

# ILLIBERAL DEMOCRACIES: WHAT CAN THE EUROPEAN UNION DO IN CASE A MEMBER STATE REGULARLY AND SYSTEMATICALLY BREACHES EUROPEAN VALUES AND REGULATIONS?

**Workshop, Budapest, 24 April 2015**

The main questions and topics of the workshop were the emergence of illiberal democracies inside the EU and in its surroundings; the state of democracy in Hungary and the sort of conflicts it creates within the EU; what can the EU do in case a member-state regularly breaches EU-laws and regulations?; what is the role of political elites, civil society and media in framing public discourse about fundamental all-European values? The workshop was organised in four sessions, along the above-mentioned topics. What follows is an account of the of the event. (In *italics* you have the words of the editor of this text, while the plain wording is that of the contributors. **Highlighted** are the names of the leading contributors, the main focus of their presentation and the most salient concepts. The opinions are not identified. The discourses of the speakers are not transcribed fully. The transcriptions are merely informative, the omissions are not marked.)

## First Session: Illiberal democracies in the EU?

**Mr. István Hegedűs** opened the workshop by talking about **the Hungarian case in a EU-context**. Surprisingly enough, he called Hungary of today a failed illiberal democracy. Since Mr. Viktor Orbán announced his infamous “**illiberal democracy**” in the summer of 2014, his party, Fidesz lost three by-elections and the supermajority in the national parliament. The regime now shows painful symptoms. Corruption scandals, unmasked by a courageous critical new generation of journalists; irrational and unpopular domestic political decisions which provoke huge and spontaneous demonstrations; in the international arena we see the isolation - a sort of cordon sanitaire - around Orbán, especially because of his “Eastern opening” and close friendship with Vladimir Putin; power struggles inside Fidesz, between members and interest groups of the political elite.

*Mr. Hegedűs thought, however, that it is too early to speak about total defeat.* The over-centralised power structure is still in place. Partly, its strength comes from the danger of the populist radical right, Jobbik. Other than this, there are the doubts concerning the readiness of left-center parties, as an alternative. Would they be strong enough to withstand the attack of populist forces and reconstitute the institutions and the reflexes of liberal democracy?

*Of course, the issue is larger than just Hungarian.* We should understand the nature of the newly emerging partisan parties and politicians inside the EU. Should we talk about illiberalism, populism, soft and hard Euroscepticism, majoritarianism, nationalism, or something else? Are they a danger or just a temporary fringe phenomenon? Anyhow, leading European political elites probably should be aware of the risks and strengthen the safeguards against anti-liberal tendencies at European level.

*Mr. Hegedűs thinks that European liberal consciousness is important.* The Europeanisation of the Hungarian case in 2010, especially after the introduction of restrictive media laws by the then freshly installed Orbán-government have saved the country from an even worse political outcome. The continuous criticisms by the European institutions meant moral support to the opponents of the aggressive and fearful political regime. However, the same criticisms led Orbán to mobilise pro-governmental sentiments against “foreign”, European, socialist and liberal forces, international organisations and multinational companies. Unfortunately, the European People’s Party followed a partisan political line and refused to condemn its member organisation, Fidesz. The result was that the Hungarian government and parliamentary majority could continue its way, quasi undisturbed. The neutralisation of the Constitutional Court through constitutional amendments and patronage, the nationalistic rhetoric of the preamble of the new Basic Law, the partisan media regulatory authority, the devaluation of the

ombudsman system, or, to mention an everyday human rights issue, the criminalisation of the homeless people, etc., are still with us. The rather exciting question is: whether it was the consequence of non-sufficient legal competences at European level, or cold pragmatism and lack of political will that ended up in half-way solutions concerning the negative developments in a member-state? What could be done in the case of further systematic breaches of European values and laws? Should we stay with parliamentary resolutions, or try to rely on the possibility offered by Article 7 established by the Lisbon Treaty? Is there a third way in between?

*By this speech Mr. Hegedűs gave the tone for the whole workshop. He repeatedly reiterated the warning that from the EPP's conciliatory – opportunistic? - behaviour concerning the Hungarian case, saying that this sort of political sectarianism is undermining the European construction.*

**Ms. Kati Piri** spoke about *democracy as a bulwark against populist contamination*. Liberal democracy is where you have regular, free and fair and competitive elections, and the most important that you do not know the outcome, strong division of powers, checks and balances, and there is space for media to check what politicians are doing, in order to have well informed citizens for upcoming elections. But institutions are not enough: attitudes are at least as important. *Ms. Piri drew the difference between strong and weak democracies, in respect of their vulnerability. Strong and weak democracies: the dichotomy remained a red line throughout the rest of the workshop.* Strong democracies, like Holland for example, can withstand the rise of populist sirens. Weak democracies, like Hungary, for example, are prone to nationalistic and populist leaders.

Turkey is a very critical example in many ways. Erdogan managed to raise GDP enormously, in Turkey inequality is getting smaller, health-care is free for all, social policies for the poor, middle-class had been created. This is a big challenge for Liberals. If you cannot deliver wealth, than it is easy for populist leaders to curb freedoms. This is a **challenge** for all the traditional parties, as well. Also the challenge by Putin, his managed democracy. He is getting appeal, even in the European Parliament.

The debates around legislation are important and will continue to have also in the European Parliament. The real issue, however, is the change mentalities. Ms. Piri's main message was that **this is not a right-left but democratic and anti-democratic challenge**.

**Ms. Pelin Ayan Musil:** *about the Turkish case, compared to the Hungarian one.* In Turkey Ms. Musil saw a regression of democracy towards illiberal paths, led by democratically elected leaders. This is different from Hungary, where she saw a regression from liberal terms, but not yet an illiberal democracy. Turkey today is on a path to an autocratic democracy. The civil liberty dimension has really regressed. The custody of thousands of activists, journalists, union leaders are indicators of this backlash of democracy. To demonstrators Erdogan responds with more repression. Turkey in 2014 or the first time witnessed some electoral frauds. This is a path to electoral autocracy, which is not the case in Hungary.

Why **democratic erosion** can happen? These are two very different countries with very different political backgrounds. The outcome is still similar: the major victory of two right-wing conservative parties and **populist charismatic leaders**. How did they get elected and re-elected? One explanation is always the **economic crisis**. Both came to power after economic crisis. But I find this explanation too reductionist. **There is something more**. The populist leaders come to power after a **society really feels worn off**. Major segments feel **othered** by some dominant groups. At these moments the leaders use their power to manipulate these feelings. In the Turkish case, it was religious muslim society which was othered historically. There was the secularist top down modernisation and the religious felt intimidated by this process. The military closed down the religious party, constitutional court made decisions against them. In the Hungarian case it is similar. The feeling of otherness in the European context.

Orbán also came to power when the society felt worn off and considered itself as the other of Europe. The society wanted full participation in Europe and the old member-states did not provide this sufficiently.

Which means not that they did not provide opportunities but that was the perception of societies which is what matters. Orbán manipulated these feelings and could come to power.

**Mr. Othon Anastasakis:** *about the effects of the Eurozone-crisis and the decline of EU's normative role. The question is whether EU can be compatible with illiberalism or not. Here Mr. Anastasakis saw two important phenomenons. One is a **decline of the EU normative power**. We took it for granted that the EU power was a soft normative power, not just in the EU, but also in the world. The second is the **decline of the Eurozone-countries**, and this is seen not only among the member-states, but also in the neighbourhood and around the world.*

We see Hungary, Greece, but the European core as well. The EU coexists with illiberalism now, inside and around the world. There is the fight of two narratives. One the EU's normative narrative, and than the other, the more strategic narrative that comes from China and Russia. The EU is not loosing this fight but is seeing its power declining. The impact of the Eurozone-crisis is very important because here we see the roots of the **delegitimation of the political system** as the result of the crises. In Greece there is the decline of the political and social contract as it developed after the '74 fall of the military junta.

There is EU **illiberalism by omission**, and EU **illiberalism by commission**. The first is, that the **political reform has taken a secondary place**. The economic crises has dominated the whole understanding of things, there has been on austerity, banking union, etc, and these had effects on liberal politics in the periphery of Europe. But it has also effected the core of Europe. **The rise of the extreme parties** is the proof. What is significant is the rise of these parties **in countries that are better off**: Sweden, Holland, etc. Whereas in Spain, Ireland, Portugal, there are no extreme right parties at all. There the repercussions of the crises are different. That is one thing.

The second, illiberalism by omission is how the Eurozone-crisis has affected directly the way that democracies have been functioning. Greece and Hungary have faced a deep crises. Hungary was very strongly hit in 2008. The same was the case of Greece in the 2011 crises. Than we see the rise of two far-right parties, very similar in their views and mythologies. Both of them are toying with the idea of Russia. Both parties completely understand that the only game is inside the EU. Russia is not provide any kind of alternative for them. But they play this for tactical reasons, and some economic advantages. And both of them are playing the immigration-case. Both countries are challenging now the normative role of the EU.

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*After the invited speakers, a "brain-storming" followed around the questions if there is really a decline of the West? Is it not a model any more? Is there a universal ideological trend? Is there a populist international? One of the explanations was of course the economic crisis as a reason for the emergence of the far-right populist parties. The opinions follow in "bouquets".*

*Most participants agreed that the effect of **the financial crises** is extremely important. Till the financial crises the basic belief was that we have difficulties, liberal democracy is not exactly what we expected in '89 but it is still the best we can have. After the financial crises, wide strata of society lost their belief in the system we have. Many thought that democratic rights and liberal values are not able to assure basic well-being for society. The decline of the West, the problems of the liberal state and of market economy became ideas that attract.*

*Reacting on the crisis, the EU supported precisely that liberal market economy which was the cause of the crisis. Unfortunately, **the EU is designed like that**. The EU has many opportunities to intervene in economic fields and to deal with financial systems and state finance systems, but **leaves the social problems** belong to the member-states. As the social crisis appeared in some of the member-states, the people saw that EU is refusing with the social crisis. So the right wing could point out that all this is because of the EU.*

*Others thought that economic crisis certainly played a role in the emergence of the extreme right-wing parties. But we have to differentiate. It is not completely about austerity measures. In the Netherlands or*

*Danemark the populist parties gained a tremendous momentum while countries were booming. Populists were fed by the **anti-muslim feelings**. Which means that there are other issues in play than just economy.*

*Someone went as far as saying that “**it is not economy at all**”. At least not in Western Europe. There is no link between unemployment, perceived economic threats and the rise of right wing populists. It is the opposite. In Southern Europe there is only one country, Italy, with a strong right wing populist party. In Greece there is only a fringe right wing party. Where these parties are growing is the reach North. The countries with the highest level of social security the world has ever seen. Assuming that Euro-crisis has a say with this, does not apply to Western Europe at all. The rise of these parties came before the Euro-crises, and only in one of the 28 did it come after. Which is Germany.*

*Someone retorted. Right-wing extremism in Greece is not “fringe” at all. It was contained by Siriza, but the situation is extremely uncertain. It is the perception of the unequal burden of the harms of the crisis, and the rising inequality that has been perceived by increasing sectors of the population to feel to be left out. Economy plays a big role! If one looks at the number of the working poor, Germany has the highest number of them. The UK has the highest percentage of malnourished children. So it is not so much the question of how rich the country is as much as what is the perception that certain sectors of the population are being turned into neo-proletarian social force. That creates resentment towards the parties in power.*

*There were also more politically-minded reasonings.*

*We see a wider chance for charismatic leaders in the less well-established democracies. In a strong liberal democracy charismatic leaders can try, but the checks are there.*

*The other is **societies**. Hungary was doing very badly in terms of **civil society**, and not just in the last some years. Also **public trust** in politics and democracy was and is low. There were many mistakes by the leaders, but society is also a factor.*

*The third factor is a weakened EU. It is very **different if a country is inside** EU, or a candidate. The whole is clearly not a legal question but a political question. There is the **internal interdependency** among the member-states which makes it awkward to criticise an other country. Orbán always tested the EU. Went up to the wall and if the wall resisted he withdrew one step. And because EU was occupied by economic questions, it was weakened in its normative function.*

*Connected to this was the opinion that there is need for the **reconstruction** of the normative and attractive part of Europe. Without **going ahead** with the European project and have the EU a **wider say in social** and other issues. Someone even went as far as saying that instead of speaking about the weakening of EU's normative power we should confess that this normative power never existed. Originally, EU was set up as a unification of Europe against the Soviet. But this opinion remained without further comment.*

*On the other hand, a more popular position was that member-states **are not using the institutions to the full** but rather blocking it. We hear very often a critic of the EU when it should be the critic of the member-states. Often they are blocking what the EU could do more. “The Council is also Hungary and others.”*

*Concentrating more on the far-right populist parties:*

*Someone explained the rise of extremism by the **failed dreams**. The people of Eastern Europe expected growth, freedom, solidarity. This was the model, and the reality of the West. Europe today is the same on paper. But when those countries joined Eu, **Europe was already different**. We still had growth. Equality, however was replaced by equal possibilities. And there was less solidarity. People still have the expectations but see that democracy does not deliver all that. And that may be the root of the problem.*

*According to others, the feeling of loss can be more general, encompassing the whole of Europe. We lost our feelings for values. Democracy and freedom are the losers in our time. Multiculturalism is today a big threat. The check and balance principle seems to be jeopardized. The same with principle of neutrality in respect of religions. Rationalism also is at risk. If we think to define a future for Europe we have to have a project. One of the reasons or secrets of Orbán is the **historical frustration** of Hungarians. The **use of memory**.*

*Someone went as far as saying that the notion of democracy in history was that societies organise political power in a **self-government**. If we look what has happened in Hungary or Italy was that the liberals put themselves against the potential to self-government. It may be the EU, Nato, whatever. These were decisions which have made the society unable to self-perform. For Hungary introducing market economy was to open up. Today the illiberal forces try to **regain autonomy for a society** to govern itself. The problem is that this **regain of democracy is against the fundamental rights**.*

*The more real-political contribution says that in the 28 countries there are **different reasons** of why the extremist parties were born. Not one single phenomenon, like illiberalism or populism exists. You cannot compare Ukip with the Fidesz regime because there are no common points. However, they are now uniting. They have now a common item: **Putin**, who is fighting for the nation, is fighting against human rights and the EU. This is what brings those parties together.*

*Someone shows on the role of mere political opportunism. That is, if we focus too much on the ideological or discursive character of populism we can lose another very important aspect, that is, populism as a **pragmatic power-strategy**. For example Smer in Slovakia. Or Roumania in 2012, where they eliminated really important checks and balances. Sure has the Orbán regime an ideological mask. But this illiberalism in Hungary is mostly a **legitimizing factor** for government acting, instead of being a prescriptive one in ideological sense.*

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## Second Session: The state of democracy in Hungary and the role of the EU

**Mr. Benedek Jávor** characterized the newly emerging Hungarian governance as a sort of non-democratic **regime**. Hungary is still not a completely illiberal democracy. The theoretical background of the power is an illiberal conception although the build-up is still not completely there. It is not enough to hate those guys at power but we also should understand the nature of their power.

For the proponents of illiberal democracy the proper subject for self-determination is not the individual but **the nation**. The nation has specific moral values and purposes and these are supposed to be expressed by the moral choices of the majority. The politicians who resonate the sentiments have a **natural claim on leadership**. "The nation cannot be in opposition." The liberal restrictions of power are regarded as totally unnecessary and harmful if the nation itself is on government.

This has also consequences on economy. Shameless **favouritism** of **state capitalism**, with two purposes: the well-being of the nation and the economic dominance of the true leaders of the nation. That is, **state-capture** and **corruption** have a theoretical background. Even corruption could be regarded as tools for supporting the power of the nation.

All this is covered by laws and decrees that have been passed with the sole intention to make essentially corrupt intentions formally legal. The line between politics and business is getting blurred. Some of the political players assume important economic positions. And the economic players seek contacts in politics. This system is basically **unsustainable**. It is based on wasteful use of public resources, favouritism, and the distribution of markets among the clientele of the ruling party. This system can go until there are new and **new resources**. **European tax-payers are heavily contributing** to the needs of resources of the system. This infusion goes directly to the clients of the system.

The very notion of illiberalism, linked to the notion of state-capture and favouritism, is a guarantee of corruption. Illiberal state cannot function without corruption. Jobbik is living on that.

**Mr. Morton Kjaerum** spoke about the legal framework and limitations among which member-states operate and can be put to scrutiny by the EU and other organizations. There are the **rules**, there are the **Copenhagen-criteria** and we think that once a state becomes full member than things can only go forward. This is not the case: they **can go backwards**. Those questions we are talking about here are to the **core of state sovereignty**. In any international collaboration there will always be strong hesitation from any state to give powers to any supranational body, be it the Council of Europe or the EU to be given a look into the electoral systems, for example. In human rights there have been more openness after 1948.

This underlines why we cannot speak only about EU but also about the **Council of Europe**. One interesting side effect of the discussions about Hungary is that EU institutions, particularly the Commission, formerly were not very respectful to the Council of Europe. Then they suddenly recognized their own limitations, saw the Council of Europe, particularly the Venice Commission, and the relationship was strengthened and the interaction is stronger today.

Following the adoption of the Charter of Fundamental Rights those rights are becoming binding. We are on the way of adopting a new internal security strategy. For the first time we see the European Union using the **language of fundamental rights**. Here again, activists, civil society NGOs can play a much more active role. Than we have the draft legislation. The Fundamental Rights Agency has been asked numerous times by the Commission and Parliament to take position. That has quite an impact on those pieces of legislation. The Agency today can do it **only on the request** of some institutions and **not on its own initiative**. That could be the **next step**. The next steps are the monitoring of the implementation by member-states of directives, policies. The infringement procedures against France in relation to the Roma that was opened in 2010 and had a tremendous impact also in other member states. Also in the Hungarian cases, where there were the judges forced to retire earlier, and the data-protection. But the Hungarian case also shows the weaknesses of the system in the sense that the Commission had to open the case in relation to age discrimination instead in relation to the real merit of the case. There was a major eroding of democratic institutions but the only tool that was available was age discrimination. Which of course illustrates the weakness of the mandate of the EU. The **rule of law framework** of the Commission was not used and was challenged by the Council, by the member-states. This again illustrates the sensitivities.

The Fundamental Rights Agency has a strong mandate but at the same time there are limitations. Hate crimes are at the roots of extremisms but they were broadly neglected by the great majority of the member-states. These are crimes that are really undermining social cohesion in society because they inject tremendous fear into minorities. Now thanks to the Agency these questions are on the agenda.

Economic and social rights have been raised. So that they are taken in consideration in the austerity steps. How do we monitor and follow the financial transfers from the Eu to the member-states? In the Roma task force, we were looking into where did the funding coming from Brussels go. And there was absolutely zero trace. We could not see any reports, if they were used properly or not. There is a major issue also because this is what keeps some political movements alive.

For the FRA, push for a stronger mandate, make the annual report a part of the rule of law cycle that the Council has announced. Finally, **the Agency should be given a mandate in relation to Art. 7**.

**At the national level** as well much more can be done. We have equality bodies, we have data protection officers, all based on EU directives. They are poorly funded, their mandates are week, they lack independence. We should insist much more that these democratic institutions should function. Let us have a stronger vision in Europe, a vision that is slowly emerging: an open society, **an inclusive society within the fundamental rights framework**.

Someone tried to come to grips with why Orbán's regime cannot be really unveiled. On the one hand, it is a rule of law system, with the two third majority laws that are there to protect minorities. **The big political families** give protection to their members, including one like Orbán. On the other hand, the democratic institutions are there in place. Of course, they are filled up by former class-mates. So, the personal relations go against independence of institutions, but this again, it is very difficult to catch on the European level and intervene.

A joint opinion says that in Hungary, we are not challenged by separated individual human rights cases but by a **systemic threat to the rule of law** and the fundamental rights. That is why the separated case-based strategy of the European Commission per se could not be successful.

At the same time, the Commission makes some mistakes. The first is the **failure in the threat perception**. The Hungarian elections were **free but not fair**. One of the fundamental all-CE compliances were not met. It would require an appropriate reaction from the European Commission. The second one is the failure always in the **timing**. Now any initiative from the side of the European Commission against the Hungarian government simply would not be credible. And why? Because the European Commission always **loses the very momentum** when this political acting could be credible. The implementation of the Tavares-report were sabotaged both by the Council and the Commission. Or, the rule of law initiative by the Commission is ready for more than a year. Of course, it was challenged by the Council in the rule of law dialogue. If they start a process against Hungary now, than why now? Why not last spring, before the elections?

An other contributor added to that, that the Council of Europe framework, with the Court, and other institutions is passive. Could not the Fundamental Rights Agency be **more active**? The quantitative studies are sometimes unjust vis a vis the more open countries. The number of breaches of certain minority rights is often higher in the more liberal countries, according the studies, than in Roumanie, for example, which is ridiculous. The Agency could do much more in concrete cases in member-states. Or the situation of the Orthodox Church in Roumania related to the European institutions. The Church is a major source of discrimination in Roumania against other religious groups. On the other hand, the Orthodox Church is the main beneficiary of the European projects. How a clearly discriminatory institution in Europe can receive the money of the EU?

**Corruption** is interesting because it is not divisive in the sense that the rights-based discourse can be. Orbán can easily portray any EU intervention as an interference of a foreign colonial body against the body politic of the Hungarian nation. But corruption breaks that by pointing out that some elements of the Hungarian nation are rotten and it benefits a minority of the Hungarian organic nation. We know that EU's accent is more on money than on values and this unfortunate. There is a hell of a lot of money, European tax-payers money that goes to Hungary, and part of the money are benefits of the constituents of the Orbán regime. There needs to be an action at the political level and institutional level to alert, the European Court of Auditors, for example, as to what is happening with this structural funding that is making its way into Hungary.

It is important how moralised the Orbán regime is and how they justify corruption (Allusion to Mr. Jávör's saying that the regime justifies corruption by a political rational. The institutions and the human rights language are there, Orbán can show them out, but on the moral bases he has a completely different argumentation. Discussing of what the EU can do, we have to have also a dimension of the political discourse, and we have to have an understanding of his ways of highly political, highly ideological way of communication, which is a completely different language from ours.

Finally, the functionings of the regime certainly have some limits. It is also like a pilot game. More and more money is needed. It is not just about corruption. People were hoping that they will be beneficiaries of the National Cooperation System. Therefore more is needed. Therefore Russia is needed, as an other source. The whole Eastern opening is about uncontrolled money to feed the system. And, those people who are not supporters, are leaving the country.

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### Third Session: What can the European Union do?

**Jean-Marie Cavada** raised the issue of the *political and ethical crisis*. The EU is first of all a democratic model. Some member-states forget about this but sometimes the Parliament and the institutions also. The time of compromises comes to an end. There is a practice of solidarity that the EU should not intervene into the proper application of democratic principles within the member-states. The ALDE proposes to establish a **Democratic Governance Pact**. We must not compromise on this issue and we have to penalize the states that violate the model of the democratic state. **Art. 7 of the Treaty should be considered**. It is an instrument to defend the fundamental rights. Our laws define us an evaluating system for the respect of rights and rapid sanctions before it is too late. We are now in a country where the government may be ashamed. It could not go ahead on this way if the European government, the Council did not accept. And the Commission of course. Hungary becomes example for many others. We have to do finally what we have to do and not bargaining.

**Mr. Imants Liegis's emphasis was on the rule of law as a funding principle of democratic states and of the EU and his main statement was that the EU cannot use double standards.** It is a vital instrument for those who want to join the EU. These are directly linked to the speed of the negotiations. The Commission uses in this period the Council of Europe and the Venice Commission. But all this seem not so rigorously applied to the already member-states. With the EU is a global player, this question is also important in relation to other regions.

Art. 7. The procedures are there, in an interplay between the Council, the Commission and the Parliament. And an important momentum was the letter of the four foreign ministers, Denmark, Germany, Finland and the Netherlands, because this did make an important contribution to the debate, prompted the Commission to promise a new framework for the rule of law which has been looked at but is perceived as legally unworkable.

*Mr. Liegis stressed the role of the Parliament in the furthering of the legal rigour in the EU. That is important on the part of someone who is functionally more linked to the Council.* He stressed that the construction of the EU is such that **institutional interaction is crucial**. The **role of the Parliament** in the checks and balances is important. The EU Parliament contribution to the debate and the suggestions of how the EU could better address problems in respect of the rule of law are invaluable.

Where we are from a Council perspective, the Latvian presidency? Our work programme is in the Trio perspective and is related essentially to the rule of law and human rights. What is important is that this was picked up by the General Affairs Council of 16th of december last year. The conclusions of that meeting essentially set out what the Council is doing to try to strengthen the respect of the rule of law by member-states. Latvia fully acknowledges that the Council's ability to act has to be **within existing treaty**. Also that the dialogue between member-states has to be based on equal treatment and principles of objectivity. There was mention of the one-yearly review and may be this will be conducted during the presidency of Luxembourg. **We don't need new institutions and procedures but we have to use them better.**

**Mr. Lorenzo Marsili spoke from a perspective of the civil society.** He translated the feeling that the EU does not do enough to safeguard fundamental rights and citizenship rights, and by doing that to safeguard the EU itself. The ALDE proposal is extremely articulate, it brings some of the best practices of the academic and policy

debate over the last few years, from the Tavares report, the demands of the **Copenhagen-like institutions**, to the idea of establishing a **European semester-like process** where the issue would not be the budget of the member-states and their scrutiny but their record on rights, liberties, fundamental rights, deficits in rights. This is an ambitious working proposal and one that is legally viable, and does not require Treaty-change.

Do we have the political capital and the balance of forces to give it any chance in the foreseeable future? There is **no reason for optimism**. In the case of the rule of law proposal, the Commission itself watered down the framework proposal, and even that extremely watered down proposal from the Commission was deemed by the Council too radical. The Council is now looking at a framework which before being inadequate is unreasonable. It replicates the system that we already have. We have such dialogues for almost 40 developing countries, and the evidence of any achievements is non-existent. It is a hypocrisy imagining that an informal debate between heads of state about the perceived violations of fundamental rights would lead anywhere.

How can we have a proposal that would have chance and that is addressing the concerns of citizenship and the citizens? **The ball is very much in the court of the European parties and the European Parliament**. Perhaps we need to establish wide-reaching a multi-level **political campaign** on the necessity of a democratic pact for Europe. A campaign that is not ashamed to unveil the hypocrisy of the member-states and their counter-productive discourse and policies in the Council. There are many organised interest in the civil sector to work for fundamental rights and citizenship rights. Civil Society Europe is one of them. The recommendations that come out of the European Year of Citizens. They should be used better.

At the beginning of 2016 the Commission will present a proposal revisioning the **Audiovisual Directive**. That is an occasion. We have been launching a **European Citizens initiative**. One of the demands was for a **binding mechanism** for the role of a supervisory body to be inserted in the Directive. It is clear that such a media body that the Orbán regime has set up here would not pass.

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*The questions are whether new institutions and procedures needed or the existing ones should be better used? Is the Commission framework and mechanism dead or not? Art. 7., should it be used? Is it feasible at all?*

*One of the most important things is to put a **deadline to the procedures**. The discussions are lasting more years, which is a sure way to not doing anything. If EU does not act quickly, those governments can go ahead until the situation and harms are irreversible. Between 2010 and 2014 Orbán could change the electoral system so that now it is very difficult to overrun them in a democratic way.*

*Someone else urged a more active role by the Council and all the institutions. But did not agree with the idea of lost momentums, and the institutions always being late. The systematic **push** from civil society, the parliament, from Fundamental Rights Agency can work. In the Hungarian case, at the beginning nobody wanted to start a wider discussion on rule of law. Than something moved. We have to see what are those mechanisms in place, how can we use them better.*

*An added opinion to the former was that art. 7 is a viable tool. 20 years ago Austria had been harshly criticized and the sanctions proved to be efficient. Haider was very reduced. But that was a political joint action by the member-states. Other than that, we can only work within the confines of the Treaty. The good of the ALDE-proposal is that it is outside treaty changes. Than we have to come back to political acting and to persuade the fellow deputies that this is what might be needed.*

*With art. 7 someone raised the problem that it is not so much the idea behind it as much as that the procedures that it prescribes go directly against the **political modus operandi of the EU Council**. Four fifth of the member-states have to gang against one of their members and this is opposed to the decision-making process of the Council based on trust and mutual respect. For example, the protection of a few Roma is not worth risking. The attractive element in a **Copenhagen-like commission** would be that it is **not directly attached***

*to the Council in the first instance to issue the warning and initiate some pre-warning procedure. It should not even be the Commission, because as we march towards a hopefully increasingly politicized Commission, with a direct election of its president, it would be problematic that an increasingly political body take a stance against a member-state. We have already one such, the European Media Pluralism Monitor that has been commissioned by the Commission, and it uses a whole range of check-lists on how to judge whether there are threats to media pluralism.*

*A good proposal for a solution were the systemic infringement approach by **Kim Lane Scheppele**. Such a proposal would require only a bit more activist approach from the side of the European Commission and from the side of the European Court of Justice, as **how they interpret** their own competences.*

*The deadlocks created by the **political families** was often mentioned. EPP is hostage to the Hungarian delegation because numbers come first. Of course, this is not acceptable. Inside EPP in the Hungarian case there were people withdrawing from, if not openly attacking Mr. Szájer and Fidesz. Therefore the Tavares-report could go through and had a majority in the Parliament.*

*According to one speaker, the risk is wider than the situation with just one country. The EU will fall apart or will go ahead with more integration in terms of economic regulation and in terms of normative functions. The case with Greece is a real risk. If Greece falls out of the euro-zone it will be the first step of disintegration. Therefore **the Hungarian case is so important** because it is making very visible the weakness of the EU and of those forces that are able to support integration.*

*Others spoke about the difficulties and trappings of handling the systemic breaches of the norms and dealing with far-right parties. Whatever the **sanctions** are, the question is how effective they can be in a situation where the opinion against the EU is already very negative? The pressure mechanism, can they create a positive outcome when society is already against? Would not be there a **danger** that it would create a negative outcome?*

*Or, the far-right parties are treated as semi-fascists, homophiles, etc.: threats to democracy. But there are parties here which cannot be equated to fascism at all. The Swedish Democrats for example. What if the coalition against them will not be possible? You will have to govern with them. But they are running on anti-multicultural platform, anti-EU, and anti-establishment. And then the EU says: "listen voters, you vote for someone we do not like? We are gonna sanction you from now on". Should not we take it seriously that they really represent a great chunk of the population?*

*Someone offered a lowest common denominator can be found among the great political parties. That could be perhaps the defacing of the right-wing radical challenge. I would argue for a common political platform which would pose a credible political position, even **deterrence for the case that a right-wing will come into governmental power** saying that that will cause an automatic initiative of the "nuclear option". Probably it will not influence the outcome of the national elections. But it will widely influence the negotiations for coalition agreements.*

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#### Fourth Session: European and national public sphere, media, elites, how to raise awareness of the problems and debates

**Mr. Tim Breicheld** raised some doubts concerning the democratic nature of certain European developments. Europe is a market-economy-driven process. There is a lack of social Europe, and there is very **diminished welfare-dimension**. The problem is with the growth- and stability pact and the Eurozone and so on that some countries are more crisis-resistant than others. Take Germany versus Greece, or compare Poland and Latvia. If

you are a weak country in the Eurozone, and **you opened up** your banking sector to the European, **you do not have an important instrument** to resist the crisis. This market-economy-driven liberalism is a problem in times of crisis.

The first development: **is EU a democracy? Probably not**. It is constituted of national democracies. There are common democratic values, but there are limited democratic institutions. Therefore European studies is linked more to governance, integration, Europeanization. It has been said that there is an erosion of the normative part of Europe. But there is also a decline of normative power within the EU. With regard to the ideal of sovereignty transfer. Should sovereignty be transferred to the EU institutions? There are two distinct developments. By and large German and French governments today became like Denmark and Sweden in the 80s and 90s. The idea that there may be a problem to democratic self-government if you just give it away to Europe. This idea was not existent in Germany and only to some extent existent in France. Certain elites in Germany and France of today are as focused on **democratic self-government** as UK and Denmark have been in the past.

The second development, Portugal, Ireland, Greece, that had to face the risks of economy and monetary union. When you do not have monetary union a country **can devalue** if competition is low. This devaluation **hits the whole of the people**. Also people who have money in the banks they lose. But if you do not have this it is **a certain part of the population** which suffers. Those who have work. Those who have capitals in the bank they are not suffered. And this is the distributive effect of the eurozone itself. And this is one of the reasons why European integration has somehow lost attractiveness. **Monetary union is bad for democracy. Cohesion funds can help illiberal systems. Schengen regime makes accountability very difficult** in asylum policy. Might be easier in national context. The lesson for me is that **democracy can also be regained by disintegration**.

**Mr. Timo Lochocki: about the roots of the rise of populist parties in Europe.** According to the speaker, these rising parties are a signs that **liberal democracy is working**. These parties have one unifying narrative they campaign on, regardless of national particularities. It is: we stand **for the nation against the political establishments**. They also present themselves as defenders of the nation when voters perceive that the nation is under threat by an **external intrusion**. The demands these parties have are not fascists and not illegitimate at all. They are totally democratically legitimate. Why? Because before these parties rise **the very same demands have been put forward by established parties** first. They only duplicate the demands of other parties.

Ukip started rising in 2012, not before. Why? In 2012 the Cameron government changed course on Europe. The same story in Germany, just with an other case: help to Greece. After 2010 Merkel started to say that no, we will not continue it. From 2009 to 2012 Cameron said to the public that do not worry, we shall cast referendum on Europe. Then he backslided from his proposal. And Ukip grew. In Germany the same story. After a while the government started to be cautious, and said that wait, Greece must be helped, otherwise this might end the Eurozone. Alternative für Deutschland continued on the same topic and grew. These parties say: we are the only one who defends your interests and the nation against some established threat from outside. They say: the other parties are a bunch of liars, you cannot trust them.

**Mr. Krzysztof Bobinski: somewhat out of the subject-matter, he spoke about Eastern Partnership, and problems of EU's normative role in the region.** Eastern Partnership started in 2009, reaching out to six countries to the East. The nicest people want to join the EU, and there are the others, who are turning towards Russia. With three association agreements have been signed: Georgia, Moldova and Ukraine, and these agreements assume that these countries will introduce and implement around 80 per cent of the *acquis communautaire* into their legal system. This would bring them into grasping distance to membership. But the External Action Service said no. This is first of all to not to annoy the Russians, but also afraid of enlargement fatigue in the EU. However there is an EU rhetoric in this process, with the key words of democracy, the rule of law, the free markets. This last is taken the most seriously, the second as a precondition, and democracy one that

is difficult to guarantee from outside. The documents do not even mention it. Gender equality have entered but not democracy.

EU parties are behaving like the columns of families, and they like to have children. They go to Eastern-European countries and look for like-minded partners. If they are not like-minded they take them anyway as partners. They are not looking closely to whom in these parties they are talking to, whether they are democrats or not. EPP for example remains faithful to its partners even when they see the backlashes, and the undemocratic developments those clearly show. This behaviour of Western politicians brings EU Parliament into disrepute. The people over there learn that we can be bought by bribes and this does not promise good for the future. When those countries might join the EU they will bring their corrupt habits with them.

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*Is populism is a source of corrective inputs for democracies, or poses a threat? The question by Mr. Lochocki stirred some emotions. According to one, the decisive factors for the outcome **is not internal to the populist movements but external to them: how stable the democratic system is.** To have UKIP in one of the most solid democracies is surely a symptom that mainstream politics does not deliver. It is a corrective measure. To have right wing populists in East-Central Europe with not really stable political constitutional systems is something different. **It is a real danger.***

*About the same topic, and denying what Lochocki exposed, someone spoke about the need to understand why people have an appetite for some kind of promises. In Germany, the starting point was not the problem with Greece in 2012. The first politician to say that Germany will not pay any more was Schröder when there was the discussion of the European budget 1999-2006. Inside the EU the idea that solidarity is a burden has something to do with the rise of populism. If there is today in Europe a **fatigue of new enlargements**, at least in the West, there is also a **fatigue of solidarity**. We have to think of another kind of narrative when we think about populism in Europe. The model for the European project in the last two decades was this: we share an economic and unified territory by rules, with the great part of the wealth produced in the economically developed territories. This model needs **a second leg**, which is the territory for **social cohesion**. Europe decided to leave the social cohesion to the national entities, based on their own production of wealth. That is, you have concentration of wealth in the strongest ones and the social cohesion problems in the weakest ones. **This model cannot work**. Populism is based on that system: the exclusion of people from the solidarity circles. We have to coincide the economic and the social projects, otherwise Europe is over.*

*Someone else retorted to Lochocki, that yes, those parties can stand for the nation, but nation means different things to different people. The standing for the nation can mean something different in the different countries. For example, the specificity of orthodox churches is that they are national. They have a national vision of the world. For the politicians of those countries it is a must to be in relation with the orthodox churches. There is a fight for the education. These different authorities discovered well that controlling education they control the future.*

*Finally, one speaker tried to differentiate challenges to democracy from denials of it. Take euroscepticism, for example. Eurosceptic parties might not jeopardize liberal democracies just because they are eurosceptics and they criticise the way Europe is institutionalized. But when these parties start to talk against for example gay rights, than liberal minded mainstream political parties should protest. Not so much against euroscepticism, or the fact of it, but saying that those other sayings are unacceptable, because they deny the core values of liberal democracy. On the other hand, traditional democracies can be strong enough to incorporate riots, disobedience, etc. As the story of the Greens shows. They started as quasi terrorist groups. But we have to be careful.*

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The workshop was ended by the summarizing words of **Ms. Zsuzsa Szelényi**, and the closing words of **Mr. István Hegedűs**.