ANTONIO CAMPATI
(ed.)

# ILLIBERAL TRENDS

*Democracies under Pressure*

# Illiberal Trends

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EDITED BY
ANTONIO CAMPATI

EDUCatt

Milano 2024

UNIVERSITÀ CATTOLICA del Sacro Cuore

POLIDEMOS

Centro per lo studio della democrazia
e dei mutamenti politici

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Largo Gemelli 1, 20123 Milano – tel. 02.7234.22.35 – fax 02.80.53.215
e-mail: editoriale.dsu@educatt.it (produzione); librario.dsu@educatt.it (distribuzione)
web: https://libri.educatt.online/
Associato all'AIE – Associazione Italiana Editori
ISBN: 979-12-5535-228-0

*This research was supported by grants from the Italian Ministry of University and Research [PRIN 2020 New paradigms of unfreedom. Historical genealogies and critical strategies – Prot. 2020BYPAP4_003]*

copertina: progetto grafico Studio Editoriale EDUCatt.

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# Introduction
# The Illiberal Specter and the Future of Democracies

ANTONIO CAMPATI

A new specter is hovering over Europe (and beyond): illiberalism. The allusion to the famous incipit has already been used in the past to highlight certain trends that are so pervasive that they affect the mentality and functioning of our democracies. The best-known case in this respect is populism (Ionescu and Gellner, 1969). Indeed, there are elements in common between the latter and illiberalism: a rather articulate history behind it, a lively debate about what it indicates today, and a diatribe about what the analytical, conceptual, and empirical tools should be to measure its diffusion within political regimes.

It is therefore inescapable that – as in the case of populism – liberalism is now the focus of a dense array of analyses that include conceptual history, political philosophy, political science, law (national, European, and international), economics, society, and even psychology. Evidence of this diversity of approaches can be seen in the table of contents of two important recent publications: the *Routledge Handbook of Illiberalism*, edited by András Sajó, Renáta Uitz, and Stephen Holmes (2022), and the *Oxford Handbook of Illiberalism*, edited by Marlene Laurelle (2024), which will be published in the coming months. Therefore, it is very likely that the debate on illiberalism and its latest political form – *illiberal democracy* – will con-

tinue in the coming years because it affects the internal dimension of States and the international dimension in a radical way, thus placing itself at the center of a crossroads of interests, strategies, and analyses of contemporary political systems.

This book in the Polidemos series – which complements other recent studies on the subject (Postigo, Silvestrini, and Simonazzi, 2023) – aims to make a small but significant contribution to the ongoing international debate on illiberalism by offering a series of analyses that seek to highlight the different facets of this trend. The first chapter focuses on the ambiguities of the term "illiberal democracy" and on the fact that it is impossible to understand contemporary illiberalism without first distinguishing between an "old" and a "new" illiberalism, that is, without considering the articulated theoretical-conceptual history behind this tradition of thought. In the second chapter, Andrea Cassani offers the reader an empirical analysis that begins with the reconstruction of the debate on a new "wave of autocratization," and then proposes a strategy for measuring autocratic regimes by combining various existing indicators and indices. In the third chapter, Luca Lionello focuses on the so-called "democratic backsliding" in the European Union, focusing on the Article 7 sanctions procedure and some interventions of the European Court of Justice to preserve the independence of the judiciary.

The remaining three chapters focus on the domestic situations of several European states that have attracted the attention of many scholars because they represent interesting and, in some cases, novel case studies of illiberalism. In the fourth chapter, Carlotta Mingardi focuses on Serbia as a key actor in the strategic objectives of the European Union, analyzing the Serbian government's increasing use of discursive and behavioral strategies of contestation to pursue its agenda, which

cannot be underestimated, even in light of the return of the "Kosovo question." The fifth chapter – written by Angela Trentin – is devoted to the case symbol of the European illiberal trend, namely Hungary. In addition to highlighting some unavoidable conceptual and empirical issues related to the notion of "illiberal democracy," the contribution analyzes Hungarian illiberalism as a response, albeit inadequate to some specific concerns expressed by citizens with respect to concrete economic and social problems. The last chapter, the sixth, is written by Mihaela Jacob and analyzes the illiberal trend in three countries: Poland, the Czech Republic, and Slovakia. This highlights the difficult balance between these countries' simultaneous membership in the Visegrád Group and the European Union and their tendency to pursue and strengthen a certain "illiberal regionalism."

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# A New War of Words: Democracy, Illiberalism, and the Forgotten Lessons of Liberalism

ANTONIO CAMPATI[1]

**Abstract**. In recent years, an unprecedented illiberal option has gained ground: the hypothesis of a combination of democracy and illiberalism after the crisis of liberalism. This option is promoted by some European political leaders, who use the label 'illiberal democracy' to describe their political goals. This has led to a 'war of words': is it right to use the term 'illiberal democracy'? Is it possible to combine democracy and illiberalism? This chapter attempts to distinguish the analytical-conceptual dimension from that of political propaganda by assessing the position of those who advocate a shift in focus from the adjective (illiberal) to the noun (illiberalism). In this way, it will be possible to distinguish between an 'old' and a 'new' illiberalism, thus avoiding theoretical-conceptual confusion that is detrimental to a serious debate on the transformations of democracy.
**Keywords**: Illiberalism; Liberalism; Representative Democracy; Democracy; Political Representation.

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## 1. *Introduction*

The liveliness of the debate on the future of (liberal) democracy is evidenced by the recurring need to ask what it is (Schmitter and Karl, 1991). This approach is the one most widely adopted when starting research to understand how this ancient mode of organizing power has been transformed over time, and it is the confirmation of the fact that the concept of democracy is never fixed (Ornaghi, 1995, p. 12). In fact, it is no coincidence that, when trying to grasp the essence of the different declinations of democracy, scholars always coin new categorizations to highlight a particular character that they consider of primary importance. In this way, the terminological dimension assumes a central role in both scientific and public debate (Lasswell and Leites et al., 1949). Giovanni Sartori urged us not to underestimate the terminological aspect of the political struggle, since it is carried out precisely as a 'war of words', and he recalled that the very use of the word *democracy* is explanatory. He wrote: "Democracies were happy with being democracies, and nondemocracies felt no guild complex about not being what they were not. What has dramatically changed since 1945 (circa) in hardly the real-world nature and variety of political forms but the value connotation of the word democracy. Democracy emerged from World War II as a good word, a word that elicited praise, indeed a word that *was* praise. Thus, the clash of arms had barely ended when a war over the word was started. It was, and remains, a war for winning over "democracy" on one's own side" (Sartori, 1987, p. 479).

Today, there is a war over the word *democracy* between fans of *liberal* democracy on the one hand and fans of *illiberal* democracy on the other. This is a contrast that is in many ways misleading because it oversimplifies a very delicate and com-

plex issue. In fact, there has been a wide debate on the correctness of the use of the term *illiberal democracy*: coined in the field of political studies and international analysis at least three decades ago, today it also indicates a precise political project carried out by Hungarian leader Viktor Orbán.

In this contribution, we want to shed some light on this aspect by trying to distinguish the analytical-conceptual dimension from that of political propaganda, while being aware that in some cases it is not possible to establish a clear distinction. In the following pages, we will recall the analyses proposed by authoritative scholars who deny the correctness of the expression *illiberal democracy* since it is considered an oxymoron. Yet, precisely because of the insistent use that is made of it in the contemporary political sphere, it is worth trying to go beyond this observation. To do so, we will partly follow the perspective that provides for the shift of attention from the adjective *illiberal* to the noun *illiberalism* (Laruelle, 2022). In this sense, some features of the illiberal doctrine propagated by contemporary leaders will be recalled (Main, 2021), which sometimes differ considerably from those of the *old* illiberalism (Mulieri, 2024). In fact, as with liberalism, it is rather difficult to identify a univocal path of development with regard to illiberalism. There is no doubt, however, that it is appropriate to distinguish the *new* illiberalism that has been taking shape in recent years from the versions proposed in the past. Before proceeding in this direction, it is necessary to define the geopolitical context in which the 'war of words' on democracy is taking place. The next section aims to describe the scenario in which the *liberal option* is emerging[2].

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[2] This article is a reworking and development of the research path started in Campati, 2022 and Campati, 2020a.

## 2. *The Context: A Multi-Level Crisis*

Liberal democracy is facing the *illiberal challenge* that has been tried and tested. The crisis of legitimacy that engulfs it has now become an intrinsic feature of it: political institutions are put to the test by the 'ideology of immediacy' (Innerarity, 2020, p. 161), which aims to deform the representative system. Economic institutions are increasingly struggling to balance the demands of global interdependence with respect for social justice measures; the various civil society organisations, on the one hand, represent a fundamental anchor for many citizens (during the COVID-19 emergency we had proof of this), while on the other hand they struggle to assert their potential within the public decision-making space.

If, therefore, democracy as a whole is undoubtedly 'under pressure' (Galston, 2020), the illiberal challenge accentuates its difficulties. At the national level, this challenge is often traced back to the success of some 'populist' political formations, which threaten traditional liberal institutions, aim to strengthen the role of executives, and, more generally, feed the multiplication of all those symptoms of disaffection with the political sphere understood as a set of precarious balances to be preserved through mediation and compromise. However, it should be emphasized that the occurrence of these tendencies does not necessarily entail a distortion of the structure of liberal democracy. For example, if a 'populist' party obtains a substantial number of votes and comes to power, the stability of institutions and social pluralism are not necessarily endangered. In the same way, a strengthening of the powers of the executive does not always prefigure the prelude to an illiberal regime. These precautions serve as a reminder that before decreeing the overcoming of the liberal conformation of a democracy, great prudence is necessary in

order to avoid that this conclusion is influenced only by superficial, and therefore conjunctural, changes[3].

This does not mean that the illiberal challenge should not be taken seriously. One need only think of the obvious difficulties that arise when analysing the internal situation of the European Union, since some of its Member States, for example Hungary and Poland, are often singled out as emblematic cases of the emergence of illiberal democracies. The issue is a very thorny one because it highlights a clear contradiction between some of the decisions taken in these countries and compliance with the minimum requirements for membership of the European Union: a contradiction that materializes before the eyes of public opinion, especially when it comes to issues concerning respect for human rights, freedom of the press, and the guarantee of the balance of powers (Bierber, Solska, Taleski, 2018; Lorenz and Anders, 2021). It is even more in need of attention if we consider it the main effect of a real 'counter-revolution' in progress, which identifies liberalism as an 'overall ideology of power' – that is, a set of values, a way of governing, and a cultural *ethos* to be overcome (Zielonka, 2018, p. 30). In fact, according to Ivan Krastev and Stephen Holmes, an *anti-liberal revolt* is underway in Europe,

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[3] Perhaps, from this point of view, the most emblematic case is that of the United States of America during the Trump presidency: after his election, not a few observers predicted an irreversible crisis for the most famous democracy in the world, but, after only one term, the alarmist tones with which the tycoon's victory was accompanied in 2016 shrank significantly. On the other hand, in 2018, David Runciman (2018, p. 23) wrote that, after Trump's election, American democracy had continued to function, since that political and institutional system is designed to withstand abundant doses of destabilization, especially if it is of demagogic origin. See also Campati, 2020b.

led above all by those countries that, after 1989, embraced the liberal order, only to be disappointed by it: for the two scholars, thirty years ago, an *era of liberal imitation* began, the end of which does not imply the abandonment of classical liberal institutions, as well as the possible return to a pluralistic and competitive world in which "no center of military and economic power will seek to spread its value system on a planetary level" (Krastev and Holmes, 2021, p. 251)[4].

On the other hand, the illiberal challenge also undermines the liberal international order – itself in a state of crisis (Luce, 2017; Parsi, 2018; Sørensen, 2011) – and, in this regard, G. John Ikenberry recalls how one of the oldest problems that the latter has to face is precisely related to the relationship with the great illiberal powers, which is conducted, from time to time, according to different strategies: by inviting them to join the club, in the hope of making them evolve towards fully democratic models; by trying to reach a compromise with them, sacrificing the idea of creating a liberal world order; by dealing with them more aggressively, with the serious risks that this entails, especially in the event of defeat; or by adopting a mixed strategy, tending to create opportunities for cooperation with some of them, such as China and Russia, focusing on common functional issues, such as arms control, the environment, and global commons (Ikenberry, 2021, pp. 378-379). In February 2022, Russia's invasion of Ukraine changed the situation considerably. Ikenberry re-

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[4] It is interesting to note that the two authors recall the concept of 'imitative democracy' coined by the Moscow political scientist Dmitrii Furman (2022), in which societies resort to a politics of imitation when they are unable to put into practice the norms they exalt in theory. On the end of the era of imitation and the consequent implications for the future of the European Union, cf. Bruno and Campati, 2021, pp. 95-107.

minds us that when a Westphalian order falls under the domination of illiberal states rather than liberal states, the very possibility of the survival of democracy can be compromised (Ikenberry, 2021, pp. 388-389). The concern generated by such a scenario has led many observers to denounce a new global clash between democracies and autocracies. In this sense, the canons of liberalism applied to the international system (Mearsheimer, 2019) may undergo a significant update in the coming years, and, therefore, the relationship between liberal democracies and illiberal powers will also be reconfigured according to new canons.

The short framework outlined in this section shows how the illiberal challenge to liberal democracies involves states, the European Union, and the international system. Therefore, it is very difficult to identify coordinates to understand the direction in which the debate will be oriented in the coming months. However, this is not the aim of this contribution, but rather the aim is to highlight the problems related to the use of the label *illiberal democracy* in this already very complex context. A first step is to rediscover an ancient lesson concerning liberal doctrine.

## 3. *Liberalism: A Forgotten Lesson*

The concept of liberalism has been analysed by a significant number of authors and therefore – at least since the modern age – it is possible to trace supporters and opponents of this doctrine in every political, economic, and social cycle that has been consumed to date. On the contrary, as Nicola Matteucci suggests, if political liberalism is included within the great tradition of practical philosophy (albeit without exhausting it), born with Aristotle and present, with mixed fortunes,

throughout the history of Western thought, then its origins are to be traced back to an even more distant time (Matteucci, 2005, p. 33; Giorgini, 1996). Therefore, it is possible to reconstruct their main features, but always relativizing them to the authors, the contingencies, and the political battles that determined them (Freeden, 2015). Such a trick is even more evident when liberalism is studied in relation to democracy. In fact, as Matteucci points out, one of the reasons why it is difficult to stipulate a common definition is due precisely to the intertwining of their respective histories; in short, it is complex to find a consensus on what is liberal and what is democratic in today's liberal democracies (Matteucci, 2004, p. 574). In fact, if a distinction is difficult at the level of invoice – since democracy has been transformed more quantitatively than qualitatively with respect to the liberal state – it is nevertheless necessary because liberalism is precisely the criterion that distinguishes liberal democracies from non-liberal democracies (*ibid.*, translation from Italian to English done by me).

A second reason is linked to the observation that liberalism presents itself in different forms so that it is difficult to identify on the synchronic level the liberal moment that unifies 'different histories', just as it is impossible to speak of a 'diffusion-history' of liberalism because – despite the fact that the English model has exercised a fairly decisive influence – it has encountered "particular political problems, the solution of which has determined its physiognomy and specified its contents" (*ibid.*)[5].

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[5] For further discussion, see Laski, 1971; Masala, 2012; Dworkin and Maffettone, 2008.

Over time, this fundamental lesson has been partly lost; until a few years ago, the assumption that liberalism can present itself in different forms – some clearly more in keeping with democratic values, others decidedly more distant – seemed outdated. One of the main causes is linked to the enthusiasm triggered by the now well-known illusion that spread after 1989, according to which liberal democracy was now the 'only game in town' (Linz and Stefan, 1996)[6], thus spreading the common perception that democracy and liberalism were now one. Twenty years ago, Colin Crouch warned against this link: in his famous analysis of post-democracy, he wrote that, considering democracy and liberalism as a single element, we tend not to see that in reality there are two elements at work that are related and interdependent. In fact, democracy requires a certain equality in principle in the ability of citizens to influence political outcomes, whereas liberalism requires free, diverse, and vast opportunities to influence these outcomes (Crouch, 2003, p. 22, translation from Italian to English done by me).

As we have seen in the previous paragraph, today, there are few who do not recognize the fact that the union between democracy and liberalism is founded on precarious foundations, far from eternal and stainless (Galli, 2023; Mastropaolo, 2023; Postigo M., Silvestrini G. and Simonazzi M. [eds.], 2023). A confirmation is given precisely by the re-emergence of the hypothesis according to which democratic principles can be combined with illiberal doctrines. But is it really possible to combine democracy and illiberalism? In the next section, we will address this problem directly, while in the one

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[6] For further suggestions: cf. Palano, 2009; Salvadori, 2011, pp. 3-7.

following that we will retrace the historical traditions of illiberalism, which in some cases have their roots far back in time.

## 4. *Conceptual Enigmas: A Re-Opened Dispute*

In numerous empirical studies – at least since the early 1990s – the expression *illiberal democracy* has been used to indicate a *species of hybrid* genus *regime* – that is, a model of 'reduced' or 'limited' democracy (Morlino, 2014, p. 59; Morlino 2008, p. 179). This practice is based on the use of well-defined quantitative and qualitative indices and is corroborated by a significant series of analyses that confirm its usefulness in classifying the different countries of the world. From a purely theoretical-conceptual point of view, however, the expression *illiberal democracy* has sparked extensive discussions, which have been further accentuated, especially because it now indicates (only) an empirical category for studying the processes of democratization, but also a precise political project towards which to tend, such as the one proposed for several years now by the Hungarian leader Viktor Orbán (Buzogány, 2017; Wilkin, 2018). Moreover, *illiberal democracy* is often confused with political forms of authoritarianism, which is a different type of political regime with specific peculiarities (Waller, 2023).

The dispute over the conceptual correctness of the expression *illiberal democracy* has therefore been re-opened, which calls into question authoritative scholars who, several years ago, had already provided a rather definitive solution to the problem. For example, Norberto Bobbio argues that there is an 'unavoidable link' between freedom as a non-impediment and freedom as autonomy and, therefore, writes: "when I speak of liberal-democracy I am talking about what for me is the only possible *form of effective democracy*, whereas democracy

without any other addition, especially if one means 'non-liberal democracy', indicates in my opinion a form of *apparent democracy*" (Bobbio, 1999, p. 233, emphasis added and translation from Italian to English done by me; Bobbio, 1985).

Even Giovanni Sartori – foreseeing the risk of a gap between democracy and liberalism after a period of happy convergence[7] – is rather assertive in considering *illiberal democracy* a possible form of authoritarianism and argues this conclusion *by breaking down* the two elements that make up liberal democracy: "At the outset I referred to 'liberal democracy', and I must emphasize that 'democracy' is only a shorthand – and a misleading one at that – for an entity composed of two distinct elements: 1) freeing the people (liberalism) and 2) empowering the people (democracy). One could equally say that liberal democracy consists of 1) 'demo-protection', meaning the protection of a people from tyranny, and 2) 'demo-power', meaning the implementation of popular rule' (Sartori, 1995, p. 102). Whether the liberal component is *liberating*, that is, it frees the demos from *oppression, servitude,* and *despotism,* and the democratic component is *empowering* in the sense that it empowers the demos, then Sartori thinks that liberal democracy is first and foremost *demo-protection* (the protection of the people from tyranny) and, secondly*, demo-power,* the attribution to the people of quotas, and even in-

[7] He writes in *The Theory of Democracy Revisited* (1987, p. 389): "That political democracy cannot be divorced from liberalism, and is actually resolved into liberalism, still leaves us with *extrapolitical* democracy. On this simple reflection two points suggest themselves. First, more democracy does not entail, by any necessity, less liberalism. Second, and consequently, there is no contradiction in asking simultaneously for more democracy *and* more liberalism". For more suggestion about *democracy within Liberalism* and *Democracy without Liberalism*, see Sartori, 1987, pp. 386-393.

creasing quotas, of the effective exercise of power. The crucial point, he continues, is not so much related to understanding which of the two elements is more important, but it is necessary to put them in the right sequence and, therefore, if there is no freedom from the first, there will be no freedom from the second; thus, if there is no demo-protection, there can be no democracy.

Sartori's breakdown of the elements of liberal democracy can also be useful for analysing the most recent illiberal challenge or, at least, for better understanding some of the positions that have been put forward in this regard. For example, according to Jan-Werner Müller, the expression *illiberal democracy* must be definitively abandoned when referring to leaders like Orbán because – precisely thanks to a real *conceptual split* – it allows them to present themselves as democrats even if not liberals (Müller, 2017, p. 69). In this sense, the illiberal tendency overlaps with the populist one and is characterized above all by an excessive emphasis on the 'authentic power' that derives from elections: in fact, the populists, after winning the elections, try to tamper with the institutional machine by purging it of all those guarantees that make a state liberal (*ibid.*)[8]. A further contribution to the debate on the correctness of the use of the expression *illiberal democracy* is offered by Nadia Urbinati (2019; 2020). According to the diarchic perspective that she places at the heart of her theory of democracy, the latter is effectively inconceivable if civil and

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[8] In addition, he adds that if the ruling party has a sufficient majority, it can promulgate a new constitution, justified as a commitment to allow 'true Hungarians' or 'true Poles' to reclaim the state, in opposition to the post-communist or liberal elites who supposedly act against the people of their own country.

political liberties (which necessarily require a constitutional pact proclaiming them), the separation of powers, and the rule of law are not guaranteed. Moreover, it is essential that the interpretation of their extension is not left to most of the moment, even when its policies seem to meet the interests of the population: "This is the condition for representative democracy to function and its process to remain open and indeterminate". Therefore, "thinking and speaking in terms of the distinction between 'democratic' and 'liberal democratic' is misleading, as is thinking and speaking in terms of the opposition between 'liberal democracy' and 'illiberal democracy'" (Urbinati, 2020, p. 27, translation from Italian to English done by me)[9].

If, on the one hand, several other scholars point out that the expression *illiberal democracy* represents a real oxymoron (Baverez, 2019, p. 10), on the other hand, we cannot exclude that this follows a parallel mirror image of the one that affected the expression *liberal democracy*, which was also considered an oxymoronic expression before it was widely assumed as the most desirable political synthesis (Tuccari, 2019)[10]. On the other hand, Ikenberry reminds us, liberal democracy is a kind of conceptual *portmanteau*, whose two parts – liberalism and democracy – do not inevitably go together; on the contrary, they are often in tension: "liberalism refers to the principles of individual rights and the legal limits on state power, while democracy refers to the principles of popular sovereignty and majority rule" (Ikenberry, 2021, p. 74, footnote 51, translation

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[9] See also Urbinati, 2019.

[10] For a long time, liberals thought that democracy was a danger to be avoided, just as radical democrats and socialists had strong reservations about liberal politics and mechanisms.

from Italian to English done by me). The fundamental point is therefore given by the relationship between democracy and liberalism, since if they are considered as inseparable – that is, as elements that now characterize a pleonasm – it is difficult to justify the hypothesis of their illiberal declination, but if, on the contrary, one assumes them as autonomous, they can assume a very distinct conformation from each other.

An example of this – in contrast to the previous ones – is offered by Cas Mudde and Cristóbal Rovira Kaltwasser, who argue that democracy *without adjectives* refers to the combination of popular sovereignty and majority rule and therefore can be direct or indirect, liberal or illiberal (Mudde and Kaltwasser, 2013, p. 10). This position is also based on a radical *decomposition* of the terms in question, which emphasizes that it is possible to study the idea and concept of democracy without necessarily relating it to a specific ideological tradition; however, it perhaps hides an oversimplification at least to the extent that it circumvents the *political* question that today poses the use of the expression *illiberal democracy*, which, in the intentions of its supporters, represents an equally valid alternative to *liberal democracy* and, therefore, not a deviation from a presumed model considered more 'correct'. In other words, today's illiberalism is based on an ideological universe, which, although varied, is evoked precisely to demonstrate how the incompatibility between democratic and illiberal principles is now completely surmountable.

## 5. *Illiberal Doctrines: An Ancient and Varied Tradition*

In the preceding pages, the spread of the illiberal tendency has been presented as a further problem for contemporary democracies and as a worrying consequence of the loss of *ap-*

*peal* of liberal democracy. However, this is only partly true, because it should not be forgotten that even when liberalism seemed to be the 'only game in town', that is, after 1989, the criticism of liberalism had not subsided at all. In fact, in the early 1990s, Stephen Holmes analysed the *anti-liberal spirit* that, according to him, was awakened by the collapse of Marxism and by an unstable mixture of economic chaos and ethnic hatred (Holmes, 1995, p. 5): on closer inspection, it was not a real 'awakening' because the denigration of liberalism is not "a passing fad of the late twentieth century, but a recurring feature of Western political culture since at least the French Revolution" (*ibid.*, p. XI), whose distinctive feature "does not consist in a uniformity of positions, but in a handful of basic assumptions with the addition, and this is a particularly important component, of a common enemy", which is precisely liberalism (*ibid.*, pp. 5-6, translation from Italian to English done by me).

For Holmes, therefore, antiliberalism is a tradition of thought with a specific *mindset* and theory, whose exponents define themselves negatively (as opposed to liberalism), focusing their hostility above all on individualism, rationalism, humanitarianism, cultural uprooting, permissiveness, universalism, materialism, scepticism, and cosmopolitanism. In short: "the core of liberal politics would be all these corrosive attitudes – not the separation of powers, electoral contests, freedom of the press, religious tolerance, the public character of state budgets, and judicial control of the police" (*ibid.*, p. 9, translation from Italian to English done by me). This emphasis marks a fundamental difference from those who are now referred to as illiberal leaders, since they pose themselves and are therefore considered 'enemies' of liberal culture precisely because they undermine those guarantees of the rule of law that the thinkers analysed by Holmes do not consider proper

to liberal culture. The common trait is perhaps only linked to the criticism of a certain idea of modernity, indicated as the cause of the decay of Western society. In fact, the thinkers that the author of *Anatomy of Antiliberalism* takes into consideration are largely attributable to the core of non-Marxist critics of liberal practice, more precisely Joseph de Maistre, Carl Schmitt, Leo Strauss, Alasdair MacIntyre, Christopher Lasch, and Roberto Unger, who sometimes have positions very distant from each other but are driven by the 'burning sense of a mission to be accomplished' aimed 'at moving humanity away from the precipice in to which he was about to fall' (*ibid.*, pp. 9-11)[11].

In essence, in the speeches of the illiberal leaders of today's democracies we can sometimes recognize the equivalence between liberalism and modernity and, therefore, the condemnation of both, but their action is aimed above all at identifying liberalism as the cause of the malfunctioning of democracy. Therefore, they threaten to reduce (or even erase) the typical elements of this tradition (now integrated into the democratic system) in the firm conviction that – as will be seen in the next section – by tampering with the neuralgic points of the architecture of liberal democracy, the conditions are created for the entire system to collapse definitively.

[11] The choice of these authors – as Holmes himself acknowledges – is rather arbitrary, but they are all distinguished by "a teratological approach to modern society" and therefore by their condemnation of hedonistic materialism and abstract universalism. He writes in the conclusions that the research that led to the book was woefully selective and incomplete. In fact, the names selected do not represent all the important schools or orientations of non-Marxist anti-liberalism (p. 369).

Another example that marks a substantial difference between the current declinations of liberalism and some anti-liberal traditions of the past concerns the role of the Catholic religion, often brandished by today's illiberal leaders as a banner to be preserved in the face of the threats of modernity and liberalism. This is an aspect that would require a specific reconstruction (Pappin, 2022), but with respect to which it is good to point out at least one important expedient in the wake of Müller's analysis: until a few decades ago, for many Catholic philosophers, being 'anti-liberal' did not mean a lack of respect for basic political rights but marked an attitude of criticism of capitalism (even if the Christian democratic parties did not question the legitimacy of private property in the United States, as such) (Müller, 2017, p. 73), so much so that it is possible to identify relatively intolerant societies, and therefore in this sense illiberal, but not necessarily considered the soul of illiberal democracies. It is therefore appropriate to distinguish illiberal societies from places where freedom of speech and assembly, pluralism of the mass media, and the protection of minorities are called into question and, consequently, the rhetorical juxtaposition between illiberalism and Catholicism must also be framed in a much more complex framework than the one that has often been outlined in the public debate of recent years[12].

[12] In the middle decades of the twentieth century, Luigi Sturzo declined within 'organic democracy' two important legacies of the liberal tradition, the method of freedom and the representative method, thus laying the foundations for favouring the reconcilability – even on the part of Catholics – between democracy and liberalism. See the reflections of Felice, 2020, p. 165 and p. 296. See also Müller's reconstruction of the role of Catholics during the mid-twentieth century in Müller 2012, pp. 185-194.

The few considerations made so far testify to the variety of illiberal traditions and, therefore, to the difficulty in drawing parallels between eras that are very different from each other. Probably, the expression *illiberal democracy* (and the ideological universe that supports it) will suffer the same fate as the expression *totalitarian democracy* – that is, that of being considered, on the one hand, an oxymoronic expression, and, on the other, a clue that indicates democracy and *freedom* are first and foremost the consequence of a political battle over the meaning of these words (Mulieri, 2019, p. 207). In fact, the *controversy* over illiberal democracy recalls – albeit in a framework of similarities and differences – precisely some historical, political, and cultural mechanisms that at the time accompanied the ideological clash over totalitarian democracy (*ibid.*, pp. 211-213). The most immediate reference is to the work of Jacob L. Talmon, *The Origin of Totalitarian Democracy*, published in 1952, which analyses an *alternative* model of democracy, born essentially from the Enlightenment and late-Enlightenment tradition, as well as from some conceptions born of the French Revolution, tending to privilege a direct dimension of democracy, based on a monolithic conception of the people and imbued with a sort of religion messianic of politics (Talmon, 1952). This book opened a very heated debate, which today, as then, emphasizes the 'difficult encounter' of liberalism with democracy[13].

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[13] In the preface to Mulieri's book (Mulieri, 2019), Nadia Urbinati writes: "we could even say that every time we use the expression liberal democracy we presume another democracy, which is illiberal or totalitarian. These are two sides of the same coin that marked a political era and an ideological vision that is still widely practiced and authoritative today, a sign of the difficult encounter between liberalism and democracy in modern sovereign states" (p. XI, translation from Italian to English done by me).

## 6. *The* New *Illiberalism*

Given the complexity of the implications that the illiberal tendency creates within contemporary democracies, we can finally come to agree with Marlene Laruelle's hypothesis, which invites us to shift the focus from the adjective to the noun, thus focusing not so much on the illiberal element but on illiberalism (Laruelle, 2022). In this way, the criticisms relating to the impossibility of founding an illiberal democracy are neutralized and the political-planning dimension of this perspective is more highlighted, especially its ideological component, which differentiates it from the institutional and constitutional assumptions of authoritarian regimes (Laruelle, 2022, p. 309). Therefore, *illiberalism* can be defined as a new ideological family that finds its glue in a position of opposition to liberalism and has four main characteristics: it has spread in the last two or three decades in countries with a past experience of liberal tradition; it updates the visions of classical conservatism, with respect to issues such as, for example, the primacy of nation, religion, and gender relations, and argues that human beings have ontological characteristics that cannot be socially constructed entirely; it draws inspiration, in a different way, from the ideologies of the extreme right (Bruno, ed., 2024) and, therefore, distinguishes itself from the simple tendency to maintain the *status quo*, typical of classical conservatism; and, finally, it proposes the refutation of some typical elements of political liberalism, such as trust in institutions and respect for the rights of minorities.

These four characteristics make it possible to trace a more precise physiognomy of contemporary illiberalism, so as to distinguish it from classical forms of conservatism and to focus reflection not so much on the nature of the political-institutional regime of illiberal democracies but on the ideol-

ogy that innervates them. By shifting the focus from the adjective to the noun – from the conformation of the illiberal regime to the illiberal idea (Holmes, 2022) – it is then possible to clearly separate the most recent declination of illiberalism from those of the past. In fact, according to various observers, the 'new right' on the world stage has very different connotations from that of other historical seasons or, in any case, it differs from those political movements that we usually consider precisely 'right'; in other words, the British Conservatives, the American Republicans, the Eastern European anti-Communists, the German Christian Democrats, and the French Gaullists come from different traditions, but as a group they were all faithful, at least until recent times, to religious tolerance, to the independence of the judiciary, to freedom of the press and speech, to economic integration, to international institutions, to the transatlantic alliance, and to a political idea of the West, as well as representative democracy (Applebaum, 2021, p. 17). This is why – Laruelle argues – it is not at all easy to define the profile of a coherent ideology that unites all the illiberal movements at work today in Europe (and beyond): at most it is possible to identify the four characteristics mentioned above, although specifying that each is declined in a particular way within individual national contexts. Among these, particular mention can be made of the common attempt to restore national sovereignty in a variety of spheres: from the international (with the rejection of supranational institutions) to the purely political (with an emphasis on the direct and immediate relationship between representatives and represented), from the economic (with a fierce criticism of neoliberal orthodoxy and the promotion of protectionism at the national level) to the cultural (with a rejection of multiculturalism and respect for minorities and the preference for forms of assimilationism) (Laurelle, 2022, pp.

312-313). Compared to the latter, according to Krastev and Holmes (2021), today's illiberalism is oriented above all against post-national individualism and cosmopolitanism, and this, from a political point of view, is an extremely important fact, because it further feeds the idea that "illiberal democracy promises to open the eyes of citizens", who are now forced to succumb even on identity issues. Indeed, if the liberal consensus of the 1990s was about individual legal and constitutional rights, today "the anti-liberal consensus revolves around the mortal danger that hangs over the rights of the white Christian majority" (Krastev and Holmes, 2021, p. 55).

There is an additional element to take into consideration. The difficulty in identifying an organic *corpus* of illiberal ideology could be traced back to the absence of an elite ready to elaborate and disseminate an alternative programme to liberal democracy. Such a hypothesis would be refuted, however, by the observation that every regime has its clerics. Anne Applebaum (2021) analyses the current illiberal elites and, focusing especially on the Polish case, writes how many of them have now abandoned their almost unconditional support for liberal values to espouse the illiberal cause, confirming how the *counter-revolution* is evident not only in popular sentiment (which is expressed mainly through elections) but also among intellectuals and social elites. Yet, to this basic observation, Applebaum adds an aspect that seems to go in a different direction, clearly overshadowing the importance of clerics in elaborating a new ideology, since she recognizes that the "illiberal one-party state" does not strictly need an ideological apparatus because "it is not a philosophy" but "a mechanism for maintaining power", capable of functioning very well in

combination 'with numerous ideologies'[14]. In fact, Jan Zielonka points out that – compared to the post-1989 situation – the model advocated by illiberal leaders does not have a recognizable profile: if, thirty years ago, in order to become part of the European Union (and therefore to become all-round liberal democracies) it was necessary to *imitate* a precise political-institutional outline (which took shape with the adoption of twenty thousand laws and regulations prepared in Brussels), today, on the contrary, it is not clear what the counter-revolutionaries want to build. Looking beyond Europe, the Polish political scientist points out that Putin's Russia or Xi's China can offer financial help, but "they do not offer a governance model that is sufficiently attractive and suitable to clone. Nor are they able to define the notions of legitimacy, efficiency, and justice' precisely because they 'lack the ideological force that liberalism *possessed*" (Zielonka, 2018, pp. 30-31, translation from Italian to English done by me)[15].

Zielonka deliberately does not use the verb in the past tense because he identifies the crucial problem of our time in the fact that liberalism has remained without 'rivals' and thus has been fatally weakened and, not having an "alternative

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[14] According to Applebaum (2021, p. 16 and p. 19), if it ever happens, the collapse of liberal democracy will not take the same form it did in the 1920s or 1930s. but it will always require a new elite, a new generation of 'clerics'. The collapse of an idea of the West, or of what is sometimes called 'the Western liberal order', will need thinkers, intellectuals, journalists, bloggers, writers, and artists to wear down our current values and imagine the new system to come. See also Krastev, 2016.

[15] This, however, should not lead us to underestimate the *sharp power* of countries such as Russia and China (Messa, 2018) and the fascination with forms of efficiency, based on the meritocratic criterion, typical of the Chinese model (Bell, 2019).

center of power to contest the right it claimed over the future of humanity", it has "fallen in love with itself and has lost its way" (Krastev and Holmes, 2021, p. 251). On this point, the author of *Counter-Revolution* is very drastic, as he argues that liberalism is no longer the ideology of those who are "oppressed by the state" but has become "the ideology of the state led by traditional center-left and center-right parties": therefore, it is no longer the defender of minorities against majorities but is supported by minorities – professional politicians, journalists, bankers, jet setters – who "tell majorities what is best for them" (Zielonka, 2018, p. 31).

On closer inspection, therefore, the difficulty in defining the characteristics of illiberal ideology, as well as those of its institutional model, is probably due to a specific approach to the study of illiberalism, which is based on a limitation highlighted by Yves Mény when he advances a criticism of voices concerned about the spread of this political perspective. For Mény, the denunciation of the illiberal tendency is legitimate and rests on many good reasons, but he treats liberalism as if it were not an element – from the beginning of the *troubled marriage* with democracy – introduced to "harness, hold back and reduce" the negative effects that could arise from an immediate rule of the people (Mény, 2019, p. 149). The aim of this critique is to bring to the fore the fact that representative liberal democracy is based on a series of paradoxes, which have always forced it (even today) to transform itself and to integrate within it "rules, principles and institutions inspired by political and economic liberalism" (*ibid.*, p. 142). The illiberal tendency is therefore one of the consequences of the 'imbalance' between the democratic and liberal elements, which has often seen the latter succumb. In fact – Mény continues – this imbalance is essentially tackled in two ways: the first is precisely the illiberal one, according to which it is pref-

erable to restrict the liberal conquests that are the result of two centuries of struggle, while the other, more 'democratic', envisages strengthening the powers conferred on citizens "so that popular choices are not limited to the expression of one meaningless vote out of every three, four or five years" (*ibid.*, p. 143, translation from Italian to English done by me). Therefore, in order to analyse the illiberal challenge, it is necessary to keep these tensions and imbalances in mind, since the leaders who embody it leverage their intrinsic instability, especially the main paradox of democracies, namely the affirmation of the sovereignty of the people and, at the same time, its deliberate limitation.

In short, in denouncing the illiberalism present in some countries, it is necessary to keep in mind the fact that liberalism itself "is always contested in its ideological dimension (freedom as a central value) because of its excesses and the attacks that this 'excessive' freedom is supposed to bring to other values (security of persons and property, "invasion" of immigrants, abuse of strikes, loss of authority, solidarity), but also in its practical institutional dimension that privileges mediation (pluralism and intermediate bodies) and moderation" (*ibid.*, p. 145). Of course, recalling this does not diminish the degree of potential danger of the continuous attacks on liberal democracy but rather highlights how the latter is the result of an *ideological and practical bricolage* (*ibid.*, p. 143), which is therefore based on a series of balances and apparent contradictions that must periodically find a synthesis.

## 7. *Concluding Remarks*

The path of analysis proposed in the previous pages has substantially emphasized the importance of illiberalism in under-

standing some of the most recent transformations of democracy. In this sense, there is an urgent need to question – once again – the tormented union between the latter and liberalism. In fact, the debate on this subject is ongoing, and with rather lively accents. There are those, such as Yasha Mounk, who argue that in order to revitalize liberal democracy it is necessary to rebuild it on “a more stable ideological basis” (Mounk, 2018, p. 227), thus implying that it is necessary to oppose illiberal ideology with a clear liberal ideology. More or less on the same wavelength, there are those who criticize liberals for devoting too little time to “reinventing the liberal project” (Zielonka, 2018, p. 144), to lay the foundations of a new political system based on the union of liberal and democratic elements (Salvadori, 2016, pp. 92-93).

Timothy Garton Ash proposes a *renewed liberalism* that must include the defence of traditional liberal values and institutions and responding to the major failures of what has been understood as liberalism in the last thirty years (reduced to its economic dimension alone), but, at the same time, taking up, through liberal means, the global challenges of our time such as climate change, the pandemic, and China’s development (Garton Ash, 2021, pp. 20-35). Other authors, such as Adrian Pabst (2021), advocate post-liberal politics, while Patrick Deneen (2018; 2023), in a now well-known book, illustrates the reasons why liberalism has failed. There is no shortage of further critical and radical positions, according to which liberalism, like ideology, has weakened democracy, questioned the irrevocability of some social rights, and favoured the creation and progressive enrichment of oligarchies (especially financial) (Michéa, 2020; Zhok, 2020).

We do not know exactly how the relationship between democracy and liberalism will evolve: several years ago, Matteucci (2005) analysed the *rebirth of liberalism* after a phase of

eclipse. Faced with the challenge of the new illiberalism, it is possible that we will see a partial weakening of it as a theory that underpins democracy, or a strengthening of it as a reaction to the stinging criticisms levelled at it. What is certain is that such a close union between democracy and liberalism is no longer as strong today as it once was, and the 'war' that has reignited over the compatibility (or not) between these two traditions has led to the emergence, on the one hand, of a new framework of illiberal philosophy (Main, 2021) and, on the other, of the awareness that liberal democracy is the outcome of an ongoing process that can be questioned, sometimes even radically. In short, the fact to be highlighted is that liberal democracy is the result of a procedural and ideal elaboration. In fact, it is not enough to comply with certain technical requirements for a country to be democratic; it is also necessary that the different degrees of combination between equality and freedom find a balance. This awareness is essential to realistically study the complex relationship between democracy and illiberalism because it reminds us that the degree of citizens' trust in democracy is measured not only by a legitimation of a purely formal nature but also by adherence to a universe of values that underpins the functioning of institutions.

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# Reassessing the Wave of Autocratization Hypothesis

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**Abstract**. While autocratization has attracted much scholarly attention over the past years, there is little agreement regarding how to measure autocratization and, relatedly, the actual empirical relevance of this phenomenon. Some authors explicitly claim that we are in the middle of an outright global wave of autocratization, yet others are more sceptical. This paper aims to make three main contributions. First, it reconstructs the debate on the "wave of autocratization" hypothesis. Second, it reassesses empirically this hypothesis using alternative measurement approaches, showing that, despite some differences, autocratization always emerges as an empirically relevant phenomenon of this period. Third, based on a new measurement strategy that builds on and combines several existing indicators and indexes, the paper examines comparatively a sample of autocratization cases.
**Keywords**: autocratization; democracy; autocracy; regime change; measurement.

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## 1. *Introduction*

During the past decade, autocratization – that is, the process of regime change opposite to democratization – has attracted the attention of many scholars (Bermeo, 2016: Waldner and Lust, 2018; Cassani and Tomini, 2019; Lührmann and Lindberg, 2019; Haggard and Kaufman, 2021, among several others). A decade of intensive research has shed light on a number of fundamental questions regarding this political syndrome. However, there is little agreement among researchers regarding how to measure autocratization and, relatedly, the actual empirical relevance of this phenomenon. Some authors explicitly claim that we are in the middle of an outright global wave of autocratization (Lührmann and Lindberg, 2019). Other scholars are more sceptical (Skaaning, 2020; Little and Meng, 2023; Treisman, 2023). This paper contributes to the debate on contemporary processes of autocratization in three main ways. First, I reconstruct the debate on the "wave of autocratization" hypothesis. Second, after a brief discussion of the main challenges regarding the measurement of autocratization, I reassess empirically the "wave of autocratization" hypothesis using alternative indexes and indicators, based on alternative conceptualizations of autocratization. The analysis shows how these differences could lead to different perceptions regarding the actual extent of the current autocratization trend, even though autocratization always emerges as an empirically relevant phenomenon of this period, no matter how we conceptualize and measure it. Accordingly, based on a new measurement strategy that builds on and combines several existing indicators and indexes, in the third part of this paper, I select and examine comparatively a sample of autocratization cases. Finally, in the concluding sec-

tion, I wrap up and elaborate further on the contemporary autocratization trend.

## 2. *The debate on the "wave of autocratization"*

In their 2019 seminal article, Lührmann and Lindberg argue that, starting from the beginning of the 21 century, the world is experiencing a global "wave" of autocratization, which in this paper I will simply define as the opposite of democratization, that is, a process of regime change towards autocracy (Cassani and Tomini, 2019).

The idea of capturing global historical trends of political regime transitions through the image of a "wave" dates back to Samuel Huntington (1991), who first used the wave metaphor to describe the dramatic series of democratic transitions that occurred in Southern Europe (Portugal, Greece, and Spain), Latin America, part of Asia, the communist world, and sub-Saharan Africa between the mid-1970s and the 1990s. More specifically, Huntington saw this as the "third wave" of democratic reforms in history, following up on a first wave, which developed across the 19th and 20th century, and a second wave that started around the end of World War II.

Even if several scholars have challenged the methodological rigour of Huntington's analysis (Doorenspleet, 2005), the wave metaphor has not lost its allure. After a brief phase of optimism about the future of democracy fuelled by the end of the Cold War (Plattner, 1991), and a more pragmatic phase in which scholars grew increasingly aware of the "challenges of consolidation" (Haggard and Kaufman, 1994) faced by newly established democracies, starting from early 2000s the fear arose that the democratic wave could be followed by an authoritarian tide, and that some of the new democracies

could backslide to repressive and despotic forms of government.

Initially, scholars emphasized the problems related to the quality of democracy (Morlino, 2004), the defects of many new democratic regimes (Merkel, 2004), and the institutionalization of "hybrid regimes" (Diamond, 2002). Since the mid-2000s, the spectre of an outright "democratic rollback" (Diamond, 2008) became manifest. The still vague "worrisome signs" noted in a 2005 Freedom House report (Puddington and Aili, 2005) turned into more alarming claims regarding the acceleration of an erosion process (Puddington, 2010). While some authors were sceptical and referred to a period of democratic stagnation (Merkel, 2010), in 2015 the Journal of Democracy celebrated its own twenty-fifth birthday with a special issue on the decline of democracy and the beginning of "a mild but protracted democratic recession" (Diamond, 2015). To be sure, the idea that the third wave of democratization will ebb eventually is not new and indeed represents a legitimate fear, if we consider that Huntington himself argued that all previous waves of democratization were followed by a trend of regime changes in the opposite direction, both between the two world wars and in the period between the late 1950s and the early 1970s.

Since the publication of Lührmann and Lindberg's article (2019) ratifying the "third wave of autocratization", a debate has emerged on the actual magnitude of the latter. On the one hand, according to some authors (Skaaning, 2020), "numbers don't tally up". Based on this criticism, Lührmann and Lindberg's counting strategy overemphasizes autocratization from a quantitative viewpoint and is not an accurate operationalization of Huntington's definition, according to which a wave of autocratization is "a group of transitions [...] that occur within a specified period of time and that signifi-

cantly outnumber transitions in the opposite direction during that period" (1991, p.15). In fact, while democracy appears to be under threat in several countries, the most consolidated and advanced democracies thus far either have proved immune to autocratization or have experienced modest and only temporary erosions of their democratic quality (Cassani and Tomini, 2019; Brownlee and Miao, 2022). In most cases, autocratization occurred in countries that were, at best, semidemocratic (Levistky and Way, 2015; Dresden and Howard, 2016). Moreover, relatively few cases of democratic breakdown – i.e. outright transitions from democracy to autocracy – have thus far been reported (Little and Meng, 2023).

On the other hand, it has been pointed out that the idea of a third wave of autocratization – and of the democratization "by ebbs and flows" theoretical framework, more generally – is "short-sighted". First, from a longer-term perspective, the global proportion of democracies remains close to an all-time high (Treisman, 2023). Second, focusing narrowly on short-term regime oscillations artificially inflates the counting of regime transitions and, most importantly, overlooks the history of those countries that currently represent the most consolidated and stable democracies (Berman, 2019). In most of Western Europe, for instance, democracy "wasn't built in a day". Quite the contrary, it was the results of relatively long processes of political change, often punctuated by tragic events. As an example, several countries that democratized during Huntington's "second wave" (that is, after World War II) experienced a first democratic transition during the "first wave" (that is, in the late 19th and early 20th centuries) and subsequently suffered autocratization during the interwar period. From this perspective, it is simply normal that relatively young and still fragile "third wave" democracies are now experiencing "ups and downs".

## 3. *Measurement issues in the analysis of the "wave of autocratization" hypothesis*

To a large extent, disagreement on the actual magnitude of the ongoing autocratization trend originates from different understandings of what autocratization is and, relatedly, how to measure it. Unsurprisingly, the main points of disagreements mirror the uncertainties that still affect the more consolidated field of democratization studies (Pelke and Croissant 2021). From a conceptual viewpoint, two main points of contention can be identified. First, does autocratization occur only when a country experiences a transition from democracy to autocracy, or can we talk about autocratization even when a country does not experience such a transition? Second, is autocratization a phenomenon that could occur only in democratic countries, or can non-democratic countries experience autocratization too?

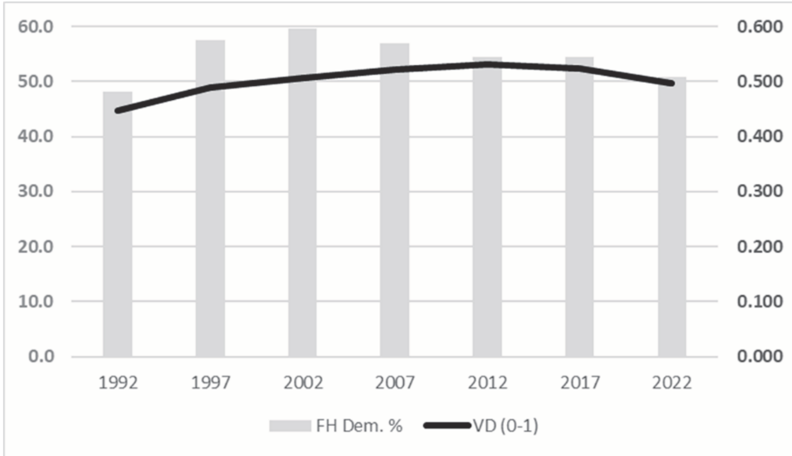
Concerning the measurement of autocratization, a major divide exists between qualitative- and quantitative-oriented approaches. A qualitative-oriented approach typically rests on either small number of cases, which allows researchers to select accurately the episodes of autocratization using multiple sources and personal expertise, or medium-n samples often selected based on geography and/or a focus on specific forms of autocratization (e.g. coups d'état; electoral frauds; constitutional reforms). In turn, a quantitative-oriented approach aims to either record the occurrence/non-occurrence of autocratization or quantify how much autocratization a country experiences and for how long. In the first case, one could rely on regime categories to seize outright regime changes, that is, transitions from democracy to autocracy. In the second case, we could use a democracy index and measure negative changes over time to account for the incremental nature of a

process of autocratization. Of course, within the above-described broad approaches, measurement decisions can be more or less fine-grained and theoretically informed, and mixed approaches exist too. All the existing approaches have their own merits, limitations, and trade-offs; none of them escape a certain degree of arbitrariness.

Rather than trying to settle the above conceptual and measurement issues, the goal of this section is to show how different operationalizations of autocratization may lead to different conclusions regarding the "wave of autocratization" hypothesis and, more generally, the magnitude of the ongoing autocratization trend. The analysis covers the last three decades (1992-2022) and all independent countries, excluding micro-states.

The easiest way to observe autocratization is through the data made available on a yearly basis by research institutes such as Varieties of Democracy and Freedom House. Using the Varieties of Democracy's Electoral Democracy Index (ranging from 0 to 1), for instance, we could track the global average level of democracy. Alternatively, we could estimate the share of countries that Freedom House classifies as "electoral democracies". Figure 1 shows the results of this analysis. As we can see, both Freedom House and Varieties of Democracy agree that we are experiencing a phase of democratic decline. However, according to the latter, the average level of democracy started to decline in the early 2010s and, as of 2022, returned to the levels of about twenty years ago. According to the former, in turn, the share of democratic countries has been decreasing since the early 2000s and, as of 2022, it is even lower than twenty-five years ago.

Figure 1. Democracy trends worldwide, 1992-2022.



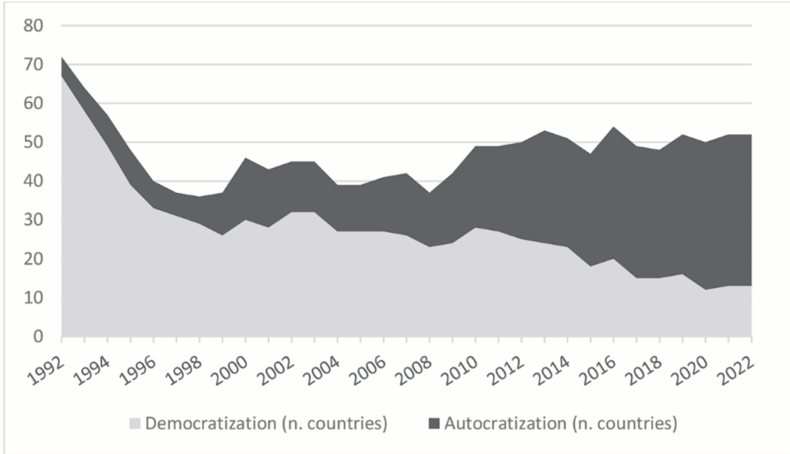

Notes: Author's own elaboration. The vertical bars (left-hand axis) report the percentage of states classified as electoral democracies by Freedom House (FH). The solid line (right-hand axis) traces the global average level of democracy, as measured by Varieties of Democracy (VD).

This kind of analysis is useful insofar it captures global trends in the diffusion of democracy and, relatedly, how autocratization influences it. However, to conduct a more cogent test of the "wave of autocratization" hypothesis, we need to focus on autocratization as a process of regime change. Moreover, following Huntington's definitions of "waves" (1991), autocratization should be analysed in comparison to democratization to observe whether the former actually exceeds the latter.

Accordingly, Figure 2 tracks the raw number of countries that are experiencing autocratization vis-à-vis the number of countries that are experiencing democratization. Data are from the recently released Episodes of Regime Transfor-

mation (ERT) dataset (Maerz et al., 2023). ERT uses the Varieties of Democracy's Electoral Democracy Index to establish if a country experiences democratization and/or autocratization based on a rather sophisticated series of operational rules sensitive to both the amount and the duration (in years) of the (positive and/or negative) changes recorded by the index. Significantly, ERT identifies what countries experience autocratization and for how long, including both democratic and non-democratic countries and both outright transitions from democracy to autocracy and comparatively minor autocratization episodes. The same approach is used to identify cases of democratization. Based on these relatively broad understandings of autocratization and democratization, Figure 2 shows that these processes of regime transformation have been following diametrically opposite trends. While the number of countries experiencing democratization has progressively decreased, the countries experiencing autocratization are increasingly common. Since the early 2010s, the latter significantly outnumber the former, in particular.

Figure 2. Democratization and autocratization compared, 1992-2022.

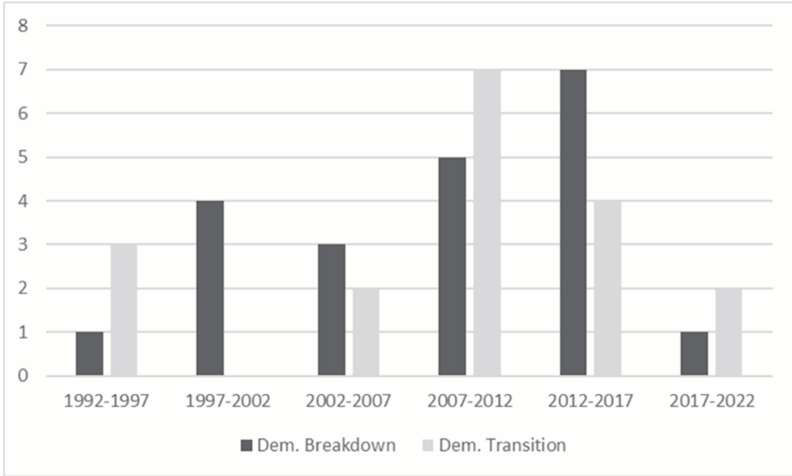



Notes: Author's own elaboration of data from the Episodes of Regime Transition (ERT) dataset. The vertical axis measures the raw number of countries that, in a given year (horizonal axis), are experiencing democratization (light grey area) and autocratization (dark grey area). Stable regimes (i.e. countries that are experiencing neither autocratization nor democratization) are not counted.

Figure 3, finally, examines whether our conclusions change if we focus narrowly on outright episodes of democratic breakdown, that is, cases in which a democratic country becomes authoritarian. In other words, this measurement approach excludes from the counting those episodes of autocratization occurred in countries that were already authoritarian, as well as those episodes of autocratization occurred in democratic countries without leading to democratic breakdown. In a similar way, Figure 3 also counts outright episodes of democratic transition in which an authoritarian country becomes democratic. Data are from Boix, Miller and Rosato (Miller et al., 2022). As we can see, even in this case an increase in the epi-

sodes of democratic breakdown is evident, especially throughout the 1997-2017 period. However, the reported figures are significantly smaller than in the previous graph.

Figure 3. Democratic breakdowns and transitions, 1992-2022.




Notes: Author's own elaboration of data from the Boix, Miller and Rosato (BMR) dataset. The vertical bars measure the raw number of episodes of democratic breakdown (dark grey) and democratic transition (light grey), grouped by 5-year periods.

## 4. *What countries autocratize?*

The analysis presented in the previous section demonstrates that, even after years of intensive scrutiny, ultimately, we do not know how much autocratization the world is experiencing. However, whether an outright wave of autocratization is or is not underway, most scholars agree that autocratization is an empirically relevant phenomenon of the post-Cold War period and, for this reason, it deserves attention. Accordingly,

in this section, I select a sample of recent cases autocratization and I examine them from a comparative perspective, with the goal of mapping the phenomenon and tracing the profile (or profiles) of autocratizing countries.

The case selection builds on and combines several existing indicators and indexes. I proceed as follows. First, I identify those cases that are relevant to this research. Specifically, while autocratization could affect both democratic and non-democratic regimes, this analysis only focuses on autocratization events occurring in minimally democratic countries. Moreover, to conduct comparative analysis, the countries that experience autocratization need to be contrasted with the countries that do not experience this process of regime change. Accordingly, with a focus on the last three decades, the cases that are relevant to my analysis consist in democratic countries that either have experienced autocratization or have not experienced any autocratization at all.

To maximise the confidence of selecting countries that are/were democratic, I collect democracy indicators from several sources, namely, Freedom House, Varieties of Democracy, Database of Political Institutions, Skaaning, Gerring and Bartusevičius (2015), Boix, Miller and Rosato (Miller et al., 2022). Using these data, I identify democracies according to a "majority rule", that is, based on the agreement of at least three of the five above-listed democracy indicators. However, I exclude cases in which democracy has not lasted at least four consecutive years without experiencing autocratization.

I identify 96 relevant cases which, as a next step, must be classified in "enduring democracies" and "autocratization episodes". To measure autocratization, I rest on the previously described ERT dataset (Maerz et al., 2023). Among the existing alternatives, ERT strikes a fair balance between validity (i.e. the ability to seize outright episodes of autocratization)

and reliability and replicability (i.e. operational rules are clear and all the material is publicly available) (Pelke and Croissant, 2021). This measurement strategy implies that my analysis consider both outright democratic breakdowns and autocratization events that only lead to a decline in the level or quality of democracy. As in the previous step, I exclude autocratization episodes lasted three years or less.

As a result of the above-described case selection procedure, I identify 52 enduring democracies and 44 countries that experienced autocratization during the post-Cold War period. The latter include 17 cases of democratic decline, and 27 cases of democratic breakdown, eight of which have subsequently experienced a phase of at least partial democratic recovery. As a final step, I classify the selected cases based on the geographical region, the income level (based on the World Bank's income groups), and the quality and consolidation of their democratic institutions. Concerning quality, I distinguish liberal from electoral democracies using Varieties of Democracies data. Concerning consolidation, I simply distinguish countries that democratized before and after the end of the Cold War. The quality and consolidation of democratic institutions in those countries that experienced autocratization refer to the period before autocratization.

Table 1 summarises the results of the analysis. In the "autocratizing countries" column, the reported figures encompass both democratic declines and democratic breakdowns, whereas the numbers in parentheses refer to the sub-group of cases that experienced democratic breakdown.

As we can see, the contemporary trend of autocratization has affected several regions, including Africa, Asia, the former communist countries (Eastern Europe, Balkans, and former soviet republics) and Latin America. In all these regions, au-

tocratizing countries include both cases of democratic decline and of democratic breakdown. As a reminder, these regions were also the protagonists of the previous "third wave" of democratic reforms (Huntington, 1991). The list of autocratizing countries include some cases previously considered exemplary "democratization success stories", such as Africa's Mali, Benin and Tunisia (i.e. the only successful democratic transition of the so-called Arab Spring), but also Mongolia and the Philippines in Asia, and Hungary and Poland in Eastern Europe. Other oft-cited cases included in the list of autocratizing countries are Nicaragua, El Salvador and Brazil (under Jair Bolsonaro) in Latin America, India in Asia, and Turkey in the Middle East. In turn, Western Europe and North America host the largest number of enduring democracies, and the only reported episode of autocratization (the US during Donald Trump's presidency) only resulted in a temporary democratic decline.

Concerning economic conditions, Table 1 seems to lend support to the modernization paradigm and particularly to those scholars that see economic development as a driver of democratic survival (Przeworski et al., 2000; Brownlee and Miao, 2022). The vast majority of enduring democracies are high-income economies, whereas the lion's share of autocratizing countries is represented by middle- and low-income economies. The correlation between economic (under-)development and autocratization appears even stronger if we focus on outright cases of democratic breakdown.

As we shift attention to the state of democratic institutions in the two groups of countries under examination, it is immediately evident that the risk of experiencing autocratization – and, particularly, the risk of democratic breakdown – is much higher in so-called "electoral democracies", that is, in countries in which elections are relatively free but, differently

from "liberal democracies", the boundaries of government power remain blurred. This confirms previous research arguing that, when the system of checks and balances to the executive power is weak, attempts to abuse political power will face little resistance (Cassani and Tomini, 2019). In turn, the majority of enduring democracies are relatively advanced, or liberal, forms of democracy.

Finally, we can also observe a correlation between democracies' age and the likelihood of suffering autocratization. More than two-thirds of autocratizing countries transitioned to democracy after the end of the Cold War. However, even though a majority of enduring democracies democratized before 1989, this group of countries also include a fairly large number of relatively young democracies.

Table 1. Autocratizing countries and enduring democracies in the post-Cold War period.

| | | ENDURING DEMOCRACIES | AUTOCRATIZING COUNTRIES |
|---|---|---|---|
| region | Africa | 9 | 10 (6) |
| | Asia | 3 | 10 (7) |
| | Eastern Europe/Balkans/ex-USSR | 8 | 12 (7) |
| | Latin America/Caribbean | 11 | 9 (5) |
| | Western Europe/North America | 18 | 1 (0) |
| | Middle East | 1 | 1 (1) |
| | Oceania | 2 | 1 (1) |

| | | ENDURING DEMOCRACIES | AUTOCRATIZING COUNTRIES |
|---|---|---|---|
| economy | High income | 33 | 7 (1) |
| | Upper-middle income | 12 | 17 (11) |
| | Lower-middle income | 5 | 16 (12) |
| | Low income | 2 | 4 (3) |
| democratic quality | Electoral | 20 | 35 (26) |
| | Liberal | 32 | 9 (1) |
| democratic consolidation | pre-1989 | 28 | 14 (6) |
| | post-1989 | 24 | 30 (21) |

Notes: Author's own elaboration of data from various sources. The table reports the raw number of cases. In the "autocratizing countries" column, the reported figures encompass both democratic declines and democratic breakdowns, whereas the numbers in parentheses refer to the sub-group of cases that experienced democratic breakdown. Enduring autocracies (despite of their institutional form) and persistently unstable regimes are not considered.

## 5. *Conclusion*

In this paper, I argued that the existing disagreement regarding the actual magnitude of the ongoing "wave of autocratization" has conceptual and measurement origins and that, whether an outright wave of autocratization is or is not underway, autocratization is an empirically relevant phenomenon of the post-Cold War period, which therefore deserves attention. Accordingly, I conducted a comparative analysis of a sample of autocratization episodes and the typical profile of

a country experiencing autocratization is a middle-income, relatively young, electoral democracy.

What is the future of autocratization? Should we expect it to continue spreading throughout the world? The most recent reports of those research centres monitoring the state of democracy across the world, such as Freedom House (2023), Varieties of Democracy (2023) and Economist Intelligence Unit (2023), recognize some signals suggesting that the global autocratization trend is coming to a halt, even though it remains unclear if an outright new phase of democratic recovery will follow. In this regard, the analysis presented in this paper does not allow to forecast for how long the contemporary trend of autocratization will last. However, the list of cases selected for my analysis does include some countries that, after a period of autocratization, seem to be able and willing to return to democracy (Bolivia and Zambia are among the most recent such cases, for instance).

Another positive signal refers to the relatively modest consequences for democracy of the Covid-19 crisis: besides the limitations to several freedoms imposed during the year 2020, it seems that relatively few democratic governments exploited the state of emergency to aggrandize their power beyond the realm and past the duration of the crisis, even though the same cannot be said for authoritarian and authoritarian-leaning governments (Lührmann and Rooney, 2021; Cassani, 2022). Unfortunately, these timid and uncertain positive signals are matched by other unquestionably alarming events, such as the tight series of army interventions and new military regimes that has swept the African continent since 2019 (Carbone, 2021) in Sudan, Mali, Chad, Guinea, Burkina Faso and, most recently, Niger.

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# The Democratic Backsliding in The Union and European Resistance

LUCA LIONELLO[1]

**Abstract.** The contribution aims to study the European reaction to the so-called "democratic backsliding in the Union", meaning the progressive shift of some Member States towards illiberalism due to the constitutional reforms implemented by the ruling majorities. The analysis will focus in particular on the sanctioning procedure under art. 7 TEU, the intervention of the European Court of Justice to preserve the principle of judiciary independence and the introduction of a regulation on a general regime of conditionality for the protection of the EU budget.
**Keywords:** democratic backsliding; art. 7 TEU; European Court of Justice; judiciary independence; conditionality regulation.

## 1. *Introduction*

One of the most important challenges EU institutions have been dealing with in recent years is the "democratic backsliding in the Union". Several Member States have experienced a process of constitutional transformation in the last decade, undermining the foundations of liberal democracy, particu-

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larly the principle of the rule of law. This phenomenon is worrying especially in countries like Hungary and Poland, where the ruling majorities have already implemented operations of "institutional engineering" to modify the constitutional balance of public powers in their favour. This poses a threat not only to the future of national democracy, but also to the process of European integration. It is not surprising, therefore, that the Union decided to react and use legal instruments to contain the democratic backsliding of its Member States. This contribution aims to provide an analysis in this regard.

## 2. *The democratic backsliding*

Democratic backsliding can be understood as a deliberate process of weakening and manipulating the constitutional system by elected elites with the purpose of dismantling liberal democracy. More precisely, although periodic elections continue to be held, the principle of the rule of law is undermined because the governing parties alter the separation of powers and limit pluralism of information to give themselves a permanent advantage, so that they can remain in power for as long as possible (Pech and Scheppele, p. 10). The result is a new type of government, so-called "illiberal democracy", which hides its "nondemocratic practices behind formally democratic institutions and procedures" (Bonet and Zamorano, p. 561). Illiberal governments seek consensus by proposing to national citizens a new social pact: political elites request extraordinary political advantages "in exchange for a sense of economic, social and ideational progress and stability to be enjoyed by society" (Adamski, p. 628).

In the illiberal state, the law is transformed into an instrument of political power (rule by law). On the one hand, nationalist governments endorse a super-politicised conception of the law, according to which every act adopted by the majority and its leaders is legitimate. Accordingly, political choices are not based on the constitution, but on meta-legal principles such as the "will of the people" or the "good of the nation" (Drinoczi and Bien-Kacala, p. 219).

The imposition of the illiberal agenda in the Member States has largely followed a common pattern. Looking at the experience of Hungary and Poland, illiberal elites have initially attacked the guardians of the national constitutional order, *i.e.* the Constitutional Court, whose composition has been changed with the appointment of new pro-government judges. More in general, institutional reforms have weakened the independence of courts, for example by introducing early retirement of judges and filling the vacancies with "loyal" candidates, especially in top positions such as the Supreme Court. If this was not enough, further reforms introduced political control over the procedures for the career and the evaluation of judges. The Polish government has even introduced a disciplinary regime aimed at conditioning the decision-making of courts and preventing them from questioning the independence of other judges. Aside from institutional transformation, illiberal elites have also passed laws undermining the independence and pluralism of media and reducing academic freedom. The purpose is clearly to contain the expression of dissent. There has also been a general reduction of fundamental rights, as well as severe discrimination of minorities, in particular the LGBTQ community and asylum seekers.

## 3. *The real stake*

The democratic backsliding in the Union represents one of the biggest threats, EU institutions and Member States are currently facing. It is possible to identify a double stake in the spread of illiberalism around the Union.

At the national level, if the authoritarian transition succeeds, democracy will become an empty box with populist leaders being able to do whatever they want to pursue their interests without any accountability. While minorities and dissidents are the first victims of this authoritarian shift, most citizens will soon realize they live in a society which is no longer free and where their interests are not taken into consideration. Illiberal elites will then try to hide their political and economic failures by mobilising citizens against collective enemies, starting with the EU institutions.

At the European level, the stake will be possibly even bigger: the democratic backsliding in more and more Member States may jeopardize the correct functioning of the Union and transform its constitutional identity. For example, the authoritarian drift of Poland and Hungary has already weakened the principle of mutual trust and mutual recognition between the Member States, which is a precondition to ensure transnational police and judicial cooperation. For example, in fact, courts around Europe don't' feel comfortable anymore to execute European arrest warrants issued by Polish judges, since their independence is no longer guaranteed[2]. Furthermore, not fully democratic countries would continue to participate in the Council and the European Council, *i. e.*

[2] Judgment of the European Court of Justice, 25 July 2018, *LM*, Case C-216/18 PPU.

they will take part in decisions that can bind all the Member States and individuals around the Union (Müller, p. 145; Delledonne, p. 4014).

In perspective, considering illiberal democracy an acceptable constitutional model in the Union would have even more damaging effects. This new form of government would be legitimised in the European political debate, thus facilitating its expansion to more and more countries. Above all, a genetic mutation of the Union would occur. Getting rid of their obligations under European law, liberal democracies would substantially undermine the autonomy of the EU legal order, thus crippling institutions' ability to pursue common goals and protect the organisation's values through the exercise of sovereign powers (Safjan, p. 673). Finally, the citizens of the countries affected by the process of authoritarian drift would remain definitively at the mercy of their governments, without the Union being able to stand up to protect their fundamental rights.

## 4. *The "sanctioning procedure" under art. 7 TEU*

The main instrument provided by the Treaties to deal with violations of EU values under art. 2 TEU is the "sanctioning procedure" under art. 7 TEU.

Notably, the first paragraph of the norm provides for the so-called "early warning- procedure" aimed at reporting the risk of a serious breach of the values outlined in art. 2 TEU in a Member State. The warning can be adopted by four-fifths of the members of the Council on proposal by one-third of the Member States, the Parliament, or the Commission. Following the early warning, the infringement procedure can be activated, only if the European Council, acting unanimously on

a proposal by one-third of the Member States or by the Commission and after obtaining the consent of the Parliament, confirms the existence of a serious and persistent breach of the EU values in the Member State.

The activation of the sanctioning clause presents several difficulties. First, it is a procedure based on political evaluations of national governments. While achieving the qualified majority required to activate the early warning procedure is very difficult, confirming the violation of EU values by unanimity for then proceeding to sanctions is impossible. Notably, illiberal democracies are not alone anymore, and Poland and Hungary are ready to use their vetoes at each other's disposal. Second, the sanctioning clause is not an instrument able to directly interfere in national affairs, but rather a procedure aimed at politically isolating them. The country in question will be deprived of some rights, for example its representative may no longer vote in the Council. However, based on this procedure, European institutions are not able to repeal or disapply domestic legislation in contrast with European values. At the same time, it is not possible to deduce from art. 7 TEU a right to expel the Member State concerned.

The activation of art. 7 (1) TEU in respect of Poland was preceded by the adoption of several recommendations by the European Commission within the so-called "legal framework for the rule of law"[3]. As the Polish government refused to dismantle its reforms on the organization of the judiciary, the Commission decided to launch the early warning procedure

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[3] Communication from the Commission to the European Parliament and the Council *A new EU Framework to strengthen the Rule of Law,* COM/2014/0158 final.

with a communication of 20 December 2017[4]. In the case of Hungary, it was instead the European Parliament to take the initiative. In 2013 it adopted a first resolution on the so-called "Tavares Report", calling on the Hungarian authorities to adopt a series of reforms to preserve the constitutional balance in the country[5]. Due to the continuous violation of the rule of law, democracy, and fundamental rights, as reported in the "Sargentini report"[6] of 2018, the plenary of the Parliament activated art. 7 (1) TEU with a resolution on 15 September 2018[7].

Once they passed into the hands of the governments, the procedures effectively came to a standstill. Since 2018, only a few hearings have been organized regarding the violation of the rule of law in Hungary and Poland. The commitment to take the decision-making process forward has changed depending on who has held the Council Presidency. Only the Finnish government in the second half of 2019 and the French government in the first half of 2022 have made any progress. When dealing with potential "covering ups" of these proce-

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[4] Proposal for a Council Decision on the determination of a clear risk of a serious breach by the Republic of Poland of the rule of law, COM/2017/0835 final – 2017/0360.

[5] European Parliament resolution of 3 July 2013 on the situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament resolution of 16 February 2012) (2012/2130(INI)).

[6] Report on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded, 4 July 2018 – (2017/2131(INL)).

[7] European Parliament resolution of 15 September 2022 on the proposal for a Council decision determining, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded (2018/0902R(NLE)).

dures, the Parliament has intervened harshly. In several resolutions adopted over the past few years[8], it reported that the Council's failure to effectively apply art. 7 TEU does undermine the integrity of common European values, mutual trust, and the credibility of the Union as a whole. Accordingly, it urged the Council to show real commitment to making significant progress in the ongoing procedures under art. 7(1) TEU; in particular, it was requested that the hearings in respect of Poland and Hungary be organized with appropriate frequency and in an adequate manner, that the full minutes be published after each hearing and that Parliament be provided with an adequate report; finally it stressed that the hearings will only be effective if the Council follows them up by addressing concrete recommendations to the Member States in question with clear deadlines for their implementation.

## 5. *The protection of judiciary independence by the European Court of Justice*

The European Court of Justice (ECJ) has played a decisive role in the EU's response to the democratic backsliding in the Union. While the procedure under art. 7 TEU proved to be ineffective, the judges of Luxembourg made some important

[8] European Parliament resolution of 16 January 2020 on ongoing hearings under Article 7(1) of the TEU regarding Poland and Hungary (2020/2513(RSP)); European Parliament resolution of 5 May 2022 on ongoing hearings under Article 7(1) TEU regarding Poland and Hungary (2022/2647(RSP)); European Parliament resolution of 15 September 2022 on the proposal for a Council decision determining, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded (2018/0902R(NLE)).

decisions to strongly censure several measures undermining the rule of law at the national level.

It should be noted that at the time the illiberal elites took over in Hungary and Poland, the Court of Justice had few tools at its disposal. Notably, art. 269 TFEU excludes its jurisdiction on the application of art. 7 TEU to any issue other than procedural rules. Also, the organization of justice at the national level had never been a direct concern for the ECJ, which repeatedly said that "it is for the Member States to establish a system of legal remedies and procedures which ensure respect for the right to effective judicial protection"[9]. The independence of national judges only mattered to the European Court when it had to decide whether a court or tribunal was allowed to access the prejudicial function under art. 267 TFEU[10].

Things changed with the *Associação Sindical dos Juízes Portugueses* (*ASJP*) judgment of 2018. Dealing with controversy regarding the reduction of salaries to national judges (in the context of the Portuguese austerity policy), the ECJ managed to extend its supervision on the organisation of national judicial systems to protect the rule of law. This was made possible by establishing a connection between the principle of effective judicial protection ex art. 19 (1) TEU and the principle of the independence of the judiciary, which is part of the principle of the rule of law under art. 2 TEU. "[E]very Member State must ensure that the bodies which, as 'courts or tribunals' within the meaning of EU law, come within its judicial

[9] Judgment of the European Court of Justice, 25 July 2002, *Unión de Pequeños Agricultores*, Case C-50/00 P, point 41.
[10] Judgment of the European Court of Justice, 16 February 2017, *Ramón Margarit Panicello*, Case C-503/15.

system in the fields covered by that law, meet the requirements of effective judicial protection"[11]. "The guarantee of independence, which is inherent in the task of adjudication, is required not only at EU level as regards the Judges of the Union and the Advocates-General of the Court of Justice [...], but also at the level of the Member States as regards national courts"[12]. Although the organization of the national judiciary cannot be regulated directly by the Union's institutions, it encounters limits coming from the EU legal order. The standard of independence connected to the value of the rule of law thus becomes a justiciable principle before the ECJ against the Member States. At the same time, thanks to the connection between art. 19 (1) TEU and art. 47 CDFUE on the right to an effective remedy and to a fair trial, the standard of independence of the judiciary acquires direct effect, meaning that domestic courts can disapply national measures incompatible with it.

Following the *ASJP* ruling, the Juncker Commission adopted in 2019 the Communication "Strengthening the Rule of Law in the Union Action Program"[13], based on which the Von der Leyen Commission launched a series of infringement actions to protect the rule of law, especially in Poland[14]. At the

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[11] Judgment of the European Court of Justice, 27 February 2018, *Associação Sindical dos Juízes Portugueses*, Case C-64/16, point 37.

[12] *Ibid.*, point 42.

[13] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee, and the Committee of the Regions Strengthening the rule of law within the Union. A blueprint for action, COM/2019/343 final.

[14] Judgment of the European Court of Justice 5 November 2019, *European Commission v Republic of Poland*, Case C-192/ Judgment of the European Court of Justice, 24 June 2019, *European Commission v Republic of Poland*,

same time, the ECJ intervened also thanks to several references for preliminary rulings put forward by national Courts[15].

The application of the standard of judicial independence in concrete has been based on several criteria.

First, the Court of Luxembourg has assessed the fulfilment of two substantive obligations that all national courts capable of applying EU law must meet. On the external side, courts shall exercise their functions in full autonomy, meaning that they shall not be subject to any hierarchical constraint or subordination, nor receive any order, instruction, or even pressure capable of compromising the independence of their judgment. On the internal side, the principle of impartiality requires judges to be equidistant from the parties of the dispute. This aspect requires respect for objectivity and the absence of any interest in the solution of the dispute other than the strict application of the law. To fulfil these obligations, the ECJ has considered different aspects of the national organization of justice *e.g.* the retirement, appointment, removal, abstention, recusal, disciplinary proceedings, and transfer of judges.

At the same time, the Court of Luxembourg also identified two procedural criteria aimed at preserving judicial independence in the Member States: the principles of "the appearance of justice" and of "non-regression". This was neces-

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Case C-619/18; Judgment of the Court (Grand Chamber) of 5 June 2023, *European Commission v Republic of Poland,* Case C-204/21. The European Commission has been instead more reluctant to start infringement procedures towards Hungary, also due to the government's strong grip on the judiciary.

[15] Judgment of the European Court of Justice, 19 November 2019, A. *K. and Others,* Joined Cases C-585/18, C-624/18 and C-625/18; Judgment of the Court (Grand Chamber) of 2 March 2021, A.*B. and Others,* Case C-824/18.

sary due to the difficulty of uniformly applying the same substantial standard of independence to the different national judicial systems. The "principle of the appearance of justice" provides that the rules on the operation of justice must not only guarantee the independence and impartiality of judges but also "dispel any reasonable doubt in the minds of individuals as to the imperviousness of that body to external factors and its neutrality concerning the interests before it"[16]. The principle, therefore, requires that the organisation of the judicial system inspires confidence in the eyes of "individuals in a democratic society" and dispels any doubts as to the possibility of meddling in judgments. On the other hand, the "principle of non-regression" requires Member States to ensure that "any regression of their laws on the organisation of justice is prevented, by refraining from adopting rules which would undermine the independence of judges"[17]. Governments are warned not to amend the law on the organisation of justice in force at the time of their accession to the Union, should this undermine the principle of independence of courts.

As to the consequences of the application of the standard, the principle of the primacy of Union law requires the referring judge to disapply provisions of national law that are contrary to it. Consequently, the domestic court shall deny jurisdiction to those courts that do not meet the requirements of independence and ignore judgments of national courts (including constitutional courts) that are incompatible with EU

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[16] Judgment of the European Court of Justice, *A. K. and Others*, Joined Cases C-585/18, C-624/18 and C-625/18, point 123.

[17] Judgment of the European Court of Justice, 15 July 2021, *European Commission v Republic of Poland*, Case C-791/19, point 51.

law and the case law of the Court of Luxembourg. This is exactly what happened in the case of Poland, where the referring Courts have disapplied national reforms on the judiciary, declaring the relevant appointments and decisions of pro-government courts unlawful[18]. The application of the standard of judicial independence was of course made possible thanks to the resilience of the principle of loyal cooperation: important parts of the Polish judiciary, in particular several sections of the Supreme Court and the Supreme Administrative Court, complied with the obligation of *fidelité communautaire* (Casolari, p. 21), meaning that they preferred to obey the ECJ, rather than the pro-government Polish Constitutional Tribunal. At the same time, the Court of Luxemburg urged the Polish government to stop applying illegitimate reforms, *e.g.*, the one introducing a disciplinary regime on courts, by imposing heavy economic penalties based on interim measures[19].

## 6. *The Rule of law conditionality regulation*

On 16 December 2020, the Parliament and the Council adopted Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the EU budget

[18] Judgment of the Supreme Court of 5 December 2019, case no. III PO 7/18; Resolution of the Supreme Court of 8 January 2020 (sitting as a panel of seven judges of the Extraordinary Control and Public Affairs Chamber), case I NOZP 3/19; Resolution of the formation of the joined Civil, Criminal and Labour and Social Security Chambers of the Supreme Court of 23 January 2020 (no. BSA I-4110-1/20).
[19] See for example: Order of the Vice-President of the Court of 27 October 2021, *European Commission v Republic of Poland*, Case C-204/21 R.

(Conditionality Regulation)[20]. The act aims to condition access to budgetary resources, including Next Generation EU, on respect for the principles of the rule of law. The legal basis of the regulation is art. 322(1)(a) TFEU, according to which the European Parliament and the Council shall adopt by means of regulations "the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts".

The creation of this mechanism can be better understood in relation to the "rise of conditionality" in the EU legal order. This phenomenon started with the enlargement of the Union in the 1990s: candidate states received financial and technical assistance provided that they complied with the Copenhagen criteria. During the sovereign debt crisis, conditionality was used to ensure compliance with the macroeconomic adjustment programs of countries receiving financial assistance by the European Stability Mechanism. Today, Next Generation EU finances National Recovery and Resilience Plans, as long as the Member States fulfil a series of objectives outlined at the European level (*e.g.* decarbonisation, digitalization), the attainment of which is verified by the Commission. Conditionality has become a tool for influencing national economic policies, similarly to what happens in the US, where the federal government uses its funds to address the policy of Member States.

The conditionality mechanism acknowledges a consolidated concept of "rule of law", which had already emerged in

[20] Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget, OJ L 433I, 22.12.2020.

several documents of the European authorities[21]. According to art. 2 of the regulation, "*the rule of law* refers to the Union value enshrined in Article 2 TEU. It includes the principles of legality implying a transparent, accountable, democratic, and pluralistic law-making process; legal certainty; prohibition of arbitrariness of the executive powers; effective judicial protection, including access to justice, by independent and impartial courts, also as regards fundamental rights; separation of powers; and non-discrimination and equality before the law". It is possible to identify three relevant situations, which may authorise the application of conditionality: endangering the independence of the judiciary; failing to prevent, correct, or sanction arbitrary or unlawful decisions by public authorities; limiting the availability and effectiveness of legal remedies or limiting the effective investigation, prosecution or sanctioning of breaches of law.

It is important to stress that a violation of the rule of law is not relevant as such, but only if it causes damage to the EU budget. As provided for in art. 4(1) of the regulation, "appropriate measures shall be taken where it is established [...] that breaches of the principles of the rule of law in a Member State affect or seriously risk affecting the sound financial management of the Union budget or the protection of the financial interests of the Union in a sufficiently direct way". *Strictu sensu,* conditionality aims to protect the EU budget; the protection of the rule of law is not the goal, but rather a mean to preserve the financial interests of the Union. While the link

[21] Communication from the commission to the European Parliament and the Council *A new EU Framework to strengthen the Rule of Law*, COM/2014/0158 final. See also: Report on the Rule of Law, adopted by the Venice Commission at its 86th plenary session (Venice, 25-26 March 2011).

between the violation of the rule of law and the damage to the Union budget must be "sufficiently direct", the criteria for verifying such a connection are not necessarily clear.

As regards the application of conditionality, once the Commission has completed its assessment, it may propose to the Council the adoption of an implementing decision leading to the reduction or suspension of the disbursement of funds. The measures taken must be proportional to the impact on the EU budget, not to the gravity of the violation of the rule of law. Finally, the preamble of the regulation contains a reference to the use of the "emergency brake", which allows the European Council to discuss an ongoing procedure if the state in question considers that the principles of objectivity, non-discrimination, and equal treatment have been violated.

The ECJ developed the scope and the meaning of the Regulation in two twin judgments of 16 February 2022, in which it rejected the request for annulment put forward by Poland and Hungary[22]. On the one hand, the Court of Justice confirmed that the protection of the rule of law under the regulation is functional to the preservation of the Union's budget. Accordingly, the link between the violation of the principles of the rule of law and the impact or risks to the EU budget must be real and effective, while conditionality shall not apply in situations where such connection is merely hypothetical, too uncertain, or vague. At the same time, the Court addressed the critics of Poland and Hungary about a possible

[22] Judgment of the European Court of Justice,16 February 2022, Hun*gary v European Parliament and Council of the European Union*, Case C-156/21; Judgment of the European Court of Justice,16 February 2022, *Republic of Poland v European Parliament and Council of the European Union*, Case C-157/21.

violation of their national identity. To do that it developed the concept of European identity: "it must be borne in mind that Article 2 TEU is not merely a statement of policy guidelines or intentions, but contains values which, [...]are an integral part of the very identity of the European Union as a common legal order, values which are given concrete expression in principles containing legally binding obligations for the Member States"[23]. Although art. 4 (2) TEU obliges the Union to protect national identity, governments can't use this argument to get an exception from respecting the European identity. The latter consists of core values shared by all the Member states, on which the Union founded its legal order.

The regulation has been already applied to Hungary: in December 2022, the Council froze the payment of € 6.3 billion in cohesion funds insofar as the country was unable to meet the Commission's demands to take significant measures to strengthen the rule of law[24]. Poland has not been subject to a procedure under the conditionality regulation yet; however, part of the funds allocated to it under Next Generation EU – around € 32 billion – have been suspended as the government has not met the Commission's demands in connection with the reform of the judiciary.

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[23] Judgment of the European Court of Justice, Case C-156/21, cit., point 232.

[24] Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary.

## 7. *The reaction of illiberal democracies*

Facing pressure from increasingly harsh European reaction, especially thanks to the intervention of the ECJ, illiberal governments have initially tried to raise the stakes. The success of their political agenda requires indeed the emancipation from the European rule of law, which is the only guarantee left in Poland and Hungary for not sinking in the abyss of authoritarianism. It is no surprising then that the Hungarian Constitutional Court and the Polish Constitutional Tribunal, now reduced to be puppet judges in the hands of their governments, adopted rulings aimed at denying the primacy of EU law over domestic law and revendicating a right to disobedience in the name of national identity and democracy. For example, in a judgment of 2016, the Hungarian Constitutional Court stated that "the constitutional self-identity of Hungary is a fundamental value not created by the Fundamental Law – it is merely acknowledged by the Fundamental Law. Consequently, constitutional identity cannot be waived by way of an international treaty – Hungary can only be deprived of its constitutional identity through the final termination of its sovereignty, its independent statehood"[25]. In this way, constitutional identity becomes a "meta-juridical" concept in the hands of the Hungarian authorities, which may shield any interference to the implementation of their political agenda, including EU laws. In Poland, instead, faced with the growing revolt of ordinary judges who invoked the intervention of the ECJ to censure and thus disapply illiberal reforms, the Constitutional Tribunal did even worse. In a judgment of 7 October

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[25] Hungarian Constitutional Court, decision 22/2016. (XII. 5.), AB on the Interpretation of Article E) (2) of the Fundamental Law, cit., point 67.

2021[26], it declared several provisions of the EU Treaties incompatible with the Polish Constitution, expressly challenging the primacy of EU law. It also contested the legitimacy of art. 19 TEU, from which the European Court of Justice developed the European standard of judiciary independence. In reaction to this judgment, the Commission started an infringement procedure, which is now pending before the Court of Luxembourg.

Coming to the application of the conditionality regulation, the reaction of the Hungarian and Polish authorities has been more ambiguous. Having been deprived of important resources from the EU budget, the illiberal governments have partly made commitments to the European institutions to dismantle their illiberal reforms. At the same time, they have also threatened to use their veto right on important dossiers with the aim of *de facto* blackmailing the EU institutions. Among these, the most prominent role is being played by the EU in the Ukrainian crisis, in terms of providing war materials, loans, and humanitarian assistance to the Zelensky government.

## 8. *Conclusions*

The ongoing confrontation between the European Union and illiberal governments has not produced a winner yet, but it has at least brought clarity to some important issues.

First and foremost, safeguarding the rule of law in Poland and Hungary is essential not only to preserve the future of national democracy in these countries but also, most important-

[26] Polish Constitutional Tribunal, 7 October 2021, decision K 3/21.

ly, to ensure the survival of European constitutionalism as it has developed over the last 70 years. In this regard, the protection of the autonomy of the EU legal system and its prerequisites, starting with the primacy of EU law and the judicial authority of the Court of Justice, is crucial.

Secondly, the European Union has shown that it can react to counter the illiberal drift within its Member States. The European response was slow, but substantial, despite various obstacles posed by the strong hostility of some national governments and several inefficiencies of the European decision-making process. Overall, EU institutions have effectively employed a combination of political censures and legal sanctions, some of which were specifically developed for this purpose.

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# Aleksandar Vučić's Serbia: from 'Frontrunner' to Regional Troublemaker? The EU Challenges in the Western Balkans Twenty Years after Thessaloniki

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**Abstract.** Five years after the relaunch of EU enlargement to the Western Balkans, the EU faces a multi-level set of challenges in the region: the growing influence of non-EU actors; the significant backsliding in rule of law, freedom of expression, and political pluralism; and the reheating of tensions between Belgrade and Pristina. These elements, against the backdrop of Russia's war on Ukraine (2022), further highlight the strategic importance of the region for EU ambitions. Serbia is a key actor in the EU's strategic objectives. But while its ties with non-EU actors and the shortcomings of the EU approach are known, the growing use, by Serbia's government, of discursive and behavioural contestation strategies in pursuit of its domestic agenda is still relatively understudied. This contribution unboxes some features of the EU's contemporary dilemmas in the region, by looking at the return of the 'Kosovo issue' and how it is framed within Serbia's relations with the EU and selected non-EU actors.
**Keywords**: Serbia; Comparative Politics; Western Balkans; Vučić's; *Kosovo issue*.

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## 1. *Introduction*

Last year marked the twentieth anniversary of the Thessaloniki Summit (2003), the official opening of the perspective of the EU membership for Western Balkan countries (European Commission, 2003). From the painful dissolution of the former Federal Socialist Republic of Yugoslavia-FSRY emerged seven countries, which at different rates embarked on a path of deep economic, institutional, and political reforms. This occurred also through the massive involvement of the EU and the international community in conflict resolution, peace-building, state-building, institution-building, and lately (EU) member state-building activities[2].

Since the 2000s, the EU engagement was mostly channelled through the enlargement process, aimed at reconciling and integrating, in a post-Cold War scenario, the so-called 'European perspective' of the region[3]. Given the EU's failure in mediating and de-escalating the conflict's outburst in the 1990s, the EU committed to the "unequivocal support to the European perspective of the Western Balkan countries" (European Commission, 2003, 1). To this purpose, it displayed the most comprehensive set of foreign policy tools ever witnessed: this included operations of peacebuilding, institution-building, and member-state building.

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[2] Nowadays countries commonly defined under the EU administrative term of Western Balkans are: Albania, Bosnia Herzegovina, Kosovo, North Macedonia, Montenegro, and Serbia. For a detailed account of peace-building activities in the Western Balkans, especially Bosnia Herzegovina and Kosovo, see Belloni, 2019.

[3] The EU is and was present in the region also through civil and military missions, led and carried out under UN mandate. Examples are: EUFOR Althea in Bosnia Herzegovina; EU-LEX Kosovo.

Twenty years later, the EU moves in a quite different scenario: some countries like Bosnia Herzegovina and Serbia, suffer from significant hints of democratic backsliding (Freedom House, 2020; 2019; Transparency International, 2020); the shortcomings of the EU's approach to the region became apparent, together with the involuntary effect of nurturing increasingly anti-democratic national elites (Belloni, 2021; Richter and Wunsch, 2020). Finally, due to the deterioration, or revision, of the EU relations with actors like China and Russia, the role of non-EU actors in the region in influencing the EU foreign policy also returned to be a hot topic in the EU agenda (Jaćimović, et al., 2023; Bechev, 2020; 2018; Rhinard and Sjöstedt, 2019). This can be also found in EU official documents (European Commission, 2019a; Juncker, 2018).

Within this framework, another feature emerges. Quoting Gergana Noutcheva, in the Western Balkans the "compliant outcomes (by local elites) [...] are more the result of the EU's strategic leverage than of voluntary submission to the EU's normative power and are vulnerable to reversals in the short run" (Noutcheva, 2009, p. 1066). If this was the case in 2009, what happens when the EU lacks of, as it appears to be increasingly the case, such strategic leverage?

As the 'Kosovo issue' progressively returns to the heart of Serbia's domestic politics, Noutcheva's warning still rings true. This study looks at the case of Vučić' Serbia as a sound example of the new dilemma the EU faces in the region. By revisiting existing literature on EU foreign policy against the background of theoretical literature on normative contestation (Wiener, 2014; Stimmer and Wisken, 2019), and by qualitatively analysing Vucic's discourse in foreign policy from the Juncker Commission to the first year of the war in Ukraine (2014-2022), it starts unboxing some features of the EU' con-

temporary dilemmas in the region. Sources used are EU official documents monitoring Serbia's progress in the EU integration process; EU official documents and statements on the Belgrade-Pristina Dialogue; public statements and speeches by members of the Serbian government, published or released via interviews and press releases; and secondary sources such as regional and international research centres' reports, and surveys.

The first section introduces the key principles and strategies of EU foreign policy; it then analyses the path undertaken by Serbia during Vučić presidency from the Juncker Commission to the first year of the war in Ukraine (2014-2022).

## 2. *The EU foreign policy in the Western Balkans*

The EU's approach to the Western Balkans, including Serbia, features foreign policy actions both framed under the enlargement process and the EU Common Foreign and Security Policy. This situates the countries in a hybrid position, as they come at the end-line of different policies, especially since the EU acquired an increasingly predominant role since the 2010s (Noutcheva, 2009)[4]. Following the suggestion of Stephan Keukeleire and Tom Delreux, this contribution understands the EU external action as a multi-actor, multi-level type of policy, encompassing the framework of the Common For-

[4] In 2010, the EU became the official facilitator for the dispute between Belgrade and Pristine, following the UNGA Resolution 64/298. The Belgrade-Pristina Dialogue became one of the key dossiers the EU is engaged in in the region. The normalisation of relations between Kosovo and Serbia lies at the heart of both parties' path to EU membership.

eign Security Policy (CFSP) and Common Security and Defence Policy (CSDF), to include informal frameworks through which Member States and third countries cooperate, as well as the Enlargement Policy (see Keukeleire, Delreux, 2022; 2014, p. 12).

While the institutional complexity of EU foreign policy allows the Union to stretch into far-fetched fields of actions or 'actorness'[5], it might also lead to a lack of cohesiveness, severely impacting the EU's international image. This is visible also in the Western Balkans: as the EU gradually became the most prominent international actor in the region and the enlargement process the main channel of EU engagement, the so-called 'enlargement fatigue' (Stratulat et al., 2019; Markovic and Khaze, 2018; Börzel et al., 2017; Ker-Lindsay et al., 2017), and the re-nationalisation of the topic of EU enlargement (Wunsch, 2017) weakened the strength of enlargement as a strategic foreign policy asset.

From the perspective of EU member states, instead, their formal adherence to the European perspective of the region often clouded their different views and priorities, which significantly influenced the region's path to the EU (Ker-Lindsay, et al., 2017). For all these reasons, enlargement gradually became something EU leaders pursued somehow reluctantly also due to increasingly sceptical national public opinions (Lavrelashvili & Van Hecke, 2023, p. 443). In line with this, academic studies firstly focusing at instances of Eu-

[5] Since the Lisbon Treaty, academics re-started working on the multilayered functioning of the EU as a global actor (Bretherton and Vogler, 2014; 2013; Niemann and Bretherton, 2013). This also included contributions on foreign and security policy (Rhinard and Sjöstedt 2019; Rieker and Eriksdatter Giske, 2021); the EU cooperation with the UN (Drieskens, 2008); and in environmental policies (Delreux, 2014).

ropeanisation, or the lack of thereof (Borzel, 2013; Elbasani, 2013; Sedelmeier, 2001); or looking for hints of the EU normative power (Manners, 2002; Manners and Whitman, 2003); and at the emergence and consolidation, as mentioned, of so-called 'enlargement fatigue' (Börzel et al. 2017; Ker-Lindsay et al. 2017), later also addressed the nuanced responsibility of the EU for the long stall of the enlargement process (Belloni, 2019; Belloni, Strazzari, 2014); and its actorness capacity in situations of 'contested statehood' (Baracani, 2019).

Such analyses focused on key features of the EU project such as EU values and standards. They also mirrored the international scenario the EU was moving into in those years: at the beginning of the 21st century, within the framework of the US-led international liberal order, the EU moved in a context where other actors (China, Russia, Turkey), were either in line with EU objectives, or elsewhere occupied. The developments that occurred over the last decade call for a more nuanced and transversal type analysis to understand the regional context.

As the international equilibria shifted, with the return of Russia's assertiveness in international affairs since 2014, scholarly analyses warned of possible destabilising effects in the Western Balkans, where Russia had allies and within Serbia's and Republika Srpska's leadership (Bechev, 2019; 2018). In addition, the inauguration of China's 16+1 Platform, and the Belt and Road Initiative (BRI), in which Serbia and other countries within the region and the EU play a significant role, strengthened China's economic presence in the area and led, on the broader level, to a redefinition of EU-China relations (European Commission, 2019). Several voices in foreign policy studies now call for the inclusion in the analysis of the influence of the external environment on EU foreign policy-making, by considering not only the actions of selected actors

involved in the region but also the way considered third countries incorporate their ties with such actors in their agenda setting (Rieker and Eriksdatter Giske, 2021; Rhinard and Sjöstedt, 2019). Another suggestion for re-centring the EU foreign policy studies came from the relatively recent literature on 'de-centring' the EU agenda (Fisher Onar and Nicolaidis, 2013; Keukeleire, 2015). It calls for the recognition of the role of third countries' political agendas in influencing EU foreign policymaking, and the need to understand the 'local context' to better inform EU foreign policy (Belloni, 2019; Keukeleire, 2015; Bretherton and Vogler, 2006; Fisher Onar, Nicolaïdis, 2013). While most of these analyses focus on countries other than the Western Balkans, the suggestion to look at the national elites and how they interact with competing non-EU actors and the EU in the pursuit of their objectives deserves further attention.

Within this framework, it becomes evident how shifting international equilibria, the redefinition of EU relations with significant international actors in the region (China, Russia, Turkey), and the progressive democratic backsliding in some countries, especially Serbia (European Commission, 2019a, 2022), pose the EU in front of a relatively new dilemma. On the one hand, the growing presence of non-EU actors in the region further elevates the strategic stakes for an EU's successful foreign policy. Especially as Serbia, a key regional actor, threatens regional stability and purposedly uses its international ties to contest EU norms. On the other hand, the sometimes unsteady support by Member States to enlargement united to the weakening of the EU's image in the region, is stalling the process once again, without deflating, this multi-level challenge. It is with this in mind that this study draws inspiration from literature on EU foreign policy and

emerging studies on democratic backsliding and normative contestation (Wiener, 2014; Stimmer, Wisken, 2019).

## 3. *The EU relaunch of enlargement to the Balkans and Serbia's path from frontrunner to regional troublemaker*

The relaunch of the enlargement strategy in 2018 was strongly influenced by the EU's growing awareness of the need to be more present in its neighbourhood, to avoid it "being shaped by others" (Juncker, 2018). In this sense, the return of Russia's assertiveness since 2014 and the following deterioration of EU-Russia relations (Casier, 2020; 2017; 2016); the redefinition of EU-Turkey relations within the context of the so-called 'migration crises' since 2015 (Baracani, 2021); and the review of EU-China relations on a spectrum ranging from cooperation to competition to strategic rivalry (European Commission, 2019) all influenced such policy turn. During Juncker's mandate, somehow going against its previously identified priorities, and more outspokenly since Von der Leyen's term, the EU enlargement returned to be a key feature of 'a stronger Europe in the world' (European Commission, Directorate-General for Communication, Leyen, U., 2020). Later on, enlargement's political relevance experienced new momentum following the full-scale Russian aggression to Ukraine started on February 24th, 2022 (European Council, 2022), just when it was once again seemingly hitting an impasse (Džankić, et al., 2023).

Changes of direction in the international equilibria are not the only feature influencing the EU's returned attention to the region: over the last decade, out of eight potential EU candidates, only Croatia (2013) and Slovenia (2004) successfully managed to become EU Member States. Despite the

progress made by North Macedonia in solving the yearly contentious issue of its name with Greece, the European Council's greenlight on opening accession negotiations to Albania and North Macedonia arrived only late in 2022 (European Council, 2022). At the same time, Bosnia Herzegovina, Kosovo, and Serbia all suffer, to different degrees, from significant democratic backsliding (Serbia), continuous threats to the stability of the post-Dayton constitutional architecture -Bosnia Herzegovina (European Commission, 2019a; 2022; Council of the European Union, 2021); and contested statehood (Kosovo). In addition, instances of democratic backsliding within the EU and the neighbourhood (Džankić et al., 2023; Kapidžić, 2020; Merkel et al., 2018), and the growing hints of contestation to EU norms impact the EU image in the region and "the EU's ability to project power" (Meunier and Vachudova, 2018, p. 1639). All this, added to the decade-long stall in its commitment to the enlargement, only partially mitigated by its relaunch in 2019 (European Commission, 2018), impacts the Union's credibility. This is further adjuvated by years of rising Euroscepticism, also shown in regional surveys (Regional Cooperation Council-RCC, 2015-2023) and aggravated, in terms of image, by the first official 'exit' from the European project with the so-called 'Brexit negotiations' (2021)[6].

[6] With the exit of the United Kingdom from the Union, the Union lost in the UK one of the firmest advocates for Western Balkans' EU membership.

## 3.1 Vučić presidency: Serbia's deteriorating democracy, the return of the 'Kosovo issue', and the leveraging of international alliances

Within this context, nowadays' Serbia run by President Aleksandar Vučić, first as a Prime Minister in 2012, then in two consecutive terms as President since 2017, represents a sound example of how the external context and local developments intertwine to present contradicting, overlapping priorities for EU actorness in the region.

Serbia is considered a key actor for the EU's strategic priorities in the region. The difficult dossier of normalisation between Belgrade and Pristina is a flagship of the EU action in the region, as the image of the EU as a capable international actor will also be measured by the extent to which, and how, it will or will not complete its transformative vision for the area, started at the beginning of the 21st century. Moreover, Serbia is an important partner in the management of irregular migration flows. During the Juncker Commission the EU increased its structural funds to Serbia (via IPA II), to support the creation of extra welcoming facilities for asylum seekers along the so-called Balkan Route (European Commission, 2019a); by the end of 2018, Serbia also initiated negotiations with the EU on the stipulation of Status Agreements with the European Border and Coast Guard Agency (European Commission 2019b), becoming together with Bosnia Herzegovina, the first countries of the region to host official Frontex operations on its territory.

Finally, due to its geographical position and history, Serbia preserves strong ties with several international actors, like China, Russia, and Turkey. Concerning China, Serbia is one of the most active members of 16+1 Platform and a recipient country of BRI's connected projects (Fardella and Prodi,

2018); and carried out between 2019 and 2021, a series of joint military training, in addition to deepening trade in the military sector (Vasovic and Heritage, 2020). Russia, instead, is a long-time ally of the country and a supporter of Serbia's official position on the status of Kosovo. Serbia is almost completely dependent on Russia's energy resources, and a partner in joint military training up to 2021. During the Juncker Commission, Serbia also strengthened its economic relations with Turkey. According to scholarly analyses, the trade volume between Serbia and Turkey dramatically increased during the years of the Juncker Commission, by more than 150% compared to previous years (Önsoy, KOÇ, 2019, p. 352). While none of these countries formally oppose Serbia's path to EU integration, the redefinition and in some cases, the critical deterioration of relations between such actors and the EU has heightened the stakes of the EU's diplomatic efforts.

Thus, the strategic relevance of the country for the EU can be condensed along two main lines: the position of the country in the region; and the role it plays within the larger picture of international alliances. Following these lines, the present section is divided into two distinct subsections. The first looks at the so-called 'internal dimension', by looking at the hints of growing illiberalism trends that occurred under Vučić's presidency. The second subsection looks instead at the external dimension of such challenge, by analysing Serbia's ties with competing non-EU actors, and the way such ties are used in the pursuit of domestic priorities.

### 3.1.1. *Serbia's democratic backsliding under Vučić's presidency: the years of the Juncker Commission*

The elements aforementioned have clarified what is at stake in the country for the EU's objectives. Within that picture, this section presents the developments that occurred since the arrival to power of Aleksandar Vučić in 2014. Among the countries that emerged from former Yugoslavia, Serbia has the biggest population (Eurostat, 2022). Its ties with the EU, politically inscribed into the path to EU accession and the acceptance of the enlargement revised methodology, are also economically sound: according to Eurostat, Serbian goods exported to the EU in 2022 made up 66.0 % of its total exports, following an increasing trend; in the same year, around 52% of Serbia's imports originated from the EU (Eurostat, 2023).

Serbia became an EU candidate in 2012 and opened negotiations, via approval of the EU-Serbia negotiation framework, in 2014 (Conference on Accession to the European Union, 2014). After the successful entries of Croatia (2013) and Slovenia (2004), Serbia has long been considered the front-runner to EU membership in the Western Balkans (EU Delegation to the Republic of Serbia, 2018; European Commission, 2021). This notwithstanding, and despite being an EU candidate for about twelve years, with twenty-two open "negotiation chapters" out of a total of thirty-five, Serbia managed to provisionally close, so far, only two chapters (European Council-Council of the European Union, 2023).

Since 2014, from the area of the rule of law to freedom of expression to political pluralism, both the annual reports of the European Commission monitoring Serbia's progress and international monitoring centres like Freedom House (Freedom House, 2019; 2020) highlighted the worrying deteriorat-

ing situation of the Serbian democracy. By looking at the European Commission's analytical country reports until 2022, it appears evident how, especially after the elections of 2017, the country shifted from the "2015's elections held in a generally calm atmosphere" to a "genuine pluralism context", however, "tilted by several factors" (European Commission, 2018) to the "urgent needs to create space for a "genuine cross-party debate" (European Commission 2019a, p.4). Reports also assess a declining situation on political criteria, despite the ongoing constitutional reform, especially on the themes of the scope of political influence over the judiciary (European Commission, 2016; 2018a; 2019a); the concerns over political influence on senior managerial appointments (European Commission, 2019a, p. 6).

On human rights, the reports highlight the lack of concrete progress on freedom of expression, and the need to "fully implement the legal and institutional framework for the protection of the rights of minorities and the situation of most discriminated groups" (European Commission, 2018, p.4). On regional cooperation, they stressed the slow pace of normalisation of relations with Kosovo, whose progress or lack of would determine the pace itself of accession negotiations (European Commission, 2019a).

### 3.1.2 *The return of the 'Kosovo issue'*

During the analysed years, the relations between Belgrade and Pristina moved from a situation of stalling to recurrent heated tensions between the two countries. Besides Serbia's official stance on the status of Kosovo, in contradiction to the objective of normalisation of relations necessary to enter the EU, during the first years of Vučić's administration, and despite himself coming from an extremely nationalist political

background, his party the Serbian Progressive Party SNS run in 2014's elections with an explicit pro-EU agenda SNS' political programme has not explicitly use Kosovo as a campaign theme (NDI-National Democratic Institute for International Affairs, 2014). The re-politicisation of the 'Kosovo issue', occurred some years after the country embarked on the path to EU accession. The dispute over the status of Kosovo became central in Vučić rhetoric after his arrival to the Presidency and the election results of 2016, which saw the entry into the Serbian parliament at the opposition seats of the far-right parties 'Serbian Radical Party-SRS', and Dveri-DSS (NDI-National Democratic Institute for International Affairs, 2016).

Examples of this rhetoric are visible in a few interviews released to European news outlets: accusing the EU of "lacking courage", to plainly say "who was undermining the Kosovo-Serbia agreements", face to the spiralling tensions in North-East Kosovo (Zaba, Zivanovic, 2017), he blamed the EU for causing him and Serbia "exhaustion" for the stalling of the Belgrade-Pristina dialogue and the length of the EU accession process; in the same interview, he called the recognition of Kosovo by the majority of EU Member States "a huge provocation" while posing that he was ready to reach a compromise, but not "to humiliate Serbian people and their interest" (Euronews, 2018). This rhetoric also aimed at appeasing the Serbian public, chronically sceptic about EU membership. As shown by the results of public polls carried out by the Regional Cooperation Council-RCC between 2015 and 2022, Serbia maintains the lowest level in the region of public support for EU membership, ranging between 36% and 34% of respondents (Regional Cooperation Council-RCC, 2015, 2016, 2017, 2020, 2023).

After some years of stalling, tensions between Serbia and Kosovo arose again over the summer of 2022 and were related

to issues of mutual recognition, being it the ID registration of car plates, and later in 2023 the status of Serb-majority municipalities in Kosovo (Reuters, 2022; European Western Balkans, 2023). At the end of September 2022, and then again twice in 2023, movements of troops were registered on the Serbian side of the border (Politico, 2022; Reuters, 2023b). Roughly six months after the outbreak of Russia's full-scale aggression to Ukraine, the EU attempted to rejuvenate its mediating role in the region by trying to appease both parties and achieve de-escalation.

On February 27, 2023, the EU proposed a new plan of normalisation of relations between Kosovo and Serbia (EEAS-European External Action Service, 2023). The document, named the 'Ohrid Agreement', constitutes, together with its Annex, an integral part of the respective EU accession processes of Kosovo and Serbia. The text, upon which agreement was verbally reached, included the commitment, undertaken by the parties in embarking into the enlargement process, to achieve not only good neighbourly relations but, in the specific case of Serbia and Kosovo, also mutual recognition "on the assumption that neither of the two can represent the other in the international sphere or act on its behalf. Serbia will not object to Kosovo's membership in any international organisation." (EEAS-European External Action Service, 2023, Art 5).

Once again, Aleksandar Vučić reassured his electorate stating that "when someone signs something, I will sign it, and the people will decide on that" (The Independent, 2023). A few months later, tensions rose again, leading, in late June 2023, to the Commission threatening to impose sanctions against Kosovo for violation of the agreement (Euroactiv, 2023). Foreseen actions included the "freezing of the EU funds, halting the visa liberalisation process, and membership processes for international institutions". Serbia, on the other

hand, was not sanctioned. Following another episode of tension at the border, ended in the killing of a Kosovar police officer, MEPs called out to the EU to give strong signals to the EU candidate by sanctioning Serbia's behaviour, lifting the sanctions on Kosovo and de-escalating the situation at the border between the two countries (Euroactiv, 2023a). On both occasions, the Serbian president reacted to international concerns by stating that "Serbia did not want war" as this would not "benefit Belgrade in its path to EU accession" (Financial Times, 2023).

## 3.2. The external dimension: the strategic leverage of Serbia's international alliances

Due to its so-called "multi-pillar foreign policy", Serbia maintains strong ties with the EU, China, and Russia (among others, like the US). Between 2013 and 2022, the ties with non-EU actors were increasingly exploited to support Vucic's stand on Kosovo and his government's grievances towards the EU. Examples might be found in the words reserved for China's ambassador to Serbia Li Manchang, in defining bilateral relations "a bond like steel" (Xinhua, 2019); in the comment by the then-Serbian foreign Minister Ivica Dačić, reported in the Russian outlet TASS, that Serbia's misalignment with the EU on sanctions against Russia was "a moral one [issue]", based on the countries "unique relations" (TASS, 2017); in Serbia's official position on Hong Kong and Tawain, also misaligned with the EU's common position, justified by the fact that: "as an independent and self-reliant country, Serbia opposes the act of interfering in the internal affairs of a sovereign state" (Xinhua, 2020). In the points made by Vučić in early 2020, when interviewed by Euronews: "Can you imagine us imposing sanctions against Russia and Russia is the only country to-

gether with China that is supporting us in the United Nations Security Council about the issue of the territorial integrity of Serbia? What do you expect from us?" (Euronews, 2020).

This arguably reached a peak during the first months of the COVID-19 pandemic, Vučić publicly stated to have called China's president Xi Jinping "not only a dear friend but also a brother, and not only my personal friend but also a friend and brother of this country" (EuroActiv, 2020); the "steel-friendship" was once again mentioned by Serbian government's website on the occasion of the visit to Serbia of the Chinese Defence's Minister Wei Fenghe in 2021, reaffirming the: "readiness to work with the Ministry of National Defence of China on further development of [...] relations, especially in joint training of military units and in the field of military economic, military medical and military education cooperation" (The Government of the Republic of Serbia, 2021). Lastly, in February 2022, China's Foreign affairs Ministry reported the Serbian President calling the two countries "ironclad friends", stating that "Serbia will [...] stand firmly with the Chinese people on issues concerning China's core interests including issues relating to Xinjiang and Taiwan" (Ministry of Foreign Affairs of the People's Republic of China, 2022). Serbia's stance regarding sanctions against Russia was further reiterated after the start of Russia's aggression to Ukraine, when the reiterated misalignment of the country with the EU was once again justified by domestic logic: "They (Russia) were the only country not to have imposed sanctions against us in the 1990s", and "supported our territorial integrity in the United Nation" (Reuters, 2022).

## 4. *Conclusion*

The EU enlargement process had the goal to "drive[s] political and economic reforms, transforming societies, consolidating the rule of law and creating new opportunities for citizens and business [...]. (Conference on the Accession to the European Union-Serbia, 2014, p. 2). However, as evincible by the numerous European Commission's and international observers' reports, in Vučić's' Serbia this appears to be no longer the case. Nowadays, Serbia's democracy presents significant hints of State capture (Transparency International, 2020). In the region, Serbia is growingly perceived more as a threat than a partner, due to its close connections with the nationalist Republika Srpska's leadership in Bosnia Herzegovina; the recurrent threats against Kosovo's statehood; and the accusation of meddling in the election process in Montenegro (Reuters, 2020).

While the EU undeniably contributed to the further stagnation of the accession process (Esteso Perez, 2023; Belloni, 2019), the use by the Serbian presidentship of its existing ties with competing non-EU actors to push forward his agenda is something relatively new. The EU is therefore faced with an unfeatured strategic dilemma: the EU membership remains, despite its shortcomings in terms of meritocracy and credibility, the most suited tool to contain the influence of different-minded non-EU actors. However, the strategy of appeasement used by the EU to contain Serbia's behavioural and normative contestation efforts is not leading the EU candidate back on track, but rather reinforcing a repeated cycle of stalling, without deflating the ever-increasing tensions in the region. As Aleksander Vučić's strategies of contestation might find echoes in like-minded countries and the shadow of the war in Ukraine continues to loom over the continent, the EU

needs to reconsolidate its democratic stance to avoid further weakening, and consequently endangering, its own objectives.

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# Understanding Orbán Illiberalism: Ideological Foundation and Political Practice in Contemporary Hungary

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**Abstract.** The paper explores the nature of contemporary illiberalism, with a focus on the Hungarian case. It tackles some conceptual and empirical questions. Is it better to look at illiberalism as an ideological alternative to modern-day liberalism or as a form of political practice? What are the larger economic and sociological factors that have led to the rise of illiberalism in the West and specifically in Hungary? And what impact does illiberalism have on politics and political institutions in practice? I argue that Illiberalism in Hungary is mostly a response, albeit inadequate, to real concerns citizens express. Thus as a reaction to the economic dislocation (erosion of the middle class and the transition to post-industrial economies) and social dislocation (atomisation and loss of identity and community) created by modern-day forms of liberalism e.g. neoliberal economics and post-modern individualism.
**Keywords**: Hungary; Post liberalism; Illiberalism; Identity Politics; Culture War.

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## 1. *Introduction*

The issue of democratic backsliding in Hungary and its social, economic and institutional consequences has been subjected to significant interest among scholars in recent years. (Laruelle, 2020) Although increasing, less attention has been devoted to the nexus between the ideological dimension and the societal transformation behind the so-called illiberal democracies, their networks and how they build their influence.

However, understanding the overwhelming success of Fidesz, having won four consecutive elections since 2010, compels a closer analysis of its roots and ideological content. (Buzogány and Varga, 2018) Before analyinsing the Hungarian case study, it is helpful to establish some terminological boundaries for this research, starting from the term Illiberalism.

Illiberalism is not per se right-wing or populist as in the case of Hungary, different models can be found among the Latin American variants or Putin's Russia, to name a few. Illiberalism, however, possesses certain transversal features. The first characteristic that Laruelle highlights is "It has emerged over the past two or three decades in countries with past experience of liberalism." (Laruelle, 2022, p.8) Thus, illiberalism would not be an external threat to the West and liberal democracies as much as its product. Orbán's Hungary's ideological and historical path is profoundly connected to the evolution of liberalism and in permanent dialogue with it; it is not an opposed ideological competitor and it does not challenge directly the larger historical tradition of liberalism, but rather challenges political, cultural, and economic aspects of neoliberalism and postmodern cultural liberalism. (Krekó, 2020)

The term illiberalism is experiencing hype within the media and academia; however, through a fascinating series of events, political fatherhood belongs to Orbán himself. Indeed, the term illiberal democracy was debunked during the 2014 press conference held in Băile Tuşnad, where the prime minister used precisely the wording: "illiberal state within the European Union" to define his political agenda. Although the term was used in a specific circumscribed context, some have described Orbán even as an "innovative ideologist". (Heino and Metsälä, 2021)

## 2. *Orbán's Illiberalism as a Populist Undertaking*

While studying the contemporary Hungarian case, one can see how some definitions blur into others, e.g. characteristics of populism and far-right coexist within the broader framework of Illiberalism. To analyse illiberal democracies, Marc Lazar and Ilvo Diamanti suggest placing them within the evolutionary path of European populism. (Diamanti and Lazar, 2018) Cas Mudde highlights the overlap between contemporary radical right actors and populist ones, particularly their anti-establishment stance and moral antagonism against a perceived illegitimate corrupt elite. (Mudde and Rovira Kaltwasser, 2012) This holds true for Hungary, whit Enyedi and Batory arguing that Orbán's illiberal turn is essentially a populist endeavor. (Enyedi, 2020)

Although the term populism is widely exploited, using the concept from a theoretical standpoint to analise the Hungarian political situation seems appropriate; however it should not be overemphasised at the expense of other nuances of Orbán's ideological set-up such as nativism and authoritanism. (Art, 2020) Cas Mudde and Cristóbal Rovira Kaltwasser

labelled populism as a thin-centered ideology, a very fragile one compared to the great historical ideologies; they further indicate that in the case of the populist radical right, their thin ideology also incorporates elements of authoritarianism and nativism. Nativism refers to an ethnic and cultural project that creates a substantial distinction between the indigenous people around whom the nation-state is founded and groups that do not identify as such, indeed often considered a threat to the integrity of the national project. (Mudde and Rovira Kaltwasser Rovira, 2017) While in this paper we endorse the thesis of Hungarian illiberalism being also ideologically driven, some scholars oppose this view. For many observers, illiberal agendas are dangerous for liberal institutions, but not much in dismantling the ideology; instead, they would be a shade of neo-liberalism with authoritarian characteristics. (Pirro and Stanley, 2022). They suggest that illiberalism's essence lies in the state's capture and the establishment of neo-patrimonial property relations by the ruling elites, a form of crony capitalism. Understood as the practice of interaction between politics and business that does not act by the principles of free enterprising and fair competition and is not legally or appropriately regulated. In Hungarian, the new term "Fidesz-közeli cég," meaning "a near-to- Fidesz", became of everyday use. The state-owned enterprises serve politicians' benefit, thus loosening the social acceptance of primary market economic institutions and the rule of law, transitioning toward an autocratic hybrid regime. (Kornai, 2015) For instance, Bozóki, specifically referring to the national-conservative parties in Central and Eastern Europe, outlines them as "unrefined social populism serving no particular ideological agenda but power concentration." Bozóki asserts that populism is primarily a strategy to seize or handle power. A strategy involving attacks on opponents, curtailing freedoms

when in power, and relentless propaganda. Kurt Weyland supports this definition, combining it with the cult of the leader's personality. (Bozóki, 2017; Mudde and Kaltwasser Rovira, 2017)

According to this view, illiberalism would be more an interested-base project than an ideological one. (Albertazzi and Mc Donnell, 2016) A third strand argues that populism is a style of political rhetoric that is more or less ideologically consistent. Benjamin Moffit distinguishes three main features: an appeal to the people against the elites, a display of bad manners and a constant reference to crises or threats. In most cases, they use a very simplified or sketchy language to differentiate themselves from the more opaque language of traditional politics. (Moffit, 2016)

## 3. *Illiberalism as a Post-liberal Ideology*

While Orbán's illiberalism blurs into his political praxis and communicative style, its ideological dimension remains significant. Especially if we consider that the great political ideologies that emerged in the 18th century and were established after that, such as conservatism, liberalism, communism, socialism etc., have steadily declined since the 1980s. However, illiberal populism does not present a clear ideological alternative to liberalism; it is more of a reaction to how modern liberalism has evolved and has attuned to the current worldwide doubts about globalisation, a product of the unfulfilled neoliberal promises, or rather a counter-response to the exacerbation of liberal values into neo-liberalism, i.e. "the extreme atomisation of the individual and the search for happiness through consumption and micro-identity politics". (Laruelle, 2022)

Despite the blurring borders of the concept, Laruelle considers illiberalism as the most significant political trend in recent years and as a distinct phenomenon from mere anti-liberalism or non-liberalism. It is not a reactionary call for a return to the past either, but rather a form of post-liberal ideology, having experienced liberalism and decided to make a "U-Turn". (Janos, 2015; Laruelle, 2022)

Illiberalism especially critiques and rejects the perceived degeneration of liberal values, including feminism, minority rights, and political correctness. (Pirro, 2022) Therefore, through their glance, an excess of cultural liberalism fatefully marks the western postmodern era. Orbán's Hungary follows this wave of dismissing progressive liberal thinking, asserting that its influence's growth is not inevitable. On the contrary, shifting the focus towards the strand of society mostly tied to traditional norms and values. (Janos, 2015) Given the historical hegemony of liberalism, it is interesting wonder what explains this increasingly frequent turn away from the liberal pattern and values.

The doubts around globalization, both from the economic and cultural perspectives, are probably a key to a clear understanding of those movements arising from the rejection of liberalism. As much of the literature suggests, the ongoing polarisation cannot be reduced to cultural factors but is heavily related to the economic results of globalisation and neo-liberal policies, which have often failed large sections of society. Gabor Shering states that economic factors are often downgraded by researchers as explanatory factors for the rise of populism; however, the reality is that "economic shocks and economic insecurity explain around one-third of recent surges in populism". (Schering, 2022) Moreover, he adds: "There is strong evidence that economic insecurity leads to a shift towards anti-liberal values in the domain of politics. The

skepticism towards liberal values and liberal democracy is a political manifestation of distress driven by economic insecurity." Therefore, illiberalism acts as an opponent to liberalism's hegemony. (Schering, 2022, p.5)

## 4. *A Challenge to Liberalism's Hegemony*

However; suppose it is possible to refer to illiberalism as an ideological family, or at least a thin ideology, it must be noted that it is only established as a negative definition and not as an independent ideological doctrine. (Laruelle, 2022) Cas Mudde employs the adjective thin to indicate that the ideological content of populism does not cover a whole political agenda, and it is combine with a host ideology, usually some form of nationalism on the right and some form of socialism on the left. (Mudde, 2004) Different from the great political ideologies of the past, having a body of elaborate doctrines, fundamental texts, reference authors, an overarching philosophy that generated meaning, and a worldview. Instead, illiberalism depends on the understanding of its counterpart, liberalism, in this case, especially as it is outlined in the political and economic cultural context of post-1989 Hungary. Pirro summarised the liberal democratic principles that emerged from the post-1989 political conformation as: "minimal intervention by the state that allows for a free market in which individuals rationally pursue their interests, immersed in a pluralist public sphere in which active and free participation in the democratic process and in civil society is guaranteed. Pluralism is also understood culturally with particular attention to protecting minority interests." (Pirro, 2022) The normative superiority of liberalism went unquestioned during this period, at least not by the political actors with the most agency.

However, with the trend of illiberalism and with Orbán specifically, something changed. The decisive critique of liberalism calls into question the canonical view of Western political philosophy that has held it up for decades as "the normative default set of values". Thus liberalism would cease to be more legitimate than other value systems, as we are led to assume through a Western philosophical bias. (Mondon and Winter, 2020) Some scholars are starting to emphasise the gap between liberalism as political philosophy and the reality of many citizens living in Western democracies. (Schering, 2022) None of the cited scholars' argumentations denies the achievements of liberalism, but rather its hegemonic presumption of objectivity that does not allow to critically evaluate the position from which its defence emanates, nor the real underlying power relations. Advancing with a brief historical insight, Domenico Losurdo's work is enlightening in showing us liberalism's contradictions. Losurdo suggests it is liberalism flexibility and ability to absorb both reactionary and progressive positions as the key to maintaining its hegemonic position, and yet how great democratic achievements stem from movements that have made their way despite the liberal settlement to the extent that was impossible for "liberal elites not to budge and accept them." (Mondon and Winter, 2020) Many movements that led to the conquest of fundamental rights and were acclaimed as democratic and progressive did not happen because of the liberal philosophical position and ideology but in spite of it, which "has been bound up also with the most illiberal of policies: slavery, colonialism, genocide, racism and snobbery." (Losurdo, 2011)

Looking at the historical and contemporary contradictions of liberalism and challenging its hegemony is particularly useful precisely because the reactionary forces are rising, and its flexibility could be a double-edged sword allowing it to swing

back towards reaction, which is precisely what we are experiencing today. Failure to embrace a more nuanced picture of liberalism in which the inequalities inherent in its political and normative status also emerge is a problem for the stated intentions of being a 'bulwark against the far right and reaction'. (Mondon and Winter, 2020) As Mondon and Winter explain in their book, it is worth understanding the dialectic through which mainstream and far-right articulate themselves without falling into a false dichotomy of good and evil. The image of the liberal mainstream as not objectable good force demands rightly to be protected from fascist and anti-democratic forms, but also "from criticism and its failure to confront and address decisively various forms of oppression such as racism which remain embedded in practice, both through illiberal and liberal measures." (Mondon and Winter, 2020) A challenging issue is indeed the liberal establishment's tendency to vilify illiberal voters. Those who do so, not only misunderstand the electorate by acting in a lazy and simplistic intellectual posture but also risk worsening the conflict by providing an alibi for their intolerance toward the system, making them think that "the liberal elites are trying to silence them". (Pabst, 2018, p.19) Populism scholars who portray the Hungarian democratic erosion underestimating the economic factors offer a mystified view of reality. Indeed, a modest section of the electorate is exclusively driven by cultural or racist considerations. However, as Shering demonstrates, the main factor is the causality between economic insecurity and a large mass of illiberal party voters dissatisfied with the economic policies of recent decades. This finding means that the illiberal backlash cannot be confined to collective hypnosis generated by a long-lasting authoritarian vision and hammering propaganda nor the personality cult of a leader. For a significant share of the Hungarian population, illiberalism pro-

vides an attractive frame of meaning and purpose. It also mobilise the electorate through "the rejection of the last two decades of post-communism, which in their eyes were dominated politically, economically and culturally by corrupt (left-wing) liberal elites." (Laruelle, 2022; Scheiring, 2018) The hype of the right-wing illiberalism is a symptom of a broader crisis that takes the form of political alienation and dissatisfaction and usually rises in abstention, inequalities, and a failure of liberal democracies to live up to the expectations. The demands expressed by the illiberal electorate, according to Laruelle, are mainly three and appeal to the rejection of the neo-liberal model: "First is the need for meaning in life that goes beyond the material aspect of happiness. Second is the need for some forms of community and safety to counteract the extreme atomisation of individuals. The third is the need for some forms of redistribution of wealth or symbolic capital." (Laruelle, 2022) Bartlett underlines how these new movements have the ability to mobilise people's dissatisfaction offering some semblance of common purpose and a sense of belonging, both absent in the neoliberal political order that he defines: as "the empty consumerism, the crap precarious jobs, the fragmented communities." (Pabst, 2018 p.32) Nevertheless, the form of belonging and identity proposed by the illiberal far right is dangerous since is "exacerbating the worst aspects of nationalist traditionalism – including 'alt-righters,' and far-right white supremacists – because it reinforces popular distrust in mainstream media and politicians who are widely perceived to ignore concerns about the levels of immigration and the loss of settled ways of life. (Pabst, 2018) Also, the internal contradiction of illiberal movements deserves attention as their responses often overlap with the neoliberal ones and tend to reproduce or aggravate neoliberal patterns such as the shrinking of the welfare

state, call for austerity, an open economy to attract foreign investment, lowering taxes, and reducing public spending. "They compensate for this by redistributing symbolic capital to some social groups." (Laruelle, 2022)

## 5. *Economic Insecurities and Illiberalism Rise*

Given this background, it is interesting to wonder why the primary challengers to the liberal order, leaving aside the Latin American regional context, are the far-right forces. The most striking reason in the academic literature is proper to be found in the economic crisis of 2008. Although, as already pointed out, the strength of neo-liberalism is the flexibility that allows it to find new ways to survive, it has certainly passed its golden age. During the last decades of the 20th century, neoliberal ideology was very influential in shaping political leaders' attitudes on both the left and the right to steer their public policies. Nevertheless, it began to be questioned at the beginning of this century, particularly in the aftermath of the 2008 financial crisis and even more after the covid pandemic crisis, revealing a gradual depletion of this system's energy. (Diamanti and Lazar, 2018) The challenge to the neoliberal system around 2008-2009 had the potential to create the momentum for a left-wing pendulum swing. However, the left struggled to provide effective alternatives. Many left parties replaced leftist ideologies with "the 'double liberalism' that combined the 'economic liberalism' of neoliberals and the 'cultural liberalism' of multiculturalists", allowing illiberalism and far-right to emerge as the only real competitor. (Pabst, 2018) Another aspect fueling the ongoing culture war and identity politics is the tension between civil and social rights, often falsely portrayed as opposing and mutually ex-

clusive. Civil rights pertain to individual conscience and freedom of choice, while social rights encompass labor rights, education, and health, making individuals part of a community entity made up of equally free individuals. The breakdown of the dialectic between civil and social rights is evident today, with social rights often neglected and forgotten. The left, which had traditionally stood for social rights, is now renouncing them and is instead more devoted to the defence of civil rights alone. (Hobsbawm, 1996; Smith, 1994)

It is worth noting that the once desirable 'neo-liberal globalisation' has become a synonym for social uncertainty and a threat to political, economic and social stability in a country like Hungary, which has typically been associated with a successful transition to a liberal system. (Varga, 2020) In the case of Hungary, the globalisation process rapidly unfolded in the 1990s. Structural reforms were implemented to reach Western European standards of living, primarily through privatising state enterprises to external investors, deregulation, and greenfield investments. (Árva, 2018) Hungary is today one of the most transnational countries among medium-sized economies, with the fourth fifth of its trade transacted with EU members. (Csaba, 2007) The Hungarian case, therefore, appears to be a successful example of transition. However, the promises of capitalism in Hungary as elsewhere have not been completely fulfilled. Living standards have not risen universally or uniformly, and economic development has not been as fast as hoped, triggering anti-globalist sentiments.

Between 2008 and 2010, neoliberal austerity measures in Hungary contribute heavily to economic discontent while the country was facing a rising public debt, a reduced GDP, decreased productivity, and high unemployment. Furthermore, economic uncertainty and grievance especially if it results from globalist financial policies tends to push the electorate

toward the far right, as demonstrated by the Hungarian case with the correlation between the forint's depreciation and the rise of far-right parties after the 2008 crisis. (Árva, 2018; Knight, 2021) In the wake of the 2008 crisis, the exchange rate for the Hungarian forint against the Swiss franc depreciated by 23%, leading to a rapid, unexpected increase in household indebtedness. More than 60% of household debt in Hungary was denominated in Swiss francs, thus creating a foreign currency debt shock. Unsurprisingly in the following elections held in April 2010, not only did Fidesz win the absolute majority of seats but also the vote share of the far-right Jobbik party increased by five percentage points on average, representing 35% of the total increase in the far-right vote share from 2006 to 2010 in Hungary. (Scheiring, 2018) The newly elected Orbán government initially received approval for a small budget overrun from the EU but faced pressure to implement austerity measures due to the Greek crisis. Confronted with that situation, the Hungarian leader abandoned the negotiating table opened with the Fund and announced a 'fight for economic freedom' against the strong financial powers. Thus he adopted a nationalist stance and introduced unconventional economic measures, such as targeted taxes on foreign multinationals and mortgage renegotiations, to repay debts and stabilize the economy. At home, Orbán's nationalist and muscular attitude gained much support among economists after the economic stagnation experienced between 2003 and 2007. (Bottoni, 2019)

## 6. *Mobilisation and Polarisation*

Hence, Fidesz's strategic ability mobilised a group of voters suffering economic grievances, confirming how the primary

catalyst of populism and radical right are economic causes, albeit often disguised as cultural factors. Translating problems that are essentially economic into cultural ones is a rhetorical ploy serving the populists; it is intellectually incoherent but electorally appealing.

The contradictions of global capitalism were more pronounced in Central and Eastern European countries undergoing regime change, and Orbán's success in 2010 resulted from the strong socio-economic and ethnic polarisation caused by "the post-Soviet political-economic transition, aggravated by rapid globalisation, which produced winners and losers in Hungary".(Bottoni, 2019)

The 2008 crisis revived a concept that became popular during the first Hungarian transition from the Soviet system, i. e. 'the transition losers'. The economic winners of the self-proclaimed end of history and globalisation are often urban, upper-middle-class, highly educated individuals who preach the absolute right to labour mobility and advocate the idea of the open society, albeit missing how it is open only among its peers, while it is often distant from the economically humblest, the so-called transition losers. The expression transition losers became popular in post-communist countries to identify those social groups most affected by the transition from the Soviet model to the attempt at liberal reforms. Not in all post-communist countries, the social stratum referred to is the same; however, in Hungary, "intellectuals called for justice to the 'middle class,' even though understood so broadly as to encompass two-thirds of the population" (Csaba, 2007)

"The victims of economic shocks and those suffering from economic insecurity go beyond the poorest and most disadvantaged, encompassing a large part of what is often considered the middle class both in the US and Europe." (Schiering, 2018) The rhetoric of globalisation's losers and

winners is fueling a cultural war where right-wing populists accuse the progressive left-wing ideology of being nothing more than a mix of multiculturalism, environmentalism and identity politics behind a benevolent tolerance, hiding its classist and essentially neo-liberal nature. (Scheiring, 2018)

Hungary's recent history fits perfectly with what Lazar identifies as the three major crises contributing to the rise of populist movements which are then accentuated by the illiberal policies in a vicious circle. The first is a social crisis characterized by unemployment, inequality, poverty, middle-class destabilization, and labor market precariousness; the second is a political crisis marked by distrust of the political class and powerlessness in the face of economic and financial forces.

The power of the people is harnessed by the weight of central banks and financial corporations, and the advance of populists destabilises democratic practice. (Mounk, 2018) A rampant distrust concerns the nation-state but also the European Union. Although the West praised the success of Hungary's transition to democracy and the free market, the 1990s and early 2000s saw the emergence of an ideological clash led by Fidesz on the right and the socialists on the left, fuelled by disillusionment with Western models. In this context, the socialists and liberals, who stood for Western values and models, were blamed for the insecurity and suffering of millions of Hungarians.

And finally, a systemic crisis where liberal democracies would be progressively more liberal but arguably less democratic suggesting a sort of exhaustion of the driving force of liberal and representative democracy as suggested by Yacha Mounk, in "People vs Democracy".

## 7. *Postmodernism vs Illiberalism*

From the political standpoint, Orbán offers his illiberal populist variant as a natural response to the failure of liberalism and the alleged crisis of the West, accusing liberal elites of being disconnected from the 'real' nation. He calls for a new social contract and a system of national cooperation, emphasizing values like work-based economy, citizenship, unification of the nation, and the reinstatement of Christian culture over value neutrality. In Orbán's propaganda, he stands as the only true defender of the homeland and insists that Hungary must follow the primacy of the community over the individual in order to avoid the "subjugation of the Hungarian people"; therefore, a clear return to nationalism and particularism. However, it is essential to understand which people he is referring to and how he relates to them and shapes their political identity. The reference to the cohesion and unity of Hungarians emerges very often in Orbán's speeches, reinforcing the importance of society in its entirety and unity before that of the individual and his freedoms. In this sense, the Prime Minister combines the well-known nationalism with a solid communitarian orientation. An electorally successful intuition of Orbán, and illiberalism in general, is the programmatic claim of two words considered to belong to the conservative spectrum: community and tradition. Therefore, community, since a system in order to exercise justice and equality and aspiring to be genuinely democratic requires a code of rights and duties, which cannot be exhausted in the mere enunciation of the law but must have a shared history, a collective narrative and common values as a prerequisite. Moreover, tradition understood as a sense of bonding to one's community and land, is something that the majority of people, or at least the Hungarian electorate, are unwilling to dismiss in the name of globalization. The propo-

nents of communitarianism argue that liberalism in embracing the universalistic principles of Enlightenment had in reality absolutized the cultural models of modernity, overshadowing traditions distant from that perspective. Liberalism would thus have adopted an essentially procedural and formal model. (Rawls, 1999) Dworkin argues that "Liberal philosophers find it natural and valuable to insist that liberalism does not stipulate what the good life is, but only describes equitable political and economic structures within which individual citizens must decide what kind of life is good for them." (Dworking, 1996) Meaning that liberalism privileges the procedural dimension, leaving value choices to individuals, which must, however, be compatible with a shared normative system. Taylor adopting a communitarian view, argues that the social equality that emerges from a procedural liberal system is narrow and encourages a homologation that cancels out differences. (Taylor, 1999) The core needs underpinning these attempts to overcome liberalism are related to a lack of community and identity and a call for economic security and redistribution; thus, it is very problematic to leave the field open for far-right reactionary illiberalism critique to be the main competitor of dominant neoliberalism. Orbán's communitarian endeavour is an utterly limited and inadequate form, leaving the complete domain of these values to the far right is counterproductive because they are interpreted and implemented through the lens of a reactionary spirit that slips into chauvinism, racism, intolerance for sexual orientation, etc. The subject of procedural liberalism appears, to communitarians, to be purely formal, an empty subject, as opposed to the whole subject whose existence is located within a network of relationships; however, if community values are not expressed in a climate of tolerance but become a source of hostility, they are certainly a strong constraint, if not outright oppression, for those who do not recognise them.

Procedural neutrality may appear cold concerning differences, but it allows for the coexistence of different ways of being in the world without privileging community identities over the freedoms of individuals. Especially when the communitarian dimension is identified within the ethnonational paradigm as in the case of Hungary: “neither the interests and rights of the individual nor those of minorities can supersede those of the ethno-national community.” (Smilova, 2021) “The society that Orbán proposes with his social contract is, therefore, one that goes beyond the model based on the rule of law and protection of minorities to embrace instead one based on ethnonational majoritarianism.” (Martijin, 2020) The fantasy is a homogeneous Hungarian society merged on an ethnic basis, supposedly sharing the same values as the leader’s: devotion to God, patriotism, the cult of the traditional family and ‘honest’ work. Forgetting how in a democracy, the civil society is by nature diverse and ethnically heterogeneous. Indeed, it is on this majoritarian social stratum that Orbán insists, using it as a rhetorical expedient to delineate the distance between his self-described ‘Christian democracy’ model and liberal democracies: «the individual’s appeal to freedom must not override the interests of the community. There is a majority, and it must be respected, because that is the essence of democracy». (Orbán, 2014) The false idea of the ethnically homogenous people, bearer of sound values, has been accentuated by the 2014 migration crisis, with a significant identity turn portraying the “true Hungarian people” fighting for its survival against its antithesis, the anti-people. The anti-people is a constant threat embodied in a series of external or internal enemies identified each time by Orbán himself. The enemies are usually stigmatised groups, such as the ruling class, the elite, but as well as the European Union, foreigners, and Muslims, suspected of being Islamic terrorists. This rhetorical ploy is the classic populist dis-

course claiming a fundamental antagonism between a small elite, supposedly corrupt and defending its specific interests, plotting against the weakest provided by representative democracy, which is charged with producing only corrupt establishments and distant from the people. On the other hand, the "true" people, embodied by the leader, is represented as oppressed and harassed but virtuous, healthy bearers of truth, and concerned for the common good. The anti-establishment charge is the spirit of populism, while direct representation is its nature. (Urbinati, 2020) Orban populist regime then come close to those forms of political religion in which the leader speaks for – and embodies – the (own) people, which often becomes synonymous with the nation and results in radical nationalism, resulting also in sovereignism. Sovereignty and the people's will would then be limitless and cannot be opposed by other powers. Political sovereignty does not accept that certain powers are delegated to supranational bodies as the citizens do not elect them; political legitimacy, therefore, belongs exclusively to the nation-state being the only level where the popular will is realised through elections, regardless of whether these are fair or not. (Knight, 2021) Ryszard Legutko, a Polish national conservative philosopher and politician, stated: "The nation and, by extension, the nation-state become expressions of freedom, leading to the radical conception that any ideology claiming to transcend nationalism is inimical to freedom and, therefore, totalitarian." (Legutko, 2020) The same tenor is discernible in the words of a leading intellectual in Orbán's circle, András Lánczi: "The nation is not a political concept in Eastern Europe as it is, say, in the United States. The nation is the highest expression of the sense of belonging, a sense of freedom, defending the roots of a culture [...]". (Lánczi, 2007) The conservative discourse in Central and Eastern Europe has historically prioritised national security, first identifying com-

munism as an existential threat and then liberalism and integration into the European single market. The theme of sovereignism is undoubtedly a flagship of illiberal rhetoric. In the ideological return to Westphalian, or so-called 'classical European values', there is also a defence of the institutions of modernity that are inseparable from the nation-state and its classical rationality. Contrast this with contemporary postmodern values that herald the overcoming of the nation-state. The Hungarian turn to an illiberal state founded on an etnonational majority is "the Western world's larger shift toward identity politics". (Dreher, 2021) As anticipated, the clash between illiberal and progressive liberal builds in a dual manner, stemming from the crisis of identities and the search for new alternative forms of identity. (Gray, 2018) Indeed assumptions and methodologies to determine the target community are very different, so while on the one hand, we have the far right focusing on the working class and the supposedly indigenous population, the liberal progressives focus on ethnic and sexual minorities. Also, their ontologies are different; biological assumptions predominate on the right spectrum, while on the left social constructivism, is an abstract confrontation between "being" and "becoming." (Gray, 2018) Illiberalism purports to stand as an alternative to post-modernism, but in a completely inadequate way, failing to develop a clear and coherent ideological alternative to liberalism that would shape and guide its development. From the identity crisis and the nativist identity, politics shift, and a form of cultural war emerges, with this term gradually gaining ground in scholarly analysis, especially regarding the post-Soviet space. (Isaacs, 2022) It refers to a conflict over values and morality but strictly understood in a dichotomous way, in this case takes the form of liberal progressive vs illiberal conservative. Illiberal leaders consider the classical liberal values as betrayed by the political agenda of 1968

and the later society characterized by the collapse of ideologies and the spread of postmodernism as the official paradigm of our contemporary times. "They denounce, to varying degrees, what Yascha Mounk has termed "undemocratic liberalism," i.e. minoritarian technocratic liberalism or the political, economic, and cultural liberalism embodied by supranational institutions, globalization, multiculturalism, and minority-rights protections." (Mounk, 2018) The identity polarisation thus appears in two variants shaping the sides of the so-called cultural war, on the one hand, the return to the nation-state and communitarianism, and on the other, the tension towards an increasingly open and globalised society. They are two different social models; however, both produce a high level of discontent for different population groups precisely because the concern for universalism is lacking in both. Instead, they produce a partisan identity war that deeply marks this phase of history. Orbán's illiberalism capitalizes on this cultural and identity war, emphasizing the clash between individuals fully integrated into postmodernity and those rejecting it in favor of traditional values and norms.

Some tangible examples of this cultural conflict can be seen in the shrinking of media pluralism, the relocation of the Central European University from Hungary, as well as from the perspective of the social contract, national welfare contracts are being rewritten along ethnic, religious, and gender lines. Therefore, as explained by Philipp W. Gray, the identity crisis is shaped by totalising political thinking, which claims to explain reality exclusively through its lens of understanding. Both narratives believe that people apart from those favoured lacks to observe society objectively. The result is an all-pervasive polarisation of thought that forces the electorate to take a radical stance. Gray's article cited here referred to the US situation but is very much applicable to the Hungarian as well, or broadly

speaking to the European political situation, and as we have seen, it is especially true also for the post soviet countries. The rejection of a substantive understanding of values typical of liberalism revolves around a solid procedural commitment to "treat everyone with equal respect." However, Taylor foregrounds the relationship between values in multicultural societies; he is not convinced that procedural probity ensures pluralism de facto and not just in the abstract. (Taylor, 1999).

Multiculturalism can also be considered an aspect of pluralism when embraced with tolerance, but not, as Giovanni Sartori writes when it uncritically exalts otherness. Otherwise, it might become a proper ideological project whereby minorities consider themselves the bearers of higher interests than they are. As was demonstrated, this applies to both sides of the so-called ongoing culture war, namely the historical and current degenerations of communitarianism, as well as liberalism, when it finds universalism exclusively in the procedural dimension, often resulting in forms of legal particularism. (Sartori, 2000).

## 8. *Conclusion*

The fil rouge of the paper sought to expose both Orbán's false communitarianism and the often-questionable positions of the mainstream socio-political model of liberal democracies with an individualistic matrix, as both arise rhetorically through a Manichaean dialectic. Moreover, the political discussion centred on culture war is often a mask for a more profound and widespread economic insecurity that should receive greater account when fighting right-wing illiberalism and populism. For instance, "offering new forms of redistribution and a progressive narrative identity to reintegrate the

victims of economic shocks into mainstream politics". (Mondon, and Winter, 2020). "If we are to fight reaction, racism and the resurgence of fascist politics, we must challenge the mainstream and liberalism and open up to radical progressive alternatives, if only as a corrector to the status quo, something the mainstream elite no longer even seem to be open to." (Mondon, and Winter, 2020) They would much rather, it seems, position the illiberal or populist far right as the only alternative to liberalism instead of risking radical progressive change. This is a perilous gamble as we witness the opposition to fascism and reaction waning due to decades of mainstreaming. Thus this research is an invitation to open up a discussion that is still in its infancy and with which contemporary political philosophy should seriously confront itself, that of the individual clashing with the community. Understanding the individual subject is neither a separate atom nor an atom of a collective. A community limiting the participation and expression of one of its members deprives the person of a fundamental quality, such as freedom.

Conversely, he/she could not be truly free if removed from the community context but would be an omnipotent individual in the abstract and powerless in the concrete. Therefore, false communities, be they bureaucratised collectivism or forms of majoritarian ethnonationalism, as in the case of contemporary Hungary, as pathological forms of communities, are more dangerous than atomised individualism. However, through the exercise of rationality and sociality in the community, the only place where both are possible, the philosophical and real foundations are laid for an authentic and concrete universalism that is neither abstractly cosmopolitan nor imperialistically imposed but authentically emancipatory. For this purpose, both individual freedom and every man's communitarian solidarity are necessary.

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# An Overview of the Rise of Illiberal Democracy in Poland and the Differences in Illiberal Policies in the Czech Republic and Slovakia

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**Abstract.** This chapter examines the development of the phenomenon of illiberal democracy in Poland, the Czech Republic and Slovakia. The popularity and the dangerously swift propagation of the phenomenon across the above-mentioned countries threatens the economic, political and cultural stability of the European Union (EU). The chapter argues that the different illiberal stages the three countries find themselves at are closely related to country-specific historical and political circumstances. These countries all belong to two organisations, each with a potentially conflicting *raison d'etre*: the Visegrád four (V4) group and the EU. The regional and supranational alliances are perceived as essential in avoiding marginalisation at the regional and European levels. If illiberal regionalism is pursued, the Czech Republic and Slovakia risk alienation within the EU. The same could occur if Europeanism prevails, as there would be a potential danger of a rift developing among the V4 group, which could undermine regional cooperation.

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**Keywords**: Illiberal Democracy; Illiberal Policies; Visegrád Group; East Central European Countries; European Integration Project.

## 1. *Introduction*

In this chapter an analysis of the illiberal developments in the other three countries of the Visegrád group (the fourth being Hungary), namely Poland, the Czech Republic and Slovakia, is carried out, highlighting the country specific nuances and advancements of the illiberal project.

Firstly, an overview of what has been assessed as an emulation of Hungary's model by the Polish Law and Justice (PiS) government which publicly announced its intention to build Budapest in Warsaw (Buckley and Foy, 2016), is given. The subsequent passage deals with the way in which the stated goal is achieved. Firstly, it gives an introduction of the governing party's establishment and ideological development from a liberal-conservative ideology to a right-wing one. It continues with the analysis of the context and the populist and nationalist rhetoric employed by PiS in order to gain popular support and win the parliamentary elections of 2015. In particular, the migration card within the refugee crisis context proved to be successful in securing wide popular endorsement for PiS as it did in Hungary for Fidesz because of the high politicisation of the issue. The focus is on areas in which the Polish government intervened with illiberal practices, namely the judicial and media systems, and rights of minority groups. In regard to the latter, discrimination and instrumentalisation of refugees in the context of the 2015 refugee crisis and the homophobic discourse against LGBTQ+ people, are discussed. Illiberal practices in these areas show that Poland has willingly

followed Hungary's path in building an illiberal state through constant and persistent endorsement of illiberal politics.

The chapter continues with an examination of the illiberal status of the other two remaining countries of the Visegrád group: the Czech Republic and Slovakia. In regard to these two countries, rather than an illiberal turn, an illiberal swerve is observed, given the moderated approach and scepticism they have shown towards Orbán's project of illiberal democracy, without at the same time distancing themselves too much from what they see as an important regional cooperation. Particularly, illiberal activities have emerged in relation to the 2015 refugee crisis and the LGBTQ+ community, showing a consistent pattern among the four East Central European (CEE) countries. Nevertheless, despite the fact that both the Czech Republic's and Slovakia's incumbent governments are conservative and soft Eurosceptic, they tend to be more inclined towards the EU's integration project, rather than Orbán's, which they see as a domestic policy instrument serving Hungary's own interests.

## 2. *Poland's illiberal transition: an emulation of the Hungary's model*

Hungary's model of illiberal democracy has been exported to other CEE countries which aspire to establish the same form of government for themselves. A case in point is Poland, a central European state which has been experiencing a democratic erosion after being a healthy and sound democracy for more than three decades (Drinoczi and Bień-Kacała, 2019, pp. 1140-1166).

The PiS party has clearly expressed the intention of emulating Orbán's anti-liberal path as far as possible (Drinoczi

and Bień-Kacała, 2019, p. 1148). The illiberal ambition can be summed up by the phrase «we will have Budapest in Warsaw» (Buckley and Foy, 2016), announced by the party leader, Jarosław Kaczyński, in 2011, a year after the sweeping victory of Fidesz's party in the elections of 2010 (Buckley and Foy, 2016). The success of the Hungarian governing party based on practices of illiberal politics pursued the populist parties in the region to endorse this type of political system through a «copy-paste activity» (Drinoczi and Bień-Kacała, 2019, p. 1148). In fact, not only had the Polish government used the migrant card in order to gain popular support in the elections of 2015, but it had also followed the same path of neutralisation of the checks and balances, media centralisation and discrimination against minority groups (Shattuck, 2016, pp. 173-184). This took place through the adoption of legislative measures and by reinterpreting existing constitutional provisions in a way that would better serve PiS's purposes. Moreover, the practical changes would be accompanied by a narrative based on nationalism and the primacy of the Christian values of the Catholic Church (Khoma, Vdovychyn, 2021, pp. 58-71, p. 68). The general pattern of liberal regression would be endorsed by the judiciary already fully packed with pro-PiS allies (Dixon, D. Landau, 2019, pp. 489-496).

The occurrence of these transformations which undermine the liberal model of democracy have been accounted for by the gradually deteriorating country's scores in several Freedom House reports. For example, as stated in the organisation's Nations in Transit 2022 Report, Poland is a semi-consolidated democracy (Freedom House, 2022). The country lost its consolidated democracy status to a semi-consolidated one in 2020 (Freedom House, 2020). Nevertheless, the democracy score started to gradually and persistently deteriorate from 2015 onwards, when it was 79.76 (Freedom

House, 2015), until dropping to 58.93 percent (Freedom House, 2022) in 2022. In addition, according to the Freedom in the World 2022 Report, the restrictions on political rights and civil liberties have been increasing over the years as well (Freedom House, 2022), resulting in a further deterioration of the democratic climate.

The fact that the above-mentioned report still regards Poland as a free country, unlike Hungary which is partially free, shows that the country is still undergoing its illiberal transformation process. On the contrary, in Hungary, the government is well beyond the transformative phase, having already consolidated the process. It is true that the PiS populist conservative party came to power five years later compared to Fidesz. Therefore, it had less time to put into practice such major changes. However, this is not the only reason for the still ongoing illiberal transformation of the country. For instance, there are substantial differences between the two states. In Poland the opposition is much stronger, thus making the ruling party's job of realising the illiberal project much more difficult (Drinoczi and Bień-Kacała, 2019, p. 1146).

In fact, the 2019 parliamentary elections resulted in a divided Sejm, the Polish two-chamber parliament, putting at risk the ruling party's dominance (Stegmaier and Marcinkiewicz, 2019). In Hungary on the other side, because of Fidesz's large majority, parties of the opposition are merely considered or included in the legislative and decision-making processes. In fact, in Poland, since the party does not have this supermajority, it acts through practices of reinterpretation of the national Constitution and the EU law (Drinoczi and Bień-Kacała, 2019, p. 1146), two core landmarks of fundamental principles underlining the country's political, social and civil organisation, by challenging their legitimacy. In spite

of these dissimilarities, the steps taken by the Polish ruling party are following an illiberal path which can be fully recognised in Hungary's governing party, the forerunner and trendsetter of the illiberal state project in the region, and Poland has been so far quite successful in emulating it.

## 3. *The 2015 elections: the beginning of the building of Budapest in Warsaw*

In the Sejm elections of 2015, PiS arrived first by winning the elections with 37.5 percent of the votes which resulted in the allocation of 235 seats for the party out of 460. Such an absolute victory was not seen since the 1989 political change in Poland (Stepinska, Lipiński and Adamczewska, 2019, pp. 143-164). Therefore, the elections saw the establishment of a strong single party government. The victory enabled the return to power of PiS after having had already ruled the country in 2005 in coalition with other two parties. The year in question was crucial for the victory of 2015 in terms of helping the party to secure positions of power in the government. In 2005 both presidential and parliamentary elections were held and they translated in a double win for PiS. In addition to the party's victory, there was the presidential victory of Lech Kaczyński, the founder of PiS and the presidential candidate (Bafoil, 2021, p. 57) in the run-off. The following year Jarosław Kaczyński, also founder of PiS, became prime minister. As a result, the two key offices in Poland were held by the Kaczyński brothers (Folvarčný and Kopeček, 2020, pp. 159-188).

The identical twin brothers, Lech and Jarosław Kaczyński, established the PiS (Prawo i Sprawiedliwość in Polish) party in 2001 (Pytlas, 2021, pp. 340-353). The party emerged from the

Center Alliance (Porozumienie Centrum, PC) anti-Communist movement, politically engaged already in the 1990s (Jasiecki, 2019, pp. 130-153). The movement was seeking a radical change of the country through the establishment of a democratic regime based on the Western tradition with a special emphasis on Christian values (Jasiecki, 2019, p. 131). The initial political milieu of the movement mirrors the pro-Western rhetoric of the early years of PiS. At the same time its conservative nature was already rooted in the party's ideology. The name of the party in fact reflects what was the original agenda of PC, eliminating corruption and establishing law and order after the Communist rule. The focus on these two issues was closely related to the office of Minister of Justice held by Lech Kaczyński from 2000 until 2001 (Pytlas, 2021, p. 341). Over the years, after becoming a well-established party, PiS increased its conservative rhetoric.

After the elections of 2015, it enhanced its rhetoric with a populist narrative which followed the pitting of the pure and benevolent people against the corrupt elites threatening the uniform nation with the different other. The values of the Catholic Church and the identity of the Polish nation were portrayed as the main targets and potential victims of negative and corrupting influences. The elites responsible for the threats were none other than the left wing and liberal parties, imbued with principles such as liberalism and multiculturalism (Pytlas, 2021, pp. 341-342). This shift to a more national populist rhetoric «à la Fidesz» (Szabo, 2020, pp. 24-42) translated into a focus on the voters who were disappointed and dissatisfied with the performance of the incumbent. These voters were portrayed as economic and social outsiders, victims of the current liberal democratic system which has clearly failed to represent their interests and needs (Szabo, 2020, pp. 24-42). In line with the populist narrative, and while still

conserving the right-wing orientation, the party would present the newly elected prime minister at the time, Beata Szydło, as a leader of the people, ready to help them and further their interests, rather than the elites. This Manichean view of society continued to be displayed by the prime minister, Mateusz Morawiecki (Szabo, 2020, pp. 24-42).

The metamorphosis of PiS and its subsequent way of putting into practice illiberal politics are in line with the project of building Budapest in Warsaw. Already after two years of ruling, Freedom House assessed that «in 2017, Poland's democratic institutions, under the virtually unchecked control of PiS party leader Kaczyński, came close to a point of no return in straying from democratic norms» (Freedom House, 2018). The government's undermining of the rule of law went on with the capture and neutralisation of the Polish Supreme Court and the judiciary. Public media was also seized under the party's control. The primary reason for the reformation of the country's main checks on the incumbents and the control over the media was the fact that the existing «sick» (Szabo, 2020, p. 34) system needed to undergo a process of «decommunisation» (Szabo, 2020, p. 34) through the removal of the «post-communist elites» (Szabo, 2020, p. 35).

If this was pretty much what happened in Hungary in terms of securing power through the weakening of the checks and balances, there are some small differences in regard to the scapegoats used in the Polish nationalistic discourse. In addition to the anti-Brussels attitude, an anti-German and anti-Russian stance would be employed within the framework of national victimisation as a way of gaining popular support and in the attempt of creating greater closeness with ordinary people who have suffered injustice. It is worth specifying that the anti-EU sentiment is not as aggressive and strong as the one in Hungary. It is mainly the European elites who repre-

sent a threat to the national identity and not so much the EU as a whole. The national threat is directly connected to the refugee crisis which the PiS party did not hesitate to instrumentalise in its own favour just as Fidesz did in Hungary. The building of Budapest in Warsaw is therefore taking place through similar practices. Nevertheless, it is important to acknowledge some essential differences between the two countries. These divergences originate from well-known historical circumstances. For instance, the attitude towards Russia substantially differs. While Orbán has always regarded its bilateral relationship with Russia as strategic for economic growth and power in the region, Poland has had an ambiguous one (Szabo, 2020, pp. 36-37). Moreover, in regard to America, Hungary-USA relations fluctuate between ups and downs, whereas Poland is a firm partner of America in «fostering security and prosperity regionally, throughout Europe, and the world» (Szabo, 2020, p. 37).

## 4. *The capture and neutralisation of the primary checks: The Supreme Court and the judiciary*

An independent judiciary lies at the basis of a liberal democracy. It is functional to the democracy's operating, for example, by accounting for the authenticity of the elections or by guaranteeing citizens access to an autonomous court where the judges have been fairly selected. However, when a democratic system lacks the tools for an efficient constitutional check, its judiciary cannot be assessed as independent, and therefore fair and transparent (Wyrzykowski, 2019, pp. 417-422).

Poland's judiciary has been in crisis for a while now, precisely since PiS took grip on power in 2015. The ruling party

started to adopt constitutional changes which threatened the autonomy of the judiciary by intervening in pivotal areas (Nart, 2022, pp. 27-44). Within the first weeks of being in power, PiS replaced five judges of the Constitutional Court and passed the Law on the Status of Judges in November 2016 which had the purpose of regulating the election of new judges. Additionally, the following year a new amendment was introduced. The new provision stripped the National Council of the Judiciary of the authority to designate court judges. This task would instead pass to the lower chamber of the Parliament, the Sejm, where the governing party holds a majority. As a way of ensuring compliance with the new regulations a Disciplinary Chamber, a new chamber to the Supreme Court's organisational structure (Ziółkowski, 2020, pp. 347-362), would be instituted with the purpose of levying corrective punishments on judges who are not complying with the adopted regulations (Nart, 2022, p. 36). Again in 2018, there were other amendments regarding the Supreme Court which reduced the age of retirement for its judges, to 65 and 60 respectively for men and women who previously had to retire aged 70. The provision was made with immediate effect bringing about two essential consequences: the departure of judges from their old positions (27 judges out of 72) and the creation of new posts for judges to be appointed by the ruling party (Ziółkowski, 2020, p. 350).

The adopted provisions regarding the judiciary raised great concerns both nationally and internationally. The EU tried to establish a dialogue with the Polish authorities in regard to the body of laws amending the judicial system. However, the existence of a critical rule of law breach brought the European Commission (EC), on the 20th of December 2017, to initiate the legal procedure provided by Article 7 (1) of Treaty on European Union (TEU), which had no precedent

in Poland (European Commission, 2017). In 2018 on the 2nd of July, as a consequence of the adoption of the retirement of judges' law, the EC started an infringement procedure against Poland (European Commission, 2018). Upon noncompliance with the Commission's repeated appeals, the latter addressed the issue before the Court of Justice of the European Union (CJEU). The Court concluded in its judgement of 2018 that Poland had to comply with the Commission's recommendations which would lead to the removal of the controversial measures (European Commission, 2018). Two further infringement procedures over concerns on the Polish judges' independence took place in 2019 and 2020, respectively which saw the repeated involvement of the CJEU. The latter ruled in favour of the Commission's recommendations. The Court's interim measures provided for the Polish government to immediately interrupt the activities of the Disciplinary Chamber (European Commission, 2019). The Polish authorities have once again failed to comply with the measures. Consequently, the EC has asked the CJEU to levy financial sanctions on Poland. As a result of the Court of Justice's penalties, the Polish government is due to pay one million euros a day for the number of days the interim measures were not adopted. In addition to asking the CJEU to adopt financial sanctions, the EC sent a letter of formal notice to Poland pursuant to Article 260 (2) of the Treaty on the Functioning of the European Union (TFEU) which specifically regulates situations of noncompliance by member states with the Court's provisions (European Union, 2021).

Poland's reply of 8th of November 2021 was under meticulous examination by the Commission (European Commission, 2021). However, the latter concluded that the authorities failed to meet the provisions of the recommendations thus the daily sanction continued, reaching the amount of

325 million euros since November 2021. Additionally, on 17th of October 2022, the Commission confirmed the freezing of billions of euros from the Union's cohesion funds for the 2021-2027 budget time period intended for Poland. The latter is indeed the biggest EU recipient of such funds. The decision will impact negatively those provinces that rely on the EU's aid for their economic and social development which the funds are intended for (Tilles, 2022). However, at the same time the EU cannot turn a blind eye to serious violations of the rule of law. In fact, the preventive and sanctioning tools Article 7 (1) and (2) of TEU equip the Union with, are extremely helpful in dealing with these breaches that threaten its founding values. The preventative measures identify the existence of the breach, while the sanctioning ones can lead to the suspension of large EU funds as a means of protecting the EU budget (Nart, 2022, p. 38).

## 5. *Media system regulations and its erosion through targeted legislative acts*

Concerning transformations of the media system attributable to the ruling party have been taking place in Poland for several years now. The deteriorating situation of the media's independence and pluralism has been documented by authoritative international organisations such as Reporters Without Borders and Freedom House. The former announced last year in September that Poland is in a «press freedom state of emergency» (Reporters Without Borders, 2021) as a result of the PiS's media laws amendments. In its special report of 2017 "Pluralism under Attack: The Assault on Press Freedom in Poland", Freedom House (2017) described the pressure which the Polish media started to face since the PiS party came to

power. The governing party proceeded with the silencing of autonomous voices critical of the government as a way of further compromising the checks and balances.

The process of media polarisation and centralisation began towards the end of 2015, when PiS enacted the Small Media Act. Under this law the treasury minister had the power to select the personnel of public radio and television thus putting the public media under political control. The move was defended by the authorities with the excuse of wanting to strengthen «impartiality, but also to increase the visibility of national values in the media» (Konarska, 2022, pp. 198-216).

Also, in terms of media centralisation, PiS has followed the same path as Fidesz. In 2017, the governing party announced the so-called media «repolonisation» (Brazil, 2022, pp. 88-94), explained as a set of measures which have the purpose of creating a more heterogeneous media landscape with reduced foreign influence (Guzek and Grzesiok-Horosz, 2022, pp. 1245-1262) because «a self-respecting nation and a self-respecting people cannot allow most of its media to be in foreign hands» (Santora and Berendt, 2019). This process began on 7th of December 2020, when the state-controlled oil refiner and petrol retail company PKN Orlen purchased Polska Press from the German-owned firm Verlagsgruppe Passau (Guzek and Grzesiok-Horosz, 2022, p. 1252). The acquisition of Polska Press represented an essential move in terms of media subjugation because the company possesses 20 regional daily newspapers, 120 weekly magazines and 500 online portals nationwide (International Press Institute, 2021). The amendment aimed to prevent enterprises without majority ownership from within the European Economic Area (EEA) from obtaining a majority stake (50% or more) in the Polish media. The law is also known as the TVN Lex because the original target of it is the TVN Group, a Dutch owned enterprise

which is a subsidiary of Discovery. After being adopted in August 2021, the law was vetoed in late December 2021 by the President, Andrzej Duda. The rejection of the law represented a hindrance in the party's plan to restrict and limit media plurality. However, at the same time it prevented the emergence of a conflict with the United States, a key economic and military partner for the central European country (Chapman, 2022).

## 6. *The 2015 refugee crisis: a country divided between right-wing nationalism and liberal democratic values*

The refugee crisis which began in 2015 brought about great uncertainty in regard to its length and especially its political, social and economic implications for the European society. The uncertainty surrounding the crisis, at the same time, created the perfect conditions for its consequences and effects to be shaped by the media, political parties, and civil society groups (Greussing and Boomgaarden, 2017, pp. 1749-1774).
For Poland, 2015 was an eventful year for two significant reasons: the presidential and parliamentary elections. It goes without saying that the crisis was highly manipulated by the political milieu, and the coming to power of the right-wing populist Law and Justice party had clear implications for the way in which the crisis would be handled. Ahead of the parliamentary elections, the refugee crisis and with it, topics such as Muslims and Islam, were in the spotlight of the political debate (Narkowicz, 2018, pp. 357-373). The political campaign represented the climax of the xenophobic discourse, portraying migrants as an Islamic threat to a Christian Europe. Moreover, when the EU proposed the relocation scheme as a means of allaying the burden of the southern Eu-

ropean countries and to fairly resettle migrants among the EU members (Council of the European Union, 2015), Brussels also became the enemy. The latter was depicted as a ruthless authority forcing Poland to welcome what the country regarded as economic migrants and not refugees in need for real help. According to the Polish government the EU had to implement a better system capable of assessing who actually required assistance, without letting everyone to cross its borders with the risk of attracting even more immigrants (Cienski, 2015). The chairman of PiS who had controlling power both over the President and the government (Krzyżanowski, 2017, pp. 1-21), even stated that certain existing bacteria in the bodies of refugees were harmful for the Polish people and more generally for Europe's citizens (Klepka, 2018, pp. 59-68). The Minister of Foreign Affairs at the time, Witold Waszczykowski, proposed that the refugees arriving in Europe instead of being granted protection should be militarily instructed so they could return to Syria and liberate the country (Pedziwiatr, 2016, pp. 425-441). As a result, the newly elected government rejected the scheme, to which the previous cabinet of Donald Tusk (member and leader of the Civic Platform Party, Platforma Obywatelska in Polish) agreed.

PiS continued to fuel the public hostility against refugees, speaking about a «Muslim invasion» (Narkowicz, 2018, p. 358) where refugees were nothing more than terrorists hiding under the name of migrants. However, the threat the government was talking about did not even come close to reality. The estimated population of Muslims in 2016, due to the sharp reduction of migrants arriving in the continent, was around 35 thousand. One must consider that the number is to be compared to the 38 million people living in Poland, thus it is equivalent to less than 0.1 percent of the total num-

ber of inhabitants. Nevertheless, because of the government and pro-PiS media propaganda and exaggeration of the numbers of incomers, the population had a different perception, thinking that the Muslims made around 7 percent of the total population (Narkowicz, 2018, pp. 358-360). In fact, when the crisis started, 310 applicants were granted refugee status, out of 8340 applications. The striking fact is that Russians accounted for the biggest number of applicants, followed by Ukrainians and Georgians. There were 265 Syrian refugees, of which only 30 were granted refugee status (Asylum Information Database, 2015).

So far, it is clear that the Polish government has used the same strategy to gain popular support as the Hungarian government, presenting migrants according to a narrative in which they are the terrorist enemies of the nation the government is preparing to defend. But in order to do so, the government needs all the solidarity and support it can get. This is where the difference with Hungary comes in, namely the support of the Catholic Church. In Poland, the latter has always been very politically involved and present in important decisions of the state such as the abortion law. It is worth noting that the Polish Church is a divided one. On the one hand, there is the progressive Catholic movement that propagates liberal ideas, for which it is sometimes criticised by the Polish Catholic Church itself and is also involved in worldly debates with the left. This is because the Catholic Church in Poland was involved in the democratic struggle against the authoritarian communist rule (Narkowicz, 2018, p. 362). Subsequently, the victory of the Solidarity movement (Solidarność) of Lech Wałęsa (Osiatynski, 1994, pp. 40-46), morally supported by the Church, was a victory for the Church itself. This part of the Church is the one that has had a benevolent attitude towards refugees, also following the Vatican's instruc-

tions, namely welcoming and helping those in need. In regard to the crisis, Pope Francis stated that «everyone, without exception – dioceses, parishes, institutes of consecrated life, associations and movements [...] are called to welcome the brothers and sisters fleeing war, famine, violence and inhumane living conditions» (Brockhaus, 2016).

On the other hand, there is the so-called «closed Catholicism» (Narkowicz, 2018, p. 362). It is a prominent and quite large traditional right-wing movement that has close ties with PiS, sharing a common ideology with it. This strain of thought in the Church has been accused of racism and antisemitism on numerous occasions. One of its public and well-known figures is the priest Rydzyk, who is also the founder and head of the Radio Maryja Station. The radio station is used as a means of political propaganda and to disseminate racism of which Rydzyk has been repeatedly accused. For example, he critically attacked the construction of a museum in memory of Polish Jews, stating that it would have been more appropriate to allocate that money to invest in Polish history, thus negating an important part of the country's past that also includes the Jewish community. On a different occasion involving a religious gathering in Brazil he mocked a black priest by stating that the clergyman in question was dirty with reference to the colour of his skin. The government enjoys the help of this part of the church in spreading hate speech and realising its political agenda. The religious endorsement is of pivotal importance in this case, given the fact that in 2016 the percentage of Catholics in Poland amounted to 97.6 percent of the total population (Holy See Press Office, 2016). Now it is true that not all Polish Catholics identify themselves with this part of the Church. Nevertheless, in 2011 the percentage of population listening to the Radio Maryja station amounted to 15 percent with the station reaching more than 1.2 million

listeners every day (Narkowicz, 2018, p. 362). Moreover, in 2015 at the onset of the refugee crisis between 2 and 5 percent of the population declared themselves in favour of refugees to enter the country (Buchowski, 2017, pp. 519-523). Although the Church's involvement in the secular debate in Poland is not new, its siding with the incumbents is. The occurrence raises questions about the threat the political propaganda of such a powerful institution poses to the political and social stability of the country.

## 7. *Political homophobia against minority groups: discrimination against the LGBTQ+ community*

According to the 2022 "Country Ranking" report of Rainbow Europe (2022), an EU co-founded advocacy group mandated to represent the rights of the LGBTQ+ community, Poland is the worst country in Europe in terms of violations of rights of LGBTQ+ people. Also, Freedom House (2022) in its 2022 "Nations in Transit" report concluded that the quality of democracy in Poland had been deteriorating since 2015 as a result of the ruling party's policies and more generally the political stance. Among the areas affected are the rights of minority groups such as the LGBTQ+ community, against which discrimination persisted at «all levels of Government» (Freedom House, 2022).

Both national and local authorities engage in hate speech and discriminatory acts against the community. For example, in 2019 municipalities in Poland began to enact legislative measures aimed at creating «zones free from the gender and LGBT ideology» (Dutra Santo, 2020, pp. 1-12). By 2020, 104 administrative areas among which cities, municipalities and voivodships (the largest type of Polish administrative zone)

legislated the establishment of these areas. The consequence was the emergence of 30 percent of the Poland's territory in a «LGBT-free zone» (Dutra Santo, 2020, pp. 1-12). Following protests across the country and the involvement of the Polish Commissioner for Human Rights, the provisions were abrogated the same year. Nevertheless, their implementation was dangerous, as it created a precedent for further discriminatory developments against the LGBTQ+ community. At the national level, the government has been openly using homophobic language and illiberal rhetoric in regard to the LGBTQ+ minority. Anti-LGBTQ+ sentiments have almost been employed as a means of power legitimisation, additionally supported by the right-wing conservative traditionalist part of the Polish Catholic Church underlining the threat LGBTQ+ people pose to the moral and Christian values of the society (Barczyszyn-Madziarz and Norström, 2020, pp. 1-17). For example, the Archbishop of Kraków, Marek Jędraszewski in 2018 spoke about a «rainbow plague» (Szczygielska, 2020) afflicting the Polish society. This public statement was not questioned or challenged by the local or national authorities which is in line with the government's propagated homophobic views (McMahon and Niparko, 2022, pp. 1355-1376). At the dawn of the presidential elections of 2020, President Duda followed this conservative trend by signing a so-called "Family Charter". The Charter includes provisions on the opposition of gay marriages, the prohibition of adoption for same-sex couples and finally the interdiction of disseminating information on LGBTQ+ identity in public institutions (Walker, 2020). Furthermore, in 2020 the Polish ruling authorities communicated the intention to pull away from the Istanbul Convention. The announcement was made by the Minister of Justice, Zbigniew Ziobro, who justified the decision as a way of eliminating unnecessary documents that

contain «elements of an ideological nature» (Szczygielska, 2020), making reference to the definition the Convention gives of the concept gender. Specifically, it defines gender as socially constructed (Council of Europe, 2011). The withdrawal from the Convention would represent another huge step back in democratic inclusiveness, accountability and more specifically a defeat in respect of advancement for the protection of human rights.

## 8. *Slovakia and the Czech Republic: an illiberal turn or swerve?*

The democratic erosion taking place in East Central Europe generally refers to the four Visegrád countries, Hungary, Poland, the Czech Republic and Slovakia. While Hungary, the trendsetter of the illiberal model, is being literally imitated by Poland, the same cannot be stated about the Czech Republic and Slovakia. The reasons behind the less successful advancement of Orbán's plan of having the illiberal state project adopted by other countries in the region could both concern the role these two countries see for themselves within the V4 group, but also in the context of the EU. As a result of the degree with which Fidesz's illiberal democracy is being carried out by the Czech and Slovak governments, it is more appropriate to talk about an illiberal swerve than an illiberal turn in reference to these two countries (Bustikova and Guasti, 2017, pp. 166-176).

As mentioned above, both the role of the V4 group and the EU are pivotal in either allaying or intensifying the likelihood of the Czech Republic's and Slovakia's illiberal turn or swerve. In regard to the former, the official relationship between the four countries commenced in 1991 as a way of leaving behind the Socialist era and starting a new European one

(Scott, 2021, p. 1). The group was initially established by Hungary, Poland and at the time Czechoslovakia on the basis of the friendly relationship between the Polish and Czech Presidents Lech Walesa and Václav Havel, respectively, and the Hungarian Prime minister Joszef Antall, thus forming a three-state alliance (Skóra and Skrzypek, 2018, p.8). Czechoslovakia's dissolution in 1993 resulted in a group of four with the newly independent countries of the Czech Republic and Slovakia. The regional cooperation was believed to lead to a break with the historical antagonism in the region. In addition, the final objective was to be part of the European integration project, since the V4 group strongly thought itself to belong to the European family, historically, culturally and intellectually (Skóra and Skrzypek, 2018, p. 4). In 2004, when the Central and Eastern European bloc of ten countries joined the EU, the goal was successfully achieved (European Commission, 2004). In the first years of EU accession, the V4 countries were very active in sharing knowledge, experience and expertise in regard to EU matters, as a way of helping each other to catch up with the other EU Member States. The presidencies of the Czech Republic in 2003-2004 and 2007-2008 have specifically focused on regional cooperation with priorities regarding the European future and the implications it had (Visegrád Group, 2003, 2007). From the Czech perspective, at the beginning, the alliance represented a way of sharing and coordinating regional political and economic goals with its V4 allies. Nevertheless, in the last few years, as a result of Hungary's and Poland's illiberal turn, the country has tried to distance itself from the controversies between the two «troublemakers» (Balfour et al, 2016, p. 18) and the EU, by keeping quiet about the illiberal developments and practices adopted by the Fidesz and PiS ruling parties (Skóra and Skrzypek, 2018, pp. 10-12). The country has even tried to pre-

sent itself as a mediator between the EU and the two «enfants terrible» (Bakke and Sitter, 2022, pp. 22-37). Nonetheless, the role of a real conciliator is more suitable for Slovakia which can be considered «one of the most deeply integrated» (Skóra and Skrzypek, 2018, p. 24) state among the V4 group.

As for the Czech Republic, the Visegrád partnership, was also initially seen by Slovakia as a way of achieving the dream of European integration. The more so, as it has been slower in the EU integration process as a result of the poverty and poor economic performance characterising the country in the 1990s (Binev, 2022, pp. 1-38). Its transition to a capitalist economy was being slowed down under the autocratic government of Vladimír Mečiar who served as prime minister from 1990 until 1998 (Wemer, 2014, pp. 96-112). The years of Mečiar's premiership had an impact on the way in which the society mobilised for the European future. The increasing anti-Mečiar sentiment led to his replacement by the liberal-conservative Mikuláš Dzurinda under whose ruling Slovakia joined both the EU and the North Atlantic Treaty Organisation (NATO) (Nemčok and Spáč, 2019, pp. 241-264). Against this backdrop, Slovakia proved to be a sound supporter of the Visegrád cooperation during the first years of the alliance's establishment, which in the country's view, played an essential role in «catching up with the integration train» (Skóra and Skrzypek, 2018, p. 24). This approach towards the V4 group continued over the years. However, the interests of the regional cooperation were always subordinated to the European ones. The former Slovak prime minister Robert Fico has always maintained that Slovakia belongs to the EU. The premier made it clear that he was aware of the consequences the membership entails. However, he was ready to suffer those consequences (New Europe, 2017). The same EU stance has been emphasised also by the politician and diplomat Ivan

Korčok who served as Minister of Foreign Affairs from 2020 to 2021. In regard to the Hungarian and Polish illiberal developments, Korčok stated that «if [we should choose between] the European Union or V4, then I say now without any hesitation – the Union. [The] V4 is only a pragmatic instrument. When and where it suits us all, we are trying to increase our weight and influence» (Skóra and Skrzypek, 2018, p. 26). Therefore, the cooperation within the Visegrád group is beneficial as long as it does not hinder the goal of deeper European integration. This pragmatic approach was brought about by Slovakia's fear of marginalisation, the same reason for which the country joined and enthusiastically supported the V4 cooperation. Nonetheless, if a situation arises where the country has to choose between a regional and a European alienation, it is more likely for it to opt for the lesser evil, the former one.

As a matter of fact, both the low institutionalisation in terms of a formal administrative structure and the differences among the Visegrád group countries make it simpler for its members to put their national interests above the group's pursuits without hesitation. In fact, the members share divergent views on various salient matters. For instance, there is the role of Russia and Germany differently perceived by the four countries. In regard to the former, there is Budapest which has been trying to preserve its good relationship with Moscow, whereas Poland for historical reasons has always been sceptical and critical of Russia (Skóra and Skrzypek, 2018, p. 38). Even in the context of the current geopolitical events involving the unjustified and unprovoked Russian aggression against Ukraine, Budapest did not adopt a strong and well-defined position against Moscow. The Fidesz government has been very critical of Brussels asking the EU to stop adopting sanctions at the dawn of the adoption of the

seventh package on 21st of July (European Union, 2014) and make more efforts in trying to negotiate the end of the war (Brzozowski, 2022). This view was not shared by Slovakia, the Czech Republic and Poland which supported the EU in sanctioning Russia.

In regard to Germany, the Polish government, however, does not see eye to eye with the German government, often criticised for its ambiguous stance towards Russia. At the same time, although both the Czech Republic and Slovakia suffer from the potential handicap of being a small country, they tend to admit and acknowledge Germany's role as a superpower and the duties and responsibilities the position implies.

Another point where the V4 group's views clash is in regard to the EU integration project. As it has been shown above, especially Slovakia and the Czech Republic are more inclined to further participate in it. Slovakia is also the only V4 country which is a part of the Eurozone. At the other extreme there is Hungary which is completely against joining the Euro area. The Czech Republic, on the other hand, is quite open to it, while for Poland it is an inevitable outcome if the government wants to be considered as at the same level as the main EU powers. Moreover, the illiberal transformation taking place in Hungary, and the successful emulation of the model in Poland shifted Slovakia and the Czech Republic further away from the V4 group. The only exception for a united anti-EU stance among the V4 countries was seen in 2015 during the refugee crisis, when all four states refused the relocation scheme proposed by the EU. Slovakia and Hungary even disputed the provision by the CJEU. However, gradually the Czech and Slovak governments have softened their tones and ended up accepting a small number of refugees, making it look like a voluntary decision (Skóra and Skrzypek, 2018, pp. 26-38). In regard to this united mobilisation during the refu-

gee crisis, some scholars talked about «political regionalism» (Scott, 2021, p. 2), understood as a way of putting into practice regional cooperation based on similar interests, identity and geographical proximity (Scott, 2021, p. 2). Nevertheless, the cooperation on such a salient issue was a sporadic event, unseen before and after the refugee crisis. Consequently, it is safe to assume that the desire of Slovakia and the Czech Republic to continue to participate in the European integration project has resulted in a lower appetite for Orbán's model of illiberal democracy. At the same time, a shift towards more illiberal practices in these two countries cannot be excluded. Given the fact that the «populist Zeitgeist» (Mudde, 2004, pp. 541-563) has taken hold in Europe, Slovakia and the Czech Republic have also been experiencing an increase in political actors employing a populist rhetoric. Particularly, the populism that emerged in CEE countries is imbued with «a sense of victimization, economic exploitation, and "moral arrogance" on the part of the West» (Scott, 2021, p. 6). This discourse of victimisation which follows the pattern of depicting the nation as a martyr which suffered injustice from someone outside the nation which in this case is the West, has proven successful in the case of Hungary and Poland. First Fidesz, then PiS have talked about an endangered national sovereignty appealing to the deeply conservative part of the population. Moreover, xenophobia and homophobia are at the centre of the political debates with references to more vulnerable and alienated groups within the society.

Particularly, xenophobic and homophobic sentiments have diverted the Czech Republic and Slovakia from the liberal path. It is still early days to talk about illiberal transformation for the simple reason that in these two countries there have not yet been the drastic changes that can be seen in Hungary and Poland. Both the Hungarian and Polish governments

have made changes so as to retain power for longer. This has been done through the transformation of the electoral system, the capture and neutralisation of the national judiciary, the centralisation of the media system and the oppression of civil society organisations. Such developments have not been employed yet in Slovakia and the Czech Republic, which so far have only seen the rise of discriminatory movements especially against the LGBTQ+ community perceived as a danger for the traditional family. If not contained and tackled properly, these developments can surely be seen as a starting point of a full illiberal transformation of the countries on the basis of the Hungarian model which the Slovak and Czech far-right populist political parties seem to emulate.

## 9. *The emergence of an anti-liberal rhetoric in Slovakia: anti-LGBTQ+ sentiments*

The phenomenon regarding anti-gender sentiments in relation to the rights of the LGBTQ+ community, sexual orientation education, reproductive wellness and gender equity measures have acquired great visibility within the Slovak society involving both local and especially national authorities (Maďarová and Hardoš, 2022, pp. 1-13).

Particularly, the anti-gender and anti-LGBTQ+ sentiments broke out during the refugee emergency that started in 2015. The Slovak parliamentary elections of 2016 thus took place during the crisis. As a consequence, the emergency was used by conservative and right-wing populist parties to enter the Parliament through Islamophobic political debates (Zvada, 2022, pp. 1-13). The leader of the social-democratic party Smer-SD, Robert Fico, at the time prime minister of Slovakia, actively employed an anti-immigrant discourse in his political

campaign. The attacks on refugees focused in particular on those of Muslim origins, thus spreading and fuelling discrimination against the Muslim community (Androvičová, 2017 pp. 39-64). The elections saw the establishment of a four-party coalition government that included two right-wing and ethnonationalist parties, namely the People's Party Our Slovakia (ĽSNS), and the Slovak National Party (SNP). Consequently, the radical right-wing parties of the ruling coalition occupied approximately one-fifth of the one Chamber Slovak Parliament (Kazharski, 2017, pp. 1-27). The refugee crisis thus enabled the far-right to enter the Parliament and carry out a political agenda based on hate speech and discriminatory debates and practices against the LGBTQ+ community. Fico's party, a social democratic one only according to its proclaimed name and the strongest in the parliament, forcefully supported anti-gender and anti-LGBTQ+ mobilisation throughout its mandate (Zvada, 2022, p. 2).

Indeed, in 2015, a referendum which came to be known as the "Family Referendum" for the protection of the traditional family was announced (Rétiová, 2021, pp. 1-25). The referendum was proposed by the civic association Alliance Family which asked the government to safeguard the traditional model of family and also prevent adoptions in the future by gay couples united through marriage which is currently illegal under the Slovak law. The governing coalition of Fico introduced a legislative addition to the Constitution which stated that «marriage was a union between a man and a woman and that such a union was under protection of the state» (Rybar and Sovcikova, 2016, pp. 79-88). The referendum, which ultimately failed due to a low turnout, was specifically targeting the LGBTQ+ minority with the purpose of restricting its rights to marriage and possible adoption of children, which was also illegal in Slovakia (Equaldex, 2022). The political

debate around gender equality rights and the rights of the LGBTQ+ community continued and reappeared in an even more intense way in 2018-2019 in regard to the Istanbul Convention. The Slovak Republic in fact signed the Convention on 11th of May 2011 but has not ratified it yet and continuously rejects it on the same grounds as Hungary, namely because of the socially constructed definition of the concept of gender (Council of Europe, 2014). This general anti-gender sentiment was widely endorsed in terms of moral and financial support by the Slovak Catholic Church (Zvada, 2022, p. 2) whose followers amount to 62 percent of the total population (*Catholic Church in Slovak Republic*, 2022). Moreover, the governments after Fico, who resigned as prime minister in 2018 over mass protests related to the murder of two young journalists who were investigating and writing about corruption and fraud involving Slovak businessmen (Shotter, 2018a), were quite conservative. Particularly the ones ruled by Igor Matovič (2021-2021) and Eduard Heger, who served as prime minister from April 2021 to May 2023, are «Slovakia's most culturally conservative [governments] since the second world war» (Maďarová and Hardoš, 2022, p. 3). As a matter of fact, from 2018 until 2021 over 20 legislative acts against abortion were submitted by the National Council, the Slovak Parliament. For example, in 2021 the parliament proposed a law named «a bill on the protection of pregnant women» (Maďarová and Hardoš, 2022, p. 9). So far none of the laws have been passed, yet they have managed to provoke much public debate and mould people's ideas in such a way that they could see the bills as a solution against the demographic crisis the country is facing due to the low birth rates. In fact, the provisions «were just one vote shy of passage» (Maďarová and Hardoš, 2022, p. 9), meaning that the parties that proposed them have almost succeeded in adopting the laws and

the possibility that they might be reproposed in the future stands.

These developments in Slovakia, crowned by the return of Robert Fico as prime minister in October 2023 (Minder, 2023), which are drawing on the illiberal practices occurring in Hungary and Poland, are still in their early stages, and more importantly they are more contained and moderate in comparison to the Hungarian and Polish ones. The anti-gender sentiments have been, so far, the main link between Slovakia and the frontrunners of illiberal democracy of the Visegrád group. The social and political backlash the LGBTQ+ minority in the country has experienced may represent to some extent a common symbolic mobilisation of the CEE countries against the sense of inferiority towards the Western liberal consensus fostered by the need of the ex-soviet republics to catch up with the EU member states in the run up for the EU accession and later integration. It remains to be seen whether the illiberal swerve represents a pitfall or a further development of the illiberal project Orbán has proudly adopted and which he attempts to share with his regional allies.

## 10. *The Czech Republic's moderate swerve from liberal democracy under Babiš' populist Action of Dissatisfied Citizens (ANO)*

The 2017 Czech parliamentary elections saw the victory of the Action of Dissatisfied Citizens (ANO) party, founded and led by the billionaire Andrej Babiš who consequently became the Czech Republic's prime minister (Hájek, 2017, pp. 275-301). Given the populist nature of Babiš' party, everyone watching the elections and ANO's consequent victory expected the

Czech Republic to completely turn towards the illiberal practices employed by Fidesz and PiS in Hungary and Poland, respectively. Nonetheless, Babiš took a more moderated path. Often referred to as a populist technocrat (Hartnett, 2022, pp. 37-68) and his party as a business-firm party (Hájek, 2017, p. 276), the leader adopted a more pragmatic than an ideological approach (Skóra and Skrzypek, 2018, p. 10). Therefore, the ideological element present in the Hungarian and Polish populist rhetoric did not emerge in Babiš' *modus operandi*, which is that of a businessman. For example, talking to the Financial Times, the head of a think tank which has close ties with ANO declared that Babiš «as a businessman – he has been a manager, and run companies for 25 years – he likes to be the one who makes decisions, but it doesn't mean he is a threat to democracy» (Shotter, 2017b). Moreover, Babiš himself, following the victory of his party, declared that the Czech Republic's place is with the EU, implying that the government does not plan to drift towards the illiberal direction seen in the above-mentioned two Visegrád countries (Shotter, 2017b).

As in the case of Slovakia, the only time when the Czech government sided with its V4 allies on a major issue against Brussels, thus adopting a far-right stance, was in the context of the refugee crisis when all Visegrád countries refused the refugee relocation scheme adopted by the EU (European Commission, 2015). The other controversial issue, which to some extent represents the symbolic glue among the Visegrád countries are the rights of the LGBTQ+ community. However, when compared to Slovakia which is also experiencing a tempered shift from democracy, the discrimination against LGBTQ+ people is lower, with a much more positive attitude of the society towards such minorities. In fact, the LGBTQ equality index of Equaldex, an organisation which provides

information about LGBTQ rights by estimating «the current status [in a specific country] of LGBTQ rights, laws, and freedoms as well as public attitudes towards LGBT people» (Equaldex, 2022), is eleven points higher in the Czech Republic than Slovakia. An important distinction is the law on same-sex marriage. In 2018 the Czech Republic approved a law which allows registered partnership for gay couples. Although adoption is not permitted under the bill, it has won the Czech Republic the title of one of the first and most progressive countries in the Eastern bloc to make such changes in favour of the LGBTQ+ community (Equaldex, 2022). The ex-Communist republics are indeed known for their intolerant attitude towards LGBTQ+ people, as a result of the longstanding oppression of homosexuals on the basis of the alleged mental disorder of these individuals (O'Dwyer, 2018, pp. 892-923).

Furthermore, by analysing Freedom House's "Nations in Transit" reports from 2017 (Freedom House, 2017) until 2021 (Freedom House, 2021), the year when Babiš' government was replaced by Petr Fiala's three-party coalition government, a step back in democratic standards is observed due to various illiberal practices adopted by the Czech prime minister. For example, Babiš was involved in various corruption and fraud scandals regarding state subventions and money from the EU development funds (Tait, 2021) which is ironic because ANO's political campaign in 2017 was an anticorruption one. The scandals brought about mass protests with the participants asking the prime minister to step down (Freedom House, 2021). Additionally, throughout the years in power, Babiš also purchased various newspapers, including two of the most influential and biggest Czech daily newspapers, namely MF Dnes and Lidové Noviny which the premier is known to have pressured into supporting the incumbents.

However, in comparison to Fidesz and PiS illiberal media practices, ANO did not harass the media in opposition and neither did the government achieve the level of media centralisation as in Hungary and Poland. Further illiberal practices employed by the Babiš government revolved around the attempt to cover up wrongdoings in connection with the corruption scandals. An example is the replacement of a Justice Minister with a pro-government one in order to dodge the legal proceedings implemented against Babiš. The prime minister also tried to influence the General Inspection Security Services, an independent crime investigation government agency, through the illegal removal of various ministers and public servants (Hartnett, 2022, pp. 50-52). Although these actions are clearly illiberal, their scope leads one to speak more of illiberal swerving than an actual illiberal turn. Additionally, the victory of the newly established liberal-conservative party of Petr Fiala in 2021 was seen by many as «a triumph for liberal democracy [...] [which] signalled the end of the post-Communist era» (Tait, 2021).

## 11. *Conclusion*

The analysis of the three countries of the Visegrád group examined in this chapter has indicated structural differences among country specific paths in following and building an illiberal government.

In the case of Poland an emulation of Orbán's illiberal politics is adopted through attacks against and control of the same institutions, the judiciary and the media industry, and even the same minority groups, migrants and LGBTQ+ people. At the same time, essential historical and societal differences can be observed between the Polish and Hungarian il-

liberal path. For instance, the role of the Polish Catholic Church which publicly and officially supports the government's illiberal propaganda, element absent in Hungary. Moreover, the two countries show dissimilarities in relation to other big powers such as Germany and Russia. Hungary has always tried to maintain a good relationship both with Russia and Germany due to having an economy which relies on both countries. Conversely, Poland has had a more complicated attitude towards the two powers. Warsaw's critical and sceptical attitude of Berlin and Moscow is based on well-known historical circumstances which create the potential for increased tensions. Although this second point does not directly obstruct the adoption of the illiberal project by the Polish government, it could do so in the future. More tense relations between Warsaw and Budapest could certainly lead to confrontation and subsequent lack of mutual support in the European Council when key decisions against the EU are taken. A case in point was the unsuccessful attempt of the Poland-Hungary alliance to block the implementation of the 2021-2027 EU budget because of the rule of law provision which linked the funds to its ability to observe its conditions (Strupczewski, 2021). This dynamic could also result in reduced regional cooperation within the Visegrád group with drastic consequences on the group's existence.

As far as the Czech Republic and Slovakia are concerned, the two countries are in a kind of limbo, not a Dantean, but an Orbánesque one. That is to say, their respective governments have ventured into illiberal policies with more moderate tones, thus swerving rather than turning to illiberal democracy. The countries' own perception of their relative physical and economic size leads them to fear being marginalised, which is why regional cooperation within the Visegrád group and European cooperation within the EU integration

project are both of strategic importance. At the same time, the fact that the countries in question did not reach the same level of illiberal transformation suggests that the European marginalisation as a consequence of non-adherence with the EU founding values could cause greater damage. As a matter of fact, as the analysis so far conducted shows, although the regional cooperation is important because it is based on long-standing historical, cultural and societal factors, the lack of institutionalisation and cooperation on salient issues of the Visegrád group makes it easier for a Visegrád-exit than an EU-exit. Therefore, in the long-term, the European picture is much rosier and more advantageous compared to the risks the marginalisation by illiberal practices could lead to. This analysis is supported by the steps the EU has taken in order to hold Hungary and Poland accountable for their infringements of the rule of law through the judgments of the CJEU and the decision to block the transfer of funds.

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finito di stampare
nel mese di marzo 2024
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Illiberal Trends.
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(ed.)

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e-mail: editoriale.dsu@educatt.it (produzione);
librario.dsu@educatt.it (distribuzione)
web: www.educatt.it/libri
ISBN: 979-12-5535-228-0

euro 15,00