

HUNGARY'S U-TURN

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For two decades Hungary, like the other Eastern European countries, followed a general policy of establishing and strengthening the institutions of democracy, rule of law, and a market economy based on private property. However, since the elections of 2010, when Viktor Orbán's Fidesz party came to power, Hungary has made a dramatic U-turn. This article investigates the different spheres of society: political institutions, the rule of law, and the influence of state and market on one another, as well as the world of ideology (education, science and art), and describes the U-turn's implications for these fields and the effect it has on the life of people. It argues against the frequent misunderstandings in the interpretation and evaluation of the Hungarian situation, pointing out some typical intellectual fallacies. It draws attention to the dangers of strengthening nationalism, and to the ambivalence evident in Hungarian foreign policy, and looks into the relationship between Hungary and the Western world, particularly the European Union. Finally, it outlines the possible scenarios resulting from future developments in the Hungarian situation.

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Introduction

Hungary is a small country, poor in raw materials, with a population of only 10 million. No civil wars are being waged on its territory, nor are there any popular uprisings or terrorism. It has not become involved in any local wars, and it is not threatened by immediate bankruptcy. So why is it still worth paying attention to what is going on here? Because Hungary, a country that belongs to NATO and the European Union, is turning away from the great achievements of the 1989–1990 change of regime—democracy, rule of law, freely functioning civil society, pluralism in intellectual life—and attacking private property and the mechanisms of the free

market before the eyes of the whole world; and it is doing all this in the shadow of increasing geopolitical tensions.

1. Shifting away from democracy, rule of law, private property and civil society; the obsession with centralization

Let us consider the ensemble of the following countries: Albania, Bosnia-Herzegovina, Bulgaria, the Czech Republic, Estonia, Croatia, Poland, Latvia, Lithuania, Macedonia, Hungary, Romania, Serbia, Slovakia, and Slovenia. All of these now-independent countries reached a crucial turning point in 1989–1990. Prior to these years, they had functioned as independent states or as separate parts of states within the socialist system, ruled by the Communist party. The structure and pace of the transformations varied from country to country. Severe failures occurred in all of them, including Hungary; one step forward was often followed by a period of regression. However, despite the colorful variations, until 2010 the countries all moved in the same *general direction*: progress towards market economy based on the dominance of the rule of law and of private ownership.

Hungary is the first, and so far the only, member of this group of 15 countries which has performed a sharp U-turn and set off resolutely in the opposite direction. In the 2010 elections the coalition formed by Fidesz–Hungarian Civic Alliance with the Christian Democratic People’s Party (henceforth Fidesz for short), led by Viktor Orbán, won a landslide victory. Thus began the turn.¹

By 2010 Hungary had established the fundamental institutions of *democracy*—however, with the U-turn their systematic destruction started. It has already been completed to a significant degree.²

In actual practice the executive and legislative branches are no longer separate, as they are both controlled by the energetic and heavy hand of the political leader who has positioned himself at the very pinnacle of power: Viktor Orbán. No worthwhile preparatory work on bills is being done either within or outside the walls of Parliament.³ Parliament itself has turned into a law factory,⁴ and the production line is sometimes made to operate at unbelievable speed: between 2010 and 2014 no less than 88 bills⁵ made it from being introduced to being voted on within a week; in 13 cases⁶ it all happened on the same or the following day (Scheppelle 2012a; European Parliament 2013). Without exception, every single attempted investigation of the background of a scandal that has just broken, which would have been carried out objectively by a parliamentary committee with the effective involvement of the opposition, has been thwarted. “Reliable” people close to the centre of power occupy decision-making positions even in organizations which are not legally under the control of the executive branch and which, in real democracies, should serve as a counter-balance to monitor the executive and legislative branches: in the constitutional court,⁷ the state audit office,⁸ the fiscal council,⁹ the competition authority (the office in charge of enforcing pro-

competition laws),¹⁰ the ombudsman's office,¹¹ and the central statistical office.¹²

The basic institutions of the *rule of law* had emerged by 2010; however, since the U-turn they have been abolished or significantly weakened (Bozóki 2013). The new Hungarian constitution,¹³ replacing the constitution accepted by multi-party consensus in 1989, was drafted by a small group within Fidesz, and no wide public discussion ensued.¹⁴ All protests were completely ignored, and the document was dragged through the defective filters of the law factory in very short order.¹⁵ The text abounds with shortcomings, which were pointed out immediately (and in vain) by both local¹⁶ and foreign¹⁷ legal experts (Scheppelle 2013b; Halmai 2014). It contained so many clauses serving the immediate political purposes of the people in power that the document, officially called "Fundamental Law,"¹⁸ has had to be amended five times¹⁹ (Scheppelle 2013a). In 2011–2013 the Fundamental Law was complemented by the passing of 32 so-called "cardinal laws,"²⁰ which future parliaments will be able to modify only by a two thirds majority.²¹ This collection of laws covers crucially important aspects of the country's life.

One of the fundamental principles of the rule of law is that no-one, not even those who hold the most power, should be above the law. The law must be respected. In Hungary, the situation has changed: the holders of power are able to elevate any decision to the status of law quickly and without hindrance, at the push of a button.²² They pass retroactive laws, disregarding the prohibition of such legislation which goes back to Roman times. If they wish to arrange especially generous treatment for an individual²³ or an organization²⁴, they pass laws using legal tricks which ensure *de facto* favoritism.

Moving on to the juridical branch of the state, the Prosecution Service is a centralized organization in Hungary. In theory, it operates independently from the rest of the government. In practice, however, and that is what is important, the chief prosecutor is chosen by the holder of supreme power, after which there is a purely formalistic appointment by the parliament, which from then on is unable to effectively control him.²⁵ With a few insignificant exceptions, the investigation of all public scandals and cases of corruption involving individuals close to the present government party has failed to progress beyond the investigative or prosecution phases.²⁶ The Prosecution Service has, on the other hand, brought its full powers to bear on other economic scandals and cases of corruption in which people belonging to the current opposition are implicated. Dramatic, spectacular arrests are carried out for the benefit of the cameras, which arrive in droves. Compromising facts are often leaked while investigations are still in progress. No effort is spared to make sure that these cases come to court, though it is true that all too often charges have to be dropped in the prosecution phase, for lack of sufficient evidence; in other cases the charges are rejected by the court. And it is noticeable that the timing of a leak, the bringing of charges, or a court hearing coincides frequently with some event on the political calendar: the mine that will destroy a rival's reputation is detonated just before an election.²⁷

We seem to be witnessing a definite attempt by the ruling political group to take control over the courts as well.²⁸ The President of the Supreme Court, who had been appointed before 2010, was dismissed early, before his mandate expired.²⁹ A new institution emerged, the National Office for the Judiciary, which from the very start acquired exceptionally wide powers: not only to appoint judges, but also to decide which cases should be heard by which courts. Later, as a result of protests in Hungary and from abroad, the sphere of authority of Office was reduced, but its influence has remained significant. The retirement age for judges was conspicuously reduced from age 70 to 62, below the average age limits, with the result that the older generation was expelled. This affected several judges in leading positions within the judiciary system who had been appointed before the present ruling group came to power, and although this measure was subsequently annulled by the relevant international court, so that the people involved obtained at least moral redress, most of them were not able to return to their previous leading positions.

Numerous members of the judiciary are unable to escape from the intimidating effect of the government's measures. Some cases which come to court have political ramifications, and impartial experts in the field believe that some judgments are biased in ways that favor Fidesz policies. Nobody ventures to express an opinion about the number of cases involved. What is sure, however (and encouraging), is that the ruling regime has not managed to subjugate the judiciary to the same extent as they have done in other spheres.

By 2010 *private rather than state ownership* had become the dominant form of ownership. Since the U-turn, however, private property has become the target of frequent legal, economic and ideological attacks; the weight and influence of the state sector is rising again.³⁰ The nationalization of private pension funds financed from the obligatory contributions, which was carried out using unique legal tricks, dealt a heavy blow to the principle of respect for private property. A similar form of indirect nationalization took place in the sector of savings and loan cooperatives.³¹ The state-owned sector has expanded significantly in the branches of banking, energy, public works, transportation, the media and advertising. In these areas the harsh means of disguised confiscation were not so often applied: property rights were bought instead. In many cases the previous owners were forced into a position where they felt they had no other option but to sell their property to the state, and at a price well below its market value.

Up to 2010, *decentralized mechanisms* played an increasing role in the coordination of various activities. However, since the U-turn the tendency to centralize has become noticeably stronger.³²

This is primarily true of government administration. One of the major achievements of the change of regime was a significant increase in the powers of local government. The most obvious sign of regression is the fact that schools and hospitals no longer belong to local authorities, but are run from the bureaus of the central government. It is unprecedented—even

on a world scale—that a misshapen bureaucratic giant has emerged, making decisions about staffing, curricular, and financial matters in thousands of schools over the heads of teachers, parents and local governments.

The obsession with centralization, which is intertwined in many ways with the aforementioned tendency to nationalize, affects almost all spheres of society: more and more questions are decided at the highest level. A pyramid-like vertical hierarchy has emerged and solidified, with the supreme leader at its summit. Below him, ready to obey his every command, stand his hand-picked henchmen, who owe him unconditional loyalty. Moving on down, we find the next level of the pyramid, and the next: for each position people are chosen for their loyalty to the regime. Commands which take obedience for granted tightly bind each subordinate to his or her superiors. It is only the leader at the top who does not depend on his superior, only those at the very lowest level do not give orders to anyone. Everyone else incorporated into the levels in-between is simultaneously servant and master. It is in their interests to hang on in there, to move further up in the pyramid. Their position is not decided at elections, but depends on winning the trust of their superior by services and flattery, or at least by uncritical obedience. Hundreds of thousands of public employees, including those who work in the state-run educational and health sectors, feel defenseless: few dare to speak up, to protest, because they fear for their jobs. The regime is robust, partly because it can surely count on the fear of the majority of people dependent on it, as well as on the “keep a low profile and obey” mentality.

A very important decentralized mechanism is represented by civil society, comprised of a number of non-market based organizations and associations outside the control of state bureaucracy. In twenty years these have developed too, and have also become a means of scrutiny without which it would be impossible to expose and fight abuses of power. One manifestation of the U-turn is the methodical harassment of civil society. When parliamentary bills are being drafted trade unions and other relevant organizations are not consulted. Or, if the people concerned express their point of view through declarations or demonstrations, their voices are disregarded. The indignant protest of the Norwegian government against the Hungarian government’s plans to interfere in their generous offer of assistance to Hungarian civil society is widely known.

2. The relationship between state and market: a distorted symbiosis

When describing the coordinating mechanism of economic activities we cannot apply the metaphor of the U-turn: it would be more precise to call it a *half-turn*. *Market mechanisms* became dominant in Hungary in the first two decades after the change of system, and remained so even after 2010. Just as before, state and market continue to coexist in a symbiosis: there is no modern economy where these two social formations would not coexist and exert reciprocal effects. Every sensible economist is convinced that the state cannot be a

passive observer of market processes; the state must set legal limits, regulate the financial sector and certain prices, and interfere in the distribution of income; it must influence production through appropriate macro-economic policies, and so on. The problem is that the inevitable co-existence and interaction of state and market have been seriously distorted in Hungary; symbiosis is subjected to political interests. The change that Viktor Orbán's regime introduced is that now the state impinges on the economy in a much more aggressive fashion than did the governments before 2010: it exerts more efforts to rule over it. This is done in many ways.

We are not talking about a case of "state capture" carried out by a small group of oligarchs in order to establish regulations and pass measures in their own interests. The direction of the process is the reverse. Orbán and the people who are close to him at the peak of political power decide who should become an oligarch,³³ or who should remain an oligarch if he already is one, and how far his sphere of authority should extend.³⁴ Something similar takes place at lower levels, too. The natural selection of market competition is overwritten by political considerations. "The important thing is that our man should win the public procurement tender, get permission to run a tobacconist's or a casino, obtain tenure of that state-owned piece of land." Tobacconists, casinos and land tenure all work on capitalist principles, but at the same time clientelism, a kind of feudal master-servant dependency, is asserted between the politician/bureaucrat and the capitalist entrepreneur.³⁵

A new term has been introduced into everyday Hungarian: "Fidesz-közeli cég," meaning "a near-to-Fidesz company." Such firms do not belong to the party, but the sole or principal owner of the company is a crony of the political center. Maybe the association began a long time ago, at university or when the party was founded; or an individual's career may have included a succession of political, bureaucratic and business activities. "Crony capitalism" evolves. The intertwining of the worlds of business and politics is a global phenomenon, and provides fertile soil for corruption everywhere. What comes on top of this in Hungary is the social environment created by the aforementioned U-turn: the very organizations which should be fighting, with the authority of the state behind them, against the entanglement of business, politics, and government and against corruption are not independent: they themselves are cogs in the same machinery. A corrupt politician or bureaucrat knows that his powerful political friends will protect him – unlike the "whistleblowers," who take personal risks to unveil corruption. The latter are not sufficiently protected, but often harassed, often becoming victims of "character assassination" campaigns.

Viktor Orbán and those who implement his economic policies are swift to emphasize that if the state needs more revenue this will not be a burden for the people, and there will be no "austerities." The new tax will be paid by companies, out of their profits. The word "profit" itself has as negative an undertone as it did in the good old days when Marxist political economics was an obligatory subject for study. In addition to the usual forms of taxation,

special supertaxes have been used to pillage whole sectors, including banking, telecommunications, insurance, and household energy supply (Soós 2013).³⁶ The effect of special taxes contributes to the fact that the volume of investments by private companies financed from their profits stagnates or barely increases. An unpredictable tax policy, legal uncertainty, and anti-capitalist rhetoric discourage the “animal spirits”: the propensity towards private investment. The extra-ordinary tax burden ensures that the budget is balanced, which is reassuring for the international organizations and credit rating agencies that are extra-sensitive to this indicator, but it does undermine extremely important factors promoting growth and technological development (Csillag 2013b). Moreover, it is not true that the extra burden affects only the companies, as they pass the extra costs on to the consumers whenever possible.

While companies are held to ransom, the individual tax burden based on dividends has been significantly reduced. One of the first measures introduced by the Fidesz government was the abolition of progressive personal income tax, which was replaced by a flat rate of 16 percent, while at the same time value added tax was raised to an unprecedented 27 percent.³⁷ It is well known that in relation to the income of a given household, these tax rates impose a much greater burden on the living standards of people with low incomes than on those who earn more. Government propaganda proclaims as a great achievement the reduction of household expenditure on utilities through price-cap regulation.³⁸ In reality, this price-capping policy is far more beneficial for the rich, as the bigger the flat, the more electricity, gas and water it uses, and the more rubbish it produces, the more it saves.³⁹ We are all too familiar with the consequences of artificially depressing prices from the days of socialism. Companies make a loss,⁴⁰ which in the end has to be scraped together by the community of tax-payers.

Restricting the functioning of the price mechanism is an important feature of the general phenomenon which has just been discussed: the state leans heavily on the private sector, using, among other means, administrative micro-interventions, fine-tuning of control, and excessive regulation. Every economist who has studied the theory of market failure knows that appropriate regulation and well-aimed intervention can correct many problems caused by an uncontrolled market mechanism.⁴¹ This theory, however, at least tacitly supposes that the state is at the service of public interests, and that regulation is carried out professionally and without bias. What happens if the levers of regulation are seized by incompetent or even corrupt people? What happens if a state whose masters use the state mechanism to preserve their own power interferes in the economy? Such interventions happen so frequently and affect the coordination process of the economy so deeply that sooner or later the half-turn can become a U-turn in this field as well. The Hungarian developments should serve as a warning for all those who insist unconditionally on increasing the role of the state, on extending and strengthening regulations, without emphasizing the accompanying dangers.

Fidesz’s economic policy cannot win the approval of the conservative economist because

of the upheaval that it causes in market mechanisms and the way it threatens private property (Csillag 2013a; Várhegyi 2013). At the same time, it arouses the rightful indignation of the liberal economist who is sensitive to injustice in the distribution of income—and not only because of the tax policy mentioned above. The adherents of Keynesian economic policy must not let themselves be deceived by aggregate employment statistics. The revival following the depression is dragging its feet, the private sector is creating few new workplaces.⁴² The growing number of people in “public work” is supposed to make up for this. But they are employed for rock-bottom wages, 31-33 percent of the average salary, under degrading circumstances; they are not guided into the employment market this way, on the contrary, they are deprived of the possibility to look for work and kept permanently in their humiliating condition.⁴³ Poverty and social exclusion are increasing at a dramatic rate.⁴⁴ Enlightened societies would never tolerate the tone of voice that is used to stigmatize the poorest, or the way the homeless are chased out of cities by mayoral decree.⁴⁵

Any attempt to squeeze the classification of the Hungarian government’s economic policy into boxes labeled “right wing” or “left wing” is off-track. There is no question of the government intending to restore the socialist system, even though some phenomena are surprisingly reminiscent of the socialist era. The Orbán regime is not only compatible with capitalism, but each member of the power pyramid uses the opportunities offered by capitalism to their own advantage. When they launch an attack on banks or other sectors, they immediately conclude a special deal with this or that bank, sign “strategic agreements” with this or that large company in front of television cameras. “Divide and rule!” Instead of the left-right division, let us put the economy into another kind of spotlight: what best serves the survival of the existing power structure, the power of the central will, the interests of the higher levels of the power pyramid, including their financial interests? Suddenly it all falls into place and we know why this new institution or that new law has emerged.

3. Intellectual fallacies and misunderstandings

Hungary’s friends abroad—intellectuals, journalists, political and economic analysts, diplomats and politicians who take an interest in the happenings here—do unintentionally fall into various traps or misunderstandings. One of these is to overestimate the value of the letter of the law (Bozóki 2012; Bugarič 2014).⁴⁶ At one point, the Fidesz government created a law which failed to guarantee the complete independence of the central bank. Not only the media, but also the competent international organizations exerted pressure on the Hungarian state to change the law.⁴⁷ This finally happened. Those who had demanded the change felt they had achieved success. The propagandists in Budapest used it to illustrate how flexible and ready to compromise the Hungarian government is. In reality, what happened to the law was irrelevant. Having resigned from his position as minister of finance György Matolcsy, who the prime minister publicly dubbed “his right hand,” stepped out of the ministry, walked a few

hundred yards and entered the doors of the Hungarian National Bank (MNB), as its theoretically independent governor (Barnes and Johnson 2014).⁴⁸ Without exception, every single member of the highest body of the central bank, the Monetary Council,⁴⁹ was hand-picked by the supreme leader and his advisors; they are all loyal members of the consolidated machinery of power.

According to the letter of the law, every single selection process conforms to various seemingly neutral legal regulations. For example, for one position the current Prime Minister nominates a candidate, the competent parliamentary committee expresses an opinion, and he is appointed by the President of the Republic. For another position the parliament not only expresses an opinion about the candidate, but also makes the final choice. Does this matter? The parliamentary committee, the majority of the complete session of parliament, and even the President of the Republic are all cogwheels in the same machinery of power.

Another important example is how the regime leans on the press, television, radio and other means of telecommunication. This is about nothing less than the independence of the “fourth branch of power,” the liberty of one of the most important checks and balances in a real democracy. The competent bodies of the European Union and the international press dwelled at length upon the question of whether the rights allocated to the centrally appointed media authority were excessive or not (European Parliament 2013). Finally, a few regulations of the law on the media were amended. The critics considered this a victory. Viktor Orbán and his colleagues, however, knew perfectly well that it was irrelevant. What really mattered was the fact that they had put their own people in charge of all television channels and radio stations owned, controlled and financed by the state, who then purged their staffs and turned all of them into the collective mouth-piece of government propaganda (Vásárhelyi 2013, 2014). The government or near-to-Fidesz entrepreneurs seized the freely distributed and very popular advertising broadsheets and other free local media products. The state media are obliged to use material provided by the news agency controlled by the government. This is not obligatory for the country’s privately owned media, but the latter are offered new state-produced material free of charge, while purchasing news from independent international agencies or trawling the foreign press is expensive. It is hardly surprising that they are reduced to using the free material. Self-censorship, a form of behavior all too familiar from the communist era, is becoming widespread.

There are newspapers, television channels, and radio stations that are both independent and critical of the government. This is very important; it is part of the impartial description of the present Hungarian situation. However, their functioning faces many obstacles—such as during the distribution of broadcasting frequencies, when licenses are granted.⁵⁰ Their main source of revenue is advertising, but the government’s own agencies, as well as private companies which wish to maintain friendly relations with the political masters, refrain from advertising with them.⁵¹ Political bias manifested in the advertising market has been

compounded by a discriminative advertising tax piled on top of the existing corporation tax.

No matter how hard the authorities try to subdue the organizations which form public opinion, the IT revolution has made their task more difficult. Stalin was able to surround his empire with almost impenetrable barriers, but nowadays this is impossible: computers, tablets and mobile phones connect the individual with the world, and hundreds of thousands can express their opinions and organize themselves on social networking sites. The Fidesz government would love to find a way to prevent this too. Not long ago it proposed the introduction of an internet tax. Each gigabyte data transfer would have been taxed to the tune of 150 forints (roughly 55 USD cents). Within a few days, mass demonstrations had been organized; images of the protesters circulated in the international press. Viktor Orbán retreated half-way: as I write these lines it is not yet clear if the plan has been abandoned for good or merely postponed. Whatever may happen, the image of tens of thousands of demonstrators raising their mobile phones to the sky has become a symbol. The light from the tiny screens might even have illuminated the clouds of the internet— it will prove difficult for any regime today to raise impassable barriers to the flow of free speech.

Here is another frequent intellectual fallacy: certain recently established Hungarian institutions, or new procedures that have been introduced lately, are similar or even identical to the parallel institutions or procedures of a traditional Western democracy—at first sight. Many changes have been made in the Hungarian judicial system. What is wrong with that? After all, even after these recent changes, in many ways it still resembles the systems of some European countries. The tobacco trade used to consist of small shops competing with each other. Now only the government is allowed to issue a license for the sale of tobacco. What is wrong with that? After all, in Sweden a state monopoly with similar or even greater powers covers the trade in alcoholic beverages.

What we have is a mosaic, many pieces of which are original Hungarian products, while others have indeed been imported from democracies abroad. However, if we look at the mosaic as a *whole*, the outlines of Viktor Orbán's Hungary emerge. It is actually better to move away from the static image of a mosaic to represent the relationship between “part” and “whole.” It is not a fixed state that we have to interpret, but a dynamic process. What we have to recognize is the *direction* that has been followed by each small component of the machinery since the starting point in 2010. From then on, at every new change, we, the observers, must notice which direction the change has taken. In the US, the mandate of the members of the Supreme Court lasts for the rest of their lifetime. There, this regulation has emerged within the framework of a stable democratic order, with many checks and balances in operation. In Hungary, on the other hand, for the first time now the overwhelming majority of members of the Constitutional Court were chosen by the current prime minister—and soon all the members, without exception, will be Viktor Orbán's nominees.⁵² If their mandate is extended *right now*,⁵³ this move, along with other similar moves, will shift the legal status of

the country towards irreversible power relations. Thousands (yes, the number is no exaggeration) of discrete changes, all moving together in the same direction, create a new *system*. Understandably, the Budapest correspondent of a foreign newspaper might write about only one outrageous measure without putting the event into the whole context of Orbán’s system. An international organization or a foreign government might be justified in protesting against a specific measure taken by the Hungarian government, and in trying to exert its influence to have this measure modified or withdrawn. This paper is intended to help both those who form public opinion abroad and those who plan and implement global measures that concern Hungary to better understand that more is at stake than a momentary event: this is now a strongly forged system, whose essential properties cannot be altered by partial modifications.

Another intellectual fallacy is the faulty evaluation of the legitimacy of the Orbán government. “Although I don’t like what is taking place in Hungary, it seems to be what the Hungarians want.” This opinion is further reinforced by the official propaganda, which is busy announcing that the regime won a two-thirds majority for two successive parliamentary cycles; there is no other government in Europe that enjoys such strong support. Yet let us take a closer look at the facts.

Table 1. Results of parliamentary elections in 2010 and 2014: share of Fidesz–KDNP supporters and mandates

Parliamentary election	Fidesz voters		Fidesz deputies
	As a proportion of all eligible voters	As a proportion of all actual voters	As a proportion of all deputies
2010	41.5%	53.1%	68.1%
2014	26.6%	44.9%	66.8%

Source: The aggregate numbers of votes and mandates published by Nemzeti Választási Iroda (National Election Office 2010a, 2010b, 2014). The 2014 results are calculated including ballots cast abroad (in 2010, dual citizens without permanent Hungarian residency were unable to vote). The figure in the second row of the first column is an estimate calculated by the research institute Political Capital (see László and Krekó 2014).

At the last election only every fourth person entitled to vote expressed the wish that Viktor Orbán and his party should govern the country. The others either voted for another political faction or expressed their weariness and disappointment in politics by abstaining. Perhaps some people wished to indicate by staying away that they found the regime repellent, but they did not believe that their vote would bring about any change. Political legitimacy is not a binary variable: no government is simply either legitimate or not—but measured against the continuous scale of legitimacy, support for the Hungarian government is low. The election system itself, introduced after the change of regime, has offered the opportunity for a considerable difference between actual political support and the proportions among the representatives.⁵⁴ That gap has further widened as since the 2010 elections the electoral laws have been modified seven times.⁵⁵ While Fidesz lost more than half a million votes, and the

fraction of all eligible voters who voted for Fidesz dropped from one third to a quarter, the regime used legal tricks to maintain a proportion of deputies which is higher than the critical minimum needed to pass laws requiring a two-thirds majority.⁵⁶

At the 2010 elections Fidesz won the safe two thirds majority necessary for amending the constitution and passing laws of outstanding importance. Although the 2014 elections ensured that the party had a simple majority, with which it could comfortably pass laws of less importance, winning a two-thirds' majority was a close call. Not long before the completion of this study the two thirds' majority was lost. A seat previously held by Fidesz fell vacant because its occupant was given another position, and at the by-elections held to fill the post the independent candidate supported by the opposition won.

It is worth paying attention not only to the parliamentary proportions, but also to the changes in public opinion. According to monthly surveys, at the end of 2014 and the beginning of 2015 Fidesz lost several hundred thousand potential voters. All this questions the validity of the notion quoted above, that "it seems to be what Hungarians want."

Another intellectual trap, one that is connected to the misinterpretations that I have just mentioned, is often expressed thusly: "While it is true that the Fidesz regime has abolished many democratic achievements, the present form of government must still be considered a democracy." At this point the debate about what we call "democracy" begins. There is no consensus between academic political philosophers and political scientists. The terminology used by people who are actively engaged in politics is interwoven with elements of political rhetoric. Where the term "democracy" is an honor, the status of democracy is awarded or denied to the Hungarian form of government by the journalist, political analyst, politician or diplomat according to whether they hold a favorable or an unfavorable opinion of the present Hungarian system. The terminological confusion remains even when "democracy" receives a defining attributive. The expression "illiberal democracy" was originally introduced to political science with pejorative connotations,⁵⁷ while Viktor Orbán uses the term "illiberal state" with self-assured pride to describe his own system.⁵⁸

Let us look at the set of previous and present historical forms of government that have characterized recent history. In one group we find *democracies*. Members of the European Union before its expansion, the US, Canada, Australia, New Zealand, and Switzerland surely belong to this group, and as far as this article is concerned the question of which other countries might also belong can be left open for the time being. What is sure is that the essential common features exist not only in theoretical texts, but can actually be experienced. "Checks and balances" are not merely requirements supported by arguments put forward by political philosophers—they really do exist, and their functioning can be experienced by observation. We can say the same about respect for minority rights; there are written and unwritten limits to what the majority, however large it may be, can do against the will of the minority. We could go on listing other important common features.

In the group at the opposite extreme we have *dictatorships*. For me, and for several hundred million other people, this is no abstract theoretical concept: it is a cruel, personally experienced reality. Thirty years ago 28 countries belonged to one kind of dictatorship: totalitarian communism.

In between the two extremes, lies a subset of countries that are neither democracies nor dictatorships, though they bear characteristic features of both. In my own work I have joined other authors in calling them *autocracies*.⁵⁹ This class is made up of a colorful multitude: I would place in it the pre-war regimes of the Hungarian regent Miklós Horthy and the Polish statesman Jozef Pilsudsky, or that of the Argentinean president Juan Domingo Peron in the post-war era. In our own time, besides the Russian president Vladimir Putin, the leaders of Belarus and many Central Asian post-soviet states rule over countries belonging to this subset.

I believe that under Viktor Orbán Hungary has moved from the subset of democracies into the subset of autocracies. I am not talking in the future tense, about the danger of the country becoming an autocracy. The move has already taken place.

To consider Orbán a dictator would be to misunderstand the present Hungarian situation. Hungary today has a multi-party system, opposition parties function legally, newspapers opposing the government can be published. Political opponents are not imprisoned en masse, nor are they liquidated. We know all too well what real dictatorship is; we have experienced it, and what we are experiencing now is different. However, to believe that Orbán is the leader of a democracy, and that although he breaks the rules of democracy from time to time, in the end he still behaves like a democrat, would also be a misunderstanding. I do not even want to raise the question of whether Orbán, in the depths of his heart, is a true democrat or not. This may be an important question for his future biographer, but it is irrelevant for our analysis. We have to investigate what has actually already happened. And what has already happened is enough for us to say that Hungary now belongs to the wide subset of autocratic countries that are “neither democracies nor dictatorships.”

It would be a mistake to believe that Orbán is copying Putin. All autocracies are built on different historical traditions; they have emerged in different domestic and international environments, and the personalities and aspirations of their highest leaders differ. Orbán is not an imitator of others, he is a self-determining personality. This does not alter the fact that both the Putin and the Orbán regimes belong to the same subset of autocracies.

Hungary is the first of the post-socialist democracies that has joined the autocracies, but there is no guarantee that it will be the only one. The balance of power might shift in other countries in such a way as to turn them into autocracies. There are foreign politicians who see Orbán as a model; there is a real danger that this contagion, leading to the loss of democracy and of the rule of law, will spread.

4. The dangers of nationalism and the “peacock dance”

One of the sources of Viktor Orbán’s support is the fact that many see him as the staunch defender of the sovereignty of the Hungarian state, and of Hungary’s independence. However, anyone who wishes to understand the Hungarian situation must realize that the problem cannot be shrugged off by simply labeling Orbán a nationalist.

Worldwide, we can see two opposing tendencies. Globalization, the internet, the technical ease with which we travel, the emergence of transnational integration are all making the world more international. At the same time, national sentiments within the boundaries of a nation-state or in communities which reach beyond national frontiers but use a common language, and share common historical traditions, still persist; indeed, they are growing ever-stronger.

The change of regime not only brought about internal regeneration, but also coincided with the restoration of Hungarian sovereignty. “Russians go home!” was the first slogan; a happy separation from the East, an expectant turn towards the West. Western exports and imports were becoming more and more significant. Plenty of foreign capital was flowing into the country. Hungary joined NATO in 1999,⁶⁰ and became a member of the European Union in 2004.⁶¹ In both cases, the intention to join was confirmed by a referendum,⁶² and in the campaigns leading up to these all the parliamentary parties, Fidesz among them, encouraged their followers to support the move. Although counter-opinions have always been present and voiced, for twenty years the *direction* of changes in foreign policy remained clear. Hungary must be an organic part of Europe: it must unambiguously belong to the Western world; it must further strengthen the links binding it politically, economically and culturally to the West.

In 2010 a peculiar U-turn started in this area as well: clarity has been replaced by ambiguity. This emerges mostly in the rhetoric of official statements. Leading politicians grieve at public meetings about the crisis of world-wide capitalism and Western civilization. The leaders of the regime make use of the anti-EU, anti-American atmosphere; sometimes they go as far as to compare directives from Brussels with the pre-1989 dictates of Moscow. But if yesterday there was talk of the emasculation of the West and of the great things to be expected from the East, today’s discourse will be just the opposite. Orbán is proud of his Janus-face, and considers it a sign of his political shrewdness.⁶³ The content and tone of the words change, depending on whether they are intended for the Party faithful or businessmen attending conferences in Munich or Vienna.⁶⁴ It is hardly surprising that both followers and opponents, both Hungarian and foreign observers, are mightily confused.

In the world of foreign policy and diplomacy official or semi-official statements can carry a lot of weight. Hungary is still member of NATO and the European Union; there has never been the slightest hint of any intention to leave either body.⁶⁵ The Hungarian government is happy to receive the plentiful financial support that flows from the EU; the

only thing it insists on is full control over its distribution.⁶⁶ (We have already mentioned the real motivating forces and intentions which govern state allocations.) At the same time the representatives of the ruling political regime regularly support Euro-skeptic declarations.

The Hungarian diplomatic corps resolutely attempts (without much success) to establish business relations with various Asian autocracies and dictatorships, from Azerbaijan, Kazakhstan, Uzbekistan and the Arab Sheikdoms to Vietnam and China, pointing out that other countries do the same. This is purely about business; taking a stand for democracy and human rights is another issue. But they sometimes “rise above” this point: recently Orbán called Azerbaijan a “model state” when its dictator was on an official visit to Budapest.⁶⁷

Understandably, other countries take the keenest interest in Hungarian-Russian relations. As we noted earlier, the present Hungarian and Russian forms of government share several features; in this respect both regimes belong to the same subset of autocracies. But now we are not focusing on this similarity, but on the economic connections and relations in foreign affairs between tiny Hungary and huge Russia. In this relationship, how far can the sovereignty of Hungary be maintained; to what degree is it committed now and in the future to its Russian partner? The corollary is another question: how far do these present tendencies endanger Hungary’s commitment to the European Union, to NATO, to the Western world?

In order to be able to answer the question, we would need, for example, to know more of the conditions under which in January 2014 the Hungarian and Russian governments reached an agreement over the expansion of the largest Hungarian power plant, the Paks nuclear power station. I am not in a position to judge whether this large-scale expansion of Hungarian nuclear power capacity is justified, and if it is, whether the Russian proposal was the most advantageous in technical, financial, and geopolitical terms of the possible alternatives. What many people in Hungary and abroad object to, and with good reason, is the way in which the decision was made. It was not preceded by public debate among experts; the government’s plans were pushed through the parliamentary law factory without the least publicity.⁶⁸ In this crucial issue, which will have a deep impact on the lives of many future generations, on European integration, on the foreign affairs of the country, on its commitments to its allies, the government confronted the public with a *fait accompli*.⁶⁹

Reflecting on the relationship between Hungary and other countries, the following question must be considered: what can Hungarians who worry about the U-turn, who fear for democracy, for the rule of law and for human rights expect from their foreign friends? A new development may be followed by cries of: “the West won’t put up with any more of this.” I am afraid many people nourish false hopes. The learning process is painfully slow; it takes years for foreign observers to realize there is anything wrong, and even longer before they put the different elements of the phenomenon into the right context. And comprehension is only the beginning; what else is also needed if awareness is to be followed by some kind of action? This is a task with which international organizations are unfamiliar; they are at loss as to how

an allied state can be forced to abide by the rules of democracy. Not many means are available. The European Union is unprepared for a situation where one of its members keeps turning against the value system and formal and informal norms of its community.⁷⁰ And let us not forget that Hungary is only one small point on the map of the world; conflicting agendas influence the motion of political forces. The special interests of countries, political groups, social classes and professions pull the main actors in many different directions. Threatening situations more pressing than that of Hungary have proved impossible to solve by peaceful agreements.

5. The “ideological” sphere

I have left the survey of the changes which have taken place in the “ideological sphere” to the end. A fundamental characteristic of communist dictatorship is the existence of an “official ideology.” The roots of its ideological history go back to Marx and Lenin, its terminology comes from the language of Marxist-Leninist party seminars. The communist party kept it up-to-date, and adapted it to the propaganda needs of whichever party line prevailed at the time. The citizen, especially the “cadre” with a role in the system, was obliged to accept the ideology; he had to articulate it both verbally and in writing.

Following the fall of the old regime, the dominance of “official ideology” was replaced by *pluralism* in the ideological world. But we can observe a U-turn here too. The government now strives to limit and discredit the principle of pluralism. It tries to force on society those theories, beliefs, and norms of behavior that are part and parcel of its acceptable dogma.

First of all, it aggressively established institutions that promote the execution of the central will. For the world of artists, pluralism and diversity are essential elements. Accordingly, in free societies many kinds of associations and unions, schools and groups coexist side by side, competing or even fighting with each other. The regime that seized power in 2010 selected a small group and endowed it with powers that would be unimaginable in the West. Their main organization is the Hungarian Academy of Arts (Magyar Művészeti Akadémia). Other organizations and groups do still exist, but the name of this privileged body appears even in the constitution. It was given one of the most beautiful palaces in the capital as its headquarters, and made responsible for distributing the majority of publicly-funded cultural grants, as well as most of the awards and marks of recognition that are accompanied by financial benefits.

In the scientific world, the situation is similar. The Hungarian Academy of Sciences boasts a long history, and although its independence was severely curtailed by the party state under communism, its autonomy strengthened after the change of regime. It used to exercise considerable influence over decisions about which research projects should be funded by the state, through an institution which, like the American National Science Foundation, relied on expert opinion. But the long arm of centralization has reached this institution, too. The

National Innovation Office (Nemzeti Kutatási, Fejlesztési és Innovációs Hivatal), a leading state organization, was established. The Academy and other scientific organizations might try to express their opinion before final decisions are taken, but the days of a decentralized, professional, and civil approach to funding allocations are over—the president of the office has sovereign decision-making powers. And who is that president? None other than the minister of education from the first Orbán government.

Turning to the sphere of education: the change of regime made the emergence of a real text-book market possible. The writers and publishers of school books could compete with each other; schools, or even individual teachers, could decide which books to use. Right now, competition is being abolished here too: a mammoth state text-book publishing house has been set up and granted what is effectively a near-monopoly.

What ideas is this increasingly centralized, nationalized, standardized machinery trying to promote? A return to the past is perceptible here too; not to the previous regime with its Marxist-Leninist ideology, but to an earlier ideological past. The official ideas of the pre-1945 Horthy period are being revived in various forms, with increasing strength. It is inadequate to describe these with a handful of concise expressions such as nationalism, chauvinism, ethnic or religious prejudice or a conservative view of the family, because they appear in a variety of shades. Official politicians never make open and extreme declarations that would offend the ears of the civilized world; there are, rather, many covert hints and indirect expressions. But in that muted music, the marching tune for boots can be heard. To the ears of my generation the sound is familiar and frightening.

The images of cultural and academic life and of the world of ideas that I have highlighted here dovetail with the general description of the present-day Hungarian system, which was summarized in an earlier section of this article. This sphere too bears the mark of an in-between state that is “neither democracy nor dictatorship.” The regime is trying to encroach in an increasingly aggressive fashion. Luckily there are large numbers of writers, poets, musicians, film-makers, artists, scientists, teachers and free-thinking intellectuals who will not allow themselves either to be intimidated or bought by money and rewards, and who protect their intellectual autonomy. Any visitor to Hungary can testify that intellectual life is thriving: great artistic works are born and significant scientific advances are made.

6. Potential future scenarios

After the description of the Hungarian situation in the preceding sections, I wish to add a few personal comments. A number of the first readers of the manuscript of this study asked the same question: why do I not discuss the antecedents of the U-turn? Why do I not reveal the *causes* of the reversal?

I realize that there were several important factors behind the reversal: the grave mistakes made by the governments and the political parties functioning within and outside the

parliament between 1990 and 2010, the spread of corruption, the trauma caused by the appearance of mass unemployment, the increase of social inequality, and the disappointment of a large proportion of the population after the high expectations brought by the change of system.⁷¹ The maturation of democracy is a long historical process, and Hungary has only just begun.⁷²

I also know that if the causes are to be explained, we must go further back than 1990, to the time of the change of system. We would have to dig deeper into the final period of Hungarian socialism, which the West called “goulash-communism,” when the population became accustomed to the paternalism of a heavy-handed regime.

An even deeper, older layer of historical memory which shapes today’s way of thinking is the nationalist, racist, anti-Semitic ideology of the autocracy of the Horthy period of 1919 to 1945, with its foreign policy that prioritized the revision of the unjust dismemberment of the country after the First World War, turning Hungary into a loyal ally—to the bitter end—of Hitler.⁷³ And we could go on digging ever deeper, investigating contradictory historical traditions that reach back over centuries.

It is not my habit to deal with very complex issues in one or two paragraphs. I prefer to say quite frankly to the reader: do not expect from me here, in this paper, a discussion of the antecedents of the present regime. The answer to my readers’ question would require at the very least another separate study, certainly no shorter than the present paper. The best person to write such an article would be a competent Hungarian historian, familiar with political philosophy, political science, and economics, who has a profound knowledge of the past and a keen interest in the present; somebody like Tony Judt, whose books and essays are well known to the American intelligentsia and to many other readers throughout the world.

Another issue raised by several early readers is why I merely list the problems: why do I not outline the steps that should be taken to overcome them? One physician carries out tests using MRI or PET imaging technology, and can establish with a fair degree of certainty whether there is a tumor in the patient’s body and, if so, where it is located. Usually, however, it is another physician, or a whole team, who will determine what therapy should be applied, assess the possible risks and side-effects, decide whether the growth should be removed by surgery or treated with radiation or chemotherapy, or whether there is no hope of saving the patient and palliative care is the best course of action. In this study, I am trying to provide a diagnosis. I dare only go this far—no further. Giving political advice is a special profession, which requires different points of view (“Realpolitik”...). It works according to different norms: it may be expedient to offer a distorted image of reality, to cover up problems in order to obtain or hold onto power, or to win supporters, admirers, and followers.

When I was giving lectures in the USA on the delicate and complicated situation of the post-socialist transition, I was always asked the question: what should be done? What can we, your friends, living far away from your region, do? I admire and respect this readiness to act,

but it is not my task to answer the question. My paper is only intended to reveal the situation: I wished to contribute to our American and other foreign friends' better understanding of the Hungarian case.

What does the future hold for Hungary? One of the theories of democracy deserves close attention. It does not dwell on how far a certain form of government expresses “the will of the people,” or at least of the majority. It considers democracy primarily as a *procedure* (Schumpeter 2010 [1942]; Dahl 1971; Huntington 1991; Kornai 1998). Among its several important characteristics let me highlight one: the democratic procedure makes the dismissal of a government possible, not through the murder of a tyrant, and not through conspiracy, military coup d'état, or bloody popular uprising, but rather in a peaceful and civilized way, through elections which are well-defined in legal terms and include a plurality of competing parties. The feasibility of dismissal is not a sufficient condition for a viable democracy, but it is a necessary one.

It will be some time before we can say for sure whether this minimum condition is met or not. In Sweden it was forty years before the social-democratic government was dismissed at the 1976 elections. In Britain the conservative party ruled for eighteen years, from 1979 to 1997, before being voted out of office. In both cases the winners of a political competition carried out in a democratic procedure based on fair election rules—offering a chance for victory to all parties—replaced the former government. The historians of the future will give a final answer to the question of whether the minimum condition of democracy described above—namely, dismissal of the government by election—is met in Hungary or not.

The outlook is bleak. Viktor Orbán and his party have “cemented themselves in,” to translate an expression which has become commonplace in Hungary. The repeated modifications made to election laws were intended to favor a Fidesz victory, or rather, to make it an almost absolute certainty.⁷⁴

Fidesz is prepared for the unlikely but not impossible event of its failing to win a parliamentary majority in the next elections. The 32 cardinal laws can only be modified by a two thirds parliamentary majority, and even in the case of Fidesz' electoral defeat no such majority would be possible without their participation.⁷⁵ The mandates of many key positions, most importantly those of the chief prosecutor, president of the republic, head of the central bank, of the audit office, and of the judicial office, extend beyond the current parliamentary cycle;⁷⁶ they can all sit tight, even if the opposition wins. The fiscal council, a body appointed by the present government, but which would remain in office even in case of an election defeat, has not only an advisory role but also the right of veto over the budget submitted by a new government.⁷⁷ If that veto is used, the president of the republic may dissolve the parliament and call for new elections.⁷⁸ In other words, a few hand-picked men loyal to the present government would be able to overturn the next government.

All of this leads to the logical conclusion that it would probably be extremely difficult to

effectively dismiss the government at parliamentary elections. In this sense, the situation that has emerged is nearly irreversible. Historical experience shows that an autocracy can only be brought down by an “earthquake” that rocks the very foundations of the system.

Other future scenarios are also possible. The great events of history cannot be predicted on the basis of mathematical probabilities; every constellation is unique and unrepeatable. The situation could become much worse than it is today. The present Fidesz autocracy could react to the growing protests by hardening the repression, taking the path followed by the Turkish government. Or another succession of events is also possible. Jobbik, the party of the extreme right, already represents a significant force; more than one city has elected its candidates as mayors. They speak undisturbed in parliament and in the street. What would happen if in a future election Fidesz did not manage to win a parliamentary majority? Would they be prepared to form a coalition with the extreme right?⁷⁹ There is a historical precedent: towards the end of the Weimar republic the moderate right-wing conservative party entered into a coalition with Hitler’s party; together they constituted a parliamentary majority (Wittenberg 2013; Bugarič 2014).

At the same time, favorable scenarios are not impossible. What if more moderate groups within the ruling party begin to get the upper hand, groups who are ready to stop moving along the wrong track and are willing to turn back in the direction of democracy and the rule of law? What if the opposition, parties, and civil movements pull themselves together? What if new political groups and movements emerge and win over millions? What if somehow, in spite of an electoral system which almost guarantees the defeat of future democratic forces, the tables turn?

Let us not give up hope.

Notes

- * The paper is a significantly expanded version of the one published in *Capitalism and Society* (Volume 10: Issue 2, article 1, 2015, available online at <http://capitalism.columbia.edu/journal/10/2>) and *Élet és Irodalom* (April 3, 2015, in Hungarian). The main text of this expanded version is identical with that of the paper published in *Capitalism and Society*. The footnotes attached to the original text appear here as endnotes and have been supplemented with numerous additions. The list of references following the original main text has been complemented with a large number of new items.

This expansion is motivated by various considerations.

1. We wished to make the reader aware of the empirical background to the statements and observations made in the main text. Where this is feasible, the endnotes refer to specific events, measures, laws, regulations and official communiqués. In some cases, however, we had to make do with mentioning how the event was reported in the media.

2. The paper advances several propositions with which numerous other observers and analysts agree, and following the usual practice in such cases it refers to other authors, in order to illustrate a broader consensus. In this extended version there are far more references of this type, indicating agreement, than have been included with the same purpose in the original main text.

3. The original paper was intended to be concise. The extended version undertakes to explain in more detail certain phenomena or expressions with which non-Hungarian readers are unfamiliar.

4. In order to achieve the above aims we have frequently found it necessary to refer to material which has been published exclusively in Hungarian. In the original paper, intended for non-Hungarians, we chose not to do this, assuming that most readers would not understand Hungarian; we only mentioned one comprehensive collection of studies that is only available in Hungarian. We also included English translations of selected quotations from Prime Minister Viktor Orbán's speeches in Hungarian. The main purpose of the extended version is to provide information about studies and other source material published only in Hungarian and used in the research.

It is for these reasons that both the body of notes and the list of references are much more extensive in the expanded version than in the original one.

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1. A few months after Fidesz took over the government I wrote an article entitled "Számvetés" (Taking Stock—published in Hungarian in 2010; for the English translation see Kornai 2011), which gave a summative overview of the main characteristics of the changes that had already taken place and those which could be expected. The volume of literature on Hungarian changes is increasing year by year; it is mainly in Hungarian. I would like to single out the collection of studies in two volumes edited by Bálint Magyar and Júlia Vásárhelyi (2013, 2014), which contains essays by several eminent Hungarian experts in the field. Here is the list of contributors: Attila Ara-Kovács, Péter Bárándy, András Becker, István Bihari, András Bozóki, György Csepeli, István Csillag, Zoltán Fleck, György Gábor, Pál Juhász, György

Konrád, Márton Kozák, Balázs Krémer, Ferenc Krémer, Mihály Laki, Tamás Lattmann, Bálint Magyar, Iván Major, Zsolt Pétervári, Károly Attila Soós, Iván Szelényi, Éva Várhegyi, and Mária Vásárhelyi.

2. András Bozóki's study (2011) investigates the early period of transformation which took place as a result of the Fidesz-government's coming to power. He describes the attractive ideological elements of political rhetoric accompanying the transformation of the institutional structure: the central power field, the establishment of national unity, the "voting-booth revolution."
3. "Parliament passed so many major laws that it was nearly impossible for anyone—including, presumably the obedient government MPs themselves—to keep track of what they were voting on. On multiple occasions over the last two weeks, the parliament met late into the night and often voted on several major laws in one sitting. The actual texts of the laws on which they were voting were often unclear at the time that the governing party voted for them en masse. Major amendments were introduced at the last minute and then not debated. There was no dissent from within the governing parties and almost no votes from any of the opposition parties. (The far-right Jobbik deputies voted for the central bank law, however.)" (Scheppelle 2012a, p. 5)

In American legislation "cross voting" is frequent. This means that Republican senators or representatives vote in favor of a bill proposed by a Democrat, or vice versa. This never happens in the Hungarian Parliament. "Studying how the Parliament functioned in 2011 we can conclude that of the 1217 decisions brought during the spring session and of the 2308 brought in the autumn session there was only one single point of orientation: political loyalty. There were no votes against the party line on the basis of whether the representatives had got into Parliament from the party-list or from a constituency. Votes were not differentiated either on the basis of the interests of the association supporting the election of the candidate, or the type of the settlement belonging to the representative, or the professional branch linked to the representative, or the age group, highest level of completed education, state of health or financial situation. The votes reflected no social stratification whatsoever. The only aspect that made a difference was membership of a party, on both the government and on the opposition sides. The votes cast by representatives could be safely predicted according to parties." (Karácsony 2012)

4. In the parliamentary cycle between 2010 and 2014 altogether 859 laws were passed: nearly twice as many (399 more) as the laws passed during the term of office of the first Orbán government between 1998 and 2002, and almost one and a half times (274 more) the number of laws passed in the previous cycle. (Parliament 2014a) "Making use of the house regulations, the majority keeps subjugating those who represent the minority's point of view, in connection with the method, time, predictability and publicity of debating the points on the agenda. In 2011 Parliament sat for 98 days, but not once was it able to work on the basis of an

agreed agenda. In every case the agenda of the session was decided by a majority vote.” (Karácsony 2012)

The unbelievable speeding up of legislative work was pointed out by the committee delegated by the European Parliament. The report “criticizes the accelerated process for enacting important laws, as it undermines the rights of the opposition parties to be effectively involved in the legislative process, thus limiting their scrutiny of the majority’s and the government’s activities and, ultimately, negatively affecting the system of checks and balances.” (Quoted from the so-called “Tavares Report.” See European Parliament 2013, p. 23.)

5. See Parliament 2014.
6. We shall list those laws (including laws amending earlier laws) where the procedure from introduction to passage was completed in less than a day: in 2010 laws number LIII, XCIII, in 2011: XLVI, CXXX, in 2012: CXXXIX, CXLIV, CLXII, in 2013: CLXXIII, CXXXVI, CXXXIV, LXVIII, XXX and VI (Parliament 2014).
7. The governing party with its two-thirds majority first changed the rules governing the nomination of Constitutional Court judges in such a way that with its two-thirds majority it could nominate a judge without the support of at least a certain part of the opposition. Having made this rule they appointed István Stumpf, one of the ministers of the first Orbán government, and Mihály Bihari to the two positions of the court that were then vacant. Following this, from September 1, 2011 they increased the number of members of the court from 11 to 15, and as judge László Trócsányi had to resign from his post following his appointment as ambassador, Fidesz itself, without negotiating with the other parties, nominated five new Constitutional Court judges who were then elected exclusively with the votes of government representatives. (See Eötvös Károly Institute and the Hungarian Civil Liberties Union 2013, p. 1. See also note 52 below.)
8. László Domokos was named as head of the State Audit Office in 2010. Earlier Domokos was a Fidesz’s member of parliament for 12 years, and was even the deputy fraction leader between 1998 and 2002. It is also important to mention that the newly elected vice president of the State Audit Office, Tihamér Warvasovszky also used to be a member of the parliament, but in the socialist MSZP fraction. But he broke faith with his party at a crucial point; he rejected prime minister Bajnai’s austerity program between 2009 and 2010.
9. The members are Zsigmond Járαι, László Domokos, György Matolcsy and Árpád Kovács. Let us have a look at the list of names. History repeats itself: *Zsigmond Járαι* was the governor of the Hungarian National Bank between 2001 and 2007. Járαι was minister of finance between 1998 and 2001 and then became the governor of the central bank. (Shifting from the position of minister of finance to the governorship of the central bank seems to be a pattern in the Orbán era. (See also a recent similar story on page 11 of this paper.) The political background of *László Domokos* which explains his loyalty to Fidesz was described in note 8. *György Matolcsy*, the hand-picked governor of the central bank is also a member. He is very close to

the prime minister, as described in a later note. There is only one member, *Árpád Kovács*, who did not have formal ties to Fidesz.

10. The president, Miklós Juhász held positions in the supervisory boards of several companies, including the Paks nuclear power plant, during the term of the first Orbán government (1998–2002).
11. László Székely will be Commissioner for Fundamental Rights until 2019. Székely won his most important office after the second Orbán government came to power: he became ministerial commissioner responsible for coordinating the drafting of the new Civil Code.
12. The president, Gabriella Vukovich was the co-author of a publication called *Fehér könyv Magyarország állapotáról* [White Book on the Condition of Hungary] by the “Alliance for a Civic Hungary Foundation,” a foundation closely linked to Viktor Orbán, timed to come out for the 2006 elections.
13. “Fidesz thought that in the spirit of symbolic politics, a new constitution was due for a new system, thus showing that they were distancing themselves from the ‘shady decades’ of liberal democracy. It is not by accident that autocrats unable to legitimize their rule along a line of descent usually stylize the beginning of their reign, which they expect to be long, as a new historical era. The Easter timing of the parliamentary passage of the Fundamental Law, which is saturated with ideological elements (‘God bless the Hungarians,’ Christian heritage, Sacred Crown), also refers to a confusion of roles and proportions, suggesting a parallel between the resurrection of Jesus and, let us give it the benefit of doubt, of Hungary.” (Magyar 2013, p. 44)
14. “The constitutional drafting process in 2010–2011 consisted of two disconnected stages, one inconsequential public stage and one consequential secret stage. In stage one, the constitutional committee of the Parliament held open meetings, sought the opinions of civil society and produced a list of principles that the constitution was supposed to follow. The principles that came out of that parliamentary committee were approved by the Fidesz parliamentary bloc in the Parliament on 7 March 2011. In stage two, a parliamentary resolution passed on 7 March 2011 (carried by the votes of the Fidesz parliamentary bloc), gave MPs exactly one week to propose complete draft constitutions, which were due 14 March 2011. But the resolution stated that a proposed constitution could be offered “with or without” taking the draft principles into account. In short, the first participatory stage of the constitutional drafting process was entirely disconnected from the second secret stage.” (Scheppele 2013b)
15. The government parties victorious in 2010 were able to abolish the supplement to the 1995 law which made the passing of a new Constitution dependent on a four-fifths majority vote by the representatives, by using their two-thirds majority (Bánkuti, Halmai, and Scheppele 2012). “The draft constitutional text submitted to the Hungarian Parliament on 14 March 2011 was the one produced by the elected representatives of the Fidesz–KDNP coalition and not the

working document based on the discussions within the ad hoc parliamentary committee, even though that committee had been set up expressly for the purpose of drafting the new Fundamental Law.” (Quotation from the Tavares Report, see European Parliament 2013, p. 11.)

16. The study by Imre Vörös (2014), ex-constitutional court judge, on the Fundamental Law reveals many of its inconsistencies. See also Kis (2012) and Halmai (2012).
17. See Venice Commission (2011a, 2011b, 2012a, 2012b, 2012c, 2012d, 2012e, and 2013).
18. See *The Fundamental Law of Hungary* 2011.
19. “The Constitutional Court, on the basis of a thorough investigation, declared almost every regulation intended for the fundamental law to be contrary to the fundamental law and abolished it. The present modification of the fundamental law only occasionally and even then only partially considers the objections of the Constitutional Court. It cannot be said, therefore, that now, when individual rules would be fitted into the text of the constitution instead of the provisional measures, it is only a matter of ‘correction’: of putting formal mistakes right following the resolutions of the Constitutional Court. The root of the problem is why and how these rules got into the provisional measures of the fundamental law.” (Sólyom 2013, p. 1)
László Sólyom was the president of Hungary from 2005 until 2010. Previously he was the first president of the Constitutional Court of Hungary from 1990 to 1998.
20. “The actual significance of the text of the Hungarian constitution has been downgraded again. The theoretical declarations of the Fundamental Law may be debased by a set of Cardinal Laws. The prime minister and his system showed again with many measures that they took, how little he appreciates the constitutional state of the country. He may, if the political situation of the day dictates, easily modify the Fundamental Law of the country. For him the constitution is not primarily the means to check the main powers that be, but rather the accessory of a symbolic national politics, the preamble of which, the national creed, can be pinned on the walls of public buildings, and can be taught in schools; thus it ensures that the world view of the system gets to every inhabitant of the country.” (Tölgyessy 2013, p. 4.)
21. See Parliament (2014b).
22. “Non-democratic systems usually give a negative image of law in general and of legal practice, while, should their interests require it, they exploit the ideology of referring to law. Legal regulations and the observation of laws are important as long as they serve the immediate interests of the group in power; referring to the principles of law, to its internal regularity, to external legal limits is all useless quibbling, a politically hostile activity. The old law is inferior to the regulations created by the new system. Stability can also be decreased by the illusion of revolutionary law. The new system denies the legitimacy of the old one in general and uses the basic ideological norm as its main criterion for interpretation. The preamble of the Fundamental Law, the ideology of national cooperation and historical constitution serves this purpose, making its whole legal system vulnerable, politically open,

and making those who implement laws uncertain. Non-democratic systems are founded on the belief that their rule is the natural state of affairs: there is no legitimate alternative, so their mandate bears the power of natural legitimacy; it is boundless and unquestionable. Consequently, legislation has no limits, anything can be turned into legislation, and there is no necessity to find a consensus or to reach a compromise. Behind the power and legislation lies a social support that is presumed to be homogeneous, so every contradictory argument is against the public interest.” (Fleck 2013, p. 151)

23. On its accession to power Fidesz passed many laws in order to favor certain people, making it possible for them to find a way out of a general law. These laws were given a nickname in common language: “Lex X,” where X stands for the names of those in whose interest the laws were passed. “Ténytár” [a repository of facts] is one of the news portals critical of the government, and often writes about such cases in its analysis or blog sections as updated lists of friends and enemies, presenting tables of *leges* for these cases; as a reminder, we have used their news bulletins (for online articles see Ténytár 2012–2014).
- *Lex Baranyai*. “László Baranyai was able to occupy the position of Chair of the Hungarian Development Bank, although originally he could have done so only six months later. Paring down of incompatibility regulations.”
 - *Lex Vida*. “New personal conditions apply to the new president of APEH” [this was then the name of the central tax authority], so that Ildikó Vida would be able to occupy the position. The condition “Hungarian citizen with a specialized university or college degree, at least five years of administrative practice, five years of experience in management and outstanding professional authority” was no longer needed for the post.
 - *Lex Polt*. “Péter Polt [Chief Prosecutor] does not have to retire at the age of 62, like other prosecutors and judges. The Chief Prosecutor, cemented into his post, is able to complete his 9-year mandate.”
 - *Lex Szász*. “A law was created which exempted Károly Szász [who was then president of the State Agency for Financial Surveillance and Accounting] from paying the 98% supertax.”
 - *Lex Szapáry*. “György Szapáry to become ambassador [having surpassed the previous legal age limit] in spite of the fact that he is 72.” Szapáry was appointed Hungarian ambassador to Washington.
 - *Lex Töröcskei*. “In November 2011 the news spread: István Töröcskei, a banker with strong Fidesz ties, was to be appointed head of Government Debt Management Agency. The information was confirmed among others by the person in question, who announced: ‘if the appointment goes through, I will resign from everything.’ The information in the press proved to be true: on November 15 Töröcskei was able to take up his new position, however, he did not have to resign from anything, as the government used an effective method this time too: in the law laying the foundations of the 2012 budget it ‘shuffled in’

a regulation which made it possible for the Government Debt Management Agency not to apply the so-far valid regulations on conflict of interest. This is how he managed to remain president of a private bank, the Széchenyi Bank, while becoming the head of a very important state organisation.” At the time of writing the study dire problems emerged at the Széchenyi Bank; yet again the question of conflict of interest between a state and private activity arose. Finally Töröcskei was forced to resign.

- *Lex Mocsai*. “The law on higher education defined the criteria a candidate had to meet in order to be appointed rector of a university by the government. One of these criteria was that the candidate has to have a Ph.D. On the basis of the Fidesz modification submitted for the higher education law, this section of the law was rewritten, which from now on made it possible to disregard this criterion. By then the news had spread: Lajos Mocsai, a well-known sportsman whose political sympathies tie him to Fidesz, was to be appointed head of the University of Physical Education. Although László Pószán, who introduced the proposal, firmly denied that he had the future head of the University of Physical Education in mind when drafting the modification, soon Lajos Mocsai, in spite of not holding the necessary doctorate required by the general law, was appointed rector of the University of Physical Education.”
- *Lex Vajna*. “Andy Vajna is a well-known individual, a rich businessman, who was appointed by the Fidesz government to key positions of Hungarian filmmaking. Besides the state commissions he continued his own business enterprise, among others in the world of casinos. One of the provisions of the law on the proposed changes in the 2015 tax legislation prescribes that in order to operate online card rooms and casinos a license to operate casinos in Hungary is needed. Only two companies meet this requirement: one is Andy Vajna’s.”

24. In the previous note we discussed *leges* created to favor individuals. In this note we shall bring an example to a *lex* which ensures special treatment for a near-to-Fidesz organization favored by the government.

Lex CBA. One of the Hungarian retail trade networks, the rapidly expanding Hungarian-owned CBA, is considered a near-to-Fidesz company, unlike other chains of stores which are mostly in foreign or multinational ownership. The law on supertaxes, which takes a heavy toll on some branches of commerce, has put a significant—proportionate to income—burden on high turnover retail trade networks. The bases of the tax must be calculated by adding up the turnover of all shops in the same ownership. This burdensome supertax is only levied on chains of stores, not on individual stores. And CBA, although in fact it is a network consisting of many shops, operates in a franchise system; every member store has its separate owner. Thus they are not affected by this tax burden. The truth is that the stores harmonise their business policy as members of the CBA network, and use various common services, but in a legal sense they do not constitute a company. This wording of the law ensures a significant

advantage to CBA against its business competitors. What is more, a month after it was drafted the law was further modified, to the disadvantage of CBA's rivals. (Ténytár 2012–2014, January 25, 2012)

25. Péter Polt was first elected Chief Prosecutor under the first Orbán government and held this position until his mandate expired. On the proposal of the new Orbán government he was elected by Parliament, now for the second time, Chief Prosecutor in 2010. It is worth mentioning from his biography that he joined Fidesz in 1993. At the 1994 parliamentary elections he stood as the party's candidate but did not get a mandate. Later he left the party because of conflict of interests with state offices. (http://www.galamus.hu/index.php?option=com_content&view=article&id=41776; Wikipedia, s.v. "Péter Polt")
26. At the request of "Átlátszó" [Transparent], an online portal for investigative journalism, the Chief Prosecutor's Office supplied some data which indicate that between 2010 and 2014 the number of criminal proceedings launched in corruption cases with political connections fell significantly, while the number of charges filed tripled (Atlatszo.hu 2015). Referring to the portal's information, an opposition MP addressed questions to the Chief Prosecutor's Office. In its reply, the Chief Prosecutor's Office rejected the criticism, and declared that the portal's journalists had misinterpreted the statistical data.
27. In many cases police and prosecution proceedings were launched amid great public interest, and were followed by litigation. The proceedings usually dragged on for years; indeed, some of them are still ongoing and have not reached a final, legal decision. The press dealt at length with the current state of individual cases; and beyond factual descriptions (explaining the points of view of the parties at law, or the content and reasoning of the court judgements), added comments on all sides. Unfortunately, I do not yet know of a comprehensive, professional and objective study which would analyse and evaluate these cases from legal, political and ethical points of view.

Here I shall only mention one section of this extensive circle of phenomena. The main suspect, then principal defendant in the still ongoing, inconclusive criminal proceedings which became known as the "BKV case," Miklós Hagyó, former Socialist deputy-mayor of Budapest, filed a complaint several years ago to the European Court of Human Rights according to which the Hungarian authorities detaining him committed multiple violation of laws. Hagyó, who between May 2010 and February 2011 was held on corruption charges, claimed that for an extended period of time he was detained in a wet, mouldy cell and as a result his health suffered seriously. In his opinion the court did not properly explain why it was necessary to keep him in custody pending trial for nine months and why his right to maintain contact with his wife and children was restricted. The European Court of Human Rights declared in 2013 that the former deputy-mayor had been detained for months in a way which violated international agreements, and instructed the Hungarian government to pay compensation. The Strasbourg court ruling has taken legal effect (Stop.hu 2013). It is worth

highlighting the above court ruling partly because it is linked to an important general ethical question which goes beyond the individual case: to what extent must the responsible authorities respect the human rights of suspects, and partly because a final, irrevocable decision was brought concerning this legal violation, at the highest level.

Both the Fidesz government that has been in power since 2010 and the preceding government appointed so-called “accountability commissioners,” responsible for revealing the crimes of corruption committed during the previous government. “Charges initiated by Fidesz-stalwart Gyula Budai [the “accountability commissioner” for the second Orbán government], who started his career in the military prosecution office in the Communist period, normally went through the prosecution unhindered, but mostly got stuck in the court proceedings.” (Magyar 2013, p. 38)

28. Tünde Handó, the wife of a Fidesz member of the European Parliament and longtime friend of the prime minister was appointed head of the National Judicial Office in 2012 (Freedom House 2014, p. 20).

29. The dismissed president, András Baka, is a legal scholar and college professor. Between 1990 and 1998 he was director-general of the College of Public Administration. In 1991 he was elected Hungarian judge at the European Court of Human Rights; he held this office until 2007. Between 2009 and 2011 he was chief justice of the Supreme Court. In this position he often voiced his worries about government measures threatening the rule of law. When commenting on the parliamentary debate on cardinal laws (proposals T/4743 and T/4744), András Baka said the following: “The unlimited, obscure and uncontrollable authority that will emerge as a result of this law is unprecedented in its sphere of authority and structural solutions in contemporary Europe.” When in 2011 he was dismissed, he had not yet completed half of his 6-year mandate. Baka was made redundant on the pretext of the transformation of the organisation of the court.

Baka filed a complaint to the European Court of Human Rights. The Strasbourg court passed sentence on May 27, 2014 in Baka’s case, and partially upheld his complaint. Among other things it concluded that the state had violated his right to free speech. (Gadó 2011, p. 2.; <http://nol.hu/belfold/ma-dont-a-menezstett-baka-andras-ugyeben-strasbourg-1464553>)

30. Mihályi (2015) describes in detail, with many supporting data, the process of re-nationalization.

31. Várhegyi (2015) gives an analysis of the peculiar method used by the state to take over the system of savings cooperatives, and the way in which it has imposed extra taxes on, and partially nationalized, the banking sector.

32. See Kornai (2012), Rosta (2014), and Hajnal and Rosta (2014).

33. Viktor Orbán, whose house is in Felcsút, welcomed Lőrinc Mészáros, mayor of the town, into his group of friends. The one-time gasman often appears together with the prime minister of the country. His wealth is rapidly increasing and in 2013 he was already among the 100

richest men in Hungary (Albert 2013b).

34. At the end of 2014 and the beginning of 2015 the Hungarian press was echoing with the “war” which broke out between Viktor Orbán and Lajos Simicska. The close friendship between Orbán and Simicska goes back as far as their university years and military service. Simicska became an extremely successful businessman, one of the richest and most powerful oligarchs. It was well known, although never proven by public documents, that he was mainly responsible for raising funds for Fidesz’ activities. He controlled many media enterprises on the right wing of the political spectrum. Following the 2014 elections, however, a change took place in this situation: regulations appeared one after the other which in various ways took a heavy toll on the Simicska empire: he was deprived of his previous privileges. Political analysts are only guessing: maybe he had grown too powerful in a centralized system where only one man can stand at the summit. I shall not quote sources for the above developments, as the story is nowhere near conclusion at the time of writing; there have been no official communiqués, nor studies summarizing and analyzing the events.
- “Orbán’s notion of a ‘central arena of power’ eliminates the idea of political competition endorsed by all major protagonists during the transition to democracy. Fidesz has sought to radically alter the administrative elites by replacing top administrative, economic, and cultural leaders tied to the experience of previous decades. The aim here was to dismantle the political independence of institutions and to put a group of Orbán loyalists in key positions. Anticommunism was the ideology bolstering this move, which today is no more than a cover for this quest for power. This endeavor to solidify political clientelism sent the message that life outside the ‘system of national cooperation’ was unthinkable.” (Bozóki 2013, p. 848)
35. According to the 2014 anti-corruption report published by the European Commission (2014), 49.1% of public procurement procedures involved a single bidder, which implies that competition has been eliminated. Similar patterns of favoritism can be observed in the distribution of plots within the state land lease program (Ángyán 2014), and in granting concessions under the new tobacco retail licensing system, which has bereft thousands of former tobacco shop owners of their livelihood (Laki 2014).
36. Article 116 of Act XC of 2010 introduced the special tax on financial institutions or “bank tax” (*Magyar Közlöny* 2010). The financial institutions affected by the special tax are as follows: credit institutions, insurance companies (in 2011 and 2012), financial organizations, investment enterprises, the stock market, commodities exchange service providers, and fund managers. From January 1, 2011, a different regulation defined in Article 142 of Act CXXIII of 2010 applies. There are other countries where taxes are levied on bank transactions, but the Hungarian rates are incomparably higher.
- Besides “bank tax,” the government has levied special taxes on various branches and product groups. In order of coming into force, they are as follows:
- CIII of 2011, in force since September 1, 2011 on the public health product tax. This was

re-christened in common parlance, after one of the characteristic products, as the “chips” or “hamburger tax” (Net.jogtar.hu 2015a).

- LVI of 2012, in force since July 1, 2012, on the telecommunication tax (“phone tax”) (Complex.hu 2015b).
- CXVI of 2012, in force since January 1, 2013, on the financial transaction tax (Net.jogtar.hu 2015b).
- CLXVIII of 2012 in force also since January 1, 2013, on the public utility cable tax (Complex.hu 2015c).
- On June 17, 2014 the government announced XXII of 2014 on the advertising tax (Net.jogtar.hu 2015d; *Magyar Közlöny* 2014).

Originally, the government promised that the extra tax on financial institutions (the “bank tax”) would only be in force temporarily. Later, however, this kind of tax, along with other, originally supposedly temporary extra taxes, was maintained on a long-lasting basis. The budget increasingly relies on this income (Siklós and Jancsa-Pék 2013; Csiki 2014). Not long ago a promise was made that by 2016 it will be, if not abolished, at least reduced (MTI [via VG.hu] 2015).

37. The standard value added tax rate in Hungary is 27%, which is the highest in the European Union. The average of rates in the 28 member states of the union is 21.5% (European Commission 2015c).
38. According to Law LIV, 2013 on the execution of the reduction of household expenditure on utilities, lower than previous administrative prices were prescribed for the following services: gas supply, electricity, district heating, and public water services for residential consumers (Net.jogtar.hu 2014b). The Hungarian name of this government program is “rezsicsökkentés” (reduction of overhead costs or utility rates).

The reduction of gas and electricity prices by 10% affected 3.7 million residential electricity consumers and 3.3 million residential gas consumers in February 2013. From July 2013 the government reduced the price of water services, waste collection, and also chimney sweeping (MTI [via hvg.hu] 2014a). In 2014 a new wave of reductions of household expenditure was launched: in April the price of gas fell by 6.5%, from September household electricity by 5.7%, from October the price of district heating was reduced by 3.3% (MTI [via hvg.hu] 2014b).

39. Almost one third of the residential saving accumulated as a result of the “reduction of overhead costs” affected the richest 10% of the population between January and October 2013. Households with higher incomes, considering the absolute sum of expenditure, spend more on utilities than those with lower incomes. (Molnár and Horváth 2013)

In 2013 more than one third, 36% of the “reduction of overhead costs” (coupled with the same loss of revenue for the service provider), benefited the upper one fifth of the population, those who have the highest income, and only 15% the bottom one fifth. The most endangered

groups (households disconnected from services, those with the lowest incomes, households heating with wood-burning stoves) were basically unaffected by the reduction of household expenditure on utilities (Habitat for Humanity Hungary 2014, p. 6).

The average monthly housing expenditure of Hungarian households in the poorest 20% decreased by 1925 Forints, and the average monthly costs for housing for the wealthiest 20% of households decreased by 2416 Forints between 2012 and 2013, therefore the wealthiest households “gained” 25% more by the reduction of utility prices. Although utility price cuts had a decisive role in the decrease of total expenditures, other factors, e.g., the mild winter of 2013, may also have played a part (*Ibid.*, p. 39).

40. The “reduction of household overhead costs” campaign cuts the revenue of service provider companies. In those branches which are already mostly in public ownership (in public water services, district-heating and waste collection) the loss of revenue has to be made up for by the tax payers (IDEA 2013).

The drawbacks of artificially reduced prices are clearly illustrated by the changes in the market of public water service providers. The state in 2013 transformed the market of public water service provision in such a way that private companies were virtually excluded; the five national regional water service companies, on the other hand, accumulated a loss of 5.4 billion Forints, which has to be covered by the tax payers. According to the companies, the losses are caused by the reduction of household expenditure on utilities and special taxes (Szabó 2014). Apart from increasing deficit and debt, the artificially reduced prices lead to cutbacks on investment. Consequently, the technical quality of public utilities can be expected to decline (Jenei 2013).

41. How far should the state go when it aims to intervene in economic processes, to regulate those processes, and to influence the redistribution of income and wealth? What kind of relationship should emerge between the state and the market? These issues are not confined to problems for the narrower field of economics: they are strongly linked to the broader choice of fundamental values. János Kis (2014) gives an in-depth analysis of this topic.
42. The ratio of net fixed capital formation at current prices in the private sector as a percentage of GDP is extremely low. Here is the time series: 2009 – 5.3, 2010 – 2.3, 2011 – 2.1, 2012 – 0.7, 2013 – 1.3, 2014 (estimate) – 3.4 (AMECO 2014).
43. There are no national data on the income situation of public works employees and their families. The Hungarian Anti-Poverty Network carried out a small-scale investigation, according to which 62% of the interviewed public works employees and their family members live around the poverty threshold, 91% under minimum subsistence (Hungarian Anti-Poverty Network 2014, p. 55). These data support the estimates of Ferge and Darvas (2014), which refer to the whole country. According to these, the gross salary of public works employees was 71,800 Forints in 2012, 75,500 Forints in 2013, 77,300 Forints in 2014, and the net sums rounded up are 47,000, 49,400 and 50,600 Forints, respectively. On average, public works

employees received this sum for 4 months, and if the work was less than 8 hours a day then the salary was also lower. The provisions linked to minimum pensions, such as child-care allowance (GYES for short), child-care support (GYET for short), and family allowance have all remained unchanged since 2008. For the sake of comparison: the minimum subsistence calculated by the Central Statistical Office of Hungary (KSH) in 2013 per head was 87,500 Forints, for an active couple with two children it was 254,000 Forints (KSH 2014b, 2015). The total sum of all sources available for a poor family (wage for public work, family allowance, subsidy for maximum one member of the family, child protection allowance, housing allowance etc.) is not quite 120,000 Forints, which is less than half the minimum subsistence. In practice almost all public works employees and their families are poor. The situation is slightly better if the employee is highly qualified, but such individuals constitute the minority (Ferge and Darvas 2014, pp. 235–236; Krémer 2013).

44. The proportion of impoverished people and those socially excluded both among children and among the total population grew in Hungary between 2010 and 2013. In 2013 already one third of the population (33.5%) and 43% of the 1.7 million children belonged to this group. The ratio of the poor and socially excluded is one of the indicators of the “EU 2020 strategy.” (For the definition of the indicator see European Commission 2015d.) In 2010 2.95 million people were poor in Hungary, by 2013 their number had increased to 3.29 million. (“The poor” are those for whom the risk of poverty of social exclusion exist according to the above definition. See Kasnyik 2014; Eurostat 2014b.) According to the EU index measuring “total poverty,” Hungary belongs to the poorest quarter of member states. In 10 indicators out of 20 measuring the degree of poverty, it belongs to the last three countries in the rank order (hvg.hu 2014).

The situation of the Roma is especially desperate. The incidence of grave financial deprivation is very high: almost 90% among people who live with a Roma as head of household. In Hungary, in 85% of households living in poverty or social exclusion the head of household is a Roma (Szivós and Tóth 2013, pp. 47–48).

45. In the spring of 2011, the Municipality of Budapest issued a bylaw which made it an offense to be homeless in public areas. (Budapest General Assembly 2011). The Constitutional Court, however, in a resolution brought on November 12, 2012, declared the order which classified the use of public areas for housing purposes an offense to be against the Fundamental Law and abolished it (*Magyar Közlöny* 2012). In answer to this, on March 11, 2013 Parliament passed the fourth amendment to the Fundamental Law, thus now it is part of Hungary’s constitution that “a law or local municipal order can declare, in order to protect public order, public safety, public health and cultural values, with reference to a specific part of public area, that using public areas for housing purposes is illegal.” (*Magyar Közlöny* 2013; Parliament 2013; Szakács 2014)

An example of the harsh treatment received by the homeless was when in October 2011 the

Municipality of Zugló illegally demolished the shacks of the homeless (which in certain cases they had been occupying for six or eight years), breaching all procedural regulations, without any previous notification (The City is for All 2014).

46. “Those keeping a watchful eye on Hungary draw attention to this misunderstanding, and point out that democracy is being undermined with ‘legal means.’ The novelty and irony of the Hungarian slide into authoritarianism is that it was achieved entirely through legal means. Thanks to its two-thirds majority in the Hungarian unicameral parliament (Diet), Fidesz faced few obstacles in achieving this ‘constitutional revolution’.” (Bugarič 2014, p. 12)
47. Since 2010 the European Central Bank (ECB) has aired its disapproval of the modifications of the law on the Hungarian National Bank. The ECB has criticized the modification introducing income restrictions (No. T/581 bill on the implementation of economic and fiscal legislation and modification (Parliament 2010; ECB 2010a), on the appointment and dismissal of members of the Fiscal Council, and on rules governing remuneration of the members of the Supervisory Board of the Hungarian National Bank (ECB 2010b).

The bill published in December 2011 (Bill No. T/5248, see Parliament 2011) would have increased the number of members of the Monetary Council, transferred the power to appoint the National Bank’s Vice President to the current Prime Minister, increased parliamentary control over the President of the National Bank, and limited the salaries of the organization’s employees. The ECB criticized the bill and once again drew attention to the crucial role of independent monetary policy. (ECB 2011a, 2011b)

In January the European Commission (EC) launched accelerated infringement procedures against Hungary in relation to the independence of the country’s data protection office and the central bank, as well as measures concerning the administration of justice. The EC took note of the actions affecting the central bank’s independence in an announcement in March but requested further evidence and information. (European Commission 2012b)

The ECB continued to be concerned about the Bank Act (Act CCVIII of 2011 on the Central Bank of Hungary, see ECB 2012a). At the end of April, Bill No. T/6818 on the modification of the above Bank Act eliminated the main concerns expressed by the EC (Parliament 2012a; European Commission 2012c). On the other hand, at the end of May, the ECB was still critical of the Bank Act (ECB 2012b).

In relation to the clarification of the independence of the central bank, a prerequisite for the negotiations with the IMF, the government eventually withdrew the bill in question (Bill No. T/7742 on the modification of the above Bank Act, see Parliament 2012b), so the Bank Act was accepted and the infringement procedure was stopped by the international organizations, the ECB and the EC (ECB 2012c; European Commission 2012c).

48. “Matolcsy followed up his appointment by conducting a thorough housecleaning at the MNB, firing multiple top long-time MNB staffers (including the bank’s chief economist, the head of financial analysis, and the director of the research department) and demoting two

vicegovernors. Many others quit as well, including vice-governor and financial stability department director Julia Király, who publicly denounced Matolcsy's staffing choices and policies on her way out the door." (Barnes and Johnson 2014, p. 1415)

49. All the members of the Monetary Council were appointed during the period of the Orbán government: Ádám Balog (2013), Andrea Bártfai-Mager (2011), János Béla Cinkotai (2011), Ferenc Gerhardt (2013), Csaba Kandrács (2013) György Kociszky (2011), György Matolcsy (2013), Gyula Pleschinger (2013) and László Windisch (2013).
50. There were repeated attempts to shut down Klubrádió, a radio station which is strongly critical of the government, through administrative decisions; only court rulings after prolonged litigation made it possible for the station to survive. However, the frequencies Klubrádió was offered are not receivable in most of the country, which significantly reduces the impact of their broadcast (Vásárhelyi 2013, pp. 376–377 and 2014, pp. 424–424; Wikipedia, s.v. "Klubrádió").
51. The government aimed to use the tax on advertising revenues as a means of discrimination within the media sector. The relevant decrees were worded in such a way that 81 percent of the advertising tax was to be paid by one broadcaster, RTL, even though its share of the advertising market is only 15 percent. The company has been punished for its dogged independence and regular criticism of Fidesz politicians. The influential multinational RTL media group filed a lawsuit in order to put an end to this discrimination. Under pressure from various bodies of the European Union, the Hungarian government announced that it would take steps to amend the law in question. At the time of writing this note, the case was still awaiting settlement.
52. The former President of the Constitutional Court (CC), Péter Paczolay, has been in office since 2008. His successor, Barnabás Lenkovics was elected recently, in 2015. Lenkovics's earlier post as a constitutional judge has not been filled at the time of writing.

All but two of the other members of the CC have been elected since Fidesz came to power in 2010: István Balsai (September 2011), Ágnes Czine (November 2014) Egon Dienes-Oehm (September 2011), Imre Juhász (April 2013), László Kiss (he is one exception, as he was a member of the court since March 1998, and was re-elected in February 2007), Miklós Lévay (April 2007), Béla Pokol (September 2011), László Salamon (February 2013), István Stumpf (July 2010), Tamás Sulyok (September 2014), Péter Szalay (September 2011), Mária Szívós (September 2011), and András Varga Zs. (September 2014).

All the constitutional judges elected during the Fidesz government have been appointed by Fidesz. Let us highlight a few biographical details of the CC judges, to illustrate their potential political preferences.

- In the case of István Balsai there are various conflicts of interest, both political and moral, between his earlier political and present constitutional mandate. Earlier he was a leading politician in MDF, the party of József Antall, the first prime minister of the post-

transition democracy and served as the minister of justice in Antall’s cabinet. In 2005, he changed parties, and joined Fidesz. After the 1998 election, when the first Orbán government came to power, Balsai became the chairman of the parliamentary constitutional, judicial and procedural committee, and also served as an advisor to the prime minister. István Balsai has long been considered as the confidant of Fidesz party leader and prime minister Viktor Orbán. Now, as a guardian of the constitution, he should take a stand in several cases against the party policy which he himself shaped and defined (see Eötvös Károly Institute and Hungarian Civil Liberties Union 2011, p. 12).

- Imre Juhász became a well-known public figure when he became a member of the Civil Lawyers Committee examining the demonstrations and riots in 2006. This was the committee whose speaker was Krisztina Morvai, Jobbik’s infamous EU representative (Gergely 2013, p. 1).
- Béla Pokol was a member of parliament of the Independent Smallholders’ Party (FGKP) between 1998 and 2002. This party was a coalition partner of Fidesz during the first Orbán government. He was deputy head of the parliamentary fraction and the party chairman’s personal advisor until 2001 (Eötvös Károly Institute and Hungarian Civil Liberties Union 2011, pp. 5–6).
- Péter Szalay has been a practicing attorney since 1998. Earlier he represented the leading politicians of today’s governing party, among others Viktor Orbán, current Speaker of the House László Kövér, present head of state János Áder, and the spokesman of the first Orbán cabinet Gábor Borókay, in media-related legal matters. (*Ibid.*, pp. 13–14)
- Mária Szívós was a professional judge and therefore she could neither become a member of a political party, nor engage directly in political activities. Her judiciary activity came into the spotlight during the criminal proceedings following the 2006 riots and demonstrations against the then ruling Socialist–Liberal government. Her appeal council reversed the majority of the lower-level court decisions, releasing those in custody for participating in the street riots. (*Ibid.*, p. 11)

Since their election the judges have not been uniformly loyal to the political leadership. A good reflection of the degree of loyalty is the frequency of pro-government votes in cases where the constitutionality of a law introduced by the government was considered by the court. The table below shows remarkable variation.

Constitutional Court Judge	Percentage of agreement with the government
Balsai István	100
Juhász Imre	100
Salamon László	92
Pokol Béla	90
Dienes-Oehm Egon	86
Szívós Mária	86
Szalay Péter	57
Stumpf István	32

Source: Lencsés (2015).

In most cases the political leadership can count on the support of the overwhelming majority of the members of the Constitutional Court.

53. According to the new law, the mandate of a newly elected constitutional judge will not expire at the age of 70. Under the current rules, István Balsai's mandate would have expired on April 5, 2017; according to the new law this will happen on September 1, 2023, when he is 77. According to the current rules, Egon Dienes-Oehm would have been a constitutional judge until January 2, 2015, according to the new rules until September 1, 2023, when he is 79. Béla Pokol would have been a member of the CC till May 7, 2020 but with the adoption of the new rule he may remain till September 1, 2023, when he is 74. László Salamon would have been a member until December 25, 2017, the modification changes that date to February 25, 2025, when he is 79. Mária Szívós's mandate would have expired on December 8, 2019, now she can stay until September 1, 2023, when she is 75.

It is well known that the two-thirds parliamentary majority enacted a law that had the opposite effect on the older members of the judicial body: the mandate of nearly three hundred judges was terminated *before* they reached 70 years of age. In contrast, the constitutional court judges, elected for twelve years, can now keep their offices till nearly 80 (Eötvös Károly Institute and Hungarian Civil Liberties Union 2013, p. 2).

54. About half of the seats are divided among the parties in direct relation to the proportion of the votes. The other half are allocated in every constituency following the "winner takes all" or "first past the post" principle best known in the British system. This secures a large number of seats for a party that has only a small relative advantage over their rivals in several districts.
55. Act CCIII of 2011 on parliamentary elections replaced the former two rounds of elections with a one-round system, reduced the number of MPs, redrew constituency boundaries, abolished the previously required 50 percent participation rate, and gave electoral rights to ethnic Hungarians beyond the borders (*Magyar Közlöny* 2011). The second amendment to the constitution served as an attempt by the legislators to introduce electoral registration at the constitutional level, but it was annulled by the Constitutional Court (*Magyar Közlöny* 2012 a, b). The fourth amendment to the constitution restricted the political advertising to the public media, including the publication of election campaign texts (*Magyar Közlöny* 2013a). Act XXXVI of 2013 regulated the electoral procedure; it included, among other things, the abolition of the right of Hungarian citizens residing abroad to vote by correspondence (*Magyar Közlöny* 2013b). While the fifth amendment to the constitution apparently extended the possibilities for political advertising into the private media (*Magyar Közlöny* 2013c), government decree no. 5/2014 extended the restrictions on commercial advertising to political posters (*Magyar Közlöny* 2014b). Act XXIII of 2014 served to radically transform the composition of the Budapest General Assembly (*Magyar Közlöny* 2014c). The composition of the Budapest General Assembly does not reflect the proportions of the popular vote at all,

since the core of the Assembly is constituted not by representatives of the voters, but by the district mayors.

56. Compare these figures with German data from 2013. The CDU/CSU received 29.7% of the vote (41.5% of those eligible actually voted). This is only slightly lower than the Fidesz results. But the actual proportions of votes are represented by parliamentary proportions in the Bundestag. Thus, Merkel did not win a majority, and a coalition with the Social Democrats is governing that country.
57. The expression “illiberal democracy” was introduced to the dictionary of political analysis, with a pejorative overtone, by the famous American journalist, Fareed Zakaria. “Democratically elected regimes, often ones that have been reelected or reaffirmed through referenda, are routinely ignoring constitutional limits on their power and depriving their citizens of basic rights and freedoms. From Peru to the Palestinian Authority, from Sierra Leone to Slovakia, from Pakistan to the Philippines, we see the rise of a disturbing phenomenon in international life—illiberal democracy.” (Zakaria 1997, p. 22) What Zakaria meant was that in some countries where the democratic form of government once prevailed, illiberal traits, in conflict with democracy, are now forming.
58. “The new state that we are constructing in Hungary is an illiberal state, a non-liberal state. It does not reject the fundamental principles of liberalism such as freedom, and I could list a few more, but it does not make this ideology the central element of state organisation, but instead includes a different, special, national approach. [...] Let me mention another example, which is another obstacle to the reorganization of the state. When I mention the European Union, I do so not because I believe that it is impossible to construct a new state built on illiberal and national foundations within the European Union. I think this is possible. Our membership of the European Union does not rule this out. It may be true that many issues arise and many conflicts develop as you have seen in recent years, and that we must fight many battles there.” (Orbán 2014, pp. 9–10) “If someone wants to say that a democracy is necessarily liberal, that person demands privilege for an ideology. Which we cannot grant him.” (Orbán 2015, p. 1) This is how Zakaria reacted to Orbán’s speech at Tusnádfürdő: “In a major speech last weekend, Hungarian Prime Minister Viktor Orban explained that his country is determined to build a new political model—illiberal democracy. This caught my eye because, in 1997, I wrote an essay in *Foreign Affairs* using that same phrase to describe a dangerous trend. Democratic governments, often popular, were using their mandates to erode individual rights, the separation of powers and the rule of law. But even I never imagined that a national leader—from Europe no less—would use the term as a badge of honor.” (Zakaria 2014)
59. In the related debates in Hungary, referring mostly to international sources, diverse terms have been in use: for example, “managed democracy,” “Führer-democracy,” or “elected despotism.”
60. The treaty on joining NATO was signed by the representative of Hungary on December 16,

1997 (NATO 1997). Hungary became a full member of NATO on March 12, 1999 (NATO 1999).

61. The treaty on joining the European Union was signed by the representative of Hungary on April 16, 2003. Hungary became a member of the European Union on May 1, 2004 (Treaty of Accession 2003).
62. The referendum on accession to NATO was held on November 16, 1997 in Hungary, and 85.33% of the valid votes supported the accession (National Election Office 1997). The referendum on the EU accession was held on April 12, 2003, and 83.76% of the participants voted in favor (Hungarian Government 2011).
63. Viktor Orbán (2012) said the following: “There is a dance routine in international diplomacy. This dance, this peacock dance [...] has to be performed as if we wanted to be friendly. These are, let’s say, exercises in the art of diplomacy. So we accept two or three out of seven proposals, those two or three that we have followed already, except they didn’t notice, and we reject the remaining two we didn’t want, saying ‘C’mon, we have accepted the other ones.’ This is a complicated game. Unless you insist, I’d rather refrain from entertaining you with the beauty of the details.”
64. A characteristic scene of the “peacock dance” is the duplicity shown by Fidesz and the government towards people of Jewish faith. More than once the government has emphatically declared that it will not tolerate anti-Semitism, and if necessary it will defend its Jewish citizens against any kind of attack. At the same time several government measures gravely insult the painful historical memories of Hungarian Jews. For example, it is falsely suggested in various ways that the deportation of hundreds of thousands of Hungarian Jews was forcibly imposed by Nazi Germany, while in fact Horthy’s state machinery was actively involved in it. Many historians have publicly criticized such revisions of history, including the most prominent researcher of the Holocaust in Hungary, Randolph L. Braham (2014a, 2014b).
65. A noteworthy exception: the Speaker of the Parliament, a Fidesz member, at one point publicly referred to the possibility of “backing out” of the EU (see Koncz 2014).
66. The spectacular new projects inaugurated with pompous ceremonies by political leaders are mostly financed by European Union funds or are established by multinational companies. Hungary relies heavily on European Union resources, getting back more than it pays into the EU budget. The so-called operative budgetary balance, i.e., the balance of payment into the EU budget and the income from that budget, was 2.99% in 2010, 4.66% in 2011, 3.59% in 2012, and 5.33% in 2013, expressed in percentage of the Gross National Income (GNI). The average balance of the operative budget of all EU Member States (EU-27) in the same years was 1.09%, 1.02%, 1.30%, and 1.36%. Thus, Hungary—ignoring all other advantages of EU membership and considering only the financial implications—received far more from the EU than the average. It is worth evaluating separately how the Hungarian balance relates to the average balance in the post-socialist member states (Bulgaria, the Czech Republic, Estonia,

Hungary, Latvia, Lithuania, Poland, Romania, Slovakia). The average operative budgetary balance as a percentage of GNI values was as follows: 2.92% in 2010, 2.67% in 2011, 3.36% in 2012 and 3.57% in 2013 (European Commission 2015a). In other words, the post-socialist countries together received more than the average each year. Moreover, Hungary received more than the average of the group of post-socialist countries, which were already preferentially treated compared to other groups of members.

A European Union press release emphasizes: “[...] the accounting presentation of the budget balances is based on purely financial costs and benefits incurred by the Union for individual member states. In other words, it does not take into account the benefits from the policies of the EU such as the internal market and the economic integration, not to mention political stability and security.” (European Commission 2015b)

“Preliminary estimates indicate that Hungary received 24 billion euros in EU funding during the EU’s 2007–13 budget cycle. The Orbán government even cynically used its EU membership to raise money from non-residents, passing a law in December 2011 creating ‘permanent residency bonds’ that gave lifetime Hungarian permanent residency to approved non-EU citizens willing to pay heavily for the freedom to travel visa-free throughout the Schengen zone.” (Barnes and Johnson 2014, p. 20)

67. “Azerbaijan is considered an especially valuable country as it forms a bridge between Europe and Asia, and provides proof of the existence of secularized Eastern countries which can develop their relationship with the Western world on the basis of rational principles. Moreover, Azerbaijan is a model of how a state can base its economic system on a huge growth sector, the energy sector, can be the basis of the economic system, which gradually builds up other sectors and makes it world-class economy. So there are many reasons to remember Azerbaijan with great respect and remember Mr. President with great respect” (Press Release by Prime Minister Viktor Orbán, Prime Minister’s Office 2014).
68. On the decision-making process and legal tug-of-war over access to the locked up public data, see Energiaklub (2014). It is instructive to compare it with the public debates that preceded the decisions on nuclear energy in advanced democracies (Sarlós 2015).
69. Approving a government proposal, Parliament passed a law which declares that all contracts concerning the Paks power plant, which have been or will be awarded, should be kept secret for 30 years (*Magyar Közlöny* 2015). The Paks power plant is not the only case where this problem has arisen. All too frequently the government, without proper reason, classifies some procedure as secret, and in more than one case it has greatly lengthened the period of secrecy, thus preventing any open debate and ruling out transparency in public affairs.
70. The Tavares Report commissioned by the European Parliament points out that the “reforms” introduced in Hungary since 2010 do not observe the shared fundamental principles and values of the EU, especially the basic requirements of democracy, rule of law and division of the branches of power, although it would be the duty based on the EU treaty of all member

states to observe these. Among the many problems, which are discussed in great detail in the report, the new electoral laws appear as well. The report suggests that a monitoring process should be worked out, not only for Hungary but for other countries failing to meet the European norms as well, which would reveal problems in time and be able to induce practical measures. (European Parliament 2013) The Tavares Report drew attention to the problem, but it was not followed by any efficient EU measures.

The possibilities for action by EU institutions against member states violating the common values is discussed in the article by Cas Mudde and Erin Jenne (2012).

71. In Hungarian, see Mellár (2015), Szivós and Tóth (2013), and Várhegyi (2015); furthermore, several chapters of the volumes edited by Magyar and Vásárhelyi (2013, 2014), especially Békesi (2014), Csillag (2013a) and Soós (2013). In English, see Müller (2011) and Wittenberg (2013).
72. In 1999, Péter Kende (2013 [1999]) already highlighted the vulnerability of new-born Hungarian democracy, as well as the political and social roots of its fragility. Zoltán Ripp (2014) examined the causes of weakness shown by the opposition of the Fidesz governance and the responsibility of the political parties governing before 2010 which are now part of this weak opposition.
73. Rainer M. et al. (2012, 2013) compared the right-wing tradition which, passed from generation to generation, persisted in many strata of Hungarian society during the decades of the Socialist era, to a hidden stream of Hungary's history. See also Romsics (2009) and Ungváry (2013).
74. As we have mentioned earlier, in a February 2015 by-election an independent candidate was elected in the place of the previous Fidesz representative, and with this the two-thirds majority of the reigning party was lost. Although this is an important change, Fidesz spokesmen claim, not without a reason, that they still have a firm grip on power.
75. Orbán said in an interview, very early on, at the beginning of his full power: "I will expand the circle of two-third laws only at one point: in the field of economic legislation. And let me make no secret of the fact that I would like to tie the hands of the next government in this regard. And not only that of the next, but of the following ten governments" (Orbán 2011). In fact, among the cardinal laws later accepted only six cover economic issues. Out of the remaining cardinal laws, 15 deal with legal topics, and 11 with other fields.
76. The head of state, János Áder will be in his office until 2017, the chair of the National Judicial Bureau, Tünde Handó, until 2021, the chair of the Supreme Court (Curia), Péter Darák, until 2021, Chief Prosecutor Péter Polt until 2019, and the chair of the National Media and Communications Council, Monika Zsuzsanna Karas, till 2022 (Parliament 2013).
77. Article 44 (3) of Hungary's Constitution states that to accept the law on the central budget, in order to comply with Article 36 (4) and (5), the Fiscal Council shall require prior approval; Article 36 (4) of Hungary's Constitution states that the parliament cannot accept a law on the

central budget, if it could result in the public debt exceeding half of the total gross domestic product; Article 36 (5) states that as long as the public debt exceeds half of the total gross domestic product, parliament can accept the law on the central budget only if it includes a reduction in the ratio of total debt to gross domestic product. (*The Fundamental Law of Hungary* 2011, p. 26)

78. Article 3 (3) of the Hungarian Constitution states that the president of the republic may dissolve the parliament, calling for general elections at the same time if *b*) the parliament is unable to accept the central budget for that year until March 31. (*The Fundamental Law of Hungary* 2011, p. 23)
79. This question is supported with additional information in the paper by Jason Wittenberg (2013), which compares the current role of Fidesz to the situation of the right-wing parties between the two world wars. The author points out that the ideology of Fidesz and that of Jobbik are identical in several elements.

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