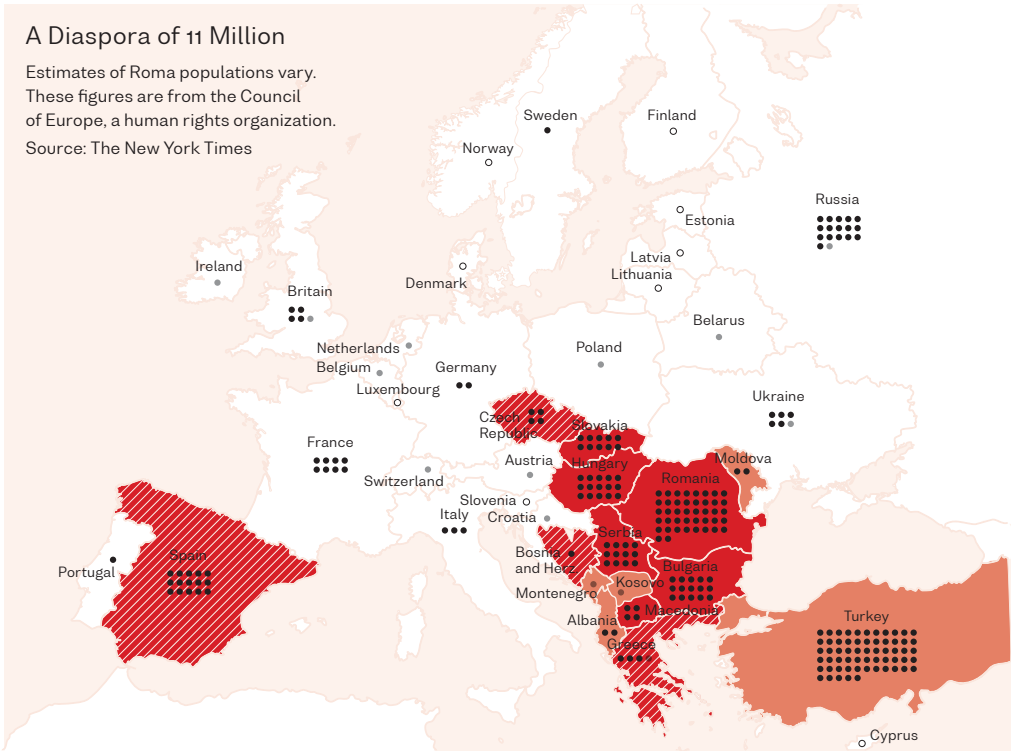
## Truth

In his recently published blog, Milan Igor Hudák wrote about his life as a Roma from a poor settlement living in Slovakia. He wrote about being scared that he would go to jail for telling the truth. Milan was one of the victims beaten by police during the raid into the settlement Budulovská in Moldava nad Bodvou. On June 19<sup>th</sup>, 2013, 63 heavily guarded police officers driving in 23 cars entered the poor Romani settlement – an area where people struggle to get drinking water. According to witnesses, during the raid, police commando were randomly beating people and entering their homes. No judicial warrant allowing such actions was issued. The police claimed that it was seeking some “suspects”. The police, however, detained 15 people because they were not carrying their IDs. None of them were under a search warrant. Beaten Roma believed that the raid was caused by a very personal reprisal of the local police officers against them. <sup>2</sup>

Officially, the city of Moldava nad Bodvou justified the raid as a response to the recently increased criminality in the local supermarket. The raid caused a significant outrage among local, as well as international human rights, community.<sup>3</sup> The Ombudswoman Jana Dubovcova found that the raid was illegal and Roma’s basic human

### A Diaspora of 11 Million

Estimates of Roma populations vary. These figures are from the Council of Europe, a human rights organization. Source: The New York Times



- Roma share of population:
- 1 to 2,9%
  - 3 to 6,0%
  - more than 7%
- Each symbol represents:
- 50,000 Roma
  - 20,000–49,999
  - under 20,000

rights were violated.<sup>4</sup> By contrast, Prime Minister Robert Fico arrived during his (then lost) presidential campaign to the police station in Moldova in February 2014 to officially support concerned police officers.<sup>5</sup> Fico has repeatedly associated this, in his words, unadaptable population with increased criminality that threatens the majority that needs to be protected.<sup>6</sup> At one occasion, the prime minister even said that Roma deserved “extreme” measures in violation of human rights standards.<sup>7</sup> A well-known Roma activist and journalist working in eastern Slovakia recently noted that police raids are rather a common strategy for keeping Roma at bay. Roma somehow accepted that as a necessary evil, if they are to survive. Roma’s distrust of police is enormous. Most of violations are not even reported.<sup>8</sup>

### Wall

The inspection section of the Ministry of Interior, investigating the raid found no violation of rights of the Roma. The inspection falls within jurisdiction of the same minister that oversees police forces.<sup>9</sup> In summer 2017, Milan with other beaten Roma victims

became accused of perjury.<sup>10</sup> During the 2017 summer holidays, the town of Moldava nad Bodvou also built a wall to even further separate two already segregated schools – one attended by non-Romani and the other by Romani children. Arguably, that was done to ensure safety of non-Roma's. This event caught the head master of Romani school by surprise. There were no problems with Romani children harming their non-Romani peers.<sup>11</sup>

The Moldava's story captures notable aspects of serious democratic and human rights deficiencies in Slovakia. Minorities are inherently viewed with suspicions, as potential threats and enemies. This is a conscious work of political elites over the decades. The securitization of minorities is used to justify measures that seriously curtail minorities' human rights and prevent their full integration into the society. Often, securitization of minorities is used as a strategy to cover the inability of the country's leadership to tackle widespread corruption, poor quality of educational and health care services, unemployment, or poor labor conditions of low income workers. Hatred and exclusion of minorities thus prevents the entire country to progress towards becoming a prosperous and inclusive democracy.

### Myth

The securitization strategy, employed by almost entire political spectrum, tends to target different minorities depending on a broader political context. In the 1990's it was especially aimed at the Hungarian minority. Predecessors of the Hungarians living in Slovakia have been collectively annexed to the former Czechoslovakia after WWI. The portrayal of them being a threat has been centred around the myth of their inherent desire to seek unity with the neighbouring Hungarians.<sup>12</sup> As far as I am aware, none of the Hungarian elites in power ever made such claims, nor, for that matter, even dared to talk about territorial autonomy. Yet we have seen redrawing of administrative borders in 1990 causing Hungarians to weaken politically at regional level. In 2007 restrictive language followed, and later citizenship laws significantly curtailed the ability of the Hungarian minority to culturally reproduce themselves.<sup>13</sup>

Recently, politicians have been most intensely targeting the Roma who were, in their view, endangering Slovaks with their 'criminality' as well as 'freeriding' lifestyle and laziness. Aside from arguably regular police raids targeting settlements, Slovakia has also adopted a rather restrictive workfare policy ensuring that their "threatening lifestyle" is at bay.<sup>14</sup>

The refugee crisis in 2015, that peaked shortly before parliamentary elections, offered a fertile ground for securitization of a few Muslim migrants living in Slovakia.<sup>15</sup> The parliament consequently, rather smoothly in a smooth manner, amended the law on churches, making conditions for the recognition of Islam or any other minority religion impossible to achieve.<sup>16</sup> In fact, the same strategy of securitization, exploited was exploiting Christian and nationalist parties and the movement that constructed LGBTI minority as to pose them as threatening to the so-called 'traditional family'. Even though their Referendum on Family in 2015 was eventually unsuccessful, the movement thanks to be thanked for the securitization of gays and lesbians; nevertheless it has achieved the constitutional amendment preventing recognition of the same sex marriages.<sup>17</sup>

The securitization keeps minorities at societal margins. This is especially visible when it comes to Roma who have been facing exclusion, degrading treatment, genocide or aggressive assimilation for centuries. Overcoming stereotypes and even anti-gypsyism, as illustrated by convincement of non-Romani parents not to take their children to schools attended by Romani children, for example, is extremely challenging when elites consistently confirm worries of parents that Romani children can threaten their children. Thus, the schools, like one in Moldava, build walls, create segregated classrooms, playgrounds, or toilets to keep the non-Romani children from their Romani peers.<sup>18</sup> Statistically, 62 percent of Romani children study mostly with almost or mostly Romani peers.<sup>19</sup> Moreover, the quality of segregated schools such low as at such low level that children are unlikely to make it to the final grade.

The segregated world, that which became a common and unquestioned practice, teaches children from early age that some mean more than others only because of their skin color.<sup>20</sup> The everyday experience of injustice is not only reserved to Roma, but to other minorities as well. The feelings are everyday reality for LGBTI whose same sex relationships are misrecognized. Gay and lesbian couples living in Slovakia, for instance, cannot even request medical information while their partner's life is at peril. The same goes for Muslims, who are confronted with suspicions, profiling, and hatred daily. Like Igor, they can rightly doubt whether the state institutions that should ensure that they can lead a dignified life are there for them.

Some observers argued that argued that the securitization of minorities (and the inability to integrate them) has been also one of the factors that paved the way to the political success of the fascist's party *Ľudová strana – Naše Slovensko* led by Marián Kotleba.

There was simplySimply, there was someone else who offered more likable and radical solutions. <sup>21</sup> Kotleba, a former school teacher, is seen by many, perhaps frustrated, Slovaks as a hero who has the courage to march into settlements, buy land underneath illegally built Romani shanty houses, or put patrols to guard trains.<sup>22</sup>

### Trap

The trap has closed. The fascists are nowNow, the fascists are not only heading the regional unit that lead the Slovak national uprising in 1944 against the fascism, but they are also comfortably seated in the parliament with a steady political support of the electorate.<sup>23</sup> TheWhen the attorney general motioned to dissolve the party for threatening democracy.<sup>24</sup> Kotleba in turn registered another party where he can harbour himself and the party's leadership.<sup>25</sup> And Last but not least, the prime minister continues to blaming blame the Roma; most recently even with the help of earlier statements of Kotleba.<sup>26</sup>

Yet there is only one way out of the trap if Slovakia wants to remain a prosperous democracy. It requires the political courage to convince people that treatment of minorities shall be based on justice and human dignity principles rather than security and hatred. Such political courage entails the commitment to recognize minorities as equals, to respect their human and minority rights, and ensuring that they can fully trust the state and its institutions; also, sharing with them opportunities that the society offers to lead a good life. Sadly, the treatment of Igor and of the entire issue does not give much hope for such a change in near future.

**1** Milan (Igor) Hudák, "V Bratislave sa cítim ako človek, doma som len Cigán" (blog) Denník N, 5.9.2017, online at <https://dennikn.sk/859077/v-bratislave-sa-citim-ako-clovek-doma-som-len-cigan/>

**2** Úrad verejného ochrancu práv, Mimoriadna správa verejného ochrancu práv o skutočnostiach nasvedčujúcich závažnému porušeniu základných práv a slobôd konaním niektorých orgánov (Bratislava, august 2013), online <http://www.vop.gov.sk/files/Mimoriadna%20sprava%20VOP.pdf> p. 13–15.

**3** See numerous statements of NGO's or IGO's active in human rights issues of the event; in particular, European Roma Rights Centre has been active — see e.g. their statement ERRC, "Slovak authorities Must Investigate the Police Action in Romani Settlement Moldova nad Bodvou", 24 June 2013, online at <http://www.errc.org/article/slovak-authorities-must-investigate-the-police-action-in-romani-settlement-moldava-nad-bodvou/4156>

**4** Please see the report referenced in supra note 2.

**5** „Fico: Do Moldavy nad Bodvou som prišiel povzbudiť policajtov“, TASR, 1 February 2014, online at <https://spravy.pravda.sk/svet/clanok/307151-fico-do-moldavy-nad-bodvou-som-prisiel-povzbudit-policajtov/>

**6** See e.g. in ibid. or more recently in, "Fico pobúril Rómov. Na svojich postojoch však nič meniť nebude", TASR, 16 December 2016, online <http://hnonline.sk/slovensko/877880-fico-poburil-romov-na-svojich-postojoch-vsak-nic-menit-nebude>

- 7** See e.g. in “Situácia s Rómami si podľa Fica vyžaduje extrémne riešenia”, TASR, 19 February 2013, online <https://spravy.pravda.sk/domace/clanok/259532-fico-romsku-otazku-treba-zacat-riesit-od-deti/>
- 8** Jarmila Vaňová in her personal recollection on September 3, 2017.
- 9** „Zásah polície v rómskej osade v Moldave bol v poriadku, rozhodla inšpekcia”, *aktuality.sk*, 13 March 2016, online <https://www.aktuality.sk/clanok/326011/zasah-policie-v-romskej-osade-v-moldave-bol-v-poriadku-rozhodla-inspekcia/>
- 10** Veronika Prušová, “Z obetí robia páchatelov, svedkov policajnej razie v Moldave obvinili z krivej výpovede”, *Denník N*, 6 September 2017, online <https://dennikn.sk/872764/z-obeti-robia-pachatelov-svedkov-policajnej-razie-v-moldave-obvinili-z-krivej-vypovede/>
- 11** Veronika Prušová, “Riaditeľka rómskej školy, ktorú oddelili plotom: Tu v Moldave si anšu prácu s deťmi väčšina neváži”, *Denník N*, 3 september 2017, online <https://dennikn.sk/869344/riaditelka-romskej-skoly-ktoru-oddeli-plotom-tu-v-moldave-si-nasu-pracu-s-detmi-vacsina-nevazi/>
- 12** See in more detail e.g. in Jarmila Lajčáková ed., *Menšinová politika na Slovensku v roku 2011* (CVEK, Bratislava: 2012) and especially appendix *Menšinová politika v politickom diskurze* at 119, online at <http://cvek.sk/wp-content/uploads/2015/11/Mensinova-politika-na-Slovensku-v-roku-2011.pdf>
- 13** *Ibid.* See also see more detail e.g. in Jarmila Lajčáková ed., *Menšinová politika na Slovensku v roku 2012* (CVEK, Bratislava: 2013) <http://cvek.sk/wp-content/uploads/2015/11/Mensinova-politika-2012.pdf>
- 14** See in more detail Jarmila Lajčáková et. al, *Nezamestnanosť Rómov: od mýtusu k politikám a späť* (CVEK:Bratislava, 2017) online [http://cvek.sk/wp-content/uploads/2017/04/Nezamestnanost-Romov\\_studia.pdf](http://cvek.sk/wp-content/uploads/2017/04/Nezamestnanost-Romov_studia.pdf)
- 15** One of the most notable statements of the prime minister Fico suggested that the entire Muslim community in Slovakia is monitored. “Fico pobúrnil výrokom o monitorovaní moslimov ich komunitu”, *noviny. Sk*, 16 November 2015, online at <https://www.noviny.sk/slovensko/154627-fico-poburil-vyrokom-o-monitorovanimuslimov-ich-komunitu>
- 16** „Poslanci prelomili veto prezidenta, sprísnia sa podmienky registrácie cirkví”, *SITA*, 31 January 2017, online <https://spravy.pravda.sk/domace/clanok/418488-poslanci-prelomili-veto-prezidenta-schvalili-zakon-o-cirkvach/>
- 17** „Novela ústavy je podľa LGBTI odporný kšeft, biskupi ďakujú”, *SITA*, 4 June 2014, online <https://www.webnoviny.sk/novela-ustavy-je-podla-lgbti-odporny-kseft-biskupi-dakuju/>
- 18** See e.g. *Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in Slovakia* (Budapest: Secretariat of Decade of Roma Inclusion Foundation, 2013), available at [http://www.romadecade.org/cms/upload/file/9270\\_file14\\_sk\\_civil-society-monitoring-report\\_en.pdf](http://www.romadecade.org/cms/upload/file/9270_file14_sk_civil-society-monitoring-report_en.pdf), or more recent Amnesty International and European Roma Rights Centre, *A Lesson in Discrimination: Segregation of Romani Children in Primary Education in Slovakia*, (AI, ERRC: Budapest, 2017) available at <http://www.errc.org/cms/upload/file/report-lesson-in-discrimination-english.pdf>
- 19** EU-MIDIS 2 data with selected findings on Roma integration are available at <http://fra.europa.eu/en/publication/2016/eumidis-ii-roma-selected-findings>.
- 20** See especially in the AI and ERRC report cited in supra note 18.
- 21** Grigorij Mesežnikov a Oľga Gyarfášová, *Súčasný pravicový extrémizmus a ultranacionalizmus na Slovensku: stav, trendy, podpora* (Bratislava: Inštitút pre verejné otázky, 2016) at 22 and ff and 39 and ff.
- 22** See some of activities of ĽSNS e.g. in *ibid.* at 28.
- 23** For a reliable source on political preferences of parties, please see the FOCUS agency at <http://www.focus-research.sk/?section=show&id=10>
- 24** Peter Kováč “Generálny prokurátor navrhol zrušiť Kotlebovu stranu”, *SME*, 25 Máj 2017, online <https://domov.sme.sk/c/20541913/ciznar-dal-podal-podnet-na-rozpustenie-kotlebovej-strany.html?ref=tab>
- 25** „Kotlebova záložná strana má nové meno”, *aktuality. Sk*, 12 Jjune 2017, online <https://www.aktuality.sk/clanok/496399/kotlebova-zalozna-strana-ma-nove-meno/>
- 26** Dušan Mikušovič, “Fico použil v televízii slovo “Cigán” Kiska varoval pred šírením nenávisťi”, *Denník N*, 29 Január 2017, online <https://dennikn.sk/669793/fico-pouzil-v-slovo-cigan-kiska-varoval-pred-sirenim-nenavisti/>



# The Jigsaw

**Codru Vrabie**

is an activist, trainer and consultant in the field of good governance, with special interests in anti-corruption reforms in the public administration and justice systems. He works at Funky Citizens

The governing coalition of PSD<sup>1</sup> and ALDE, elected in December 2016 and holding ~54% of parliamentary seats, seems indecisive in exercising executive power. The declining voter turnout, the street protests of February, and the curious change of prime-minister in June raise legitimate questions about Romania's flawed democracy (a governing coalition lasts, on average, under 15 months). Observers blame PSD and ALDE's poor communication skills, but the coalition rather lacks clarity of purpose, as well as competency. Many political leaders, of the coalition and opposition alike, are investigated, indicted, or already sentenced for various crimes of corruption and/or abuse of power. The public is particularly suspicious of reforms in the justice system, as politicians may attempt to clear their criminal records.

The situation is further complicated by the president elected from the opposing political camp (November 2014, initially affiliated with PNL). Political parties undergo a third consecutive year of internal adjustments and reforms, mergers and splits, as well as re-affiliations to European political families. The electoral reforms of 2015 allowed the maverick USR to get into the Parliament (loose connections with technocrat ministers from 2016), but their political naïveté reinforces PNL's collusion with PSD. PMP has a strong anti-PSD rhetoric, but often supports (discretely) PSD and ALDE's judicial "reforms," alongside UDMR. The opposition appears weak and confused, further alienating voters and possibly resulting in even lower turnout at the next elections.

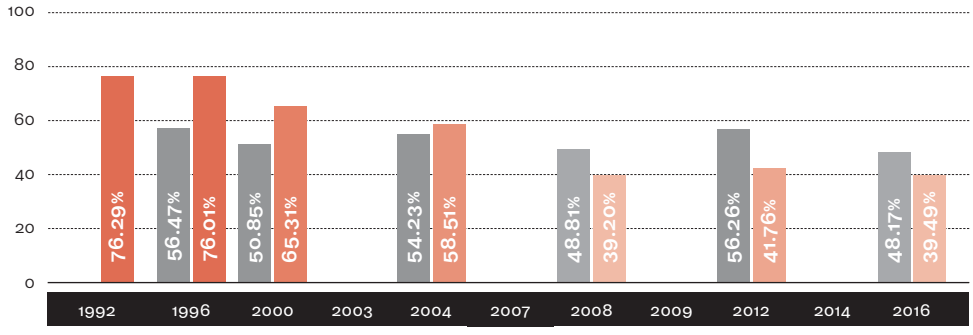
**Waiting for mega-elections**

Yet, Romania fulfills its obligations with NATO and has a decent presence in international affairs, owing to the President's constitutional role in foreign affairs. Dangers connected with terrorism, refugees, or Russian propaganda are rather low priorities on the public and political agendas. During the first half of 2019, Romania will hold the



## Voter turnout in Romanian elections

Source: Factual, 2016



- Local elections
- Parliamentary elections

Note: Blank years in this graph refer to other types of elections: for President (2009, 2014), for EU Parliament (2007, 2009, 2014) or for referendums (2003, 2007, 2009, 2012).

rotating presidency of the Council of the European Union. Elections are expected again in June 2019 (EU Parliament), November 2019 (President), June 2020 (local authorities), December 2020 (national Parliament). Then, all rounds of elections will realign throughout 2024, raising concerns with both: the mega-elections of that year and the potential consolidation of power during 2020–28.

In spite of economic growth currently reported at 5%, the state budget suffers from structural deficiencies. Lack of infrastructure and public investments couple with ~40% of the population living below poverty level. Salaries increase artificially in the public sector (notably in health care and education), but fail to boost the pension and social assistance systems making it unsustainable for the coming decade. The economy is not competitive enough for the EU market, while absorption of EU funds is stalled for a third consecutive year, and accession to Schengen and Eurozone is constantly postponed. The resurgence of “traditions” pushes for a constitutional referendum against gay marriage, while nationalist movements may grow in the wake of the 100-year celebration of “Great Romania” (1 December 1918).

The governing coalition’s concern with budget revenues, including the pension system, reflects in the volume of legislative proposals during the first session of Parliament: more than  $\frac{1}{3}$  relate to fiscal and labor matters. The Cabinet fails to improve collection of indirect contributions, and hence attempts to close the gap of budget revenues while rolling out the structural deficiencies beyond 2020. While the economy tends towards individual entrepreneurship (no direct budget contributions aside from VAT), the coalition

presses for labor contracts (with direct collection of income tax and social assistance contributions). An increasing number of labor contracts may yield additional votes in the next elections, but this strategy fails to prevent a severe financial crisis that may result from contradictions in employment.

### **Representation**

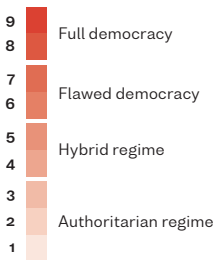
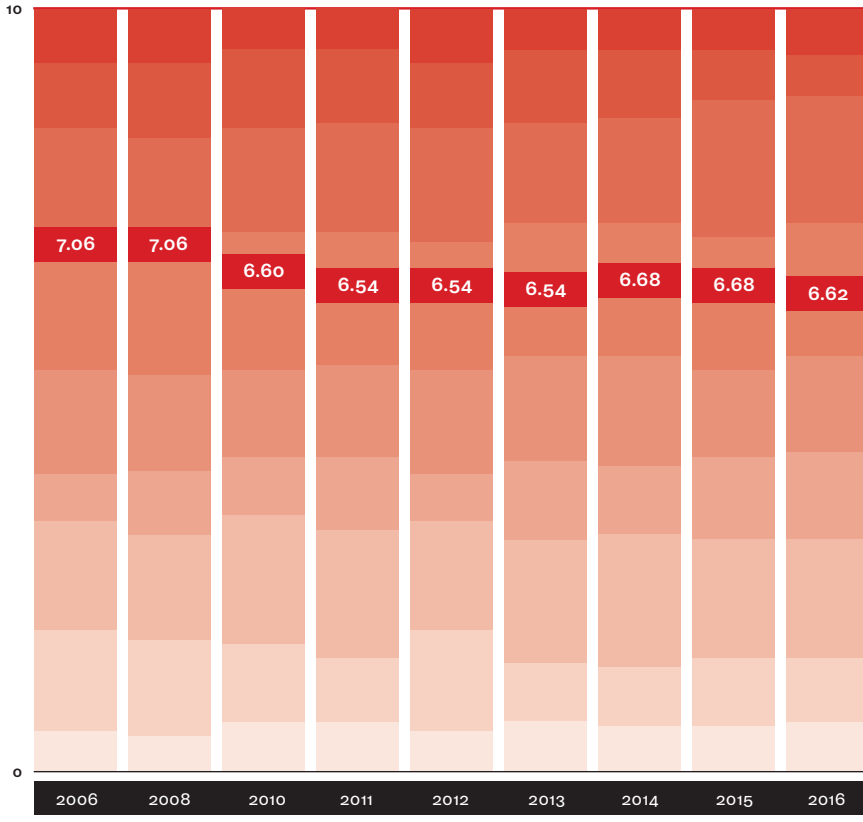
Aside from severe democratic deficiencies in good governance, Romania also has problems with political representation. Most political parties seem to be tempted with the illiberal tendencies from Hungary and Poland, while none of them has an outspoken agenda on fundamental rights and freedoms. Most decision-makers have a poor (or willingly distorted) understanding of the interplay among human rights, rule of law, and separation of powers. The Constitutional Court and Ombudsman too often side with politicians, away from citizens. Politicians (in power or in opposition, at all levels of government) display a worrisome inability of opening to the public, of communicating their vision in plain language- most probably lacking a clear vision. As a result, public institutions tend to close their doors to public consultations and/or participation in decision-making, in spite of Romania faring quite well in the Open Government Partnership.

Alienated, the public turns back from democratic participation, either taking institutions to the courts (very rare), or resorting to anti-system rhetoric (still not too extremist), or simply bailing out in disgust (vast majority of non-voters). As long as an even newer political party fails to appear, the existing vote-seeking politicians manipulate the electoral laws in a way that ensures the appearance of democratic legitimacy, they play on fears during electoral campaigns, and collude with electoral competitors in order to preserve the benefits of their political clients. To wit, Romania's local government is atomized in ~3,200 municipalities, owing to the mayors' legal prerogative to organize the (logistics for) elections; bound by financial dependency to the central government, mayors are key to winning any electoral confrontation.

The organizational culture and promotion mechanisms within political parties rely on the ability to win elections (USR may be the exception). Campaign managers or top candidates focus on two strategies in elections: alienating the opponent's voters and consolidating their own core of unconditional supporters. Thus, academics or experts in public management get marginalized from party ranks, and the parties no longer have the expertise or competency to

### Romania's ranking in The Economist's Democracy Index

Source: Economist Intelligence Unit, 2017



manage either institutions or crisis. Consequently, parties cannot formulate a vision, offer purpose, nor propose meaningful reforms. Winning an election thus exposes political leaders to criticism from civil society; in turn, elected officials resort to opacity in decision-making, false accusations against NGOs, and populism in relation to voters, closing the vicious circle of political alienation.

The judiciary is under constant pressure from politicians, precisely due to electoral reasons (yet, magistrates also fail to address the public at large). In order to preserve the mayors' dependency on the central government, several schemes for discretionary funding are created. Approval of such disbursements may result in crimes

of abuse or even corruption. Politicians would therefore prefer a legal system that disregards accountability or dilutes the definitions of certain crimes, one that curbs the enthusiasm of anticorruption prosecutors, and/or at least one that subordinates magistrates to political will. In this respect, collusion among the Executive, the parliamentary, and Constitutional Court majorities faces a very fragile, conjectural alliance among the civil society at large, President, and European Commission (via CVM).

In spite of optimistic views regarding Romania's reaching a tipping point in 2014/2015, the country remains a flawed democracy, marred with ineffective and opaque governance. The electoral competition, in and of itself, cannot fix the structural problems created by incompetent decision-makers. Genuine social assistance or antidiscrimination cannot succeed, just as Europeanization and anticorruption seem stalled for now. The alternative, autarchic solution, is highly improbable to succeed, albeit embraced in the rhetoric of the governing coalition (PSD and ALDE) and some members of the opposition (PNL and PMP, most notably). The 100-year celebration of 2018 may set Romania's democratic vs. illiberal course at least until the mega-electoral year of 2024.

**1** Political parties represented in Parliament (percentage of MPs in both Chambers, rounded):

- PSD, 48% — Social Democratic Party, affiliated with PES;
- ALDE, 6% — Alliance of Liberals and Democrats, a group split from PNL, affiliated with ALDE;
- PNL, 21% — National Liberal Party, affiliated with EPP since they left ALDE in 2014;
- USR, 9% — Save Romania Union, not yet affiliated to a European political family;
- UDMR,\* 6% — Democratic Union of Hungarians in Romania, affiliated with EPP;
- PMP, 6% — Popular Movement Party (loyalists to former President Băsescu), affiliated with EPP;
- MIN,\* 4% — individual deputies from national minorities, elected on separate, reserved seats;

Romania has 21 more political parties with elected representatives in local government, and other 40+ that did not earn enough votes or simply did not yet run in elections.

*Alienated, the public turns back from democratic participation, either taking institutions to the courts (very rare), or resorting to anti-system rhetoric (still not too extremist), or simply bailing out in disgust (vast majority of non-voters).*

**Codru Vrabie**

# For bigger stability

**Bruno Ferreira Costa**

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The consolidation of the democratic process in Portugal represents one of the central axes of the political and electoral system analysis. 43 years after the Carnation Revolution, there is a need to reflect and analyze the challenges of the current democracy in a context where a populist, nationalist and eurosceptic feeling grows in several European countries.

With Portugal free from the pressure of such movements, it is important to look deep at two of the main challenges of the democratic consolidation, namely: government stability, measured by the length of term of each executive government and the exponential growth of the electoral abstention rate in legislative elections since the first democratic election held in 1975.

The consolidation of the Portuguese democracy occurs simultaneously with the process of accession to the European Union, making Portugal one of the paradigmatic examples of the third phase of democratization in the 20<sup>th</sup> century. This fact, along with the strong connection of the national political parties and their European counterparts, allowed a full integration in the western democratic values.

However, the political systems and regimes are not immune to the consequences of its own functioning (system mutability), nor to the structural changes that occur in society, namely the multiplication of alternative forms of political participation and the diversification of the ways to communicate resulting from the increase of new technologies.

The choice of these two indicators (governance stability and the electoral turnout) is essential when measuring the quality of democracy and is directly connected with two other fundamental points: the political conditions for the implementation of a government program and the effective participation of citizens in the choice of their representatives. These pillars are fundamental to the functioning of

democracy, in a context where the continuous alienation of citizens in the electoral processes constitutes an opportunity for extremist parties and economic groups to capture democracy.

### **21 Governments in 39 Years**

During the democratic regime, Portugal counts 21 constitutional governments (between 1976 and 2015), which means an average of a government each two years, precisely half the time expected for each legislature. In fact, only 5 governments fulfilled their mandates until the end, namely the governments led by Cavaco Silva in 1987 and 1991, the first government led by António Guterres in 1995, the first government led by José Sócrates in 2005 and the executive led by Passos Coelho in 2011.

Based on this analysis, it is possible to identify a pattern regarding the electoral results. In fact, the government led by António Guterres was the only one which did not have a majority in the national parliament, and was the only minority government to last the predicted time frame of the legislature.

Consequently, the difficulties with the parliamentary debate and the creation of post electoral coalitions made it harder to build the conditions to guarantee the stability of each government. The remaining governments were the outcome of absolute majorities (1987, 1991 and 2005) and one agreement between the right-wing parties (Social Democratic Party and the Popular Party in 2011), the latter being the only coalition government to fulfill the entirety of its mandate.

The existence of a hybrid political system, characterized by the shared powers between the government, the parliament and the President of the Republic (a semi-presidential system) has contributed to the system's instability.

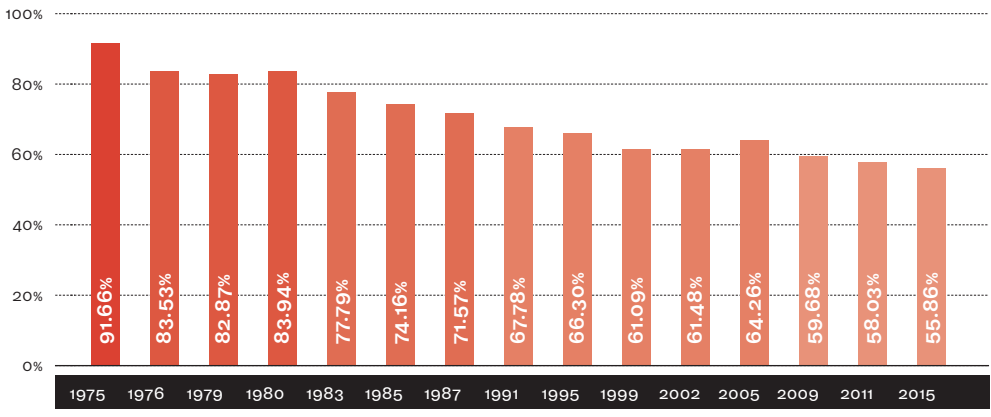
Unlike the European political tradition of forming coalition governments, the Portuguese case shows significant reluctance on the part of political parties to embark on multi-party government solutions. On the other hand, this centrality of the system around the two main parties (Socialist Party and Social Democratic Party) is related to the lack of representativeness of smaller parties and an increasing number of voters who abstain or who choose to vote blank/null.

### **Only Half Shows Up**

Analyzing the electoral participation in the parliamentary elections, a significant growth of the abstention is visible; moreover, that

## Electoral turnout in parliamentary elections (1975–2015)

growth is continuous, with only two exceptions: the 1980 and 2002 elections (both elections were anticipated due to the disruption of the executive). This significant decrease in voter participation calls into question a basic principle of democracy, the effective relationship between voters and their representatives, as well the involvement of citizens in political life.



Source: National Election Commission ([www.cne.pt](http://www.cne.pt))

The implementation and achievement of democracy demands the participation of its citizens, and these numbers in the most important elections reflect alienation of almost half the electorate of the choice of their representatives in the last legislative elections. In a brief perspective, the path to guarantee greater stability of the national governments and high levels of turnout imposes a debate around the electoral and political systems reform, namely the electoral formula adopted (the Hondt method) and the obligation of the electorate to choose their representatives in unique and closed lists, preventing a bigger personalization of politics.

Therefore, it is important to analyze the possibility of adopting uninominal circles, strengthening the link between the voters and their representatives, without neglecting the implementation of a national compensation circle to assure the representativeness of the various political forces in the national parliament.

The path to democratic sustainability requires a great commitment among all political actors (voters included), as well as bigger stability considering the length of term of national governments, making it possible to put the country's interest above partisan interests.



*During the democratic regime, Portugal counts 21 constitutional governments (between 1976 and 2015), which means an average of a government each two years, precisely half the time expected for each legislature.*

**Bruno Ferreira Costa**

# A Myth about Final Victory of Democracy

## **Kamila Gasiuk-Pihowicz**

is a lawyer and Member of Parliament (Nowoczesna), Chairwoman of the Parliamentary Group for the Reform of the Justice System.

Francis Fukuyama wrote about the end of history and the final victory of democracy in 1989. Back then, Poland just started laying foundations for the rule of law and a real separation of powers. But in 2004, many Poles, including myself, truly believed indeed that it was impossible to get lost on the route to democratic development we took; that the accession to the European Union finally sealed that promise despite the fact that numerous functions of the state needed improvements. Subsequent decades revised Fukuyama's thesis on the global level, and similarly, Polish democracy also faced an acute crisis in 2015. From the moment the party Law and Justice (Prawo i Sprawiedliwość) took over in Poland, breaking democratic standards has become a standard, and a sad reality.

Regress has been observed in an abundance of areas: from the limitation of freedom of assembly to increased possibilities of citizen surveillance by law enforcement authorities, to a staff carousel in the public media full of shameless propaganda. That all is not a unique tendency, limited to Poland exclusively. To different extent, it is observed in a large part of the EU and other countries, using the threat of terrorism as an excuse. What makes the Polish case of democracy crisis extraordinary is: in the horizontal perspective – the method of anti-democratic action and an unprecedented attack on the judiciary.

## **No consultations**

During the past two years, the standards of the rule of law and democratic debate have been breached in the Polish legislative process with respect to virtually all areas of public life. It has become a rule to use the so-called "MP-mode" for key systemic bills, which obviously have been drawn up by the ministerial clerks. However, the bills have not been proposed for the parliamentary debate by the government but groups of MPs who have often known

little about the subject matter. Such a mechanism has allowed the avoidance of the time consuming procedures of social consultations and in-depth analyses of economic and social effects. The manner the parliamentary debate has been held is also in breach of the fundamental standards of democracy: the opposition MPs' right to speak has been repeatedly limited, bills have been processed during night sessions and included into the agenda last minute. As a consequence, bills key to Poland's regime have been voted on by the MPs who had had no chance to read the related analyses or request expert opinions.

As regards the scope of changes, the attack on the judiciary is exceptionally important, as impartial and unbiased courts guarantee individual freedoms and, in a broader sense, continuity of democratic system. Will a court that is subordinated to the political authorities impartially resolve a dispute between a citizen and the police who have abused their power against such an individual? Will a prosecutor who has a political superior carefully

"3 x veto!" Image  
from a protest against  
the justice reform  
Source: [nowoczesna.org](http://nowoczesna.org)



examine a case of domestic violence if it concerns a person related to the government? Discrediting the impartiality of the judiciary undermines the democratic foundations in every aspect.

### Unprecedented

The Constitutional Tribunal, which is responsible for monitoring the compliance of the Polish legal regulations with the Constitution, has become the first victim of the judiciary politicization. Law and Justice attacked the institution's staff already in the first weeks after taking over the power in Poland. The President of the Republic of Poland refused to administer oaths of three judges lawfully appointed by the Sejm (the Parliament) in the previous term. By the majority of the ruling party and accompanied by intensive objection of the Polish people, the newly elected Sejm appointed its own candidates, who then took oaths as "doubblers" before the President. In an equally unlawful and unprecedented manner, the government of the Republic of Poland refused to publish the rulings of the Tribunal which unequivocally indicated that the appointment process for judges was in breach of the Constitution.

The attack on the Constitutional Tribunal has not been limited to the illegal substitution of the three judges. By virtue of one of six acts on the Tribunal from 2015 and 2016, the Sejm (the Polish lower chamber) adopted a grievously unconstitutional appointment procedure for the President of the Tribunal, which assures that the position will be held by a person favouring the ruling party.

The storm on the judiciary staff has not stopped at the Constitutional Tribunal: Law and Justice MPs suggested similar changes with regard to common courts, the Supreme Court and the National Council of the Judiciary of Poland (KRS), giving the ruling camp the possibility of direct impact on the staff. The most intensive nationwide demonstrations in the Polish history gave the impetus to President's vetoing the bills regarding the two latter institutions. Still, the door to staff purges and politicization of the careers have been left open in common courts. The new bill vests the Minister for Justice with an unlimited right to replace presidents and vice presidents of courts without the opinion of the General Assembly of Judges of a given court, which was obligatory before.

The vetoed bills regarding KRS and the Supreme Court ruthlessly guaranteed direct influence on the composition of such bodies to politicians, too, and in particular to the Minister for Justice. In order to accelerate the process of the staff replacement, the bills assumed, in breach of the Constitution, shortening the term of office



Invitation for a demonstration to support the Supreme Court  
Source: [nowoczesna.org](http://nowoczesna.org)

of the present members of such bodies, and introducing the retirement age at 60 for women and 65 for men in the Supreme Court. Now, the President has presented new bills on the Supreme Court and KRS, which have been again drawn up behind the closed doors of the Presidential Palace and without open dialogue with the academic and law experts. The President's proposals indicate that the ruling camp will not at the slightest decrease the scope of the judiciary politicization. The only thing that would possibly change is the supervisor – from the Minister for Justice to the President. A large number of the bills' provisions violate the Polish Constitution: the constitutional term of the First President of the Supreme Court and the Members of the National Council of the Judiciary of Poland as well as the constitutional rule that the judges-members of KRS are appointed by judges and not politicians are not respected. Chances that during the present term of the Sejm, the standards of a democratic state, the rule of law and separation of powers will be restored are low. This damage will need making up for over years after Law and Justice loses its power in Poland. The confidence in public institutions is easily lost but hard to restore.



Nowoczesna (Polish liberal party) fought for independent courts in the Sejm and on the streets  
 Source: [nowoczesna.org](http://nowoczesna.org)

# Fighting hate speech in Germany: a legal way out?

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At the height of the so-called migration crisis in the fall of 2015, German TV journalist Anja Reschke could not take it any longer. In a widely shared and later award-winning comment, she described the sheer scale and graveness of hate she has encountered online whenever the discussion turned to refugees or migration. It was the beginning of an ongoing, heated, public debate on hate speech online and the role of social media platforms in German society.

As a political reaction, in the summer of 2017, the governing grand coalition of Conservatives and Social Democrats tightened and substantiated the laws governing take-down procedures for social media platforms.

The new law, the so called NetzDG, was met with fierce critique by free speech organizations and Liberals. The law obliges large social media platforms' operating in Germany to put into place a system in which "obviously illegal" content is to be deleted or made inaccessible within 24 hours after its existence has been flagged in the platform. Fines of up to 5 million Euros are foreseen for non-compliance.

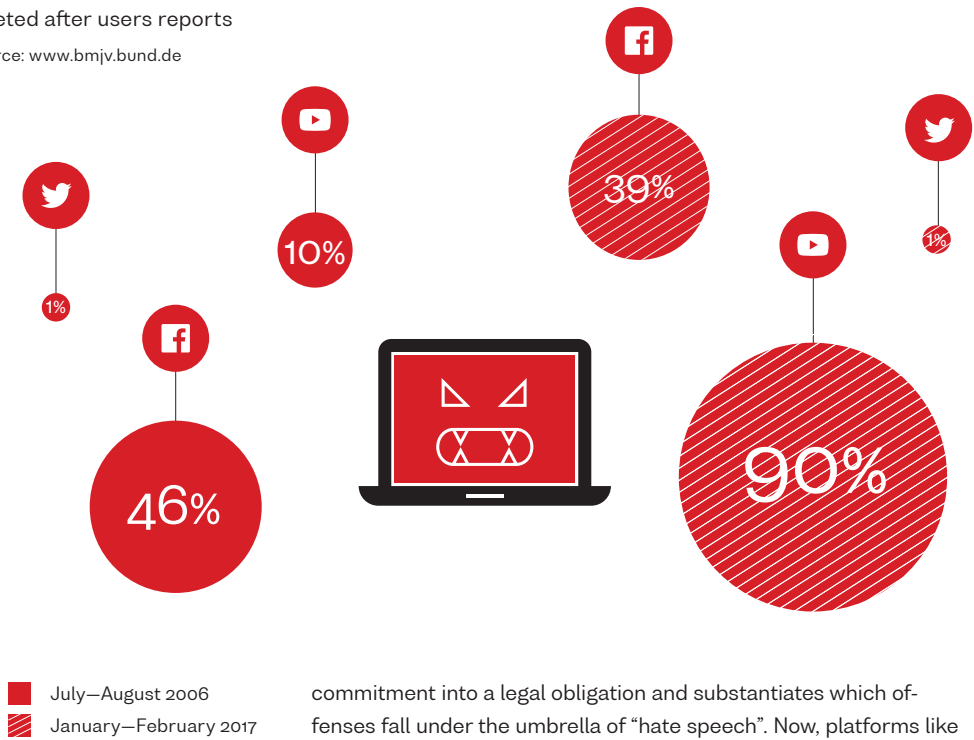
## **Over-blocking and outsourcing the interpretation of law**

Free speech advocates fear that companies might start over-blocking content to circumvent these high fines. One of their nightmares is: Facebook and Co. will start taking down too much content to be on the safe side.

Just to be clear: social media platforms in Germany are already obliged to delete illegal content as stated in the German law on television and media. Provisions on hate speech are also part of the community standards that inform the take-down decisions in social media companies. In addition, a voluntary commitment of social media platforms to react within 24 hours of being notified has led the take-down process too far. The *NetzDG* changes the voluntary

### Percentage of social media hate speech deleted after users reports

Source: [www.bmiv.bund.de](http://www.bmiv.bund.de)



commitment into a legal obligation and substantiates which offenses fall under the umbrella of “hate speech”. Now, platforms like Facebook and Twitter have 24 hours to take down “obviously illegal” content and seven days in a case of “not obviously illegal” posts.

The risk of over-blocking could especially target content in a legal grey zone and extend to satire and culturally sensitive cases. This kind of content can be hurtful to some, but not illegal; it might also be harmless, yet wrongly interpreted.

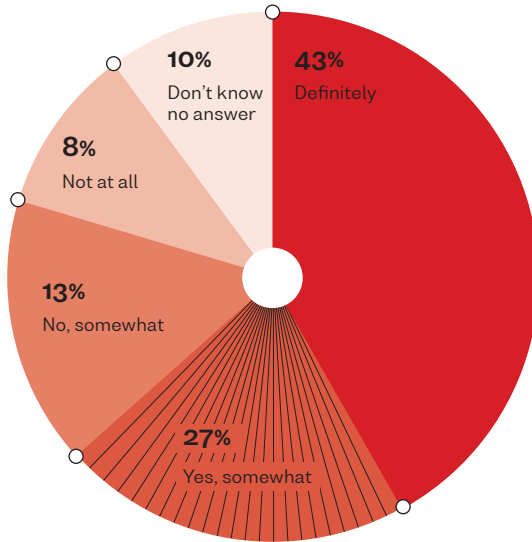
In reality, these interpretations will be taken by people employed by Facebook’s “care centers”. Although these employees undergo trainings, they do not necessarily come with a legal background. Yet, they will take a number of quick decisions on sensitive legal questions touching on the constitutional right of free speech.

#### Strengthening filter bubbles and polarization

And what happens after a post has been taken down? It’s naïve to think that once a post is deleted on a big network like Facebook or Twitter its content is gone once and for ever. Instead, the same post with the same possibly dangerous message will surface somewhere else on the web. And this “somewhere” will often be a digital space that is more remote from the mainstream discussion and the

## Internet users in Germany who agree with social media fake news & hate comments law, April 2017

Source: YouGov, April 15, 2017



watchful eyes of thousands of internet users. Smaller platforms, which are not targeted by the law, may provide an extremist universe of its own, luring people into a world of steady reinforcement of their beliefs.

Filter bubbles, in which people are no longer exposed to counter views, pose a big danger to the democratic debate. Certainly, Facebook's algorithms produce one-sided news feeds and discussions too. Yet many of the debates are publicly accessible and interaction and exchange with the other side is still possible. Counter information is just one post or one comment away. Once users are lost to shady forums, getting them "back" and engaging in an open debate will be more difficult.

For sure, hate speech in its numerous legal manifestations cannot enjoy impunity on social media. There should be no place for incitement of hate and violence in any digital or physical space. Nevertheless it is worth mentioning again that the danger lies in restricting free speech in the grey zone.

Studies show that an extensive deletion of a content, especially of fake news, which can fall within the scope of the new law,



reinforces people's conspiracy theories about society and so-called "elites". Critics fear stronger polarization in society as a consequence of the new law and as a result easy exploitation by extremist and populist groups.

### **And the state?**

So, if extensive content deletions indeed might prove counter effective and even reinforce extremist worldviews, how can the scale of hate on social media platforms be decreased?

Root causes of hate speech such as xenophobia, misogyny, homophobia, etc. cannot be mended with the help of legal paragraphs. What can be done with the help of the law, however, is to deter people from engaging in hate speech again, and again, and again. Rather than simply deleting an incitement to hatred and violence, users should be prosecuted for this kind of severe speech.

While the *NetzDG* foresees the appointment of a liaison person to facilitate communications between the authorities and the social media platforms, this seems like nothing more than a good intention when Germany is still lagging behind in building a robust and efficient system of law enforcement to prosecute criminal activities online.

### **Shared responsibility**

As such, the biggest failure of Germany's recent debate on hate speech might be the misconception that responsibility lies solely with the big social media companies. The *NetzDG* tightens and substantiates the laws governing take-down procedures on social media platforms, while critics fear unwanted over-blocking. The process surrounding the hasty adoption of the law failed to make sure that law enforcement and criminal prosecution are put up to the challenges of the digital age.

Lastly, responsibility is not only shared by platforms and state, but most importantly with the citizens themselves. Only an informed open debate on such hot topics as, for example, diversity, religion, migration, gender, as well as counter speech on hateful content, can foster the long term change needed to fight the root causes of hate speech. Anja Reske, the German TV journalist, couldn't have made it clearer in her comment: "Open your mouth, take a stand."

# Panama Papers and Malta

**Michael Briguglio**

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On 4<sup>th</sup> of June 2017 the Labour Party won the Maltese general election for the second consecutive time. As it was in 2013, its victory was tremendous: 54,83% were against the Forza Nazzjonali<sup>1</sup> made up of the main opposition party, the Nationalist Party, and the newly formed small Democratic Party.

The victory of the Labour was not a surprise. Indeed, this victory was one of eight consecutive, local, European and national victories between 2009 and 2017. Its results were varying between 53,4 and 56,6 per cent. Scientific polls were also pointing towards a Labour victory.

What was surprising was how Labour achieved such a massive victory in the midst of the crisis in governance characterized by consistent allegations of corruption. Indeed, the election took place a year earlier than predicted, when Prime Minister Joseph Muscat found himself embroiled in the mother of all political scandals in Maltese politics.

But let's go back four years. Before the previous 2013 general election, then leader of the opposition, Muscat promised a new way of governance, characterized by meritocracy and transparency. He promised that Malta would belong to all.

Immediately after Labour's massive victory in 2013, it faced criticism on various fronts of its style of governance. Whether this had to do with key posts in the public service, development of land, public contracts, or selling of passports, Muscat's government was clearly not following its promised script. On the other hand, however, the Labour government was delivering in areas such as economic growth, employment, and civil liberties.

**Panama hits Malta**

But then Labour faced a massive scandal with global ramifications: Panama Papers.



Anti-corruption protests  
Source: Author's pictures

In Malta, the scandal first achieved public attention through journalist Daphne Caruana Galizia, whose blog is one of the most followed websites in Malta. Her suggestions were corroborated by the publication of the Panama Papers, the online leak of 11.5 million documents belonging to the offshore law firm Mossack Fonseca.

It transpired that Energy and Health Minister Konrad Mizzi and Prime Minister's Chief of Staff Keith Schembri had set up companies in Panama shortly after entering office, following the 2013 general election. It also transpired that the accountant responsible for opening these companies also opened a third one, Egrant, the mystery owner of which had the name so sensitive that it could only be disclosed through Skype, rather than in writing.

The Panama Papers issue hit the Maltese headlines for the coming months. Protests were held, there were calls for resignations, and allegations on the ownership of Egrant were running haywire. Many were questioning whether Prime Minister Muscat could be its ultimate owner.

On April 20<sup>th</sup> 2017, Daphne Caruana Galizia claimed that the ultimate owner of Egrant was Muscat's wife Michelle. Literally, all Malta was glued to the television and the social media to discuss this shocker. And in the midst of it all, an Iranian bank owner's 'great



Anti-corruption protests  
Source: Author's pictures

escape' was filmed live on TV. Was he escaping with documents related to the allegations?

According to the Russian whistleblower, the bank in question, Pilatus Bank, was involved in the Egrant transactions by holding accounts for shell companies belonging to Michelle Muscat, Konrad Mizzi and Keith Schembri, and to no one less than the Azeri president's daughter Leyla Aliyeva. Incidentally, Azerbaijan has a major stake in the Maltese Government's new energy policy. The former's state oil company is a shareholder in Malta's new power station.

Joseph Muscat called for the Magisterial inquiry, but the Pilatus escape had already happened. Panama Papers had now gone in overdrive mode and opposition leader Simon Busuttil made new allegations: he stated that Muscat's chief of staff, Keith Schembri, accepted bribes from the sale of Maltese passports to rich Russians.

Rumors of a snap election were in place and they came true during May Day, when Joseph Muscat announced the election to be held on June 3, thus cutting government's legislature to four years out of the usual five. All of this was happening despite having a big parliamentary majority.

During the electoral campaign, the Nationalist Party's main message was against corruption, stating that in a normal European



democracy the institutions would long have taken an action against those involved in Panama Papers. The independent media has also focused very much on governance, in what turned out to be one of the most controversial general elections in recent Maltese political history. There were high expectations that more information would be published on Egrant, but they did not materialize.

### Post-Truth Society

Yet remarkably, Labour won comfortably. The Egrant political liability was turned into an asset, with Labour's narrative of 'where's the proof' becoming stronger and stronger. Whereas Keith Schembri's and Konrad Mizzi's involvement in Panama Papers was crystal clear, the ownership of Egrant was subject to debate. It is an example of the post-truth society, if Malta ever needed one.

Surely, Egrant alone cannot explain Labour's electoral victory. But it does show that governance and corruption, important as they are, are not necessarily the most important issues for certain electorates, such as that of Southern European Malta. An immediate question comes to mind: how can a political party that believes in transparency and good governance reconcile this with the main aspirations of the electorate? This is surely a question that Malta's opposition will have to face in the immediate future.



# Latvia: An Ongoing Fight

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Since regaining its independence, The Republic of Latvia (further on – Latvia) has been systematically developing and improving its judiciary, political system, and public administration to further integrate itself into the *Western world* and improve the well-being of its citizens. Nonetheless, numerous needed reforms and laws guaranteeing and protecting equal rights and freedoms have not been passed due to lack of political will or poor public administration (or perhaps both). And in the era of the rise of populism, these advances seem more and more distant and unrealistic if nothing changes in the political scene of the country.

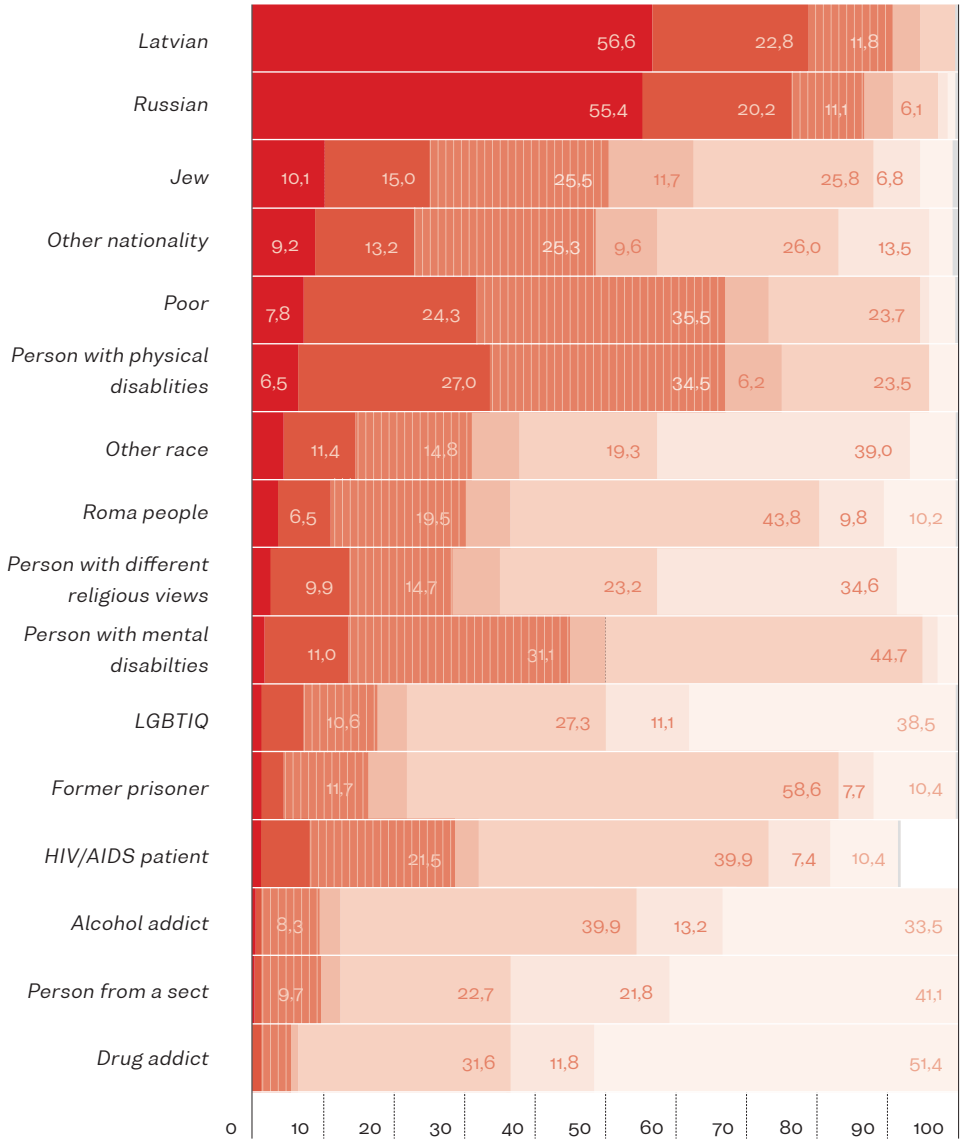
Latvia proved to itself and to the rest of the world that it is capable of high level leadership and performance during its Presidency of the Council of the European Union in 2015, focusing on, among other things, stronger economy, more digitalized society, and the EU's relations with its neighbours within the Eastern Partnership framework<sup>1</sup>.

A dedicated member of the EU and NATO, Latvia has marked yet another milestone by joining the OECD in 2016. Here the visual success story can be paused. A year after joining the OECD, Latvia still has not implemented many crucial points of the guidelines agreed upon during the accession negotiations. The long promised and talked-about Health System reform still has not been carried out in 2017, with the doctors' associations and unions on strike for months now, demanding fair working hours and adequate salary. The long promised Law on Whistleblower Protection that has been on the table since 2014 has not been passed yet. At the moment, Latvia remains the last member state of the European Union that has not ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence, locally known as the Istanbul Convention.

Society's unity, tolerance and attitude towards different social groups in Latvia

Research done in 2014 by the research center SKDS. Source: CKDS (2014)

I would like to be in contact with:



■ and make a close relationship, marriage   
 ■ like a friend   
 ▨ like a neighbour   
 ■ like a colleague  
■ like a Latvia's inhabitant   
 ■ like a tourist   
 ■ cannot be let in our country   
 ■ no answer

### Ultra-Right Attacks

The Ministry of Justice has been led by the representatives of the ultra-right National Alliance for years. This conservative party blocks any attempt to grant equal rights to all citizens of Latvia and to protect them from domestic violence. The current Minister for Justice, Dzintars Rasnačš, uses culture, tradition, and the Constitution as pretext to deny necessary reforms: “The convention obliges countries to renounce discrimination not only on the basis of sex, but also on the basis of ‘gender’. In order to comply with this principle of non-discrimination, sooner or later Latvia will have to start construing Article 110 of the Constitution and the second paragraph of Article CL 35 in light of the sociological theory of ‘gender’. This means authorizing same-sex marriages even without amending the wording of the first sentence of Article 110 of the Constitution,” the minister warned. “<sup>2</sup>

### Change from the Bottom

The same ill logic is ardently supported by the natural counterparts of the National Alliance – a social democratic, pro-Russia party Concord. Despite ideological differences, both parties work closely together to oppose the Istanbul Convention and any attempts to introduce the Cohabitation Law agreement; furthermore these parties pushed through the so-called *Virtue Law* back in 2015, highly influencing the educational methods of teachers and their adherence to the “traditional moral values”.

With all the above mentioned developments in mind, the country has spent much of 2016 and the first half of 2017 getting ready for the Municipal elections. Normally, not a popular event in the political life in Latvia, this year’s municipal elections, especially in the major cities, were viewed as a chance to change the current political tide of corruption and hypocritical traditions. Though in the majority of municipalities the governing parties prevailed, new political forces entered the political scene for the first time. The joint list of the local liberal party *Latvijas Attīstībai* and its partners from regional party LRA came second in Riga, ensuring liberal representation in the Riga municipality. Another winner of the elections is the underdog JKP – a conservative party bearing much resemblance with the Polish PiS party. Used-to-be underdogs are leading the opposition’s agenda in the Riga municipality and putting constant pressure on the Concord party, which has won the elections but now has two seats less.

Such results had been forecasted before the elections; therefore, the Concord party came up with a plan to secure the majority



for the new mandate. Right before the elections (at the end of the previous mandate), the Concord party pushed through amendments to its internal main provision on composition of committees of the municipality. Originally granting proportional representation for all elected parties, the amended regulations allocate a specific number of seats per party, thus constantly granting at least one vote majority for the Concord party. This dubious move poses a test for relations between the municipal and national-level governments, especially between the Concord-led Riga municipality and the Ministry of Environmental Protection and Regional Development (the ministry overseeing work of regional municipalities). At the moment, the ministry has called the municipality's move illegal and has demanded to cancel the amendment. It is unclear how the issue will be settled, but this is indeed a test for Constitutionalism in Latvia.<sup>3</sup>

Right after the election results, the outgoing city council with the strong majority of Concord party has amended the main provision and regulations of the municipality administration in order to secure their position in the next term of office. This event is another test for Constitutionalism in Latvia. Admitted as against the law, the move cannot be easily overturned and it is yet unclear how the national government and responsible institutions will react.

### **Cemetery Tram**

While equal rights are being denied to the LGBTIQ community and gender equality and domestic violence are still topical issues, we can observe a positive change in the civil society, which is developing significantly despite the political will and agenda of the governing political forces. There is a rise of active NGOs and citizen initiatives fighting for freedom, equal rights, and against corruption. 2016 and 2017 have seen a rise in public actions starting from Sisters March, conversation festival LAMPA<sup>4</sup>, protests against the government and the Attorney General (especially after the Oligarch case), to guerrilla city actions when activists painted bicycle path lines onto the main street in Riga, proving that there is space for all sorts of transportations in spite of municipality authorities' opinion<sup>5</sup>. One of the biggest scandals was connected to the so called Cemetery Tram (#kaputramvajs) – Riga municipality's project to introduce a new tram line using the EU fund for degraded territories. Although the city needs new tram lines in some of its districts, the proposed route did not seem to solve the connectivity problem, while intruding into the cemetery territory and suggesting multiple trees chop off. Activists fiercely fought the plan with public actions

and protests. Another unexpected victory is the ban on using wild animals in circuses — a result on an active protests and lobbying of an animal activist NGO. While the development of an active civil society is an obvious advantage of the last two years, this is not a proper checks and balances system.

An ongoing fight for equal rights includes a citizens' initiative for the introduction of the Cohabitation agreement. The law proposal would thus enable rights for same-sex couples, as well as protect other unregistered families. At the moment unmarried couples have no legal protection; nonetheless, in 2017 Latvian banks have started to demand that their clients provide information about their "unmarried partners", too. The same was asked from the state officials when filling their annual declarations. This leaves unmarried couples with no rights but duties. The Cohabitation law would solve this problem. Citizens can sign the petition for the law proposal on the citizens' initiative platform [manabals.lv](http://manabals.lv). After 10,000 signatures are gathered under the initiative, it will be passed to the Parliament, which will have to review it. At the moment, the initiative has been signed by more than 8,000 people, but with different institutions putting pressure on unmarried couples, it is predicted that the signatures will be collected before the autumn of 2018, namely before the next national elections, so that MPs show their stance on this highly emotionally loaded topic. The current centre-right government has clearly stated that they shall not grant rights to same-sex couples, but this might change if the issue becomes a topic in the electoral campaigns.

The rest of the 2017 will be marked by the government's inability to carry out Health System and Tax reforms. The country's Constitutionalism and Political System are put to a major test by the so called *Oligarch case*: the publication of leaked conversations between politicians and businessmen showing the level of corruption in the political elites. With current ministers and various officials involved, the leaked conversations show the urgent need for implementation of good governance principles, paralleled with increased transparency of the lobby sector, a Judiciary reform, and protection of the freedom of speech and the media. Since the *Oligarch case* has been developing since July 2017, it will be the subject of a thorough analysis for next year's review.

1 [https://eu2015.lv/images/news/2015\\_06\\_29\\_rezultati\\_EN.pdf](https://eu2015.lv/images/news/2015_06_29_rezultati_EN.pdf)

2 <http://www.leta.lv/eng/home/important/1339FFEC-2D41-E687-1B33-08B9E00394DA/?text>

3 <https://www.irlv.lv/2017/8/24/gerhards-piedraud-ar-rigas-domes-atstadinasanu>

4 <https://www.festivalslampa.lv/gb/festival/>

5 <http://pilsetacilvekiem.lv/lv/paraksties-par-sabiedriska-transporta-un-velojoslam-brivibas-ielu/>

# Should the right to vote be extended in the Grand Duchy?

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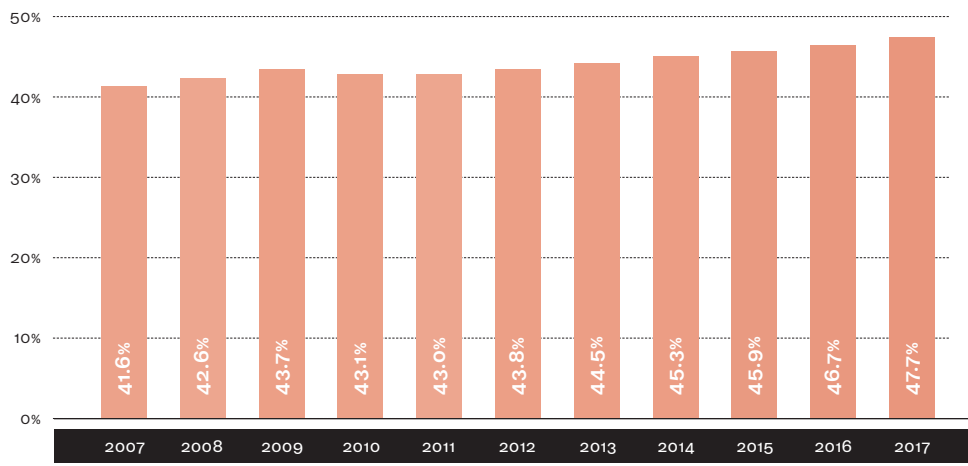
Luxembourg is the second smallest but wealthiest Member State of the European Union. It has a population of over 500,000 people, which makes it one of the least-populated countries in Europe. Unquestionably, Luxembourg is one of the leaders in democracy implementation in Europe and its exclusive best practices serve as an example to the developed world. According to Sustainable Governance Indicators (SGI), Luxembourg falls into the upper-middle ranks internationally (rank 13) in terms of democracy<sup>1</sup>. However, thorough monitoring of the main components of Luxembourg's democracy reveals particular doubts, raising the necessity of further examination. If the legislative framework and practical impact are monitored, one may conclude that certain gaps occur within the well-acknowledged democracy standards of this benchmark country. According to the academia, a democracy deficit occurs when ostensibly democratic organizations or institutions (particularly governments) fall short of fulfilling the principles of democracy in their practices or operation where representative and linked parliamentary integrity becomes widely discussed<sup>2</sup>. After analyzing the publicly available databases in the context of existing international challenges, we decided to focus on the problem of voting rights and citizenship acquisition in the context of the current constant migration.

**Land of immigration**

The official portal of the Grand Duchy of Luxembourg describes Luxembourg as a country of immigration. From a historical perspective, the population of Luxembourg has rapidly grown throughout the 20<sup>th</sup> and 21<sup>st</sup> century reaching the number it sustains nowadays. This vast increase represents a result of immigration processes stemming from the country's substantial economic development in various industries, complemented by relevant supporting governmental initiatives. The population of Luxembourg now comprises even more

## Share of foreigners in Luxembourg (%)

Source: Statista 2017



than 47% non-Luxembourg nationals (Figure 1). On the other hand, migrants and cross-border commuters constitute 80% of the labor force in the private sector and, according to experts, are the main driving force of the national economy<sup>3</sup>.

In the context of the existing legislative framework of Luxembourg, voting is compulsory only for those who are nationals of Luxembourg. Moreover, they must be at least 18 years old on the election day, listed on the electoral register maintained by the government and have full civil and political rights<sup>4</sup>. Since 1999, European Union (EU) citizens (representing 90% of the country's population) are allowed to cast their vote in municipal and European elections<sup>5</sup>. Since 2005, the non-EU citizens have the right to participate in municipal elections only provided that they fulfill certain residency requirements<sup>6</sup> and are registered on the electoral list<sup>7</sup>.

While the extension of the right to vote in municipal elections to non-Luxembourg nationals is perceived as a step in good direction for the democratic society, the lack of such right in the national elections is highly disputable.

### Land of the silent

As mentioned earlier, almost half of the population of the Grand Duchy of Luxembourg comprises foreigners living and working in Luxembourg but still not entitled to vote in the national elections.

Taking into account the fact that voting is obligatory in the country, we came to the conclusion that only half of its citizens participate in the political life and decision-making.

The issue triggered a national debate on the possibility of granting the right to vote in national elections to foreigners legally working and living on the territory of Luxembourg. On 7 June 2015, the country's Parliament held a referendum on whether the voting right in national elections should be extended to foreign citizens who have lived in the country for more than 10 years. The vast majority of voters (constituting almost 78%) responded to this question negatively<sup>8</sup>. The outcome of said referendum, however not surprising, resulted in a lively discussion across Europe and negative commentaries in the media<sup>9</sup>.

There is no doubt that what happened in Luxembourg in 2015 might have turned out to be a political precedence. Had the voters responded positively to the governmental proposition, Luxembourg would have become the first European Union Member State to grant foreigners residing in the country the right to vote in all its elections<sup>10</sup>. However, due to an opposite outcome, the referendum held in 2015 was assessed by experts as a "failed modernization attempt,"<sup>11</sup> which underlined the disconnection between eligibility and national citizenship, which half of the country's population does not possess.

To address the created obvious democratic deficit, the same year the government proposed a bill filling in the existing political participation gaps<sup>12</sup>. Although it was subject to discussions and partial resistance of some of the Members of the Parliament<sup>13</sup>, the law entered into force on 1 April 2017 creating an easier procedure to obtain Luxembourgish citizenship<sup>14</sup>.

Thus, we may conclude that the overall conditions for exercising voting rights in Luxembourg have been eased over the last years due to the recent steps undertaken by the national government. However, it is too early to evaluate the real impact of the adopted measures, especially taking into account the fact that the next national elections are expected in October 2018. Therefore, it remains an open question whether amending the citizenship procedure will be a sufficient solution to tackle all voting aspects of the existing democracy deficit of the Grand Duchy of Luxembourg.

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# Skin Deep Lithuanian Democracy and the Fight for the Overtaken Municipalities

**Martynas  
Barkauskas**

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Lithuania is indeed an example of a successful post-soviet transition. Unlike many other post-communist societies, Lithuania managed to transform its economy into a well-functioning part of the European market, join European Union and NATO, and avoid the emergence of authoritarianism. Nonetheless, the beauty of Lithuanian democracy is only skin deep. The state still has serious problems with corruption, low level of civic engagement into politics, relatively high level of homophobia and racism, nepotism, cronyism, clientelism, and similar. Each respective issue is extremely complex and should be discussed in a separate article. This article focuses on the problem of so-called *overtaken municipalities*, a phenomenon which encompasses most of the previously mentioned democracy flaws.

**Overtaking mechanism**

While discussing the state of democracy in Lithuania's regions, famous Lithuanian political scientist Ainė Raimonaitė compared it to an apple which is shiny from the outside, but rotten from the inside. She compares the situation in some of these municipalities to Belarus — a country often referred to as the last dictatorship in Europe. To describe these municipalities, the scientist uses the term of overtaken municipalities.<sup>1</sup>

When describing the concept of overtaken municipalities, the researchers firstly talk about the administrative areas where local interest-groups challenge the central government. To fulfill their goals, these groups employ the same symbolic and material resources as the state, such as political mandates, budget assignments, community networks, and so forth. While the competition of ideas and interests forms the core of democracy, cases of overtaken municipalities are the examples of how measures of survival politics,<sup>2</sup> political machine technologies,<sup>3</sup> and post-soviet heritage turn this competition into a malformation of democracy.



The analysis of Šalčininkai municipality has shown that shady practices of the survival politics are being implemented there. Local leaders appoint loyalists for the important positions and ensure the circumstances for their swift dismissal in case they build up competing loyalist groups. Local leaders also apply vote trafficking during the general election, threatening, blackmailing, belittling in the media they control, and firing the opponents or “undesirable” people. They further exercise their powers to paralyze the work of opposing local institutions by starting endless audits and perpetually changing the law. Finally, local leaders avoid the personal responsibility at all costs and seek for the balance of power in the administrative area they dominate. All of these practices are either illegal or seriously contradict the ideas of free competition. They are more commonly associated with democratically underdeveloped regions.

The other outlined pattern of counter-democratic activities in Šalčininkai is related with the establishment of power through the clientelist networks. The mobilization of dominant Labor Party is based on the disproportionate attention to the poorest and creating material benefits for those who belong to the party. These incentives may encompass an improved access to the organized leisure activities, a possibility to be appointed for a better position at work, or an insurance of securing the current occupation. These practices are also known as a creation of political machine in which public resources are used as a tool of patronage and resemble feudal social relationships.

On the top of survival politics and political machine technologies, researchers find the layer of practices that are clearly inherited from the former regime of the Soviets. These practices are mostly related to the effort to appeal to electorate’s longing for a strong-hand governor, with the old-fashioned public relations that emphasize participation in all the local events and shaking the hands of common people, and with the struggle to control the local press. Together with survival politics and political machines, communist heritage forms the *overtaking mechanism* that is keenly used by the regional politicians in Lithuania.

### **The scale of the phenomenon**

Although the research examined a single case of Šalčininkai, the phenomenon of *overtaken municipalities* is widely spread in Lithuania. Romas Sadauskas-Kvietkevičius, a blogger and member of the city council in Druskininkai, which has been controlled by Social Democrats since 2000, describes the situation in the municipality

as extremely difficult from democratic point of view. According to him, only “suicides or pensioners with a taste for extreme adventures” can allow themselves to get involved with politics. For the opposition activists, it is almost impossible to find a job or run their own business. Without breaking any laws, the ones in power will make sure to create obstacles for a business, so that their owners think twice before deciding if it is worth to cause oneself problems by employing a troublemaker, says Sadauskas-Kvietkevičius.

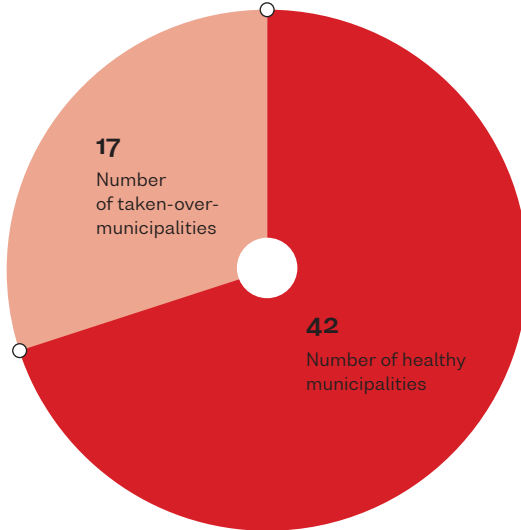
The authors of the previously discussed research point at 4 municipalities where every indicator of *overtaking mechanism* is present. Although Druskininkai does not formally meet all the indicators, Lithuanian media often refers to it and numerous other municipalities as “*principalities* governed by the local *dukes*”. If the number of the municipalities, where the local administration is not changing for three or more terms, is added up to the ones highlighted by the scientists, a total amount of 18 (36%) out of 60 municipalities in Lithuania seem to fall into this category.

Although the populations of these municipalities form only 18% of the overall Lithuanian population, the fact that every parliamentary party can be under suspicion for taking over at least one municipality raises a reasonable concern about the state of Lithuanian democracy.

### Is there a way out?

Recently, an institutional reform, which introduced the direct election of mayors, took place in Lithuania. Some political scientists expected this reform to end the domination of regional *dukes*. For example, Vytautas Dunbliauskas argued that “[before the reform, local leaders] had to please the leadership of the parties, as so-called *dukes* were elected by the councils of municipalities; therefore, the vote was only formal, whereas now, they will have to show charisma for the whole local population.” Despite good intentions of the reform, the situation improved only to a limited extent. Although 5 out of 18 former *dukes* were not re-elected during the regional elections of 2015 and 82% of Lithuanians consider such reform to be necessary, the situation in some of the municipalities has even worsened. After various scandals in Druskininkai and Lazdijai, the local mayors were asked to stop their memberships in Social Democrat and Conservative parties. If previously internal disciplinary measures of parties were effective, this time local *dukes* rebelled against their own parties and led the secessions of the local party branches from the mother parties. The impetus for the self-confidence of local

## Share of potentially overtaken municipalities



*dukes* was ultimately given by the fresh victories in direct local election and through total control of their administrated municipalities.

Instantly after the reform had come into power, two new prescriptions were discussed. The first one was to introduce the limit for the number of terms that mayors could take. While it would encourage internal competition within the ruling parties in *overtaken municipalities*, the wider effect should not be expected as this innovation would only reshuffle the influence among the dominant players. The access for currently marginalized actors would still not be allowed. This problem might be solved by the second set of ideas, which emphasizes a necessity to strengthen the opposition. One of the possible ways to do this is by giving the status of vice-mayor to the leader of opposition. Currently, members of municipality councils in Lithuania are not paid for their service – turning politics into a side activity for most of the local politicians. Such situation does not allow the opposition to better coordinate its actions and positions, but it is not impossible to solve it. If the opposition had a leader who would have the means to turn politics into his primary concern, a change would be achievable.

Besides the institutional changes, the situation might be improved by invoking of more grass-root measures. More attention

from national and international NGOs, parties, media, and individual officials might raise local population's awareness about counter-democratic tendencies and illegal practices in their municipalities. As a matter of fact, Lithuanian media is taking a significant part in these efforts. The major media outlets are constantly putting regional issues on the spotlight. Although there is a huge share of people, who do not follow media channels online, these outlets are an important source for breaking the monopoly of information that local leaders are trying to create in the *overtaken municipalities*. It is possible that the investigative journalism, instead of institutional reforms, have made an impact in 5 municipalities, where the voters rejected local *dukes* from holding power. Politicians, who operate on the national level, often emphasize the existences of this problem. NGOs, such as Open Lithuania Foundation, have also started to target the problematic areas with their democracy promotion projects. Another NGO called "Baltosios pirštinės" (literal translation: *The White Gloves*) started unifying active Lithuanians in the effort to stop trafficking votes and played an important role in publishing the registered cases during the last few elections. It looks like Lithuanian political system and society are resilient enough to deal with the challenges for their young democracy. Nonetheless, the defenders of democracy have to be aware that democracy in Lithuania, as in most of the countries in post-soviet space, is still an ongoing process and not the finite product.

1 The meaning of the term is broader discussed in the research of her students at Vilnius University.

2 *The politics of survival* is a term offered by Joel S. Migdal in his work "State in Society: studying how states and societies transform and constitute one another" (pp. 71–84). While analyzing local leaderships in African countries, he found that they actively try to regulate domestic political competition through the creation of balance of power, the dirty tricks against the critics and political competitors, and the use of other undemocratic measures.

3 Vilnius university researchers use the term of *political machine* to describe the creation of patronage networks that turn the local politics into a mere exchange in services. For example, votes are traded into the access to social-security benefits.

*Local leaders also apply  
vote trafficking during the  
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and firing the opponents  
or “undesirable” people.*

**Martynas Barkauskas**

# From the zeniths of the Celtic Tiger to one of the worst banking crises in the history of the EU

**Norma Costello**

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The Independent

From the zeniths of the Celtic Tiger to one of the worst banking crises in the history of the EU, the Republic of Ireland is fast emerging as a country of extremes.

While the country is currently basking in the glow of what economic commentators have described as the “Celtic Phoenix”, the harsh years of recession left in their wake a country deeply polarised.

**Spike**

According to data collated by Knight Frank, a wealth analysis firm, Ireland now has 83,100 citizens with assets worth over \$1,000,000. The firm predicts the number of millionaires in the country to exceed 100,000 by 2026. Experts claim the increase is directly linked to a dramatic spike in Ireland’s property prices.

As rent’s rise and property owners sell to Buy to Let investors, those unable to climb the country’s increasing intangible property market, face skyrocketing rents which has led to one of the worst housing crises in the history of the state.

According to figures published last May by the property website Daft.ie, the average cost for a rental property in Ireland is €1,131 per month, with rents in the capital Dublin averaging at €1,690. In just one year the average Irish monthly rental rate increased by €134 per month with most market value rents increasing by 50% in the last four years.

For many families in the country recovering from years of recession, the increasing rents soak up any disposable income. Despite the county’s relative general economic robustness, large sections of Irish society remain in poverty leading to a polarized society and a burgeoning wealth gap.

At the same time as Ireland creates more millionaires, 3,000 children are now accessing the country’s emergency

accommodation services. According to figures released by Focus Ireland, a Charity helping Ireland's homeless, the number of homeless people in Ireland rose by over 40% between the years 2013 and 2016, years the country was alleged to be experiencing an economic rebirth. During this period the demand on the country's small number of foodbanks reached a level where Crosscare, an NGO providing food for those in need, established community banks and a "card" system to meet demand.

### Concentration

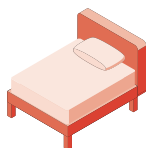
In contrast to the poverty experienced by those left behind during Ireland's recession and subsequent recovery, Ireland's wealthy continue to expand their influence. The country's third wealthiest man Dennis O'Brien managed to consolidate his influence in the country's largest newspaper group Independent News Media (INM), which holds a myriad of regional and national titles. O'Brien owns 29.9% of INM and owns Comunicorp which holds Newstalk and TV3 the only main rivals to the state broadcaster RTE. This year Ireland slid from 9<sup>th</sup> to 14<sup>th</sup> place on the Press Freedom Index published by Reporters without Borders. The organisation cited high levels of concentration of media ownership.

The Irish state has failed to play a regulatory role in both the Irish housing crisis and Ireland's ailing media climate. One in five of Ireland's TD (MPS) are landlords and Ireland's current ruling political party Fine Gael have failed to offer any solution to the country's housing crisis aided by the ever growing number of lenders offering high interest buy-to-let mortgages. The government's failure to build adequate public housing is a source of concern as Dublin remains a popular migration destination for tech workers drawn to the multinational companies using Dublin as their HQ for tax purposes. The state's failure to invest in rural Ireland has also drawn people from the countryside to Dublin seeking employment, decimating populations on the western seaboard. Failure to regulate the buy to let market and failure to build social housing show the state's vested interest in Ireland's latest property bubble.

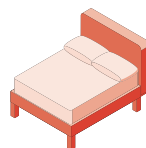
In addition, Ireland's wealthy elite continue to prosper dismantling the nation's one vibrant "fifth estate" litigating successfully against journalists who criticize while forging intimate relationships with political leaders. Those who control Ireland's newspapers are afforded lucrative government contracts, including O'Brien who a tribunal found paid former minister for Communications Michael Lowry in exchange for information, that aided his acquisition of

## Rent-a-room Trends Q2 2017

Source: Daft.ie



SINGLE  
ROOM



DOUBLE  
ROOM

Rental areas	Avg. rent	Yr/Yr change	Avg. rent	Yr/Yr change
Dublin city centre	€ 632	8,0%	€ 724	6,3%
Cork city centre	€ 399	14,0%	€ 474	9,5%
Limerick city centre	€309	10,8%	€375	17,6%
Waterford city centre	€287	0%	€309	4,7%
Galway city centre	€374	€374	€451	8,4%

Ireland's second mobile phone license. Lowry is the former chairman of Fine Gael, Ireland's ruling party.

As Ireland recovers from collapse, questions remain as the country's poorly regulated property market spirals out of control once again, a leading factor in the country's dive into recession. It seems likely given the country's current political leadership, Ireland is destined to repeat its mistakes as voters choose between the two main centre right parties and a fragmented opposition.



*As rent's rise and property owners sell to Buy to Let investors, those unable to climb the country's increasing intangible property market, face skyrocketing rents which has led to one of the worst housing crises in the history of the state.*

**Norma Costello**



# A radical democratic perspective on Dutch Democracy

**Gert Jan Geling**

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In the debate on democratic deficit in Europe, the Netherlands is usually not a country that pops up when we think about European countries with a flawed democracy. Instead, it is often perceived as a democratic example to the rest of the continent. According to the Democracy Index of The Economist, the Netherlands is not only a Full Democracy, a democracy where civil liberties and political freedoms are not only respected but also enforced by the political culture, but also one of the most democratic countries in Europe, ranking only after the Scandinavian countries and Switzerland.

It would, however, be misplaced to view the Netherlands as a country that is democratically speaking rather perfect. A case could even be made that in the recent past, the Netherlands has become *less democratic* instead of more. In this contribution I will focus on some of the flaws that could be identified with the Dutch democracy, and why they are problematic.

The Netherlands could be described as a liberal democracy. A liberal democracy is made up of two strands: (constitutional) liberalism and democracy. Liberalism stands for the rule of law, the separation of powers and the protection of basic liberties. Democracy on the other hand is about a political system that includes free and fair elections, power to the people and a representative government. If we take the democratic strand of liberal democracy into consideration we can identify five democratic flaws in the Netherlands.

**Party cartel**

The first flaw is the fact that the highest ranking official in the municipal government, the mayor, is not directly elected by the population of the municipality. In the Dutch system, it is the head of state, the King, who names the mayor, based on advice of the Minister of the Interior and Kingdom Relations, who usually follows

the nomination of the municipal council. Citizens do not have a say in this procedure. This procedure has many problems, including the fact that most of the mayors in the Netherlands come from three political parties: the Christian Democrats (CDA), the Labour Party (PvdA) and the Conservative Liberals (VVD). At this moment, these three parties together have only 40% of the seats in the Parliament. Thus, in many municipalities, the political colour of the mayor does not match the average political views of its citizens. It is a limited number of political parties, and not the citizens, who decide who will become mayor in the Netherlands, a construction that has been named the *party cartel* (*partijkartel*).<sup>1</sup> The newly formed government has, however, stated that it wants to change the Constitution, thus enabling the possibility of direct election of mayors in the near future. In the past, however, attempts to reform this system have always failed.

### Particracy

Related to this problem, there is a second deficit to democracy in the Netherlands, namely the fact that a case could be made that instead of a democracy, the Netherlands is actually a *particracy*. The term has been popularized in the Netherlands by Arnout Maat, a young intellectual and a former member of the Young Democrats, the youth wing of the Social Liberal Party (D66). In his book *The Particracy* (*De Particratie*) he argued that, instead of a democracy, the Netherlands could be described as a *particracy* because of the fact that instead of the people, it is the political parties who hold power. Citizens elect representatives of political parties, but it is the parties that are governing the country and make all the important political decisions. The problem with a *particracy*, according to Maat, is the fact that this system cannot be changed from the inside out. This would be like trying to repair a car while it is driving.<sup>2</sup>

The third flaw of the Dutch democracy that can be identified here is related to the concept of the *particracy*. In the Dutch Parliament, the Senate and many municipal councils we can find a strong factional discipline. According to the Dutch Constitution, Members of Parliament are elected without being bound to the decisions of the party. The reality of the Parliament is, however, very different. Parties often tend to vote unanimously, and views, let alone votes, that defer from the party line are not at all appreciated. Political representatives, especially Members of Parliament, are therefore unable to function as independent actors who can judge a law or proposal on its merits. Instead they become an extension of the

party line, providing the party with even more power than it already has. At the same time, this creates dysfunction in a system in which political representatives are being elected in order to represent the views of the people who have elected them.

Furthermore, we are already experiencing another problem regarding the representation of the views of the Dutch citizens. Currently, there exists the possibility for citizens of calling for a consulting, non-binding, referendum in the Netherlands, if they are able to collect enough signatures to support it. This possibility was created by the Parliament in the past to give citizens more direct influence on the democratic decision-making process. The new government coalition, however, is planning to repeal the current law, thus taking away the option of a consulting referendum. A referendum like this has taken place only once, about the association treaty with Ukraine, where the majority of voters voted against.<sup>3</sup> This experience, together with the result of the referendum on Brexit, has had a strong influence on the views of Dutch politicians on whether referenda are preferable or not. This has led to a political climate in which it seems that Dutch politicians dislike too much direct influence of the Dutch citizens over politics and government decision-making.

### Degree Democracy

The final democratic deficit in The Netherlands that will be identified here is what has been described by two scholars, Mark Bovens and Anchrit Wille, as *Degree Democracy* (Diplomademocratie). The Netherlands is a country that is being governed by a Parliament in which approximately 90% of the MP's hold a university degree. The average percentage of Dutch citizens that hold a university degree is growing, but not even close to a majority. At this moment, approximately 30% of the Dutch population have a university degree. Thus, the Netherlands is being governed by a group of people that stems in 90% from a part of the Dutch population that is not much larger than 30%. According to Bovens and Wille, this has led to a large gap between the political elite and the majority of the Dutch citizens, with the former no longer being able to understand what is going on in the hearts and minds of the latter, and the latter being no longer able to identify with the former.<sup>4</sup> Dutch democracy is therefore not fully representative, but rather a full representation of only a segment of the population.

Even though democracy in the Netherlands seems at the first hand to be healthy and strong — and to a large extent it is. There are a few problems with it, as have been identified above.

No democracy is perfect. They all have their deficits. The Dutch democratic deficits mainly lie in the sphere of the power that political parties have, the limited direct influence of citizens on the government, and the fact that politicians overwhelmingly stem from a small segment of the population only. There is no sign that the current situation will improve in the near future. As stated before, there is a possibility that in the coming years it will become possible to directly elect mayors. The correctional referendum on the other hand might become a thing of the past. Much has been written about the gap between the political elite and the government, and even though according to opinion polls trust in politicians and the government is still rather high in the Netherlands, there is also a strong undercurrent of mistrust of the political elite among the population, and a similar mistrust of the population among politicians. This could possibly affect Dutch democracy in a negative way in the coming years, thus leading to an even larger democratic deficit than we are already experiencing right now.

**1** These days the recently founded conservative *Forum for Democracy* (FvD) is the leading critic of this system in Dutch politics. Originally, however, it was Hans van Mierlo, the founder of the social-liberal D66 who, already in the 1960s, criticized the party cartel.

**2** Arnout Maat, *De Particratie* (Soesterberg 2016).

**3** A good analysis of the referendum and its aftermath can be read on EUobserver: <https://euobserver.com/foreign/138060>

**4** Mark Bovens & Anchrith Wille, *Diplomademocratie* (Amsterdam 2014).



# The fight against corruption in Spain

## Francisco de la Torre Diaz

is Member of the Spanish Parliament for Ciudadanos, and Chairman of the Congress Committee on the Budget.

Spain is not an old democracy. We experienced nearly four decades of dictatorship, and our Constitution is barely forty years old. In these past four decades, Spanish democracy had to face important challenges, both economic and political. We even suffered an unsuccessful *coup d'état* that intended to restore a military regime. Nowadays, everyone considers democracy in Spain firmly consolidated, but there are still risks such as the rise of populism, high unemployment rate and corruption.

### Unpunished corruption

There is, in my opinion, a clear connection between these three subjects. The rise of populism began precisely when old Spanish political parties were not able to solve economic problems anymore and the awareness of unpunished corruption became widespread. According to all polls, including the official ones made by CIS (Spanish: *Centro de Investigaciones Sociológicas* — Centre for Sociological Research), unemployment is the largest concern for Spaniards, the second one being corruption.

It is quite obvious why unemployment should be an important concern for Spanish people as we have the second highest unemployment rate in the European Union. Only Greece has higher unemployment. On the other hand, at first sight it is not that obvious why Spanish people are so worried about corruption. Things that are relatively common in “corrupt countries” are unthinkable in Spain, as in other developed countries. For instance, trying to pay a bribe to a policeman in order to avoid a traffic fine would be just foolish in Spain. Nobody would even think of paying a bribe to a tax inspector to close a complicated tax audit or to a civil servant to influence him or her in any way.

In Spain, the idea of corruption is closely related to political issues. I believe the fight against political corruption is one of the key

issues for the final consolidation of democracy in Spain. Of course, it is an important political challenge; but it will also have significant economic consequences. Doing business is easier in those countries where there are low corruption levels and a strong and agile judicial system. In those countries, there is stronger and healthier competition amongst companies. Unfortunately, we have much to improve in Spain in those matters.

According to the Spanish independent market supervisor, *Comisión Nacional de Mercados y Competencia*, the cost of corruption in public contracts only, due to the lack of proper competition, could be as high as 40,000 million euro, close to 4% of Spain's GDP. These include direct costs, like extra money paid to suppliers, and indirect costs, those derived from promoting inefficient but "well connected" companies instead of those most productive and efficient. But there are additional and less measurable costs, such as the popular lack of faith in the economic system, and even in democracy.

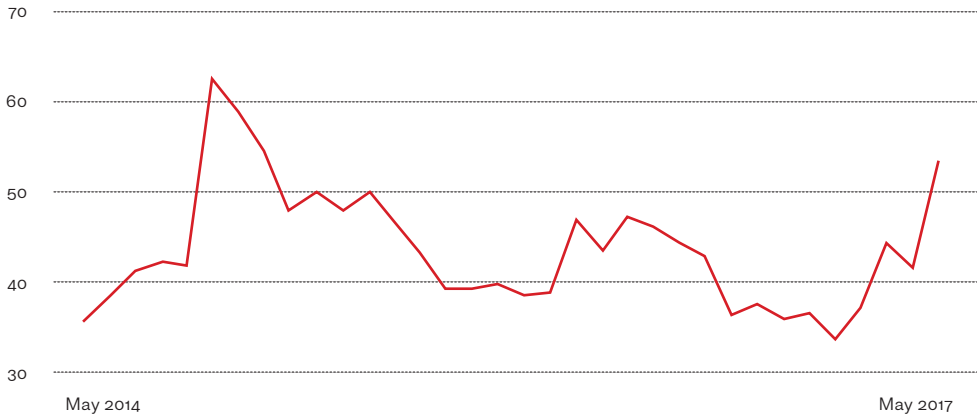
The problem of corruption in Spain aggravated during, and as a consequence of, the financial crisis. In a lot of developed countries, citizens were very angry because they had to pay more taxes, or suffer public expense cuts, while money was spent in "saving the banks". The difference in Spain is that Spanish banks saved were a kind of "Building Societies" managed by politicians of the old Spanish political parties. Some of them were top-level politicians, such as former Spanish conservative deputy prime minister, and ex-IMF-Director, Rodrigo Rato, or former socialist deputy prime minister, Mr. Narcis Serra. According to the estimations of the Spanish *Tribunal de Cuentas* (Court of Auditors), the cost of the Spanish rescue of these "building societies" was 60,000 million euro. Of course, part of the problem was plain bad management rather than corruption, but some of the top officials and politicians at these "building societies" have been indicted and even convicted for unfair management offences.

### **Independent judicial system?**

However, the response of the judiciary system has not been enough to solve these corruption problems, in the opinion of a majority of Spanish society. The Spanish judiciary system is considered very slow according to all polls. Spain has one of the poorest ratios of judges per citizen in Europe. This is also the case of the ratio of tax administration employees per citizen, which is key in the fight against financial corruption. This is due to the lack of investment in these crucial areas.

## Is corruption a problem in Spain?

Source: CIS 2017



The lack of independence of the judiciary is also a big problem when it comes to investigating politicians. There is no problem with judicial independence in general, but there is a big issue of “politicization” in some key places. On the one hand, political parties choose, based on a partisan voting system, “*Consejo General del Poder Judicial*”, a professional council that oversees the judiciary system in Spain. On the other hand, the Government freely chooses the Fiscal General, a figure akin to an Attorney General or a General Prosecutor; and the incumbent Fiscal General has made very controversial decisions in investigations relating to the party currently in government.

### Liberal reforms

*Ciudadanos*, a Spanish liberal party, has taken some action in order to escalate the fight against corruption. In our budgetary agreement with the conservative Popular Party, currently in government, we have achieved the first budgetary increase, since the beginning of the financial crisis, for the Tax Administration. Also, there will be a “crash plan” funded with over 100 million euro to improve the digitalization of the justice administration, a key point to make it faster.

Furthermore, we have promoted an Integral Law against Corruption, which is now processed in the Spanish Congress. In our proposal, we provide legal protection to “whistleblowers” who inform the authorities of corrupt practices. We also propose the



establishment of an independent authority for public integrity with important powers to prevent corrupt practices in all Spanish administrations. In this law we harden the penalties for corrupt practices, and we also change the rules to prevent conflicts of interest.

The most complicated area is the necessary, but difficult due to the resistance of the old parties, change to the judiciary ruling body in order to ensure judiciary independence, especially in cases related to corruption in political parties. We have also found very fierce resistance against our proposal to ensure the autonomy of public prosecutors in cases of political corruption. However, we will maintain our positions regarding these two key proposals.

In order to improve general living conditions, and prevent wrong populist doctrines to succeed, we have to promote economic reforms but also consolidate democracy, and fight effectively against corruption. This is our goal and we believe we are making progress in Spain in this respect.



# A Democratic Gordian Knot

**Michael Iakovidis**  
is the Co-founder and Marketing Director for Greek Liberties Monitor.

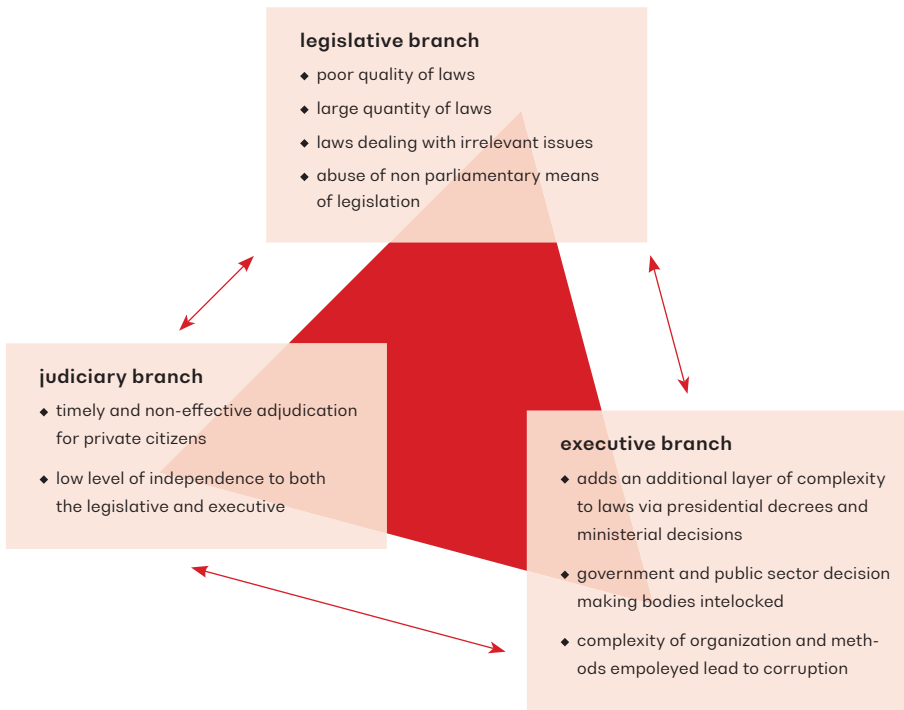
Greece's problems cannot be individually termed as unique, nor are they unknown in other countries. What is unique is the fact that when seen collectively, they interlock and create an almost impenetrable wall of democratic deficit, which leaves citizens ripe for demagogues and extreme views.

A modern democracy functions with three separate authorities: legislative, executive and judiciary. It is thought that with this separation of powers, if there is a deficit in one, the checks and balances from the other two branches will even things out. What happens, however, when all three branches are deficient?

## Legislative

The legislative branch in Greece is the Greek Parliament. Traditionally, Greek laws have not followed the qualitative rules set, and as early as in the 1960s, there was a perception that laws were exceptionally poor. This has been taken to a whole new level during the times of the Greek Crisis and the Troika supervision. These two issues are among three main problems in Greece described below:

It is unconstitutional in Greece to put provisions in laws which have nothing to do with the main issue the law addresses. This has been systematically ignored (in 1975 the percentage of unrelated provisions dealing with regulatory issues reached 33–40%), but has reached huge proportions in the current administration, with laws now not just containing unrelated provisions, but completely unrelated topics. One example is Law 4373/16, which deals with the harmonization of Greek legislature with doping control issues, but also contains a provision for the payment of a special consumption tax for the development of the art of cinema. It is calculated that presently only 24% of laws now being passed have a single issue, with the other 76% having provisions dealing with issues completely unrelated to the law.



A new problem consists in the use of special legislative tools, such as the Acts of Legislative Content and the Act of the Ministerial Cabinet, tools which are supposed to be used as emergency procedures, as exceptional measures for force majeure situations. These have been used by governments during the Troika era in order to sidestep due diligence and the parliamentary debate during lawmaking. In 2012, 28 such acts were passed in comparison with 67 laws passed by normal means (the number of such acts passed in 2015 was 35).

The laws related to the Troika mandated agreements were lumped into a single law and sent to the Parliament in an expedited procedure with parliamentarians having less than 2–3 days to read through hundreds of pages of the law.

### Executive

The executive in Greece has traditionally had a love-hate relationship with the Greek citizens. For decades, the government in power has used special privileges, appointment to the public sector, subsidies and control of the bureaucratic apparatus to do favors, while at the

same time creating unfavorable conditions for those opposed to its ideological agenda. The government and the public sector in Greece work in tandem: each government has the right to appoint new general directors and directors in the ministries, state owned businesses and other organizations related to governance or the State. It is calculated that within Ministries, 20% of all departments are constituted from a manager and/or director, with attached staff. It should also be noted at the same time, Greece ranks 29 out of 31 rich democracies in the International Civil Service Effectiveness Index.

It also has a symbiotic relation to the legislature, using horrible lawmaking practices and building on them: it has been calculated that Greece has 4435 laws, which the executive has used to pass 10 Presidential Decrees and 70 Ministerial Decisions, creating a huge morass of bureaucracy which is ripe for corruption.

### Judiciary

The final remedy could be offered by the judiciary; but again, in Greece this is also a problematic sector. Greece is the slowest country out of the 28 EU countries in the adjudication of court cases. In a country which has 1 lawyer for every 315 citizens, there are 288,229 pending cases in court, 245,795 of which are being heard for the first time, and 42,434 which are in Appellate Court. In Greece, it takes on average 52 months from submitting a lawsuit for it to be adjudicated. And at the same time, the judiciary can hardly be considered to be independent from the other branches of government: High Justice Thanou, who just retired from presiding over the Supreme Court, was appointed to preside over the legal department for the Prime Minister's office (although not illegal, this was considered to be highly irregular). At the same time, the anti-corruption prosecution office has a zero budget with three district attorneys, when the estimated cost of corruption in Greece reaches 20 billion euro annually.

This situation also affects other issues such as for instance free media and other liberties. Spurious laws are legislated, passed down to the executive, which further implements it via a morass of bureaucratic decisions and poor implementation. All this is left with little recourse from the judiciary, which is likely to stall to an extent to which justice is irrelevant by the time a decision is reached. This is further escalated by the Memoranda, which are implemented circumventing proper legislature and executive implementation, at times contradicting both the constitution and the law. Finally, all cases related to MPs must go through a parliamentary

committee to prosecute an MP, which almost never happens, leading to a further lack of accountability.

If you mix all of this together, the citizen in Greece is left with little support. The solution? That of the Gordian Knot. What is needed are targeted reforms of all 3 branches simultaneously, along with targeted spending which would actually enhance efficiency (it should be noted that quite a few of the reforms which have not been implemented in the Memoranda would have great positive effects if they had not been substituted with taxes and fiscal-equivalent measures).

One example includes the judiciary: it has been calculated in a study conducted by the Hellenic Federation of Enterprises that expenses for courts are 51 euro/citizen, while the EU average is 79 euro; and that the slow adjudication of legal issues is the most severe issue holding back foreign investor. The study proposes specific measures which, if followed, would lead to savings of:

- 800,000 workdays
- 235 million euro for the Greek public sector
- up to 100% faster adjudication rate

Such studies have been conducted for all three branches, and could be implemented and unified in order to create a fast-paced radical reform package, which would lead to a better quality of democracy and a freer society and economy.

# Deep Roots of Crisis

**Guillaume Périgois**  
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at Contrepoints.

The French Republic likes to present and represent itself as an established and self-confident democracy. However, freedoms in France are increasingly being violated, restricted, or circumscribed by the State as its sphere of action expands.

## **A cyclical threat: the excesses of the state of emergency**

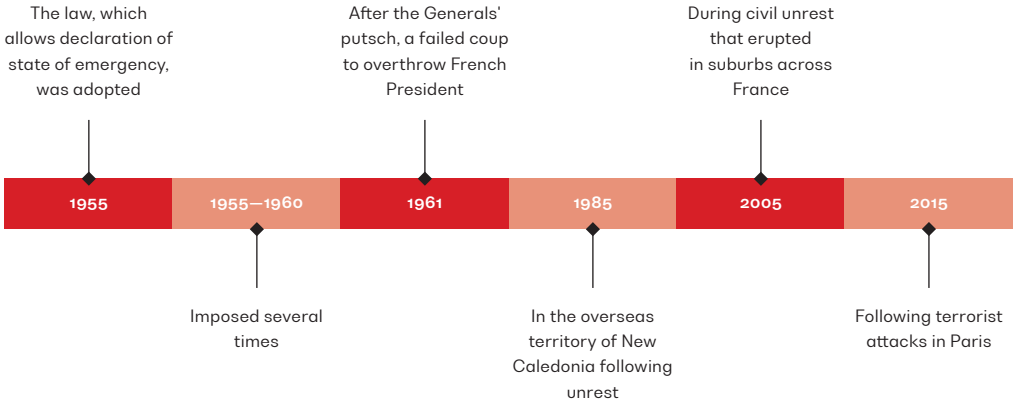
France, along with Ukraine and Turkey, is the third country to derogate from the European Convention on Human Rights. The country has been living under a state of emergency since 14<sup>th</sup> of November 2015, for almost two years now. In the course of the five laws extending the state of emergency, numerous provisions restricting freedoms, shifting the border between the judicial authority and the administrative police, and weakening the rule of law have been adopted.

Some categories of people are particularly targeted, but it is society that suffers this restriction of rights. Measures restricting freedom of expression and association, permission for unauthorized searches of vehicles by police, the extensive possibilities of digital surveillance, house arrests, and searches at any time create a picture that is incompatible with a self-confident democracy.

These measures proved to be largely ineffective against terrorism, since only 0,3% of approximately 4,000 searches conducted without judicial authorization led to a judicial investigation for terrorism-related acts; they also have encouraged numerous abuses, since over 9% of complaints logged with the rights' defender concluded that civil liberties have had been violated.

This seems to indicate a drift of French society towards a permanent state of emergency. On 24 May 2017, the French Government presented a draft law intended to be implemented on 1st of November 2017, incorporating into ordinary law certain measures granting the administrative authorities extensive powers to combat terrorism, which have, so far, been covered by a right of exception.

## France's state of emergency



The abuses related to the state of emergency are not the only threats against freedom in France: massive surveillance of personal communications with little judicial control, the fundamental rights of foreigners being regularly flouted<sup>1</sup>, biased discriminatory ID control by Police<sup>2</sup>, etc. are also of concern.

More generally, there has been an increase in intolerant political discourse. Certain segments of the population are treated as scapegoats, while at the same time, individual freedoms are reduced and police powers are strengthened; particularly those that are relevant to minorities.

### Underlying structural weaknesses

The recent setbacks in human rights, in the country which likes to think of itself as “the country of human rights”, are encouraged by some deep weaknesses in French institutions and culture.

The French media expresses a wide range of opinions, but the French state still has an important influence in the media sphere. It is established through control of many public radio and television channels and close links between politicians, defense contractors, and owners of media groups. In addition, in a difficult financial context, the State provides indirect and direct subsidies to the press (Le Monde and Le Figaro each received 16 million euros of public subsidies in 2013).

The French legislator is one of the weakest in Europe. Because the President has comparatively greater powers (those of dissolving the National Assembly, appointing or dismissing a Prime minister,

or appealing directly to the people through referendums), it is difficult for a legislator to hold the government accountable.

The legislative branch of government is not alone in being weak vis-à-vis the executive branch. The European Court of Human Rights criticizes the French justice system for its lack of independence<sup>3</sup>.

In practice, prosecutors charged with a task of assessing the appropriateness of prosecution are subject to the hierarchical authority of the Ministry of Justice, which raises doubts as to its political use in some delicate cases.

The French have very little confidence in their institutions. In 2016, only 14% of French people trusted political parties, while 77% believed that politicians were corrupt<sup>4</sup>. This mistrust is worrying because people who have the worst image of their government are those who want more state intervention: the government is growing because of a lack of confidence in it<sup>5</sup>.

Above all, although placed at the head of the republican trilogy, liberty is not pre-eminent. It is called upon to bow before other requirements such as safety, health, environmental protection, or even good feelings, according to an overbidding of legislators and opinions. By wanting to protect some people against themselves, the legislator imposes restrictions on everyone's freedom. This trend is not limited to certain lifestyles. It affects all areas: health insurance, retirement, housing, transport, and education. Any debate on these subjects is fed by budgetary, sociological, and even educational arguments. Yet, it ignores freedom which is destined to disappear behind the spirit of the moment.

## Conclusion

The democratic deficit in France has deep roots. The situation is even more serious in that it is a part of a general movement fueled by anti-system rhetoric.

The country needs a new phase of democracy. The revitalization of parliament, more resources for the judiciary, a separation of the state and the press, a state that intervenes less in people's choices, and greater citizen participation in the supervision of politics now seem more necessary than ever.

More fundamentally, citizens should realize that the best way to protect civil liberties is to limit the scope of the state. The greater the temptation to flout the limits of power, the more important it is to show scrupulous deference to them.

France is obsessed with its economic decline. However, it should also be careful to preserve its rule of law.



- 1 [https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/raa-2016-num-20.02.2017\\_1.pdf](https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/raa-2016-num-20.02.2017_1.pdf)
- 2 <http://www.defenseurdesdroits.fr/actus/actualites/relations-police-population-le-defenseur-des-droits-publie-une-enquete-sur-les>
- 3 [https://fr.wikipedia.org/wiki/Affaire\\_Moulin\\_contre\\_France](https://fr.wikipedia.org/wiki/Affaire_Moulin_contre_France)
- 4 [http://www.lemonde.fr/idees/article/2016/01/29/la-france-a-besoin-d-une-nouvelle-etape-democratique\\_4856173\\_3232.html](http://www.lemonde.fr/idees/article/2016/01/29/la-france-a-besoin-d-une-nouvelle-etape-democratique_4856173_3232.html)
- 5 <https://academic.oup.com/qje/article-abstract/125/3/1015/1903634/Regulation-and-Distrust>

# The “new” Finns Party — nationalistic policies powered by fear?

**Ville Pitkänen**

is a researcher  
at e2 think-tank.

In Finland as well as in other European countries, the refugee crisis has caused a lot of polarization and fears among citizens. Until now, Finnish political parties have been rather constructive on the topic and refrained themselves from exploiting people's fears to gain political support. The split of the Finns Party may however change this *status quo*.

The nationalist-populist Finns Party became the second biggest party in Finnish parliamentary elections 2015 with 38 seats out of 200. The party gained seats by criticizing the EU, presenting itself as an alternative to the establishment and opposing immigration.

The Finns Party has always been a moderate version of its European populist counterparts. Within the party, there has always been a faction of members who feel that opposing immigration is their most important political goal; but for the leaders of the party, immigration has never been a top priority.

The election result enabled the party to join the coalition government led by the Centre Party and accompanied by the National Coalition Party. Within the government the party was forced to adjust its policies and make compromises. It has become a moderate coalition partner.

## **Party split and the governmental crisis**

From the standpoint of the Finns Party, the refugee crisis emerged in the worst possible time. Even though the coalition tightened Finnish immigration policies, many supporters felt that the party had betrayed its promises.

Accompanied with other disappointments, the support of the party was cut down to half. Dissatisfaction grew and in December 2016 the front man of the anti-immigration wing, MEP Jussi Halla-aho stated that he would challenge the long-time party leader Timo Soini. A couple of months later, Soini said

that he would leave his position after running the party for over twenty years.

The party convention was held in June 2017. Several candidates ran for the post, but eventually Halla-aho won by a wide margin. The transition of power was finalized when all the vice-chairmen of the party were replaced with MP's that supported Halla-aho's policies. Many felt that the party's position had shifted from centre to far-right in one day.

The election result led to a government crisis. The coalition partners announced that they could no longer cooperate with the party. But the government breakdown was avoided when 20 moderate members of the Finns Party decided to abandon the party. They formed their own parliamentary group, the Blue Reform, and stayed in the government.

### **Exploitation of fear?**

The big question is what the renewed Finns Party will bring to Finnish politics. Now in opposition, the ideologically unified anti-immigration right-wing party can freely promote their own agenda and exploit the fears that Finnish people have towards immigrants and refugees.

According to the survey conducted in March 2017 by the Ministry of Interior, a majority of Finnish citizens have strong negative attitudes towards asylum seekers. As figure 1 shows, the majority feels that refugees entering the country will increase social conflict, crime rates and threat of terrorism – less than one in five disagrees. The negative sentiments are deeply rooted.

The negativity can also be detected in the social media, where vitriolic comments are increasingly common. There are people eager to share news stories dealing with crimes committed by refugees and it is difficult to find a social media platform dealing with immigration issues that is free from inappropriate language and even hate speech.

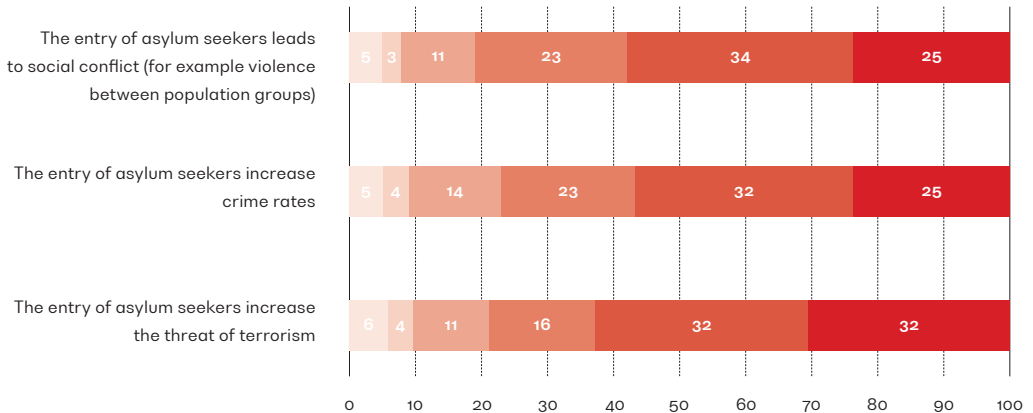
### **Hate speech within the “new” party**

Before the split of the Finns Party, there used to be a rather widely shared consensus among politicians that all hate speech is to be condemned; but the situation is likely to change.

In 2012, Jussi Halla-aho was convicted of disturbing religious worship and of ethnic agitation. Many of his supporters have been accused of similar incidents – including the party's vice chairman Teuvo Hakkarainen who was convicted of on-line hate speech in 2017.

## The opinions of Finns on the entry of asylum seekers to their country

Source: The Ministry of Interior 2017



- No opinion
- Strongly disagree
- Disagree
- Neither agree or disagree
- Agree
- Strongly agree

Earlier, the party had somewhat indeterminate, yet negative view on these incidents, but now the party is actually ran by men guilty of disseminating hate speech. It seems clear that the “new” Finns Party has more tolerance for its supporters’ inappropriate language.

It remains to be seen whether the new, nationalistic Finns Party will be able to gain support; but the new party will certainly pose a challenge to liberal parties promoting openness, human rights and equality of citizens regardless of their background.

### Dialogue is the key

The simple solution to the challenge posed by the Finns Party would be to vigorously oppose their policies and to isolate them; but this strategy might prove to be counterproductive. In Sweden, other parties have refused to cooperate with the anti-immigration Swedish Democrats and according to some of the latest polls, the party is now the second biggest.

People’s fears are real and they should not be neglected. Instead of allowing the Finns Party to set the agenda and claim the monopoly for discussing problems related to immigration, all responsible political actors should do their best to reduce polarization. This is not done by adjusting policies to a more nationalistic direction, but by promoting fact-based discussion on the topic and by advancing dialogue.

*Now in opposition, the ideologically unified anti-immigration right-wing party can freely promote their own agenda and exploit the fears that Finnish people have towards immigrants and refugees.*

Ville Pitkänen



# Censoring of Political Center

**Igor Gräzin**

is a member of Estonian  
Parliament, professor at  
Tallinn University, Estonia.

**Political spectrum**

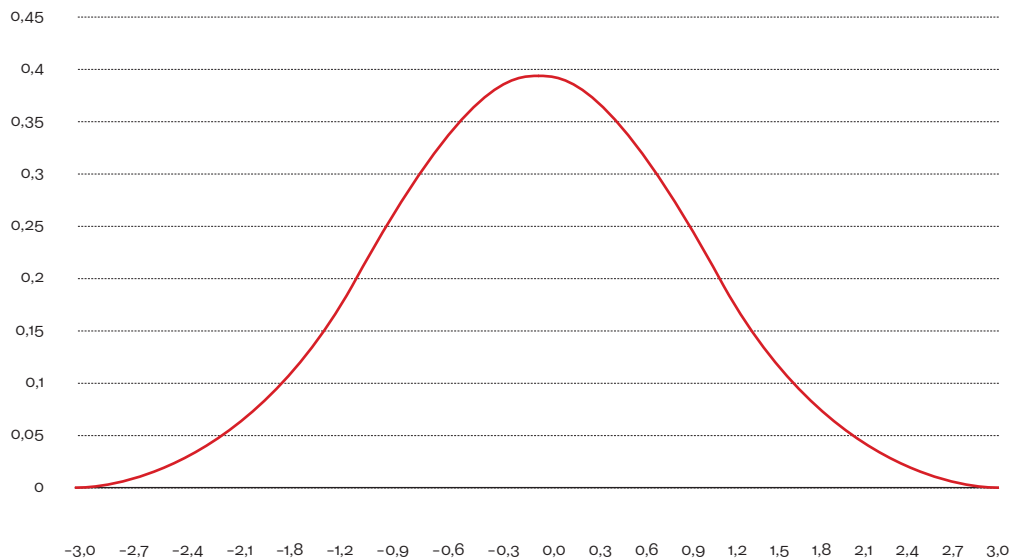
Extremism should not be mixed with epatage in behaviour or with a style of political campaigning. Stalin was a modest tempered man who spoke very quietly. On the contrary, Timo Soini, who loudly promised radical changes in Finnish policies, ended up within deep-rooted modest political establishment. From purely analytical point of view, extremism (i.e. being on the extreme) should simply mean the location of a political unit (party, movement, individual politician) on the graph representing the whole existing political spectrum.

One of the principal laws of statistics is the law of normal distribution. It places the most occurring statistical events into the middle of the normal distribution (also known as Gaussian) curve and leaves its edges to those that have least number of occurrences associated with them, corresponding to the smaller numerical values.

In this graph, values of “-3,0” and “3,0” on the x-axis represent political extremes. As the y-axis represents the probability of the occurrence of the phenomena (in here between 0 and 0,4), it is noteworthy that from the point of view of political PR the title of being “centrist” (“centre-right” or “centre-left”) implicitly imposes upon us the idea that these parties are the most numerous. They bear the largest popular support and such, as they are the phenomena that covers the central area under the curve of the normal distribution graph (Let us say that it is the range of values between +1,5 and -1,5 on the x-axis.) These “center-parties” are often called “the classical political parties” (by those who like them) or “political cartels” (by those who do not; Estonian term is “cartel-parties”).

There is also another ideological implication as well: the term “extremism” definitely has negative emotional connotation (like the term “populism”, that actually means only “popular support”) and is usually ascribed by traditional politicians towards their opponents. Although, in relation to political realities, Pepe Grillo and J.-C.

## Standard Normal Distribution



Juncker are both extremists (by criteria of euro-federalism) and Geert Wilders is a centrist.

The terminology itself suggests that location on the political axis (x-axis on the graph) of different political groups and parties can be determined in relation to each other – to the right from whom? As an example, a party valued as “-1,2” is to the “left” from a party valued at “-0,6”, but to the “right” from the party ranked at “-2,4”. The numerical values attached to the political positions of different political actors are of conditional, consensual, and of relative value. This determination is definitely a qualitative one and the location of the political “centrum” cannot be determined numerically (by, for instance, the number of seats in the parliament, by the rankings in polls or votes on the elections). In other words, the classical political “center” is not necessarily the most numerous political party and vice versa, the “extreme” might control large amounts of popularity (example: Hitler came to power by popular vote).

The location on the political spectrum depends upon the criterion that is used to locate parties on the x-axis. Without that criterion we are in an analytical mess – the word “liberal” has lost almost any of its European meaning today: having had once designated fiscal conservatism and market principles of economy (Adam Smith’s

“invisible hand” policies), it has been taken over (following American style) almost by anybody who has “against the rules” inclinations – gay activists and animal rights proponents, nudists and multiculturalists, eurocrats and “climate change warriors”.

If we take, as an example, the refugee-issue then we will have Merkel (“all of them are welcome”) and Poland (“our refugee quota is zero”) as extremes and most of the other EU countries as the “center”.

Let us employ, for the sake of the example, some other criterion: the issue that divides EU today – the extent of control exercised by EC over national sovereignties. One edge of the graph is EC (“sovereignties can be overruled” – look at the conflict of Brussels with all Vyshegrad states) and UK stating the opposite (Brexit means that sovereignties stand above the EU). Regarding political freedoms we may look at Spain (“no rights for peaceful demonstrations” in Catalanyan province) and Sweden (“all political rallies are protected speech”) as extremes and most of the other countries as the center (“some manifestations of the opinions are to be restricted”, like so-called “hate-speech”).

### **New “normal” in Estonia**

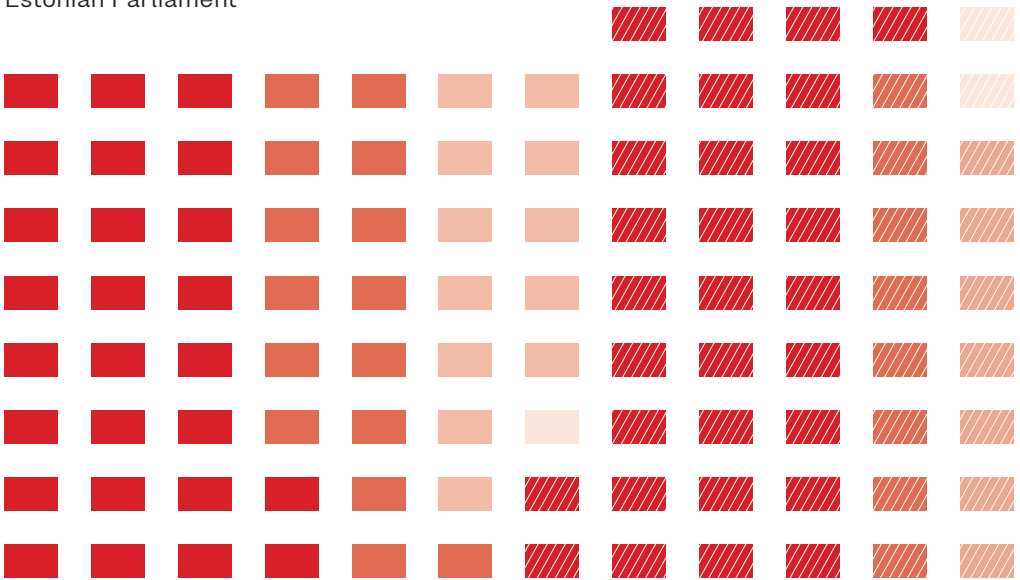
Here is the composition of Estonian Parliament, class of 2015 (I present this case as a sample of the anatomy of a country that stands in the political center of modern European polity).

While all other parties represented in 101-member Parliament may be described as classical ones, there are two post-modernistic newcomers: Estonian Conservative National Party (EKRE, 7 seats, marked brown) and Free Party (8 seats, marked violet). Neither of them is a centrist party in modernistic sense. EKRE would be (and has been!) described by European standard, mainstream, media as a right-wing extreme (due to its similarity to True Finns, UKIP, even AfD, with one sharp difference – EKRE does not share the latter’s pro-Moscow positions as the opposite is true!), but that raises a problem – who will be on the extreme left?

Some years ago I would say – nobody. By the fall of 2017 the situation has changed: the role of extreme left begun being played by one of the classical political parties – the social-democrats, who have thus moved from the center-left to the left extreme thereby opposing themselves to the new parties on “the right”. Here comes a truly new challenge for our democracies: the appearance of the political “center” that is not the most numerous one anymore (as the Gaussian curve had suggested). This is the cause of why classical



## Estonian Parliament

**Government (54)**

- KE (26)
- SDE (15)
- IRL (12)
- Independent (1)

**Opposition (47)**

- RE (30)
- EV (8)
- EKRE (7)
- Independent (2)

political parties, as power-houses, start to act as extremists by suppressing the “new center” that is numerically small.

The method of “labelling” (calling the new parties “nationalistic”, “hate-mongers”, etc.) is the most visible, but not the only manifestation of “old parties” efforts to censor progressive changes on European political landscape.

Free Party is the manifestation of post-modernistic policies by its very own constitution — by being rather a confederation of communities than a classical political party. If in the case of EKRE the political censorship, by political correctness, may be exercised (and that is what has been happening — such as against Pepe Grillo, True Finns, Austrian Free Party, Geert Wilders, and other progressivist parties and policies) that is not the case of the Free Party that fundamentally rests upon the existence of the social media that overcomes many barriers of traditional censoring (restricting, denying access, etc) of political agenda.

# Happy Nation?

**Rune Christiansen**

is senior lecturer at  
VIA University College,  
member of the governing  
body of the Danish Social-  
Liberal Party.

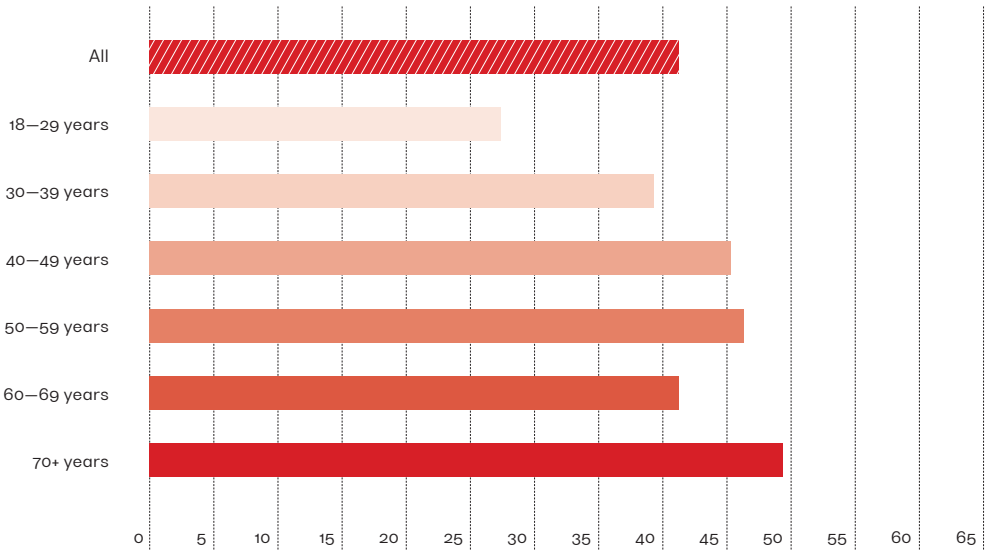
Denmark traditionally has a strong human rights record and has been repeatedly ranked as one of the least corrupt countries in the world, by the global anti-corruption NGO Transparency International. A small, wealthy nation with a high median income and a low level of inequality, Denmark is often seen as a model democracy within the EU.

Denmark is not, however, immune to the pressures of globalization nor to the effects of polarizing new media. In some respects, the political and social victories of the past may in fact be causing a heightened sense of alarm among many Danes, as they fear losing not only their high standard of living, but also the strong social and cultural cohesion and sense of community in their once very homogenous country.

Democracy, the rule of law, and fundamental human rights are not under any obvious or immediate political threat in Denmark. There are, however, key areas of society where democratic values and ideals, once taken for granted, are no longer universally shared, and there are a number of concerning tendencies that, if left unchecked, may in time evolve into serious threats against the liberal democracy. In this short article, I would like to call attention to the two of such areas of particular concern: 1) The rise of islamophobia 2) Insufficient accountability of government ministers and officials to the rule of law.

**Phobias**

Turning first to the rise of xenophobia in general and islamophobia in particular, neither of these phenomena are new. Indeed, the anti-immigration Danish Peoples Party, currently the second largest political party in Denmark, was founded in 1995 following an already heated national debate about the perceived dangers of a more multicultural society. Since then, anti-immigrant and anti-Muslim sentiments have been further inflamed by the long so-called



### Question:

Have the recent attacks by Islamic terrorists, made you feel more skeptical towards or concerned about Muslim citizens in general?

Source: Ugebrevet A4

“war on terror” that followed the 9.11 attacks, while most recently by the Syrian refugee-crisis and by the series of ISIS-inspired terrorist attacks in Paris, London, Berlin etc.

In a recent Danish poll, 41% of respondents agreed that the recent terrorist attacks in Europe had made them more skeptical of Muslims in general. Although this tendency was most pronounced among older Danes, the move towards increased skepticism of all Muslims was surprisingly strong among all age groups. This recent rise in general anti-Muslim sentiment has been reflected politically in several ways. One such example is the establishment of a new political party to the right of the Danish Peoples Party. This new right-wing party is not yet represented in parliament, but has announced its intentions to renounce not only the Dublin treaty but also the European treaty on human rights in order to enact new anti-immigration and anti-Muslim legislation.

The most serious political consequence of rising Islamophobia in Denmark, however, is not the rise of new fringe parties or movements, but the effect that anti-Muslim sentiments and fears have on the large and established political parties. Recently the largest political party in Denmark, the Social Democratic Party, has proposed removing government funding for private Muslim schools in Denmark, while retaining government funding for comparable Jewish or Catholic private schools. This type of blatant discrimination is still frequently seen in legislative proposals from large and

established political parties. It can be described as either a problematic response to the difficult problem of integration or simply a direct attempt to pander to rising anti-Muslim sentiments in the Danish electorate.

In this context, it is worth remembering, that democracy is not just about free elections, transparent political decisions or an independent judiciary. It is an ideological prerequisite of a modern liberal democracy where all citizens are considered equal, and are treated as such by the state irrespective of their race, religion, gender or sexual preference. This equal treatment of all citizens is increasingly under threat in Denmark, as politicians scramble to respond to fears of unwanted cultural change and problems of cultural and economic integration.

### **Accountability**

The second area of concern that I would like to address, is the problem of government accountability to the rule of law. This problem is perhaps most apparent when Danish government ministers or officials act in ways that are legally problematic, but popular among either the electorate or the majority of parliament. A recent example concerns the Danish minister of integration, who chose to physically separate legally married asylum-seekers without individual assessments; in all cases the wives were under 18 years of age. This was ostensibly done to combat forced marriages among asylum-seekers and was very popular, both in the electorate and among the parliamentary majority. Clearly, it was also very illegal and a breach of the European convention on human rights. When opposition parties pointed out the illegality of the decision, it was reversed, but no other action was taken, since in Denmark initiating an enquiry into the actions of a government minister requires a parliamentary majority.

### **Legal safeguards**

In a modern liberal democracy the rule of law must always have primacy over the popularity or otherwise of political decisions. A combination of national constitutions and European, or UN, treaties ensures that human rights and fundamental freedoms are secured for all citizens, irrespective of their popularity at any given time. It is an essential part of a modern liberal democracy, that it contains such legal breaks against majority-decisions, that run counter to society's fundamental values. These breaks certainly exist in Denmark, but increasingly pro-government ministers and officials are only held accountable only for problematic decisions,

if they have a political majority against them. Thus, there is a political accountability, but no accountability towards the rule of law.

There is no simple solution to the rise in anti-Muslim sentiment caused by terrorism, problems of integration, and cultural shifts. However, it is essential that we hold on to our legal safeguards against discrimination and ensure that the values of our liberal democracy are upheld; especially in regards to vulnerable minorities. To that end, a strong social-liberal response to the two areas of concern mentioned above would be to establish greater juridical oversight with the government in Denmark and to empower parliamentary minorities consisting of one third of parliament to initiate investigations of any potentially illegal actions taken by government ministers or officials. This would create greater governmental accountability towards the rule of law and would make it harder to take potentially popular, but legally and democratically problematic, governmental actions that pander to anti-Muslim sentiments in segments of the population.



# The Ostrich Republic

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Association for Inter-  
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Is it reasonable to discuss democratic deficits in a country that consistently ranks very high in most of the global freedom indexes? Is there anything rotten in the case of freedoms? In the past years the Czech Republic has hit global headlines with some embarrassing news from the local political scene. Even though it is natural that individual fails happen, certain trends are developing and deserve further commentary.

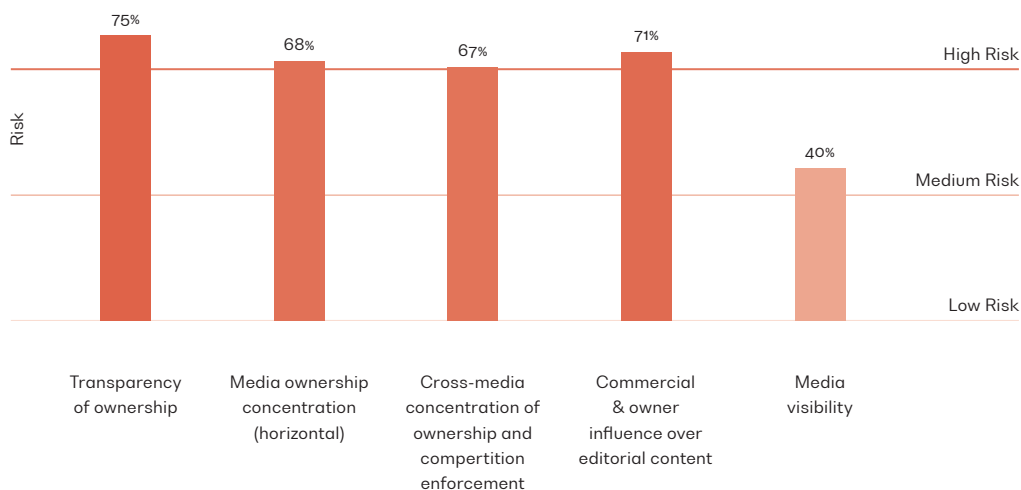
## Every cloud has a silver lining

The Czech Republic is one of the most independent countries in terms of freedom of speech. However, according to the World Press Freedom Index that is published every year by Reporters Without Borders the Czech Republic dropped from 13<sup>th</sup> position to 23<sup>rd</sup> position during the past three years. Based on the World Press Freedom report, the decline in the rankings was mainly caused by the changes in concentration of media ownership happening since 2008.

For instance, there is the explicitly stated example of Andrej Babiš who used to be both Deputy Prime Minister and Finance Minister, as well as the owner of the two most influential daily newspapers in the country. Consequently, the law that was supposed to combat conflicts of interest and prevent government ministers from owning media outlets was adopted in 2016.

On the other hand, centralization of media into few hands triggered an emergence of many new on-line media projects that were established by experienced journalists leaving traditional media. They positioned themselves as truly independent media that can publish without any external pressure. Most of them have already grown up into paper outlets. Consequently, variety in choice of information has increased tremendously over the past years. One just needs to learn how to better understand information labyrinths. Unfortunately, that is something most Czechs were not taught at schools.

## Czech Republic: Market Plurality Area



The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the existence and effectiveness of regulatory safeguards to prevent horizontal and cross-media concentration of ownership and the

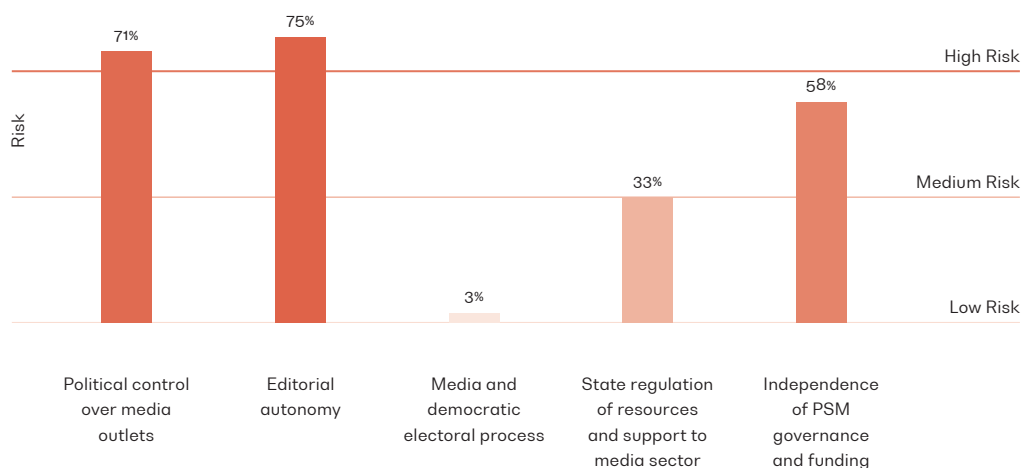
role of competition enforcement and State aid control in protecting media pluralism. Moreover, they seek to evaluate the viability of the media market under examination as well as whether and if so, to what extent commercial forces, including media owners and advertisers, influence editorial decision-making.

Source: Media Pluralism Monitor 2016, Centre for Media Pluralism and Media Freedom, December 2016

### May you live in interesting times

There is never lack of interesting events in the Czech Republic. If you just got up and there is nothing scandalous in headlines, then you are not in the Czech Republic. At certain moments the struggle to clear politics from corruption seemed very chaotic. Politicians were taken into custody and then released with an apology. One of such examples is the case of the former Prime Minister Petr Nečas whose political career and government team ended up being raided by special security forces coming for his secretary at that time,

## Czech Republic: Political Independence Area



The Political Independence indicators assess the existence and effectiveness of regulatory safeguards against political bias and political control over the media outlets, news agencies and distribution networks. They are also concerned with the existence and

effectiveness of self-regulation in ensuring editorial independence. Moreover, they seek to evaluate the influence of the State (and, more generally, of political power) over the functioning of the media market and the independence of public service media.

Source: Media Pluralism Monitor 2016, Centre for Media Pluralism and Media Freedom, December 2016

who currently happens to be his new wife. She was accused, among other things, of illegal use of intelligence forces to spy on Prime Minister's wife. The case has not been closed yet and it seems that she will be released for lack of evidence.

Even the most famous corruption scandal of the member of the Parliament being caught with 7 million CZK (some 270.000 EUR) in a wine box has not been resolved yet. The main evidence, tapes from his house, was proclaimed as illegally obtained. Despite election programs and political events there is an evolving system of highly-profiled cases that significantly influence not only elections, but also duration of each government. These publicized cases usually turn out as legally unfounded later on.



Media plays an important role in interpretation of these cases. There is no coincidence that the cases are sometimes called octopuses, as it is almost impossible to untangle them correctly. Leaked information from police files, or sudden discovery of phone call tapings, have become a part of daily media routine and a way to capitalize most out of the eventful political scene.

It is a common practice to publish names and photos of people who are not sentenced yet. Penalty for this law infringement is a joke, so it pays off for most of the media. Public is washed by footages from court rooms where just another corruption case was closed without a sentence or a decision postponed again. The sentence might actually come, but it usually takes years, so public loses track of who did what and what was wrong about it. There is a persisting feeling that even the judiciary cannot unravel the tangle of cronies' relationships. The missing reform of the system of prosecutors does not help with dispelling these concerns, as prosecutors subject to the Minister of Interior and political pressures cannot be ruled out.

### **The thick-skinned**

Probably what was described above is typical not only for the Czech Republic. Every country has its own scandals and cases that shake political scene. The difference between the Czech Republic and other countries lies in their citizens' sensitivity towards these cases. Interestingly, these cases do not mean the end of their main actors' political career.

The parliamentary elections that are due in fall can bring many surprises. As the stereotype goes, an average Czech usually chuckles over political events with a pint of beer in a pub. He goes to vote every four years and then buries his head in sand and hopes for the best. Nevertheless, situation in the Czech Republic is not caused by a systematic fault, but by actions of few individuals. In the end, it is about individuals and their sense of responsibility towards their position, and citizens' courage in taking their heads out of sand.



# The Cyprus Problem as a root cause of the Republic of Cyprus' democratic woes

## Savvas Charalambous

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The Cyprus Problem is the on-going division between the two main communities of the island, Greek-Cypriots and Turkish-Cypriots, that has dominated Cyprus' modern history. It could be argued that it has defined the public discourse of the island and the way the generations upon generations of Cypriots conceive politics and the Republic of Cyprus itself.

Granted its independence in 1960, the Republic of Cyprus was set to be a Presidential democracy with a Greek-Cypriot president and a Turkish-Cypriot Vice-President; both with a power of veto. A similar approach was taken in the cabinet, as well as all branches of the governance, with state offices and positions of power being distributed on ethnic lines. This approach thought to promote a sense of balance in the participation of both communities in the state as well as a way to safeguard their rights. This was, at the same time, the basis of the state's checks and balances system, essential for any democracy.

## Conflict

Consequently, the tensions between the two communities and the subsequent withdrawal of the Turkish-Cypriots from state, followed by the Turkish invasion which led to the division of the island, disrupted the functionality of the state as well as the checks and balances which were already in place by the Constitution. This affected the functionality of the main branches of the state, fractured the pursued balance of the Republic, and most importantly terminated the checks placed upon the power of the President, leaving him with almost absolute strength in a manner that analysts often describe as "elective absolute monarchy".

Reversals that can be perceived are the direct effects that the division has had on the state. Thus, in our exploration of its effects on the state, it is equally, if not more important, to explore the

'indirect' ramifications the division has had on the society and the political structure of the Republic. Namely, the way the conflict and the ongoing division have affected the Greek-Cypriot community's stance in the public sphere and its consequences.

The conflict with its adverse effects on Cyprus and its people, as well as the on-going division, has evidently instilled a sense of distrust, and an aversion of one segment of the society towards the other community. It has also fuelled and preserved nationalism within the Greek-Cypriot community which for many years was reinforced by the Republic's political and educational system, the media, and public discourse.

### Extremism

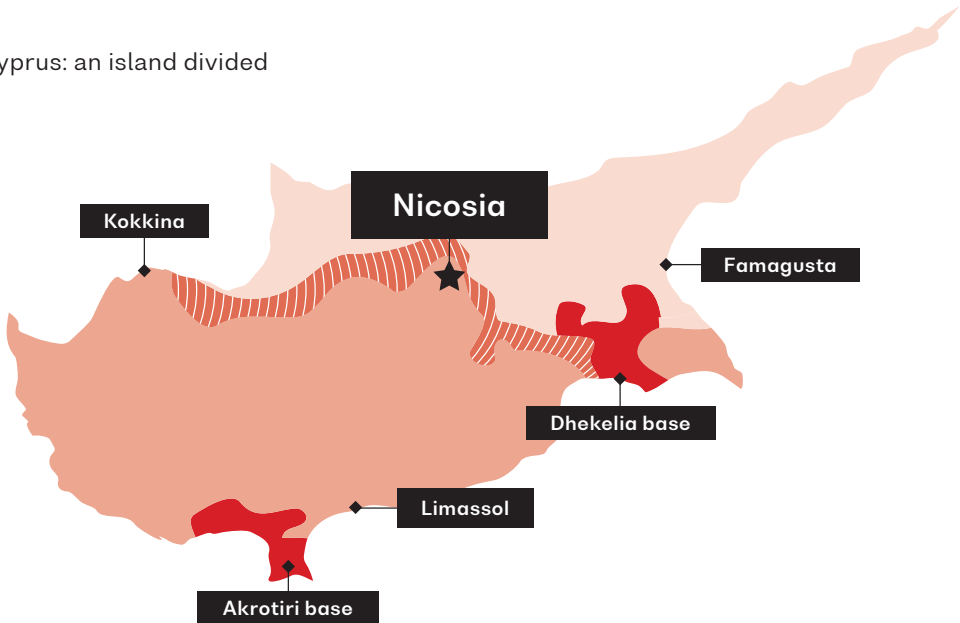
This has provided a fertile ground for nationalist and extreme-right groups to exert influence upon the political affairs, Greek-Cypriot society, and especially the youth. Such groups often base their rhetoric on a hard-line approach towards the Cyprus problem and use the on-going negotiations to also portray and attract support for their xenophobic and ultra-conservative views.

Being in the trenches of the political system or operating as sub-groups within established organizations and traditional parties

Source: Author's  
picture



## Cyprus: an island divided



- Greek Cyprus
- Turkish Cyprus
- UN buffer zone
- British military base

they, for many years, were not visible in their own right. However, the growing discontent towards the traditional parties, due to the financial crisis, the failings of the state, and growing number of corruption accusations and convictions of politicians has allowed them to gain support making their presence felt. One that can no longer be ignored is the extreme-right party of ELAM (National Popular Front), associated with Golden Dawn in Greece, that has managed to elect two MPs in the national parliament.

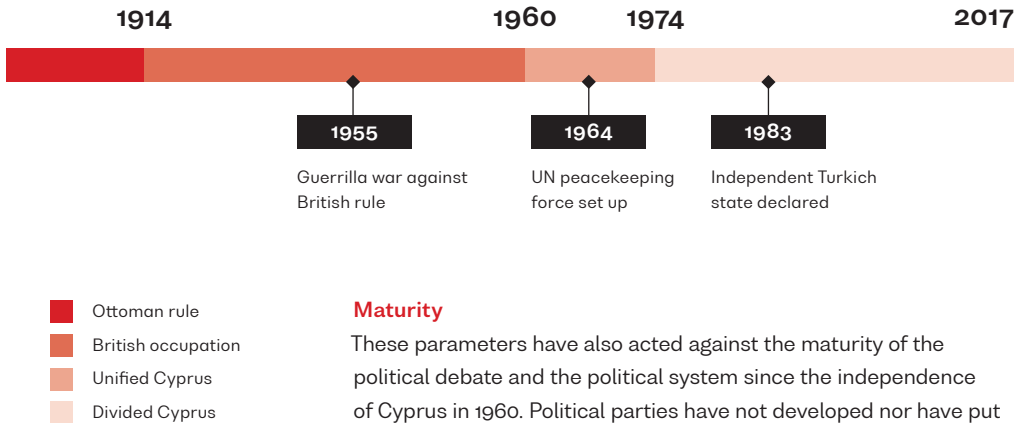
### Discourse

Besides this, it is important to note the extent to which the Cyprus Problem has dominated the public discourse. Since the invasion it has become the main and sometimes the sole focus of the political system. There is hardly an election in Cyprus (not only Presidential, but also a Parliamentary, European, and in some cases even local) that does not refer to or even evolve around 'the national issue'.

As a result other important issues, such as the state's shortcomings or observance of the almost endemic corruption, are often ignored or not sufficiently delved into, contributing to the preservation of the government's deficiencies. Moreover, politicians frequently run their election campaigns and attain support by solely focusing on their views on the Cyprus instead of making proposals related to the office they are running for.

This is problematic for the political system and the state for a variety of reasons. This practice allows election of candidates without a clear set of proposals or the skills needed to address the issues of the position they are running for. Additionally, important aspects of governance and day-to-day problems are not discussed or dealt with in the manner that they should be. Therefore, the voters' ability to conceive the issues at hand and vote for a candidate or hold him responsible based on his/her views and skills is hindered. Furthermore, the Cyprus Problem is a significant criterion for voter's political alignment.

### Timeline: Cyprus since 1900



### Maturity

These parameters have also acted against the maturity of the political debate and the political system since the independence of Cyprus in 1960. Political parties have not developed nor have put forward proposals as per their ideological conception of the society; in other words — the ideology they claim to represent. As a result, political parties and their voters/members often exhibit a superficial adherence and understanding of their proclaimed ideological views. Consequently, voters are often susceptible to populist rhetoric that often hijacks important issues. All these lead to relations of interference, corruption, and conservatism that keep the country stagnant and the democratic deficiencies intact.

Evidently, this exploration of the effects the Cyprus Problem has had on the functionality of the democracy can become an endless process. Despite the fact that no one can argue against the importance of the Cyprus Problem and the extent to which a possible solution would benefit the island, there is no doubt its effects on the day-to-day politics of the Republic cannot be omitted. Not only they act as a root cause for the state's democratic deficiencies, but they also raise further obstacles in reunifying the island.



# Warning Signals

**Daniel Hinšt**

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3 examples of Croatian democratic deficits represent opportunities for open society rational discussion in order to deliver better future. Overcoming democratic deficits is an integral part of satisfying Copenhagen criteria.

Before going into the problem, we should note the following:

1. We should not analyse complaints on democratic deficit made by far left and right populists.
2. It is usually evident that many Croatians are not very motivated to discuss domestic problems (with the democratic deficit) if other (and more developed) countries and even the EU, have at least some similar problems. Then, there is a popular saying: why should we be greater than the pope.

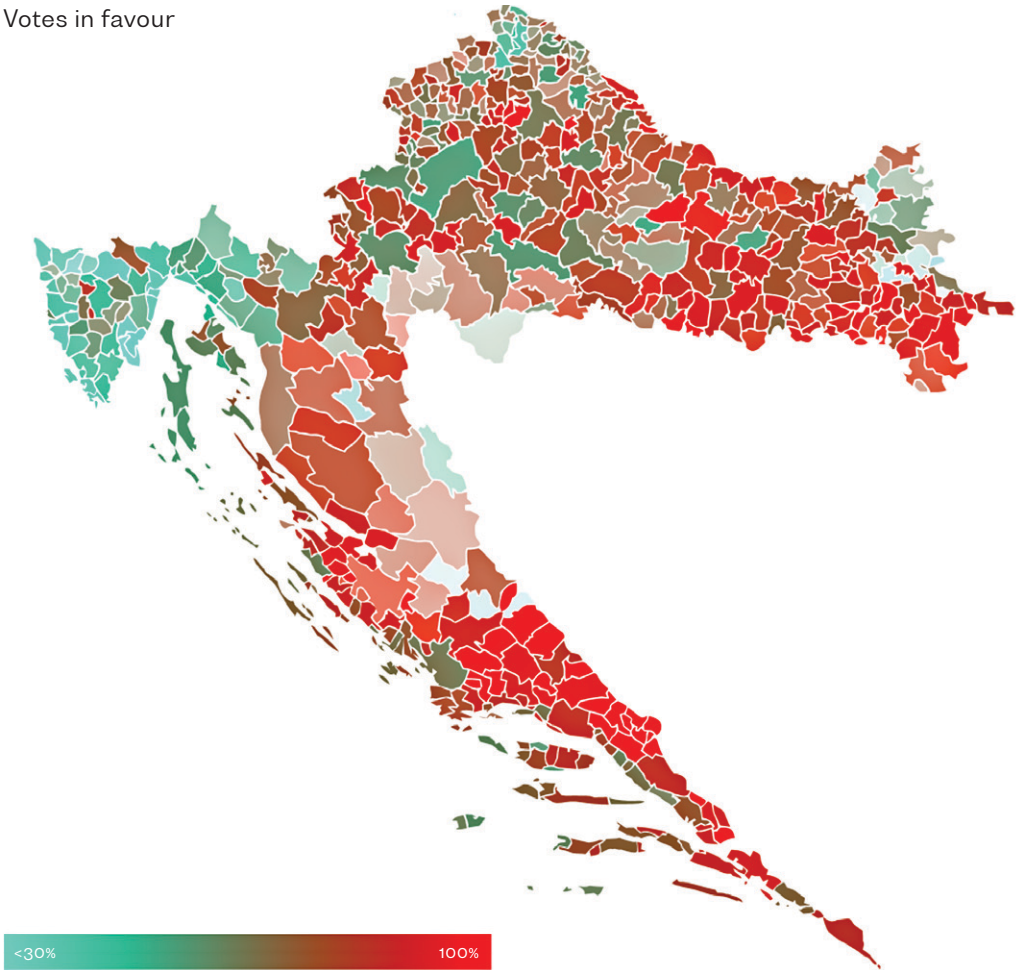
It seems that Croatia is finally far away from the democratic deficits which appeared very often during the authoritarian period (1991–2000). The Croatian President Franjo Tuđman did not care much about liberal democratic values and Western standards. These are the facts about Croatian heritage regarding democratic deficit, no matter how many people disagree with it just because of emotional motivation towards the first President.

Since 2000, Croatia has started with its European integration process, which included strengthening liberal democratic institutions in politics, administration, market economy and civil society. Despite satisfying (almost) all EU accession conditions, democratic deficit is still present. We should take a look at certain examples.

## 1. Problems with overcoming the totalitarian legacies

Many Croatians and political representatives still have favours towards the domestic form of Communism or National Socialism. “Heroes” should not be criticised for their massive crimes against human rights, if not against democracy. If anybody tries to revise these post-totalitarian legacies, it is seen as a “betrayal”

## Referendum 2013 Votes in favour



Source: Institut Sinergije Znanosti i Društva ([www.iszd.hr](http://www.iszd.hr))

or “revisionism”. Communist/socialist-leaning people usually presented themselves as “progressive” and “civic” minded, while ethnic nationalists tend to see themselves as “patriotic” and “Croatian”. Lack of liberal democratic education, together with lack of clear policy orientation among mainstream political parties, has caused this problem. Politics seems to be perceived by many people a conflict zone between these two ideological “worldview” trenches. This automatically ejects the serious political agenda which aims to push delayed structural liberalisation reforms and development of liberal democratic institutions.

One of possible solutions is to educate people and their politicians to be able to make differences between totalitarian legacies and liberal democratic values. Moreover, civic education may help people to develop creative and productive mindset.

## 2. Constitutional regulation of marriage

Croatia has an act which regulates traditional marriage and the other which regulated same-sex civil unions. Fundamentalist Catholic civil society groups pushed for 2013 referendum in order to regulate traditional marriage. This would automatically prevent legalising same-sex marriage. If we take into account different opinions on this issue (with almost nobody to advocate marriage deregulation), the majority's referendum decision puts Croatian democracy in a problematic position. On the one hand, the decision is democratic. On the other hand, it is not liberal democratic since the rules allow the referendum on the issue which should be sufficiently regulated by law. From the (progressive) liberal perspective, the referendum decision has been criticised as a step backwards, against human rights and civil liberties. Classic liberals were arguing that any hyper-regulation of marriage is not legitimate and represents just a new government intervention in our liberties, while the constitution should mainly regulate the limited government.

One of the solutions should be to educate people and their politicians that democracy and liberal democracy are not the same and that we mostly live in representative democracies, instead of trying to copy models of direct democracies. Moreover, people should not decide on civil liberties through referendums.

## 3. Politicians not so willing to respect the constitution

While there is a growing demand to regulate some things by constitution, some of its articles have not been respected and legally implemented. The Centre for Public Policy and Economic Analysis (CEA) has been focused on promoting article 49, which clearly guarantees entrepreneurial and market freedoms. Moreover, Internal Market freedoms are a central part of the Treaty on the functioning of the European Union, which practically serves as the EU constitution. How is it possible that many politicians, parliamentary representatives and public employees have not been aware of their practical duties which must be fully in line with clear principles and rules? How is it possible that many laws and bylaws contain evident regulatory barriers which harm free market competition by protecting particular interests in the name of "public interest"?



"I vote against" – a clear message against constitutional regulation of marriage



How come some unserious politicians easily propose policies which could be identified as illegal? Parliamentarians are not so willing to challenge the existing regulations which hamper entrepreneurs. On the other hand, the parliament's regulatory policy mainly serves as a default majority's verification of laws proposed by the executive government, without much rational thinking.

One of possible solutions is to educate people and their politicians that democracy is not above the rule of law, but rather opposite. Moreover, people should find out that massive breaches of article 49 are the main causes of the lack of competitiveness and growth in Croatia.

These are just 3 examples for discussing the democratic deficit in Croatia. They should rather serve as models for detecting concrete cases from the past and even the future. Democratic deficits in other democratic countries, and even within the EU, should not be alibis for Croatia, but rather a warning signal for all sides.



# Democracy in Bulgaria: major deficits and challenges

## Vanya Kashukeeva- Nusheva

PhD is an honoraria lecturer at Sofia University “Sv. Kliment Ohridski”, Program Director of Transparency International – Bulgaria.<sup>1</sup>

More than a quarter of a century after the beginning of the democratic changes in Bulgaria, scholars, journalists, researchers, and Bulgarian society in general, continued to ask, “Did we succeed in building a real democracy?” and “Whether democratic achievements, such as fair and free elections, freedom of speech, and the rule of law are sustainable achievements of the democratic process?”

These issues are becoming increasingly relevant due to the fact that a number of international studies and national studies show a retreat from these values and principles, and stress deficits in the functioning of key democratic institutions. In this context, three areas of negative processes are highlighted and where efforts should be concentrated in order to build a sustainable and effective democracy in Bulgaria: 1) the election process; 2) the rule of law and the fight against corruption; 3) freedom of the media.

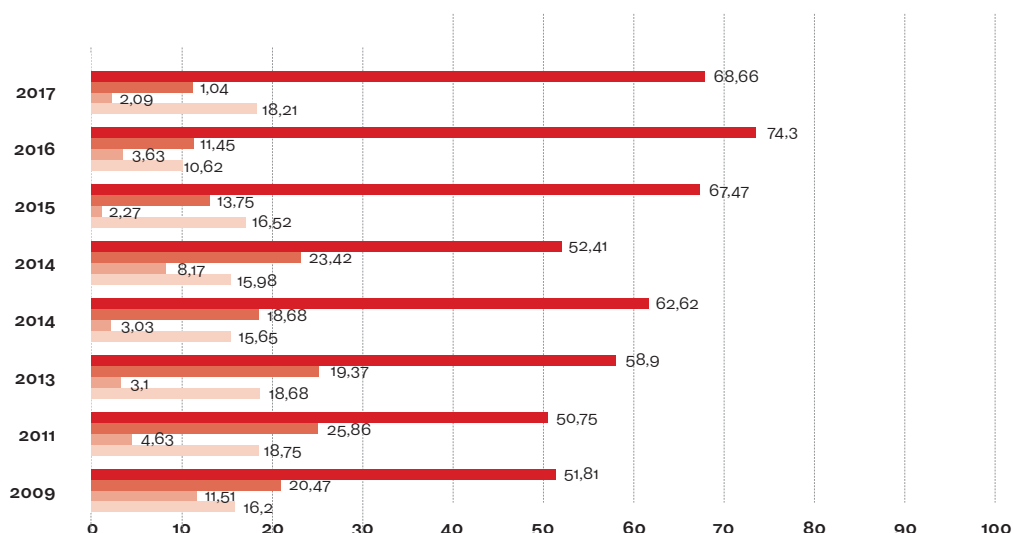
### Main Challenges to Integrity and Transparency in the Election Process

Studies of a number of Bulgarian and international non-governmental organizations (Transparency International-Bulgaria, OSCE, Council of Europe, Bulgarian Association for Fair Elections, Institute for Development of the Public Environment) show that over the past decade the most important problems of the electoral process are: 1) non-transparent funding of election campaigns and ineffective control; 2) vote buying and controlled vote 3) organizational irregularities.

The TI-Bulgaria’s monitoring reports of 2009–2017 give reason to evaluate that vote buying and controlled vote are becoming increasingly important for the political process, and that the most important preconditions for these problems are: 1) the inefficient functioning of the parties as effective representatives of voters’

## Types of Electoral Violations in Bulgaria: Trends from 2009 to 2017

Source: TI-Bulgaria<sup>2</sup>



- Organizational violations
- Violating the rules on agitation
- Vote Buying
- Controlled Vote

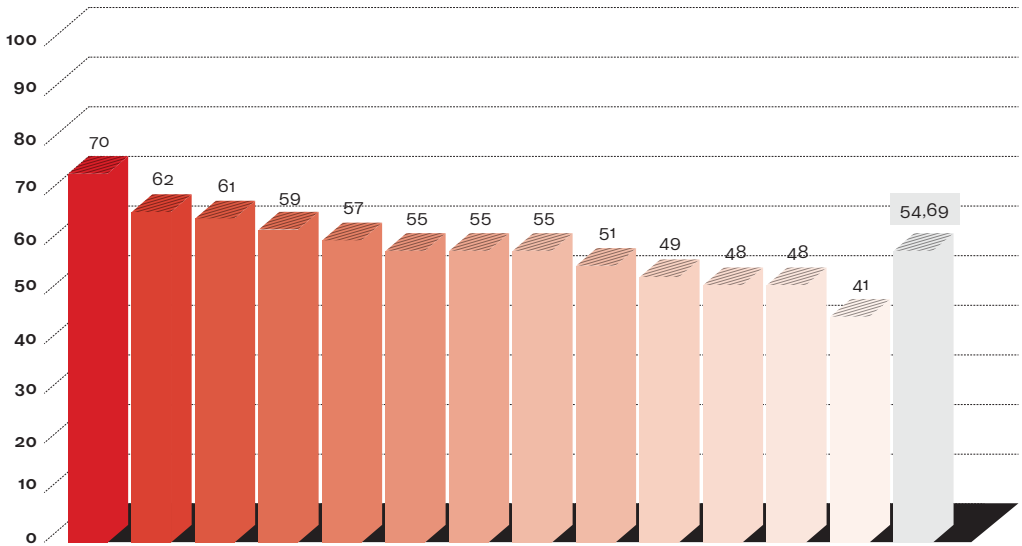
interests – respectively diminishing trust in parties; 2) political parties’ aspirations to access power resources (particularly important in elections that provide access to public finances – local elections and parliamentary elections); 3) economic problems, poverty and social exclusion; 4) the ineffective work of the institutions that have been investigating and prosecuting the electoral offenses; 5) a specific political culture of some social groups and communities that tolerates practices such as buying votes and putting pressure on the free will of individuals.<sup>3</sup>

### High-level corruption: a major challenge to the effective functioning of the institutions

Corruption is the second problem that poses a serious threat to the democratic development of the country. All opinion polls conducted in recent years show that corruption is among the leading issues for Bulgarian citizens.

The Corruption Perceptions Index of Bulgaria for 2016 is 41 points, thus positioning the country at 75<sup>th</sup> place in the global ranking.<sup>4</sup> Thus Bulgaria occupies the last place in the ranking of the new

## Corruption Perceptions Index in Central and Eastern Europe (new member states of EU)



member states of the EU which joined the union after 2004.

The tendency is especially disturbing in view of the fact that the best part of the states from Central and Eastern Europe note a trend of relatively solid increase of their indexes, which is an indicator of progress in the fight against corruption and modernization of institutions.

The comparative data for the index of Bulgaria within the last five years demonstrate lack of any progress whatsoever: the index of Bulgaria remains far below the critical value of 50 points, which is an indicator for a systematic failure to oppose corruption. This comparison underlines the acute necessity for a change in the politics of counteracting corruption, while in this respect the formal approach in the fight against corruption is to be discarded and a clear engagement for profound reforms in the basic institutions within this area should be expressed.

### Media environment: Is it possible to guarantee media pluralism, transparency of ownership and compliance with ethical standards?

Another international study, the World Press Freedom Index of Reporters Without Borders, shows a link between corruption and another fundamental issue of modern democracy – freedom of the media. The 2008 report sets out a conclusion that remains relevant today: “Dangers of corruption and political hatred: The other disease that eats away at democracies and makes them lose ground in the ranking is corruption. The bad example of Bulgaria (59<sup>th</sup>), still last in Europe, serves as a reminder that universal suffrage, media pluralism and some constitutional guarantees are not enough to ensure effective press freedom. The climate must also favour the flow of information and expression of opinions.”<sup>5</sup>

The comparative analysis of Bulgarian index in the period 2002 to 2017 shows that there is a worrying trend – the country collapses from 32<sup>nd</sup> place in 2002 to 109<sup>th</sup> in 2017:

Worldwide Press  
Freedom Index:  
Index of Bulgaria<sup>6</sup>

Year	Score	Rank
2017	35,01	109 <sup>th</sup> out of 180 countries
2016	34,46	113 <sup>th</sup> out of 180 countries
2008	12,50	59 <sup>th</sup> out of 173 countries
2002	9,75	38 <sup>th</sup> out of 139 countries

In Bulgaria, there is a worrying tendency to retreat from freedom of speech and to neglect the principles of free and fair journalism, due to the following problems: concentration of ownership of the media market, lack of transparency on the ownership of some of the media (offshore companies), monopolization of the print media market (including the distribution), close relations between media owners and politicians, and violation of ethical standards.

Although these deficits are not the only problems that Bulgarian society faces, we can surely conclude that these are the key deficits that have the potential to hinder the democracy in Bulgaria. To overcome them, we need: 1) an adequate assessment of the factors that have the potential to undermine democracy; 2) a meaningful program that includes targeted, consistent reform actions; 3) political will; 4) integrating the efforts of national institutions, political parties and civil society.

**1** In this regard, TI-Bulgaria has been operating since 2001, as a result of the organization's research and analysis, a number of improvements in legislation have been made, but the most important issue remains the application of the rules.

**2** "Electoral Process and Politics for Prevention of Corruption: Current Status and Perspectives for Development" (monitoring report on the parliamentary elections, held on 26 March 2017), TI-Bulgaria, Sofia, 2017 ([http://transparency.bg/wp-content/files/MONITORING\\_REPORT\\_IZBORI\\_44NS\\_26.03.2017\\_TI-BG.pdf](http://transparency.bg/wp-content/files/MONITORING_REPORT_IZBORI_44NS_26.03.2017_TI-BG.pdf)).

**3** Kashukeeva-Nusheva, Vanya, "Vote Buying and Controlled Vote in Bulgaria", Vanya Kashukeeva-Nusheva, TI-Bulgaria, Sofia, 2015 ([http://transparency.bg/wp-content/files/Policy\\_Paper\\_election\\_24.11.2015\\_FINAL\\_I-net\\_site.pdf](http://transparency.bg/wp-content/files/Policy_Paper_election_24.11.2015_FINAL_I-net_site.pdf)).

**4** See the most popular comparative survey of TI Corruption Perceptions Index: [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](https://www.transparency.org/news/feature/corruption_perceptions_index_2016).

**5** <https://rsf.org/en/world-press-freedom-index-2008>.

**6** The World Press Freedom Index ranks 180 countries according to the level of freedom available to journalists. The colour categories are assigned as follows: good (white – from 0 to 15 points), fairly good (yellow – from 15.01 to 25 points), problematic (orange – from 25.01 to 35 points), bad (red – from 35.01 to 55 points) and very bad (black – from 55.01 to 100 points). Sources: <https://rsf.org/en/ranking/2017>, <https://rsf.org/en/ranking/2016>, <https://rsf.org/en/world-press-freedom-index-2008>, <https://rsf.org/en/reporters-without-borders-publishes-first-worldwide-press-freedom-index-october-2002>.

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Vanya Kashukeeva-Nusheva



# Particracy in Action

**Tom Willems**

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The 'Democracy Index' of The Economist is a snapshot of the state of democracy worldwide. It is based on five distinct categories: electoral process and pluralism, civil liberties, the functionality of government, political participation, and political culture. Each country is scored on a range of indicators within these categories and gets classified as one of four types of regime: full democracy, flawed democracy, hybrid regime, or authoritarian regime. Only those countries with an overall score of more than 8 are called 'full democracy'.

**“To be (elected), or not to be”**

Belgium scores 7,77 and ranks as 35th in their most recent list (2016). Thus, it can be described as 'flawed democracy'. This is rather disappointing result, because all of the Belgium's neighbouring countries do better: Luxemburg (11th), Netherlands (12th), Germany (13th), and France (24<sup>th</sup>). When analysing the overall score, the categories of political participation (5/10) and political culture (6,88/10) are the weakest points in the Belgian political system of a liberal democracy.

In a liberal democracy the ultimate decision-making power lies with people, within the boundaries of individual civil rights and liberties. Citizens delegate their power to representatives and hold them accountable through elections. Those representatives, at their turn, delegate their power to an executive government and hold them accountable in parliament on behalf of the citizens. Both, delegation and accountability are flip sides of the same coin.

The importance of elections cannot be underestimated. It plays a pivotal role in the healthy functionality of every liberal democracy. Elections are the most equitable instrument of political participation. The threshold to participate in elections is lower than in any other instrument of political engagement. Moreover, elections are by far the most popular instrument of political participation, even in times of (relatively) low turn up rates.



### Belgian electoral surrealism

Yet there are some evident deficiencies in the way elections are organized in Belgium. The popular vote is currently undervalued by several electoral rules and procedures. That symbolizes the dominant position of political parties (and their leadership), rather than the impact and freedom of individual citizens or politicians. Belgium is, therefore, often categorized as a “particracy” in the scholarly literature.

The system of list votes nicely illustrates this democratic deficit. By means of a list vote the voter agrees with the order of the candidate list. Those list votes are then distributed among candidates who did not gather enough personal votes to be elected directly. This distribution starts at the top of the list. That means that the place on the main list strongly determines the chances to be voted (or not) for the parliament: the higher on the list, the more likely to be elected (and vice versa).

The same problematic logic works in the system of successors. For example, what if a member of parliament resigns to become a minister? Today, the seat goes to the first successor. The person is placed once again on this lucrative successor list by the party leadership. He, most of the times, would get much less votes than candidates on the main list. Yet this event makes him jump past them. It is almost like getting a priority boarding pass for an express lane to parliament, handed out by the party leadership.

### Ties that bind

As a result the voter will not always get the representative he or she has chosen, nor even the representative with the most individual votes behind his or her name. To a large extent the party’s leadership decides who gets elected in parliament. In addition, the citizens can hardly reward or punish individual representatives, but only political parties at an aggregated level. The golden rule of elections “to kick out the rascals or not” has been seriously weakened.

These forms of “particracy” tend to further paralyze the functionality of the representatives themselves. They have to support and stay in favour of the party’s leadership that takes decisions on the electoral lists. By eliminating the effect of the list votes and the successor system, representatives will be elected to a larger extent for their own merit and support. The increase of personal mandate from the citizens would give them a welcomed independence.

The greater extent of independence in a stance of representatives from political parties, and from the executive government,

is vital in upgrading the parliament as a legislative power and a watchdog on behalf of the citizens. It is an antidote for the growing alienation between citizens and politicians. The neutralization of the list votes and the removal of the successors may seem as a merely technical tinkering of the electoral legislation, but it is essential in the struggle for more democracy and less “particracy”.

### **Butterfly effect**

The current electoral system makes “democratic victims” and it is not just a peripheral phenomenon. In the Belgian Chamber of Representatives, 14 members have a seat at the expense of candidates who enjoyed more personal support from the voters. In the Flemish Parliament it is 11 members. In short, that accounts for almost 10% of the representatives.

The impact on the political system is nevertheless more broad and pernicious. The implicit pressure to comply and follow the line of the party’s leadership and executive government weakens the firm and independent stance of representatives. In the long run it fatigues the belief of citizens in the well-being of the parliamentary democracy. As said before, these electoral deficiencies are emblematic for the wider lack of political participation and the inward-looking political culture in Belgium. The individual citizen has too little decision-making power and the political party leadership has too much.

The defenders of the list vote and successors system argue that it is necessary to guarantee a good mix between old and new representatives, between popularity and expertise. They fear that elections will be reduced to a popularity contest, where young talents or technical backbenchers stand no chance. Although this may be a legitimate concern, the list vote and successor system seem like a cure that is worse than the disease.

Therefore, we propose to maintain the list vote, but to neutralize its effect. Let it count only for the number of seats a party gets. A determination of who exactly will occupy these seats will depend entirely on the personal votes of a candidate (regardless of their place on the list). A party’s leadership may still send an important signal by giving young talents or hardworking backbenchers a prominent place on the list or by visibly involving them in the election campaign. At the end it is up to the voters to decide whether they follow the advice of the party’s leadership or not. After all, everyone deserves a fair and equal chance of being elected in parliament.

### Engaging citizens

The list vote and successor system are clear examples of the strong position of political parties (and their leadership) in Belgium, at the expense of the citizens. This “participatory” is of course a much wider phenomenon that encompasses more than just some electoral deficiencies. There are other illustrations, like a politicized top-level bureaucracy or large ministerial cabinets. It is a way of doing politics. It is the part of an outdated political culture, which lacks openness and citizen participation. That helps to explain why Belgium is a laggard in the ‘Democracy Index’ in *The Economist*. Belgium is in need of a profound political reform to give more decision-making power to its citizens: by reforming the electoral system, by updating parliamentary activities, by using referenda at regional and national levels, by experimenting in cities with new democratic tools such as citizen budgets.



# Quo Vadis Austria?

**Stefan Windberger**

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By most standards, Austria's democratic credentials are sufficient to warrant a position at the top of the rankings. Regardless of whether you take Transparency International's Corruption Perception Index (CPI), where Austria ranks #16 out of 176 countries or Freedom House's landmark report on Freedom in the World, Austria fares well.

**A peak beneath the shiny surface**

Yet, these rankings only show surface of the real situation. Once you remove the make-up, the distinct features of clear democratic deficits become painfully visible. As the Dutch journalist Caroline de Gruyter once wrote in the excellent article about Austria: "The eternal coalition [between conservatives and social democrats, who ruled Austria almost without interruption since World War II] makes Austria a rather corrupt country in many senses. Austrian syndicates never go on strike – but they have one of the most generous social welfare systems in Europe. Corruption scandals involving (former) politicians erupt regularly, leading to court cases and convictions. The cleanup of banks in Austria is slower than in other countries because banks are full of political appointees who enjoy protection. In Austria, corruption doesn't involve paying bribes for drivers' licenses or birth certificates. But for certain jobs, it helps to be a member of a particular political party. The Western-led Organization for Economic Cooperation and Development regularly urges Austria to improve transparency."<sup>1</sup>

As of 2017, it is still true that you only stand a very, very small chance of becoming Headmaster of a high school if you are not affiliated with either the conservatives or the social democrats. And yes, while we do not pay bribes to the police, there is a lot of high level corruption with indictments and court sentences against former ministers (former finance minister Karl-Heinz Grasser and former

minister of the interior Ernst Strasser being the most prominent examples). Political protection for those with powerful friends is still rampant. A recent boat accident involving a well-connected media manager highlighted that the Minister of the Interior still uses his direct influence to restrict the investigations of the police.

Austria's democratic deficits are most startling if you compare the Austrian situation with the neighboring countries of Germany or Switzerland. In Germany, a politician who is accused of wrongdoing will step down due to public pressure, in hopes of getting a second chance after a couple of years. Former German minister of the Economy, Karl-Theodor zu Guttenberg, is a prominent example. While he resigned, as the result of a plagiarism scandal linked to his PhD, his conservative Austrian colleague, Johannes Hahn, declined to do anything of the like, despite being accused of the same offence with similar evidence. Johannes Hahn is still firmly in his position as the Austrian Commissioner in Brussels. In Austria, this is called "aussitzen". Literally, you try to maintain your position for as long as can, until public outcry eventually subsides. This is seen as a sign of strength; the population accepts this kind of behavior as it has never changed since the Habsburg era.

### **The media, at the heart of the dark side**

Out of all democratic deficits in Austria, one is looming much larger than all the others: the media. Austria's biggest newspaper, the Kronen Zeitung, reaches almost 40% of the Austrian electorate. In a fine example of its political clout, the Kronen Zeitung supported the independent list of a hitherto almost unknown MEP's for the European Parliament elections of 2009. The candidate, Hans-Peter Martin, gained 18% of the Austrian votes. Approximately 70% of his voters were reading the Kronen Zeitung, and close to 30% of the newspaper readers voted for him. Austrian politicians are obviously very aware of this, and social democrats went as far as announcing substantial policy changes in the letter to the editor of the Kronen Zeitung instead of consulting their party members or boards.

One might say that this is nothing out of the ordinary for a powerful media house. Possibly so, if one does not mention the advertising business. On a per capita basis, Austria has second highest level of public subsidies for political parties in the whole world. It is about several hundred million Euros, which is a lot of money for a small country with 8 million inhabitants. The Austrian government spends as much as the German government for the country 10 times of its size<sup>2</sup>, on newspaper advertisements.

As an example: in the run-up to the regional elections for the state (and city of Vienna) in 2015, political parties and public bodies controlled by their respective parties spent over 15 million Euros on advertisements in daily newspapers.<sup>3</sup> In 70 days only. The lion's share of these advertisements went to three boulevard newspapers, Kronen Zeitung, Oesterreich and Heute, with over 3 million Euros each. Heute is a free newspaper that would be unable to survive without political ads. In turn, their reporting usually favors those who finance it through their advertisements. Ironically, Heute is managed by Eva Dichand, wife of the editor of Kronen Zeitung, Christoph Dichand.

While dozens of journalists have tried to establish some evidence to prove this strategy of "buying the media", no one was able to prove it yet. However, no one within the political circles of Vienna would doubt the link between some of the political parties and the media. It is more than just currying favors, it is a symbiosis. One would not be able to survive without the other.

### The way forward

A healthy and independent media scene cannot and should not be mandated politically. It can only come through initiatives from the media sector. While the Swiss newspaper Neue Zuercher Zeitung has made an ultimately unsuccessful foray into the Austrian media scene, there is a new project coming up: Quo Vadis Veritas, an initiative financed by Austrian billionaire and owner of Red Bull, Dietrich Mateschitz. Time will tell.

<sup>1</sup> <http://carnegieeurope.eu/2014/11/05/austrian-acrobatics-in-europe-pub-57137>

<sup>2</sup> <https://www.dossier.at/dossiers/inserate/neunmal-teurer-informiert>

<sup>3</sup> <https://www.dossier.at/dossiers/inserate/das-inseraterennen-zur-wien-wahl-welche-zeitung-bekommt-die-meisten-inserate-von-parteien-und-oeffentlicher-hand>

*On a per capita basis, Austria has second highest level of public subsidies for political parties in the whole world. It is about several hundred million Euros, which is a lot of money for a small country with 8 million inhabitants.*

**Stefan Windberger**

# Epilogue

**Mitosz Hodun**

PhD, is board member of Projekt: Polska Association and international relations expert at Nowoczesna.

I have presented to you the *European Atlas of Democratic Deficit*. I hope that you have had an enjoyable, educative and intellectually entertaining read. I am convinced that some of the texts have been startling to you and helped you look at the challenges faced by Europe from a fresh perspective, and even from 28 new perspectives.

While compiling the *Atlas*, my objective was not to depress the readers but rather to share my own pessimistic view on the future. I did not intend to create a “black book of Europe.” Despite the title, where the key words are “democratic deficit,” I did not wish to present everything that is wrong about each of the countries. My goal was to prepare a true atlas showing the multifaceted nature of and the challenges faced by the EU countries as well as to outline the existing issues and indicate possible solutions.

What makes up the *Atlas* is 28 countries, 31 authors and one Union. The Union with all its divergence but also a community of democracy and problem patterns easy to point out. The authors commenting, from the liberal perspective, on the social, political and economic reality surrounding them represent various environments, professions and groups of interest. They include MPs, NGO activists, scientists and journalists. Some of them represent political parties or think tanks, others are independent experts. I asked each of them to present a critical view on one country — a country where they were born, live or simply such that they feel connected to. Each of the authors was free to choose the subject and form of their essay. This resulted in a wide range of topics touched upon: from hate speech to gaps in the electoral system, from residential difficulties to local authorities, from discrimination against the Roma to authoritarian ambitions of governments. The authors suggest different solutions — some of them may come across as startling or even peculiar from the perspective of another country’s citizen. But this is the beauty of the *Atlas* — it has the potential to trigger a discussion



among liberals all over Europe, to serve as an opportunity to learn from each other and to look for solutions hand in hand.

Even though the authors, unaware of the topics of the remaining essays, wrote about a completely different topic each, we may easily indicate some general subjects that are present in the majority of the texts. If I were to indicate the most important one having read the entire *Atlas*, I would point at the rise of nationalism and populism in Europe. Animosity towards foreigners, hate crimes, growing support of radical and xenophobic political groups — these are challenges present in most of the European countries and communities. North to South, East to West. The authors from the so-called “old Union”-countries stress the need to fight to protect liberal values, which have been the most endangered since WW2. In texts written by authors coming from the Central and Eastern Europe, you can feel the longing for the times when their countries were liberal reform pioneers and set the example for the rest of the world. Virtually, these two voices are two sides of the same coin and they both express nostalgia for the years of constant growth in the spirit of liberalism, democracy, freedom and definitely pro-European philosophy. Beyond any doubt, we are living at a time of struggle not only to further sustain European integration understood as continuous pursuit of closer cooperation within the Union but also to maintain the success built over the past decades. As a result of consecutive crises that hit Europe, we lost our way again. We were robbed of our compass and the initiative was taken by those who want to drift aimlessly, disregarding any dangers, rocks and shoals on our course. The *Atlas* features numerous suggestions on how to win back the initiative and readjust the lost course.

Together? What does it mean today? After all, the United Kingdom is just about to fade away from the Union’s map. That is why the issue of Brexit could not be included in this *Atlas*. We devoted additional pages to the subject as an extraordinary case, typical of the UK and, at the same time, of immense importance to the functioning and a (possible) reform of the whole Community. Without understanding the reasons for Brexit and learning our lesson from it, it will be impossible for the liberals to take over the initiative and follow a new course heading towards a strong Union. Brexit has become a prism which the entire *Atlas* should be read through.



The role of atlases has always been to bring faraway lands closer to people. Those curious of the world and the nature of remote countries were the ones to reach for the atlases. *European Atlas of Democratic Deficit* is to play the same role. Its function is to present the challenges faced by particular EU countries and communities. Also such challenges that are not obvious and such that are not covered in the media for they are too complex or too “typical” of a single country. The role of the *Atlas* is to present such topics, even if niche, to the readers from all over Europe. The *Atlas* is supposed to become a source of knowledge about internal problems each country is struggling with, including some difficulties we know nothing about because they are never covered in the press or on the news online for they are not hot enough to attract a large number of readers. But after all those challenges are essential pieces of the complicated puzzle called the European Union and without them, no picture is complete and no key reform will be possible.

from the *Epilogue*

28

countries

31

authors

1

union

*The European Union is splitting into two universes — one consisting of societies profiting from EU membership, economic growth, scientific and technological development, and multicultural experiences offered by EU cities and another one composed of societies that are economically deprived, do not feel that their opinions are heard, and feel threatened by fast globalization and constant acceleration of mobility of people and information.*

Neža Kogovšek Šalamon