

## Dynamics of Deconsolidating Democracies of Poland, Hungary And Romania

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**Abstract:** *The deconsolidation of democracy is a new phenomenon which is not provided for in the specialized works. This phenomenon was supposed to be unlikely or possible only through a coup d'état or after a war. But countries such as Poland, Hungary and Romania (in an incipient form) have shown us that functional democracy can be diluted as a consequence of some controversial political measures. In this study we aim at observing what has happened in these three states and to what extent deconsolidation of democracy has been possible and especially if this process is a reversible one. We want to understand if this democratic deconstruction can appear in young democratic states or may appear at random, irrespective of the democratic tradition present in that state.*

**Keywords:** democracy, democratic consolidation, deconsolidation, authoritarianism, deconstruction.

### INTRODUCTION

In this study, we would like to analyze the democracies of the post-communist states of Central and Eastern Europe in order to understand whether they have a continuous or limited erosion after consolidation. A very difficult topic to address because of the complexity of the analysis we are proposing, but not an impossible one. The last period has created various suppositions that have aimed at (and are aiming at) the increasing degree of nationalism among these states. The causes may be multiple. Starting from the waves of immigrants coming from the Middle East (the reason for the nationalist discourse) and up to the various actions of governments that have affected the independence of justice and the human rights.

The post-communist states, which are supposed to have reached the level of consolidated democracies, seem to be facing a strong deconsolidation trend initiated by the political leaders of the time. The measures and actions, not really taken in a democratic manner, have affected the democratic institutions of the state. Whether it is about tendencies of subjugating justice or the attempt of restricting the right to protest, their actions have been the subject of extensive discussions among European fora.

However, the immediate effects are certain and can be outlined around the discontentment created among civil society, but, since we can not accurately predict where they are going, those in the medium and long term become blurred and can be affiliated with the theory of Black Swan put forward by Nassim Nicholas Taleb<sup>1</sup>. Thus, further on in our approach, we will try to

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<sup>1</sup> Nassim Nicholas Taleb, *Fooled by Randomness: The Hidden Role of Chance in Life and in the Markets*, London, Penguin Books, 2004.

identify what might be unfunctional in the policy of the states so that deconsolidation of democracy should be possible.

## METHODOLOGY

In light of the latest events on the internal political scenes of Poland, Hungary and Romania, as well as of the fact that they have been criticized and condemned on various occasions by the European Union, through its leaders, they have made us consider a few questions regarding the deconsolidation of democracy. Comparing the data provided by The Economist Infographics<sup>2</sup> on the democracy index of different states, we have noticed that since 2006, the line of democracy is decreasing, so that 2017 shows the lowest values of the measurement index.

In the three above-mentioned states, populist leaders have understood to strengthen their power by hampering the good functioning of democratic institutions and by obvious tendencies of intimidating the criticism from civil society. The ruling party in Poland adopted laws that allowed them to exert political control over the judiciary, affecting the Supreme Court, the local courts and a council responsible for the appointment of judges<sup>3</sup>, and the Romanian Government, through its latest adopted ordinances, wanted to change the mechanism of appointing Head Prosecutors, so that the State President loses this role for the benefit of the Minister of Justice. As a matter of fact, appointments can be made on mere political criteria.

The aims of our approach start from the latest decisions of the governments of the three states, taking into account the European Union<sup>4</sup> or the Venice Commission's<sup>5</sup> opposition to them. Thus, we have to answer the following set of questions:

1) What is the degree of supporting the political leaders by the citizens of the states?

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<sup>2</sup> <https://infographics.economist.com/2018/DemocracyIndex/>, accessed 12. 02. 2018.

<sup>3</sup> See Roberto Stefan Foa, Yascha Mounk, "The Signs of Deconsolidation," in *Journal of Democracy*, XXVIII (2017), no. 1, p. 11-12; Freedom world 2018. Democracy in crisis, <https://freedomhouse.org/report/freedom-world/freedom-world-2018>, accessed on 03. 11. 2018.

<sup>4</sup> See Romanian faces rule of law criticism in Eu parliament, <https://euobserver.com/political/143006>, accessed on 02. 11. 2018; Rule of law: European Commission refers Poland to the European Court of Justice to protect the independence of the Polish Supreme Court, [http://europa.eu/rapid/press-release\\_IP-18-5830\\_en.htm](http://europa.eu/rapid/press-release_IP-18-5830_en.htm), accessed on 02. 11. 2018; The European Parliament vs. the Hungarian Government, <https://www.jurist.org/commentary/2018/09/the-european-parliament-vs-the-hungarian-government/>, accessed on 02. 11. 2018.

<sup>5</sup> Venice Commission, Romania preliminary opinion on draft amendments to Law No. 303/2004 on the statute of judges and prosecutors, Law No. 304/2004 on judicial organization, and Law No. 317/2004 on the Superior Council for Magistracy, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2018\)007-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2018)007-e), accessed on 03. 11. 2018.

2) Is there a risk that political leaders will start to lead in an authoritarian way, without considering the citizens' wishes?

3) Do consolidated democracies in the three states come across difficulties and risk to lapse into authoritarianism?

The methodology of scientific research is a complex one with substantiation in multidisciplinary. We have started from critically examining the available bibliographic sources, correlating, and comparing the essential data that help us to observe the level of democracy in a state<sup>6</sup> to the establishment of the cause-effect relationship (causality method) which allowed us to sketch a theory regarding the dynamics of deconsolidating democracies. During our study we have considered not only the political and economic factors, but also the behavioral psychology of the masses, in order to understand the degree of supporting the measures adopted by the ruling parties.

Our goal is to elaborate this study on the basis of consistency and clarity, and in this case we have turned to descriptive analysis, without ignoring the research qualitative hermeneutics<sup>7</sup> of the different situations and events that have taken place.

## THEORETICAL DISCUSSIONS

Poland, Hungary and Romania, since 1989, have begun the process of democratization as a result of the antitotalitarian revolutions they went through that year. After more than four decades of communism, states have been forced to establish the democratic regime, but without having any information on how to do so<sup>8</sup>. Thus, the new rulers from the newly decommunized states have enforced the *policy of imitation*. They applied (or tried to apply) to the states that they began to govern what they saw in the Western states. We consider that it is useless to discuss here the democratization stages (which the states have gone through) or the process through which their democracies have been established, considering that we have discussed these aspects on other occasions<sup>9</sup>.

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<sup>6</sup> See Freedom world 2018. Democracy in crisis, , <https://freedomhouse.org/report/freedom-world/freedom-world-2018>; Democracy for All? V-Dem annual democracy report 2018, [https://www.v-dem.net/media/filer\\_public/3f/19/3f19efc9-e25f-4356-b159-b5c0ec894115/v-dem\\_democracy\\_report\\_2018.pdf](https://www.v-dem.net/media/filer_public/3f/19/3f19efc9-e25f-4356-b159-b5c0ec894115/v-dem_democracy_report_2018.pdf); Religious Belief and National Belonging in Central and Eastern Europe, <http://www.pewforum.org/wp-content/uploads/sites/7/2017/05/CEUP-FULL-REPORT.pdf>, accessed 12. 04. 2018.

<sup>7</sup> See: Jerzy Topolsky, *Methodology of History*, Bucharest, Scientifical and Encyclopaedical Publishing House, Bucharest, 1987.

<sup>8</sup> See: Flavius Cristian Mărcău, „Democratization of the countries in Central and Eastern Europe. Some consideration on the different trajectories of the decommunization states”, in *Analele Universității „Constantin Brâncuși” din Târgu - Jiu, Seria Litere și Științe Sociale*, III (2015), p. 87-92.

<sup>9</sup> See: Flavius Cristian Mărcău, „Democratization in the former communist state: imposition or necessity?”, in *Research and Science Today*, IV (2014), no. 1 (7)/2014, p. 81-85; Flavius Cristian

Regarding the consolidation of democracy, we are convinced that three minimal conditions are necessary for a state to be able to begin this process, and we mention that it does not stop here, revolving round these three conditions. In their succession there are tasks that need to be fulfilled, new conditions<sup>10</sup> that will need to be created, attitudes and behaviors that will need to be fulfilled. Linz and Stepan propose a definition of democratic consolidation that combines these three dimensions: behavioral, attitudinal and constitutional. Through consolidated democracy, they refer to "*a political regime in which democracy as a complex system of modelled institutions, rules and incentives and constraints has become the only accepted system.*"<sup>11</sup>

Why is it necessary to combine the three dimensions? We say, from a behavioral point of view, that a regime becomes the only unanimously accepted option (*the only game in town*) when the possibility of a political group, or a part of the elites, wishing to overthrow the democratic regime disappears. The *attitudinal* dimension<sup>12</sup> refers to the behavior of the population when the state undergoes a crisis (economic, political, etc.) - in this case, the necessary measures of re-establishing the situation are necessary without exceeding the democratic limits. *Constitutionally*, democracy is assimilated as the only accepted regime, and any political conflict is resolved without the rule of law being violated.<sup>13</sup>

It is imperative for a democracy to be consolidated when the state is in a strong crisis. Thus, "*during a crisis, rulers enjoying the support of public opinion continue to adhere to democratic procedures even when they are in limbo situations*"<sup>14</sup>. However,

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Mărcău, „Central and Eastern Europe – necessary stages of democracy construction,” in *Research and Science Today*, IV (2014), no. 2 (8), p. 93-102; Flavius Cristian Mărcău, „Post-communist democratization: difficulties and crisis”, in *Analele Universității „Constantin Brâncuși” din Târgu - Jiu, Seria Litere și Științe Sociale*, III (2013), p. 100-104.

<sup>10</sup> When we are talking about creating new conditions, we are considering the five conditions developed by Linz and Stepan: the development of a free civil society; a relatively autonomous political society; rule of law; state bureaucracy; institutionalized economic society. Juan Linz, Alfred Stepan, „Drumul spre o democrație consolidată”, in Larry Diamond, Yun-han Chu, Marc F. Plattner, Hung-mao Tien, *Cum se consolidează democrația*, Polirom, Iași, 2004, p. 52-54.

Firstly, there must be conditions for the development of a free and vigorous civil society. Secondly, there must be a relatively autonomous political society. Thirdly, throughout the state territory, all major political actors, especially government and the state apparatus, must be effectively subject to the rule of law, which protects individual freedoms and associative life. Fourthly, there must be a state bureaucracy available for the new democratic government. Fifthly, there must be an institutionalized economic society. Juan Linz, Alfred Stepan, „Drumul spre o democrație consolidată”, p. 53.

<sup>11</sup> Juan Linz, Alfred Stepan, " Drumul spre o democrație consolidată," p. 52.

<sup>12</sup> See also: Richard Gunther, Nikiforos P. Diamandouros, Hans-Jurgen Puhle, „O'Donnell's `Illusions`: A Rejoinder,” in *Journal of Democracy*, VII (1996), no. 4, p. 151-159.

<sup>13</sup> Juan Linz, Alfred Stepan, " Drumul spre o democrație consolidată" p. 52.

<sup>14</sup> Robert Dahl, " Development and Democratic Culture", p. 68.

irrespective of the limbo situation the state is in, governance needs to be maintained in the sphere of democracy.

I have made this brief presentation of consolidated democracy as described by Linz and Stephan to conclude that it is possible to misuse it to some extent when dealing with this subject. We assume that the two did not take into consideration the possibility of governors' losing the support of the voters rather quickly, although the former lead in a democratic way, but try through various legislative changes to obtain certain advantages for themselves or for a small group, initially, without trying to detach from the state or create an undemocratic alternative<sup>15</sup>. The two, when discussing the attitudinal dimension, are considering the behavior of civil society, but it is natural to wonder how far can it degenerate if it does not succeed in influencing the rulers' mode of operation? In particular, to what extent, in the case of a political crisis, for instance, can civil society behavior change? Or if this civil society (the case of Hungary) is limited in manifestation or is the information it receives from the media filtered or distorted for the benefit of the government? Or simply does civil society react for a short period of time, then losing its interest, an aspect that we call *the protest fatigue* and about which we will discuss a little below.

Political actions following democratic deconsolidation can take on many forms, such as the Black Swan, and are closely related to the reaction of civil society, international partners of the state or the institutions of the unions which the state is a member of. A cumulation of factors can determine the policy that the government understands to take:

➤ Whether it is a *void of democracy* which can be possible if the government chooses to avoid parliament and issue a governmental ordinance that produces immediate legal effects. In this situation, the effects produced may be stopped by the subsequent parliamentary intervention, but they can not be erased.

➤ Whether we discuss a continuation of authoritarian tendencies that will lead to the complete deconsolidation of democracy.

➤ Whether the regime is transforming into a totalitarian one or retrogrades in the democratization phase<sup>16</sup>.

We consider that these issues become unclear due to the complexity of the actions that may take place. Up to a certain point, the interventions of supranational actors may determine the course of the state undergoing the process of democratic deconsolidation. Why do we believe that? First of all, because those interventions must find support among civil society. Secondly,

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<sup>15</sup> See: Linz and Stephan's explanation of the behavioral dimension.

<sup>16</sup> See: Flavius Cristian Marcău, "Central and Eastern Europe - Necessary Stages of Democracy Construction", *Research and Science Today*, IV (2014), no. 2 (8) p. 93-102.

rulers that do not feel pressure from within the state can also motivate their authoritarian actions as the will of the people they rule.

### PRACTICAL DISCUSSIONS

It is the time that our study should go into the physical background of the political scenes of the three post-communist states. The three states have undergone a broad democratization process that began in 1990, establishing a functional democracy, and afterwards consolidating it. These countries are members of the European Union and members of the North Atlantic Treaty. We have argument to maintain that their democracies have stopped at an early stage of consolidation, but in light of the latest political actions, we can see how democracies begin to dilute - aspects that have been observed and condemned repeatedly by the European fora.

Maybe we should wonder why have they come to that? Why do governors ever think it is better to act in an authoritarian manner? Why was civil society not able to limit the actions of the governors? There are some fair questions to which we must find an answer in order to try to provide a prediction of the future of the political regimes, as far as we can predict. We are tempted to believe that democracy in these states has not been consolidated in the true sense of the word, as Linz, Stephan and others have presented it, but it is not like that.

However, political leaders have understood that the undermining of justice, education, and rights conferred by the democratic regime may be possible. Or maybe democracy in the form known to this moment is not favorable and is it aimed at a hybridisation of the regime? A kind of democracy that is not democracy and neither an authoritarianism that is authoritarianism. It may be about pursuing an increase in leadership power, but Giovanni Sartori asks a question when discussing authority: *how much authority is not too much authority?*<sup>17</sup> Distinction must be made very clearly between the authority of the authoritarian regime and the authority that sustains democracy, because authoritarian power is of an undemocratic nature<sup>18</sup>.

Political changes in Poland, Hungary and Romania bring serious prejudices to democracy and the rule of law, and the pressure on the democratic regime is transposed into degrading citizens' rights and their commitment to the state<sup>19</sup>. Government liability decreases and citizens lose their power to influence

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<sup>17</sup> Giovanni Sartori, *The Reinterpreted Theory of Democracy*, Iași, Polirom, 1999, p. 177.

<sup>18</sup> See: Giovanni Sartori, *The Reinterpreted Theory of Democracy*, p. 177-183.

<sup>19</sup> [https://www.washingtonpost.com/opinions/democracys-slow-fade-in-central-europe/2018/07/07/d155d1e4-8099-11e8-b0ef-fffcbef946\\_story.html?noredirect=on&utm\\_term=.8af5012ec221](https://www.washingtonpost.com/opinions/democracys-slow-fade-in-central-europe/2018/07/07/d155d1e4-8099-11e8-b0ef-fffcbef946_story.html?noredirect=on&utm_term=.8af5012ec221), accessed on 06. 12. 2018.

politics.<sup>20</sup> Poland's Law and Justice Party has been compared to the Fidesz party in Hungary. In both countries, the government has gradually made amendments to constitutional law. Legislation regulating the media has been modified, and citizens have demonstrated against barriers to media freedom. In addition to these problems, serious prejudice to the independence of the judiciary in all three states has been made. A series of measures have been adopted that have forced the European Union to react.<sup>21</sup>

### ***Poland***

In the case of Poland, after the parliamentary elections of October 2015, the Law and Justice Party (PiS) came out victorious, later establishing as its main goal a political, economic, cultural and social transformation according to its own views. As a result, shortly after the new government, under Prime Minister Beata Szydło, was invested, the public media and various newspapers were restructured to get their support and avoid criticism of government policy. In addition, important positions in state institutions were occupied with PiS followers<sup>22</sup>.

The Democracy Index, measured by the Freedom House organization<sup>23</sup>, showed the lowest values of a state in a single year, since these measurements are made by this organization<sup>24</sup>.

In mid-2016 the law regarding Constitutional Court was amended, and the composition of the Court greatly suffered.

The president of the court and his deputies were changed, and a PiS follower was appointed president. The election of five constitutional judges appointed by the former parliament was canceled. The reform of the constitutional court was, however, only the beginning of a complete transformation of the judiciary. In July 2017, the Parliament passed three laws for the purpose of bringing the courts under the control of the government<sup>25</sup>.

The judiciary in this state was almost entirely taken over by the ruling party. Laws have been amended to enable the Minister of Justice to simultaneously occupy the post of General Prosecutor and to be able to dismiss

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<sup>20</sup> Ellen Lust, David Waldner, Theories of Democratic Changes, p.3, <https://www.usaid.gov/sites/default/files/documents/2496/Theories%20of%20Democratic%20Change%20Phase%201--Democratic%20Backsliding.pdf>, accessed on 07. 11. 2018.

<sup>21</sup> Senni Salmi, Democratic backsliding in Hungary and Poland, p. 3, [https://www.researchgate.net/publication/320625158\\_Democratic\\_backsliding\\_in\\_Hungary\\_and\\_Poland](https://www.researchgate.net/publication/320625158_Democratic_backsliding_in_Hungary_and_Poland), accessed on 07. 11. 2018.

<sup>22</sup> Furtak FT (2017) Democracy Under Pressure: The Case of Poland, Hungary and Turkey. J Civil Legal Sci 6: e119. doi: 10.4172/2169- 0170.1000e119, p.1, accessed 07. 11. 2018.

<sup>23</sup> <https://freedomhouse.org/report/freedom-world/2018/poland>, accessed at 06.12.2018

<sup>24</sup> <https://www.euronews.com/2018/04/11/greatest-anti-democratic-backlash-in-eastern-europe-since-mid-90s-report>, accessed at 06. 12. 2018.

<sup>25</sup> Furtak FT, "Democracy Under Pressure: The Case of Poland, Hungary and Turkey" p. 1.

any judge in the country. The Venice Commission has reacted to the increase of the powers of the Justice Minister<sup>26</sup>

Besides the subduing of Polish justice, the state media has been restructured<sup>27</sup>, and a PiS follower has been appointed to the management. NGO-s suffered due to changes in legislation, so that they began to be harassed by the authorities<sup>28</sup>. Civil society over the past two years has lost power, day by day giving up a struggle it could have won (*protest fatigue*).

Poland is in a continuous restructuring and we do not understand what happened in a state that in the 1980s managed to prove to the world that the communist regime can be changed<sup>29</sup>. It is a state that has developed a strong spirit of freedom, with an active civil society and a consolidated democracy.

The values that Poland acquired and developed in the last years of communism and after, are beginning to perish.

If civil society does not react and the Polish state is not supported externally, it is possible to talk about a Polish democracy in the context of "from Lech Wałęsa to Andrzej Duda".

### ***Hungary***

In the 2010 elections, the center-right party FIDESZ won 52.7% of the votes, thus gaining a two-thirds majority in parliament. The dominant role of the prime minister, with a parliamentary majority behind him, has made it possible for the Hungarian government to lead the country in a very authoritarian manner. Between the 2010 and 2014 elections, the government adopted about 800 laws without consulting the opposition or public opinion<sup>30</sup>. The Fidesz Party has exploited the ordinary parliamentary majority, so it has unilaterally changed the constitution and placed party members in relevant positions, thus securing the most important institutions<sup>31</sup>.

In 2014, the Fidesz party won 45% of voters' support after the parliamentary elections, which inspired Orbán to reconfirm his authoritarian way of working. He has undoubtedly pursued his right nationalist policy that weakens the constitutional state and restricts fundamental rights, such as press

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<sup>26</sup> [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)028-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)028-e), accessed on 06. 12. 2018.

<sup>27</sup> <https://www.politico.eu/article/poland-crisis-constitution-kaczynski-duda/>, accessed on 06. 12. 2018.

<sup>28</sup> Polish authorities reduce the space for the activities of NGOs including human rights organizations in the country, <http://www.civicsolidarity.org/article/1545/polish-authorities-reduce-space-activities-ngos-including-human-rights-organizations>, accessed on 06. 12. 2018.

<sup>29</sup> See Flavius Cristian Mărcău, „Revolution of <<the ten years>> from Poland”, in *Research and Science Today*, Supplement, No. 3/2015, p. 124-129,

<sup>30</sup> OSCE Parliamentary Assembly. 2014. “INTERNATIONAL ELECTION OBSERVATION MISSION Hungary – Parliamentary Elections, 6 April 2014.”

<sup>31</sup> Péter Krekó, Zsolt Enyedi, “Orbán's Laboratory of Illiberalism,” in *Journal of Democracy*, XXIX (2018), no. 3, p. 42.

freedom, which is why the EU has repeatedly released procedures regarding infringement of the community law<sup>32</sup>. The attempt to subdue the media has led to the creation of the Media Council, made up of four members who have been appointed by a parliamentary committee composed exclusively of Fidesz members. The head of the Council was appointed directly by the Prime Minister. Their term of office is 9 years.<sup>33</sup> One of the first decisions was to stop the last opposing radio channel, Club Radio. In 2016, the most influential newspapers in the country were closed.<sup>34</sup>

Following these controversial, authoritarian decisions and directly aiming at the good functioning of democracy, Hungary has begun to fall short in the area of the correct information of citizens. The aims of the policy of submitting media precisely aimed at stopping any kind of criticism of governmental decisions. The radio, TV or the press understood that they can function only on the same wavelength as the government. Any deviation has been sanctioned either by the change of directors or by their effective closure. Orbán understood the importance of the free press and how citizens can get to know the political reality, and as a result he acted with the view of manipulating the information transmitted in the public space by various channels of communication. It is quite possible that Orbán will not only consider censoring information when it is transmitted to the citizens but he may use the majority (if not total) control of the press to manipulate civil society and turn it against the other opposition parties, attacking political pluralism in Hungary<sup>35</sup>.

Besides the classic communication channels, in 2014, Hungary made an attempt to limit the internet by introducing a tax on consumed traffic, but without finality due to the protests of the citizens of the state.<sup>36</sup>

On July 26, 2014, in Baile Tusnad, Viktor Orbán spoke at the Bálványos Free Summer University and Youth Camp where, at one point, he said the following:

„Consequently, what is happening today in Hungary can be interpreted as an attempt of the respective political leadership to harmonize relationship between the interests and achievement of individuals – that needs to be acknowledged – with interests and achievements of the community, and the nation. Meaning, that Hungarian nation is not a simple sum of individuals, but a community that needs to be organized, strengthened and developed, and in this sense, the new state that we are building is an illiberal state, a non-liberal state. It does not deny

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<sup>32</sup> Furtak FT, "Democracy Under Pressure: The Case of Poland, Hungary and Turkey.," p. 2.

<sup>33</sup> According to Dahl, "the annual election for representatives would be a little too frequent, and any period of more than five years would be too long." See: Robert Dahl, *About Democracy*, pp. 92-93.

<sup>34</sup> See Matthijs Bogaards "De-democratization in Hungary: diffusely defective democracy," *Democratization*, 2018, DOI: 10.1080/13510347.2018.1485015, p. 7, accessed 12. 07. 2018.

<sup>35</sup> Péter Krekó, Zsolt Enyedi, "Orbán's Laboratory of Illiberalism," p. 41.

<sup>36</sup> See <https://www.theguardian.com/world/2014/oct/31/hungary-prime-minister-viktor-orban-scrap-draft-internet-tax-law>, accessed on 10. 11. 2018.

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foundational values of liberalism, as freedom, etc.. But it does not make this ideology a central element of state organization, but applies a specific, national, particular approach in its stead<sup>37</sup>.

To discuss the building of a non-liberal state in the context of democracy is as if we were supporting the command economy or the single party within the democratic regime. We assume when we say that the Hungarian government has pursued the deconsolidation of democracy. This *phenomenon* was not accidental, but, post-factum, we think that it was intentional. Methodological action was taken, so that in the first stage justice was subdued, political control was obtained, afterwards (second stage) media criticism was removed, by the closure of some radio channels, TV stations and anti-government newspapers. The third stage intended to limit some of the citizens' rights by constraining anti-government actions. Free NGOs have been seized by politics or simply have been limited<sup>38</sup>.

### **Romania**

Following the parliamentary elections of December 2016, won by 45% by the Social Democratic Party (PSD), things began to escape control in terms of Romania's internal politics. The new government, headed by Prime Minister Sorin Grindeanu, managed to do what no other government has ever done since the 1989 revolution, namely to take out for protests more than 600,000 people. Just two weeks after PSD won the parliamentary election, the voters began to lose trust in the new parliament, and this was due to the political actions of the new governors seeking to amend the Penal Code and adopt a law on the pardon of the condemned. These changes were only to weaken the justice system, which did not appeal to civil society. As a result, extensive street protests were organized in the capital of Romania and other cities, totaling an impressive number of people.

As a result of these street manifestations, the government reacted more and more authoritatively. The civil society demands were not taken into consideration, so the measures continued and the Emergency Ordinance 13/2007 was given<sup>39</sup>.

The case of Romania is interesting from the point of view of the obvious tendencies aimed at the deconsolidation of democracy. We make these assertions, starting from the fact that current leaders understood that civil society does not matter, although the impressive number of people on the street said something else. Although shortly after the adoption of GEO

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<sup>37</sup> See <https://budapestbeacon.com/full-text-of-viktor-orbans-speech-at-baile-tusnad-tusnadfurdo-of-26-july-2014/>, accessed on 10. 11. 2018.

<sup>38</sup> See Hungary approves anti-foreign NGO law, <https://www.politico.eu/article/hungary-approves-anti-foreign-ngo-law/>, accessed on 10. 11. 2018.

<sup>39</sup> <https://www.hotnews.ro/stiri-esential-21570829-ministrul-justitiei-florin-iordache.htm>, accesat on 06. 12. 2018.

13/2017, the government came up with a second emergency ordinance that abolished the initial ordinance, as a consequence of the pressures of civil society.

Initially the government did not take into account the citizens' dissatisfaction, and the amendments were adopted, subsequently renouncing them with another GEO.

The political situation did not relax, so soon the initial changes were adopted - putting pressure on the government - in a form that seriously undermines the good functioning of democracy, an aspect also raised by the Venice Commission<sup>40</sup> and the European Commission<sup>41</sup>:

"Currently, the modified laws of justice are in force. They contain a series of measures that weaken the legal safeguards on the independence of the judiciary, being liable to undermine the effective independence of judges and prosecutors and hence public confidence in the judiciary."<sup>42</sup>

From 2017 until today, the Social Democratic Party has changed three governments, invoking different political reasons, but the real reasons were based on the pursuit of amending the laws of justice. In this case, the third government, led by Prime Minister Viorica Dancila, accepted to take responsibility and issue an emergency ordinance.

The political situation in Romania can not be compared to that in Hungary or Poland, where authoritarian tendencies are much more visible. But, the Romanian governors, as an original *modus operandi*, have understood to display a tactical field in the area of justice, with the direct involvement of the Romanian Intelligence Service (SRI), the General Prosecutor's Office (PG) and the National Anticorruption Directorate (DNA).<sup>43</sup> Probably Romania is the only post-communist state in Central and Eastern Europe that acted in this way. Following the declassification of the SRI - DNA and SRI - PG protocols, all kinds of allegations were launched in the media, and some of them quite credible. Various speculations have been made regarding the manipulation of justice with the help of the institution of State Security by arranging criminal

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<sup>40</sup> Venice Commission, Romania preliminary opinion on draft amendments to Law No. 303/2004 on the statute of judges and prosecutors, Law No. 304/2004 on judicial organization, and Law No. 317/2004 on the Superior Council for Magistracy, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2018\)007-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2018)007-e), accessed on 03. 11. 2018.

<sup>41</sup> Cooperation and Verification Mechanism (CVM), Report of the Commission to the European Parliament and the Council, Strasbourg, 13.11.2018, [http://europa.eu/rapid/press-release\\_IP-18-6365\\_en.htm](http://europa.eu/rapid/press-release_IP-18-6365_en.htm), accessed on 06. 12. 2018.

<sup>42</sup> Cooperation and Verification Mechanism (CVM), Report of the Commission to the European Parliament and the Council, Strasbourg, 13.11.2018, p. 4, [http://europa.eu/rapid/press-release\\_IP-18-6365\\_en.htm](http://europa.eu/rapid/press-release_IP-18-6365_en.htm), accessed on 06. 12. 2018.

<sup>43</sup> Cooperation and Verification Mechanism (CVM), Report of the Commission to the European Parliament and the Council, Strasbourg, 13.11.2018, p. 2, [http://europa.eu/rapid/press-release\\_IP-18-6365\\_en.htm](http://europa.eu/rapid/press-release_IP-18-6365_en.htm), accessed on 06. 12. 2018.

cases or the conviction / acquittal of political figures. It is hard to say whether the information is true, but we can not overlook the fact that a state institution operating in a field other than Justice has exceeded its competencies<sup>44</sup>.

A clear political attack on the independence of Romanian justice is the decision of the Constitutional Court regarding the attributions of the Minister of Justice. The President of the state was excluded from the appointment of Head Prosecutors for the benefit of the Minister of Justice, an aspect condemned by the Venice Commission<sup>45</sup>.

Romania is at the beginning of its deconsolidation of democracy and we consider it is too early to be able to declare our opinion about the future course of the political regime.

### **POSSIBLE CAUSES OF DECONSOLIDATION**

The causes of democracy deconsolidation are uncertain and we can not draw a conclusion on the possibility of its emergence only in states with a young democracy, being unlikely in those with a democratic tradition. It is too early to be able to pronounce our opinion about these aspects.

From what is mentioned in this article we can conclude that in the three states, Poland, Hungary and Romania, the deconsolidation process has started by attacking the independence of justice, and this is due to the dubious political elite. In the case of Hungary and Poland, besides the subjugation of the justice system, they continued to take over the media, intimidate civil society (harassment of NGOs), and launch political discourses against the European Union more and more frequently.

Regarding the firm reaction of civil society, we believe that the protest fatigue has occurred. Civil society is supposed to no longer play a decisive role in determining the course of events. How can this theory be possible? First, state citizens react to any form of democratic deconsolidation, but up to a point, and here we are considering losing the interest of the demonstration. If state democracy gradually weakens, over a longer period of time, citizens begin to lose their initial enthusiasm or simply become uninterested / get accustomed.

At the moment, we feel that the pressure of the supranational institutions can correct the decline of democracy in a state, but, as they are underway, it remains to be seen what will happen. It is likely that the decline will continue, at least in the case of Hungary and Poland. It can not be excluded that the two states should lapse into an irreversible authoritarianism. There are many unknown vectors that can make a difference. We have declared our

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<sup>44</sup> [https://www.medelnet.eu/images/2018/Romanian\\_Judges\\_Union\\_-\\_Report\\_on\\_the\\_unlawful\\_involvement\\_of\\_the\\_Romanian\\_secret\\_intelligence\\_agencies\\_through\\_secret\\_protocols\\_in\\_the\\_Romanian\\_judiciary\\_system.pdf](https://www.medelnet.eu/images/2018/Romanian_Judges_Union_-_Report_on_the_unlawful_involvement_of_the_Romanian_secret_intelligence_agencies_through_secret_protocols_in_the_Romanian_judiciary_system.pdf), accessed on 06. 12. 2018.

<sup>45</sup> Cooperation and Verification Mechanism (CVM), Report of the Commission to the European Parliament and the Council, Strasbourg, 13.11.2018, p. 6, [http://europa.eu/rapid/press-release\\_IP-18-6365\\_en.htm](http://europa.eu/rapid/press-release_IP-18-6365_en.htm), accessed on 06. 12. 2018.

opinion about recent events, but the future of the political regimes in these states is uncertain.

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### **CONCLUSION**

We have shown that democracy is in distress, and the problems that affect it are multiplying to a general metastasis. The example of the Central and Eastern European states is enlightening for us. When the democratization process began, most states were governed by elitist politicians. With the passage of time, the elites have diluted and have been largely replaced by opportunists and not exactly righteous people. Perhaps this is one of the reasons for the weakening of justice.

The justice system in these states has fallen short in the area of independence and a legal system that is politically enslaved can make us think that it is unfunctional when it comes to investigating high-level corruption.

In turns, Hungary, Poland and Romania have shown us how a consolidated democracy can be gone into reverse, unforeseen by Linz, Stephan and others. A sort of cancer in the first stage and we do not know how it will evolve. In the medical sense, the neoplasm is treated by an established medical scheme tested over many years, but it turns out that the results differ from person to person. By making a parallel between the medical and the political fields, we can conclude that the democratic regimes in these states will continue to appear in an unpredictable manner, so that, as in the case of neoplasm, things can evolve for good or death may occur (total deconsolidation of democracy and the establishment of an authoritarian regime).

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