
A balance of the democratic transformation in Central-Eastern Europe

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Abstract: 21 years after communism it is a time to draw up a balance-sheet on the democratic transformations in Central-Eastern Europe (Poland, Slovakia, Czech Republic and Hungary). As the article proves, those do not represent a linear change from one point of history – communist totalitarianism – to another, an unproblematic liberal democracy. On the contrary, the economy of the Visegrád Fours is very fragile, which became by the global financial crisis. Those have most clear and most decisive is the constant influence of the European Union to the democratization efforts in the countries of the region. Finally, the paper argues that the process of democratic consolidation has gone quite far in the Visegrád Countries and they are almost at the same level as the other post-transition countries of Southern-Europe and Latin-America. One thing is for sure: the former ‘socialist’ countries have passed the point from where they could return to the old system.

Keywords: democratic transitions, Rule of Law, Central and Eastern Europe

On the beginning of the second millennium, we find ourselves in historic times. History is like the ocean. Years of quiet, when gentle winds blow and waves splash against the shores, alternate with stormy times, when waves rise like mountains and hit against the shore as if they would swallow the land. In history, as well, there are periods of quiet, continuous development, but there are also periods of fierce and aggressive change, when the dormant forces of history erupt onto the surface. Of course, history does not change as fast as the world of nature. Very often, a whole generation must disappear before the conditions that seem petrified can change.

We are now witnessing a radical turning point in Central and Eastern Europe, giving a totally new and different aspect to the continent. Though a detailed analysis will only be possible from a historical distance, the revolutionary political changes present a real challenge for scholars. This paper analyzes the peaceful transition of the countries of the region from the “empire” of dictatorship to the world of democracy. The key issues of study are the development, present state, and future of democracy and the Rule of Law in Central–Eastern Europe, paying special attention to Hungary. This multidimensional comparative analysis not only illustrates the issues but places them in new light.

I

The major peculiarities of the historical development in the societies of Central–Eastern Europe – such as Czech Republic, Slovakia, Poland, and Hungary – are easily discernable.¹ The societies were delayed and did not originate from

1 See generally, 1-4 István Bibó, *Válogatott Tanulmányok* [Selected Papers] (1986 and 1990); Patrick Gelard, *Les Systèmes Politiques des états Socialistes*

within the countries. The societies of Central–Eastern Europe were formed at the periphery of the continent, creating a permanent political, economic, and social disadvantage in comparison with the Western and Central European centers. Additionally, taking over external models (for example, the Hapsburg Empire) became a permanent constraint, politicizing every aspect of society.

Politics penetrated into the other spheres of the society and politicized them, causing abnormal development not only in these spheres of activity, but also in the development of the political system and political culture. As a result, only some elements of the Western European political system appeared in these regions – such as a deformed version of parliamentarianism in Poland and Hungary. Between the two world wars, Czechoslovakia was the only state which had a system of Western-style democracy. Again, in the period following World War II, Central–Eastern Europe societies developed according to an external model – the Stalinist Soviet model. The historical and social conditions, both internal and external, of “building a new society” increased the predominance of the political system and the problematic phenomena which correspond with it. History has shown that the socialist political system either does not work or presses so hard in those countries that adopt it that it is not able to ensure its own political legitimacy for long, even in a reformed version.

In recent decades the political changes in the Central–Eastern Europe countries included a revolution, such as the of Hungary in 1956, and several reformatory movements,

(1975); Kálmán Kulcsár, *A Modernizáció és a Magyar Társadalom* [Modernization and the Hungarian Society] (1986); Jenő Szűcs, *Les trois Europes* (1985); Antal Visegrády, *Eastern European Government and Politics* chs. 2, 5 (1990); Ivan Völgyes, *Politics in Eastern Europe* 3-103 (1986); Slobodan Milacic (dir.); *La Réinvention de L'État* (2003).

such as those in Prague in 1968 and those in Poland during 1980 and 1981. In the second half of the 1980s, it became apparent that a new political system with a Rule of Law, namely a parliamentary democracy, was needed.

The external conditions for a democratic change of this type matured. The foreign policy of Soviet Premier Mikhail Gorbachev ensured a favorable international milieu which, by clearly giving up the Brezhnev doctrine, enabled other Central and Eastern European countries to detach themselves, not only from the influence of the Soviet zone, but from the “real” socialism which had proved to be a deadlock in history. Essentially the same regimets of authoritarianism collapsed in Central and Eastern European countries. In Poland, the authoritarian regime functioned with elements of a limited neocorporative-type pluralism. While the regime in Hungary governed under a theory of liberal paternalism, its counterpart in Czechoslovakia ruled in a pure authoritarian form.

It is not accidental that in the scientific literature these changes of regime in 1989 to the 1990s are called “constitutional”, “peaceful”, and “velvety” as a “negotiated” revolution. The Polish and Hungarian transitions were dominated by negotiations between the communist government and the oppositionist forces, while the East German, Czechoslovakian, and Bulgarian transitions were typified by nonviolent, mass mobilization. Only the Romanian political transition was sparked by violence.

The chain reaction started by the Hungarian and Polish political changes played a dominant role in the development of Czechoslovakia, East Germany, Bulgaria, and Romania. One similarity of the East German, Czechoslovakian, and Bulgarian transitions is that the former communist governments were not willing to start political reforms until it was too late.

The revolutionary changes in Central and Eastern Europe upon the collapse of the state socialist regimes are connected with the most radical change in the whole world system; and therefore, cannot be regarded as just another series of democratic transitions. Rather, these changes are about the disappearance of the Cold War world order as a fifty-year-long cycle in the bipolar world system and the emergence of a post-Cold War world order as a globalized, multi-polar world system.

The first global wave of democratizations may be regarded as the Cold War pattern of transitions with a unilateral U.S. dominance in the Free World and in political science with its "electoral" model of democracy. After the failure of the Almondian modernization-cum-Westernization model, by the breakdowns, the stability of the political systems came to the fore and with the newly emerging democracies this new approach was widened to the theory of transitions. The second global wave of democratizations, qualified as the post Cold War pattern, began in Latin America and Southern Europe. After Latin America and Southern Europe we can consider Central Europe to be the third stage of the second global wave of democratic transitions, and Eastern Europe will be the fourth.

The political parties of the region were still able to draw upon the experience of other countries during their change of regime. The Hungarian opposition parties borrowed from the experience of the Polish Round-Table negotiations, and the East German opposition parties borrowed from both of these experience. In Hungary, the former communist party (the Hungarian Socialist Workers' Party) assumed a new name (the Hungarian Socialist Party) and entered the political arena with new faces. The Polish, East German, and Bulgarian communist parties followed this example.

Some features of the Hungarian transition may be helpful not only to countries of the region, but may also instruct states around the world.² As a result of Gorbachev's consolidation of power, Hungary was driven by Moscow's "push" for changes and the West's "receptiveness" to change. The two most significant preconditions for change were the disintegration of the party state and the emergence of an open, internal rift within the political and economic elite. A third prerequisite for change was "to take the lid off" the authoritarian system and to open up the way for the political organization of civil society. A fourth preliminary condition was pacifying the party apparatus, separating the state apparatus from the party apparatus and abolishing the nomenclature. Finally, the fifth preliminary condition for change was a radical shift in society's political orientation. This change manifested itself in the people's refusal to accept the legitimacy of one-party rule and the popular acceptance of the emerging opposition groups.

The young democracies of Central-Eastern Europe genuinely desire to learn from the Western European countries and the United States' 200 years of experience with a democratic constitution. Of course, the democratic Rule of Law in the Central European region takes forms that reflect the traditions and culture of the respective countries.³

2 See László Bruszt, *The Negotiated Revolution of Hungary*, in *Democracy and Political Transformation* 213, 224-25 (György Szoboszlai ed., 1991); Mihály Bihari, *Magyar Politika 1944-2004*. [Hungarian Politics 1944-2004] (2005).

3 Cf. Ewa Letowska, *Von den Schwierigkeiten der postsozialistischen Ländern auf dem Wege zum Rechtsstaat am Beispiel Polen*. *Recht in Ost und West* 37/1993/7, 219-223.; Jiri Maleowski, *Der Aufbau des Rechtsstaate in der Tschechoslowakei*. *Recht in Ost und West* 37/1993/1, 12-17.; Antal Visegrády, *Transition to Democracy in Central and Eastern Europe: Experience of a Model Country-Hungary*. In *Winds of Change*, Institute of Bill of Rights Law. Williamsburg /VA/1993, 69-89.

The pull of Western Europe and its form of democracy is felt in Central–Eastern Europe. There are strong, traditional ties between Poland and France, between Czech Republic and some Western European states, and between Hungary and Germany. Hence, Central–Eastern Europe’s adoption of institutions based upon models found in Western Europe is understandable.

II

With the collapse of the socialist system in 1989 and 1990, opposition forces were unified in their wish to introduce social development of the sort that has been functioning for a long time in Western Europe and the United States. It is, however, another question what kind of steps should be taken to follow this development, and, on the other hand, which claims can be realized within one to two years, and which ones are those that need decade or more to be executed. The following discussion analyzes the key issues of a democratic transition, such as the Rule of Law and democracy. This discussion is approached from a historical perspective, concentrating on Central–Eastern Europe, especially Hungary.

The term “Rule of Law” essentially has been applied to two state systems. The “Rechtsstaat” (of a formal meaning) system mainly appeared in German legal theory and to a certain extent in Central–Eastern Europe. The essence is that government administration functions according to rules of law.⁴ The second system appeared after World War II, drawing upon lessons learned from the German Third Reich and to a lesser extent from the Stalinist political system. This system interprets the Rule of Law as a substantial

4 See 2 Paul Laband, *Das Staatsrecht des Deutschen Reiches 1876-82* (1963).

value; the system's characteristic features first appeared in the Anglo-Saxon legal principle of Rule of Law. The important difference between the two models is that in the formal "Rechtsstaat", the state is primary and governs according to the laws. Governance by action-at-law is a characteristic feature.⁵ In the substantial-meaning "Rule of Law", law is primary, and governing is effectuated "sub lege".⁶

It is no mistake that in Eastern Europe – Eastern Poland, historical Hungary, and south of historical Hungary – neither Rule of Law conception appeared in either theory or in practice; the idea of restricting the ruling power with laws was inconsistent with the Byzantine political and legal traditions that were widespread in Eastern Europe. Such a restriction was also inconsistent with the Eastern political culture which, in different times and ways, also influenced the political development of this region. To Eastern Europe, Rule of Law meant the sovereign will in a legal form.⁷ To Hungary, however, this Eastern European interpretation of law was unfamiliar. The historical explanation for this is that the Hungarian legal system and legal culture, like Western legal systems, were based on Roman law. The idea of Rule of Law appeared relatively early in the thirteenth century in Hungarian legal thinking, but the legal development following the compromise of 1867 with the Austrians was essentially built on the idea of the formal Rule of Law until World War I. From there, Hungary basically established a Central European legal system. In spite of this, in the nearly

5 See Noberto Bobbio, *The Future of Democracy: A Defense of the Rules of the Game* (Roger Griffin trans., 1987). Michael T. Trebilcock – Ronald J. Daniels: *Rule of Law Reform and Development* (2008)

6 See Henry de Bracton, *De Legibus et Consuetudinibus Angliae* (George E. Woodbine ed., 1915).

7 See Kálmán Kulcsár, *Lehet-e Jogállam Magyarországon [The Possibility of Rule of Law in Hungary]*, In *Jogrendszerünk a XX. Század Végén* 7 (1990).

five decades following World War II, the “socialist” political model and legal thinking of Eastern Europe were forced upon Hungary. This successfully broke up the institutional network of the Rule of Law. One can distinguish two distinct periods in the attitude of Marxist political science and jurisprudence towards the problem of “Rule of Law”. The literature of the 1950s, 1960s, and even that of the 1970s was characterized by the flat refusal of “Rule of Law”, replacing it with the institutions of socialist legality.

In contrast, in 1988-89, political theorists have combined the ideas of the socialist state and the Rule of Law, argued in favor of the resulting socialist Rule of Law, analyzed the conditions for its realization, and theorized about the organization of its political and legal safeguards.⁸ They have defined the criteria of a socialist rule of law, as a democratic state of separated powers, governed by a constitution, that functions to initiate constitutional and administrative courts, create real independence for judges, develop the principles of self-government, effectuate the Rule of Law, guarantee human and civil rights through comprehensive legislation, strengthen democratic institutions and legal order, realize the conditions of a reliable legal regulation, and aid in developing the citizens’ legal culture. Consequently, if a socialist country incorporates these elements in organizing its state and legal system or improves its existing institutions in this direction, this qualifies as “socialist Rule of Law”.

The immense changes that have occurred recently in the region put the realization of parliamentary democracy on

8 See, e.g., Lajos Ficzer, *Szocializmus és Jogállamiság* [Socialism and Rule of Law], 3 *Jogtudományi Közöny* 105 (1988); Karl A. Mollnau, *Selbstverständnis der Rechtswissenschaft und Sozialer Rechtsstaat*, 1 *Neue Justiz* 2 (1990); Zoltán Péteri, *A Jogállamiságról* [The Problems of Rule of Law in the Soviet Union], in *Dolgozatok az Állam- és Jogtudományok Köréből* 157 (1989).

the agenda in order to facilitate peaceful political transitions from the one-party system into the multi-party system and from the party-state to the Rule of Law. In making the transition to the Rule of Law, Central–Eastern European countries should utilize the experiences of the different types of Rule of Law that have developed so far, while also paying attention to the distinctive historical, political, social, and economic characteristics of their state and region.

All the constitutions of the new democracies declare that they belong to the world of Rule of Law.

Art. 2. of the Polish Constitution states that “The Republic of Poland is a democratic constitutional state, which applies the principle of social justice.”

According to the Art. 1. section (1) of the Czech Constitution “The Czech Republic is a sovereign, unified and democratic constitutional state, which is based on the respect for human and citizen’s rights and liberties”.

The Slovak Constitution also fixes that “The Slovak Republic is a sovereign, democratic constitutional state” [Art. 1. section (1)].

Finally, the Hungarian Constitution declares that “The Republic of Hungary is an independent democratic constitutional state where all power belongs to the people” [Art. 2. section (1) and (2)].

There was and still is a strong commitment from the ruling elites to Rule of Law and democracy as well as strong support for the Rule of Law and democracy from a large part of the population according to sociological or public opinion polls.

This strong commitment and support for the Rule of Law is an effect of the experiences from the communist past and a strong element in the negative tradition of post-communist societies due to negative experiences with the prerogative state.

This ideal model of the Rule of Law is only a model and does not exist in the political and social reality of developed democratic societies. In particular societies some elements are closer to the features of the model and others are in not so close contact. The Rule of Law model could work as a standard for an evaluation of social reality in comparative perspective but the question is, does it have a universal character? Should all countries which try to establish law governed democratic states bring to life all elements of the model of Rule of Law or is it possible to develop individual strategies for implementation of the Rule of Law taking into account local problems and traditions? If the answer to the second question is positive what are the crucial elements for the strategy of implementation of Rule of Law in post-communist countries? A more specific question will be such: Considering that the peculiar type of normativity generated by post-communist society is closer to the *Gemeinschaft* type of society than the modern *Gesellschaft* type as described by Ferdinand Tönnies, is it possible to implement impersonal law and Rule of Law.⁹

One of the accompanying components of the daily management of transition is to cope with ensuing discrepancies, tensions, conflicts, and antagonisms, which do crop up unescapingly. As a matter of fact, their successive materialization in one or another (historically random) form is actually built into the scheme. The system patterned upon the ideal of Rule of Law and Constitutional Democracy reacts uniformly to differing acts, responds homogeneously to heterogeneous challenges, with partial steps taken for partial moves, sometimes even pressured by timely needs, without being able to control the final result. This is why it

9 See Adam Czarnota, *Meaning of Rule of Law in Postcommunist Society*. In: *Rule of Law. Rechtstheorie Beiheft 17*. Berlin, (1997).

is especially doubtful, risking seriously of a self-corruptive effect, to resort to nothing but the routinized instruments, techniques and responses of the store of means called “the Rule of Law”, which itself may have originally been designed and calibrated to use under average, everyday conditions.¹⁰

Let’s see the first steps of Rule of Law in Poland.¹¹

In declaration law plays a very important role in the process of transformation. The revolution in Poland had a legal character through the Round Table Agreement. This contract between the elites on the one hand opened new spheres in social and political life and on the other delineated room for maneuvers enclosing possible political actions within the borders of legality and legal continuity. An outcome of this situation was the partial delegitimation of a new social order. Despite the procedural agreement described above, since 1989 in Poland there has been a growing tension within the political elites: between opting for substantive justice or for procedural justice. Both have their own limitations in implementation of impersonality of law in Poland.

1. The first option, substantive justice, underlines a trust to law, works against the stability of law, and could have an impact on creation of a particular type of legal culture incompatible with the Rule of Law understood as the legal limitation of political power. An outcome of such a strategy will be the destruction of procedural agreement and new legalism.
2. The second option, procedural justice, accepts the existing structural conditions based on informality. More specifically, it formally legitimizes the special

10 Cf. Csaba Varga, *Transititon to Rule of Law* (1995)

11 Czarnota, *op.cit.* 192-193

legal status of particular groups of people connected with the former regime.

Rule of Law means not only constitutional order based upon certain legal principles that limit the exercise of state power, but also the existence and functioning of institutions that maintain the recognized norms.

When the region's constitutional courts were established, Western European and American experience were considered. The constitutional courts were not given clearly defined missions, because of the historical context of their formation, they had exceptional freedom to develop their places in the constitutional order.

The Hungarian Constitutional Court played and plays a historical role in the transition to Rule of Law.

Issues of incompatibility between the democratic Constitution and the legal provisions enacted in the former regime are frequently brought before the Constitutional Court, but only in fragmented and random intervals. As a result, the Constitutional Court abrogates selected regulations that are unconstitutional rather than commenting on the wider issue of the validity of every piece of pre-revolutionary legislation.

The Constitutional Court also maintains the heritage of declaring unconstitutionality for formal reasons. Under the Suffrage Act, those who stayed abroad on the day of voting were prevented from voting. Arguing that a fundamental right was restricted by a simple act and not by an act of constitutional force, the Constitutional Court considered it to be a limitation upon the constitutional right to vote.¹²

In Slovakia the legal order also contains a number of valid laws and provisions from the pre-1989 communist period. The priority among them is probably belonging to

12 See László Sólyom, *Az alkotmánybíráskodás kezdetei Magyarországon* (The Beginnings of Constitutional Jurisdiction in Hungary) (2001)

the law on the proceeding order of the National Council of the Slovak Republic, very well known as the law No. 44 1989 of the Code of Laws. This law did not undergo a substantial change yet, although it was partially altered. It can be used as a very impressive instrument of parliamentary control of the work of the government. It seems to be unconstitutional in some respects (e.g. it still gives the Parliament the competence to abolish a governmental ordinance by its resolution; although this competence has been *ex constitutione* and without any doubt entrusted to the Constitutional Court, created in 1993). In this respect – although Constitutional Court of the Slovak Republic is an independent judicial authority of protection of the constitutionality – it has no possibility to finish a case if it taken back by the proposal maker (as it can be shown on the case of the proposal made by the government in autumn 1994, which has been taken back: this step has been commented as a step within the use of disposition principle – in the decision published under No. 4994 of the Collection of Findings and Rulings of the Constitutional Court of the Slovak Republic 1993-1994).¹³

It is well known that the realization of the constitutional Rule of Law depends not only on legal regulation but on social, political, and cultural elements as well. From among all these, I would like to emphasize only one. The existence and effectiveness of the Rule of Law turns upon its ability to ensure human personality and liberty, here and now in Central–Eastern Europe. The most important obligation of legislators, appliers of law, and jurists is to protect the human content of the Rule of Law – to protect humanity and inherent values of law.

13 Cf. Alexander Bröstl, Challenges to the *Rechtstaat* – Model in Slovakia. In: *Rule of Law* op. cit. 322.

III

When speaking of “transition” in this essay I have in my mind the transition of Central-Eastern Europe countries from socialism into pluralist democracies based on market economies and particularly the transition period of Hungary in the nineties. It is sometimes called the “Rule of Law revolution” by the members of the Hungarian Constitutional Court, referring to the direction and large scale of transition. (Actually, some still miss “real revolution” i.e. blood in the street and skulls in the dust.)

Transition is the period that has elapsed between the demolition of the old system and the building up of the new.¹⁴

Transition towards democracy can be called accomplished when the concerned have successfully agreed in the democratic rules (accept new constitution, first free elections, etc.)

The essence of *consolidation* is to define and put down the basic rules of democratic competition.¹⁵

Implicitly it can only start when the transition is successfully finished!

Consolidated democracy in the minimalist meaning of the world means that the attitude of political characters corresponds to the minimal procedural requirements of democracy.

At the beginning – some time at the end of the year 1989 – everything seemed to be most simple and obvious. It seemed at that point that everything, having existed till then, has come to an end and a period of transition was to begin, at the similarly sharp end of which, something completely

14 G. O'Donnel, P.C. Schmitter, *Transitions from authoritarian rule: Tentative conclusions about uncertain democracies* (1986)

15 G. Di Palma, *To craft democracies* (1990)

different was to begin and fulfill. This final state of affairs was thought to be diagonally opposite of the state of affairs before transition. It seemed to be clear what should come to the end and what should begin, so were the features of these states of affairs. Now – just after the fifth free elections and in the 16 year of transition – all that seems to be a never-ending transition, within which the starting point, the end, the degree and indicators of advancement form objects of continuous and renewed debates. The concepts of “forward” and “backward” has become obscure in the sense of “leap forward” and “stepping back”. At the same time we have the feeling of *déjà vu*-remembering the transition preceeding just this one: that of the transition from capitalism into socialism. The process of transition is not only a process of creation a new political regime but also of a new social order!¹⁶

If we are examining the transition in democracy, we have to state that the new democratic institutions in Central and Eastern Europe have been functioning with moderate or little success. In fact, in many parts of Eastern Europe democracy is at a continuous risk of collapsing. In Central Europe, where democracy has taken off somewhat more successfully, it has nevertheless been demonstrated that there is quite a difference between establishing democratic institutions and developing democratic traditions and cultures. The latter takes time.

The common historical task of the Central-Eastern European countries is to establish democracy in both the institutions and the souls – the political culture. This means more than mere legislation or creation of organizations and institutions. This is the political creation of the nation. The victory of the new democratic governments in Central-Eastern Europe requires a new program promoting democracy.

16 Cf. Miklós Szabó, Transitions into the Rule of Law, In: Rule of Law op. cit.

The establishment of democracy in these countries cannot be forced or follow one single sample, but it must be diverse, freely chosen, and built from below.

Hungary is in the second period of the transition, when the elements of the old and new system subsist collectively, combining and colliding with each other. A good example of this is the development of one of the pillars of pluralist democracy, the process of party formation.

In the fall of 1988, boundless party-forming was characteristic. The elections one and one half years later not only limited the party-forming process, but stopped it in some respects. After the fifth elections, 5 parties remained. Their activity, their everyday presence in the parliament, and their continuous political publicity, shows that the multi-party system is at work guaranteeing democracy.

As public attention shifted towards parliamentary work, the existence of the parties was subordinated in some respects to what they could achieve and produce in the everyday parliamentary fight. The existing parties must deepen and extend the social bases, and new parties must emerge to fill in the cracks.

This is the point where we can interpret the principal difference between party forming in Western Europe and Hungary. In the Western-European tradition (mainly the Anglo-Saxon, the French, and the German), there are not only great party-forming trends, but the party-system gradually loses from direct political functions. On the one hand, corporative mechanisms free from politics came in to being. On the other hand, the parties themselves got over a "depolitization" phase, the essence of which is that they learn not only the political but the economic, professional, elective and pragmatic tasks of the society's integration.

Such modifications did not take place in the Hungarian historical party-systems; politics were always politics

and no other manner of the society's integration developed within party politics. On the other hand, no such corporate mechanisms came into being which could have lightened party-politics and could have performed the complex task of the society's non-political integration. The Hungarian history has no overall, established tradition for the economic development of society and for the representation of its interests, and replacements for such traditions took shape in the present new system.

The new system is represented largely by parties which bear political functions.¹⁷ However, democracy has requisites other than pluralism: the human operation of power and the controlling mechanisms, the political publicity, and the assurance of opportunities for participation. We must build democracy not only in institutions, organizations, and laws, but inside ourselves as well. Without respect for moral and political values, no moral politics exist, and there is no political nation which is built from below. Democracy must be built in the souls, in the emotions, and in the everyday life. Only a democracy that is based on morals and everyday practice can be strong.¹⁸

In the everyday political arena, the conflicts, conciliations, decision-making, and compromise-searching processes of business federations and the political subsystem may shape the norms, ethics, and culture of democratic politicization so that people can clearly understand the advantage of democracy.¹⁹ All these must be accompanied by the political-

17 See László Kéri, *Összeomlás után* [After the Collapse] 78-87 (1991); Rudolph L. Tökés, *A Második átmenet politikája Magyarországon* [The Politics of the Second Transition in Hungary], In: *Magyarország Politikai Évkönyve* 305 (1991); *Rechtsstaat - Ursprung und Zukunft einer Idee. Rechtstheorie Beiheft* (1993)

18 Bihari, *supra* note 2.

19 See Tamás Fricz, *Rendszerlehetőségek Magyarországon* [System-Possibilities

legal training of citizens. In the former socialist countries, the depoliticization of the people resulted in most of the people concentrating on consumption private life.

Democracy cannot be proclaimed by laws – democracy need democrats! An important task of the young democracies in Central–Eastern Europe is to work out a system which educates citizens to be “democrats” because “it goes hand in hand with the kind of schooling its children get.” In addition, educational institutions and the media must strive to clarify and raise awareness of the nature of parliamentary democracy, the Rule of Law, human and civil rights, and the democratic political and legal culture. If the citizens thoroughly become acquainted with the order of our democratic constitutional state, the mistakes of the past, and the requirements of the future, their political activity, their sense of responsibility, and their readiness for cooperation will increase, and they will be willing to make sacrifices, if necessary.

In this respect, I think we can count on Western-European and American experts, programs, and extensive training of teachers, lawyers, and other professionals. A very important question in the new democracies is how to promote an equitable economic development and contain social unrest. To do this, the Central–Eastern European countries need a new type of democracy, not just a new democracy.²⁰

Central–Eastern Europe hopes to establish an efficient mechanism of conflict-regulation and crisis-management based on a large national consensus and participatory rights. In the democratic transition of Central–Eastern Europe, a formalistic or procedural model of democracy would not

in Hungary], 10 Valóság 1 (1991)

20 See Attila Ágh, *Transition to Democracy in East-Central Europe: A Comparative View*, In: *Democracy and Political Transformation* (1991)

work properly, and would certainly alienate people from politics. The people of these countries need a clear commitment by the new democratic state to enable all citizens to exercise fully their democratic political rights by providing all the necessary social and economic preconditions.

René Marcic properly pointed out that the constitutional state and democracy have common roots.²¹ A constitutional form of government kept in check by the supreme power of the people guarantees that the Rule of Law and human rights are truly realized. The Rule of Law must be democratic in its content as well as its procedure. The governments of Central-Eastern Europe must protect democracy and protect the Rule of Law from breaking down.

IV

The countries of Central-Eastern Europe have been consolidating for 21 years and surely they have what to consolidate.

The political, economic and psychological practice evolved during the 40 years of communism have proven a much bigger barrier to quickly “returning” to Europe than it seemed in 1989. One thing is for sure the countries of Central-Eastern Europe have passed the point from where they could return to the old system.

The new constitutions of the Central-Eastern European countries entirely supported the process of stability and consolidation as a legitimizing factor.

We share the opinion of those who believe that the process of democratic consolidation has gone quite far in the Visegrád Countries and they are almost at the same level as the other post-transition countries of Southern-Europe

21 See René Marcic, *Art Demokratie*, in *Katolisches Soziallexikon* 138 (1964).

and Latin–America.²² Though post-communist totalitarian heritage doesn't really favour democratization.

The *main difference* between the transitions of Southern and Central–Eastern Europe is that while in the former soldiers immediately disappeared from the political stage as soon as democracy settled down in the latter reform-communists play an important and sometimes negative role in the new system.

At the same time is important to stress that *consolidation cannot guarantee* the immunity of democracy against political crises, ethnical tensions and other potentially destabilizing events.

The thesis that political transition is not possible without the (prior) successful economic transition is proven false (while democracy is stable in Poland, Hungary and in the Czech Republic the governments are fighting against unemployment and poverty, etc.).

In the countries of Central–Eastern Europe there are commonalities of the process of democratization which make it possible to talk about a *sui generis post-communist model*.²³ The characteristics of this – among others – are the following:

- the peacefulness of transition;
- unbroken legal continuity;
- full-pledged framework of Rule of Law, instituted in gapless way as far as its formal arrangement and in-built guarantees are concerned;
- ethos and prestige – unchallenged and unques-

22 F. Plasser et alii, Democratic consolidation in East-Central Europe (1998)

23 Cf: especially Mary Kaldor – Ivan Vejvoda, Az Európai Unióhoz csatlakozás feltételei: demokratizálás a közép- és kelet-európai országokban (Conditions of Going to the EU: democratization in the Central and Eastern European Countries) Politikatudományi Szemle 1997. No. 3; Csaba Varga, op.cit. – Antal Visegrády, Political and Legal Culture of the New Democracies of Central – Eastern Europe: In. La reinvention de l'état op. cit.

- tioned – of constitutional democratic establishment;
- it is not only about a democratic tradition, but there is a transition towards the market, from cold war to peace, to the Information Age and in several countries (Baltic States, Slovenia, Czech Republic and Slovakia) to the new forms of statehood;
 - partitocrazia (Sartori);
 - the weakness of political culture
 - the problems of individual and collective rights of minorities;
 - the tensions of transition contributed to the fast disappointment in politics as well as;
 - the outburst of energies at local level (e.g. the progressive increase of the number of small- and middle businesses).

Researchers have paid quite little attention to the international dimension of the Central–Eastern European democratic transition and consolidation (with the exception of the role of Gorbachev).

International correlation plays a much more important role in the transitions of Central–Eastern Europe than it did earlier in Southern – Europe and Latin - America.²⁴ The reason for this is partly because political and economic transitions are simultaneous.

Perhaps the most clear and most decisive is the constant influence of the European Union to the democratization efforts in the countries of region.

Since the effected countries took the necessary measures to membership by this they influenced the develop-

24 See Petr Kopecký, Cas Muddle, Mire tanít minket a kelet-európai irodalom a demokratizálódásról (és viszont)? [What can we learn from the East European Literature on Democratization?] In: Politikatudományi Szemle, 2000. No. 3-4.

ment of democratic consolidation in different ways. On the one hand positively since the effected countries accept the new reality and adapt the new aims, on the other hand negatively because the differences between the requirement of the Union and the demands of the citizens became even more visible.

During the 7 years passed since the historic enlargement it became obvious that the economy of the newly accessed countries is very fragile, which became worse by the global financial crisis. For this reason Brussels is expecting so called reforms from the new Members, such measures that are not in the interest of citizens in the short term.

The Visegrád Four – without any exception – have drifted into grave internal political crises (riots, governmental crises, ethnic conflicts, the state pulling out of several sectors, the situation of public health, unemployment, feelings against the Union, etc.)

The former socialist countries of Central–Eastern Europe are having their most difficult times since the change of the system and it is to be feared that this crisis will have an effect for years. One thing is for sure, Brussels alone cannot solve everything for them.

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