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Illiberal Democracy in the Comparative Analysis of Hungary and Poland

Keywords: illiberal democracy, Hungary, Poland

Słowa kluczowe: demokracja illiberalna, Węgry, Polska

Abstract

The article analyzes the concept of illiberal democracy exemplified by two case studies of Hungary and Poland. The thesis of the paper states that their political systems showed signs of immaturity and institutional weakness of liberal democracy that caused the impossibility of rejection of illiberal project of political changes. To explain the breakdown of liberal democracy the paper aims at revealing both social and institutional aspects of transformation. The conclusions of the research let us to formulate the four-staged concept of the development of illiberal democracy in Hungary and Poland. The concept bases on the trajectory that begins with the social frustration of liberal democracy that leads to support for a populist party, which after victorious elections, implement the illiberal pattern of democracy. Methodologically the research benefits from the analytic and synthetic methods, the comparative method and institutional approach.

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Streszczenie**Demokracja illiberalna w ujęciu porównawczym
na przykładzie Węgier i Polski**

Od kilku lat zmiany polityczne na Węgrzech i w Polsce utożsamiane są z koncepcją illiberalnego charakteru demokracji. W związku z przyjęciem takiego założenia, w niniejszym artykule postawiona została teza mówiąca o tym, że liberalno-demokratyczne systemy polityczne obydwu państw okazały się niedojrzałe w wymiarze instytucjonalnym i nie odporne na wyzwania rzucone przez projekt illiberalny. Celem artykułu jest wyjaśnienie przyczyn oraz przebiegu politycznych zmian we wspomnianym wcześniej kontekście. Wnioski płynące z badań wskazują na społeczną dezaprobatę sytuacji politycznej i ekonomicznej, która przyczyniła się do tego, że elektorat poparł populistyczne partie na Węgrzech i w Polsce. Te formacje z kolei, po zdobyciu władzy są odpowiedzialne za redefinicję założeń reżimowych w kontekście demokracji liberalnej. Wśród metod wykorzystanych w badaniach znalazły się: analiza i synteza danych, analiza systemowa, podejście instytucjonalne oraz metoda porównawcza.

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I.

For over a decade, we have observed a decrease both in social satisfaction with democracy and assessment of its operation in the countries of the world². Lesser popularity of the standards of liberal democracy, based on universalism and individualism, is at the same time correlated with growing support for alternative standards, such as: patrimonialism, etatism, the primacy of the majority principle without acceptance for minority rights³. The axiological perception of democracy by society is associated with the organizational offer proposed by populist parties that implement changes into political systems.

² F. Fukuyama, *Why is Democracy Performing so Poorly?*, [in:] *Democracy in Decline?*, eds. L. Diamond, M.F. Plattner, Baltimore 2015, pp. 11–24; D. Held, *Models of Democracy*, Stanford 1996.

³ R.S. Foa, Y. Mounk, *The Democratic Disconnect*, “Journal of Democracy” 2016, vol. 27, iss. 3, pp. 5–17.

There is a very interesting example of two Central European countries which, until recently, were regarded as leaders on the way to reception of consolidated democracy: Hungary and Poland. It is worth pointing out that one decade ago Jacques Rupnik noticed a peculiar fatigue with the democratization process in the region of Central and Eastern Europe⁴. Today, several years after the appearance of the first democratic cracks in Central Europe, the literature on the exploration of the problem of the deterioration of liberal democracy is richer⁵, yet new facts enable us to examine the problem further.

The research problem focuses on the examining of the contemporary character of democratic standards and their performance in Hungary and Poland. Although the two countries had been developing this regime for more than two decades after 1990, they challenged it with the illiberal project about a decade ago (Hungary on 2010, Poland in 2015). This article aims at defining the condition of democracy in Hungary and Poland in the period between 2010–2021. The purpose of the paper is to explain those changes and specify them in terms of illiberal democracy as a political project questioning liberal democracy. The paper reveals both similarities and differences of the march of illiberal democracy.

Main thesis of the article states that Polish and Hungarian political systems, which had been embedded in liberal democracy after 1989, showed signs of immaturity and were unable to maintain this regime by deepening into illiberal democracy. In this connection, the first question refers to the essence of illiberal democracy regarded as political regime. The second question tries to grasp the trajectory of transformation of liberal democracy into illiberal one basing on the examples of Hungary and Poland. Thus, the hypothesis states that the emergence of institutional pattern of illiberal democracy results from the dominant position of the executive power controlled by populist party.

From the methodological perspective, this article includes an analysis of Hungary and Poland's current political situation, involving a qualitative approach, synthesis of materials, and institutional approach. Because of the

⁴ J. Rupnik, *From Democracy Fatigue to Populist Backslash*, "Journal of Democracy" 2007, vol. 18, iss. 4, pp. 17–25.

⁵ M.F. Plattner, *Illiberal Democracy and the Struggle on the Right*, "Journal of Democracy" 2019, vol. 30, iss. 1, pp. 5–19.

examining the two examples of countries, the comparative method will be in use as well. The choice of Poland and Hungary refers to the fact they are trendsetters of the process undermining liberal democratic achievements in Central and Eastern Europe⁶. During the research process the comparison includes such elements as the social background that supports the illiberal project, the role of populist parties and their leaders that head for illiberal change and the institutional effect of the transformation of the regime in Hungary and Poland.

II.

One of the first researchers who analyzed a reverse trend of liberal democracy was Fareed Zakaria. In the late nineties of the last century, he pointed out that illiberal democracy means undermining constitutionalism as the attribute of liberalism⁷. Today, the literature on the phenomenon of illiberal democracy is richer, yet the break of liberal constitutionalism is still at the core of this concept⁸. Such opinion is presented today by Tímea Drinóczi and Agnieszka Bień-Kacała, among others, who regard Hungarian and Polish examples as reflection of the regime transformation by illiberal constitutionalism⁹.

⁶ A. Ágh, *The Orbán Regime as the "Perfect Autocracy". The Emergence of the "Zombie Democracy" in Hungary*, "Politics in Central Europe" 2022, vol. 18, no. 1, DOI: 10.2478/pce-2022-0001, https://www.researchgate.net/publication/355034454_Agh_Perfect_autocracy_in_Hungary (3.11.2021); T. Drinóczi, A. Bień-Kacała, *Illiberal Constitutionalism: the Case of Hungary and Poland*, "German Law Journal" 2019, no. 20, p. 1140–1166; Ł. Zamęcki, V. Glied, *Article 7 Process and Democratic Backsliding of Hungary and Poland. Democracy and the Rule of Law*, "Online Journal Modelling the New Europe" 2020, no. 34, pp. 57–85.

⁷ F. Zakaria, *The Rise of Illiberal Democracy*, "Foreign Affairs" 1997, vol. 76, iss. 6, pp. 22–43.

⁸ A. Antoszewski, *Demokracja nieliberalna jako projekt polityczny*, [in:] *Zmierzch demokracji liberalnej*, eds. K.A. Wojtaszczyk, P. Stawarz, J. Wiśniewska-Grzelak, Warszawa 2018, pp. 51–67; T. Drinóczi, A. Bień-Kacała, *Illiberal Constitutionalism: the Case of Hungary...*, p. 1140–1166.

W. Lamentowicz, *Paradoksy liberalnej demokracji*, [w:] *Transformacje demokracji. Doświadczenia, trendy, turbulencje, perspektywy*, red. L.W. Zacher, Warszawa 2011 pp. 17–18, https://www.academia.edu/1136816/Paradoksy_liberalnej_demokracji (5.11.2021).

⁹ A. Bień-Kacała, T. Drinóczi, *Illiberal Constitutionalism in Poland and Hungary. The Deterioration of Democracy, Misuse of Human Rights and Abuse of the Rule of Law*,

Poland and Hungary's change results from the questioning of the liberal constitutional pattern that the populist parties in power do: Polish PiS and Hungarian Fidesz. They gained power in fair and free elections and then announced redefinition of the liberal democratic regime. The populist authorities think that democracy should not be abandoned, but it needs changing. In the name of the will of the nation they offer new rules of political game that impair pluralism by the exclusion of the strong position of antimajoritarian institutions, the role of opposition and the rights of minorities¹⁰. They try to eliminate liberal component from democracy, which leads to the weakening of the system of checks and balances¹¹.

III.

Illiberal democracy as a political regime can be analyzed by some specific qualities that appear during its existence. Upon the literature analysis, there are at least four main elements that can be judged as essential for illiberal democracy. Let us start with social skepticism that expands towards the existing political elites and parties that reside in liberal democratic surroundings¹². Social need for illiberal democracy is paved by frustrations and resentment of fatigue people that are easy to grasp by populist parties. They underline the unbearable situation and offer the perfect vision of how it would be. Then during the free and fair elections, the populist parties gather enough electoral support that opens the space for them to rule¹³. Thirdly, the step of illiberal turnover can be taken by populists who are organized and controlled by a strong leader who can convince the society to the new illiberal vision of

London 2021; T. Drinóczi, A. Bień-Kacała, *Illiberal Constitutionalism: the Case of Hungary*, pp. 1140–1166.

¹⁰ A. Antoszewski, op.cit., pp. 51–67.

¹¹ J.-W. Muller, *Co to jest populizm?*, Warszawa 2017, pp. 40–68.

¹² T. Pappas, *The Specter Haunting Europe. Distinguishing Liberal Democracy Challengers*, "Journal of Democracy" 2016, vol. 27, iss. 4, pp. 22–36; M.F. Plattner, *Illiberal Democracy...*, pp. 5–19; J.-W. Muller, op.cit., pp. 23–40.

¹³ W. Lamentowicz, op.cit., p. 5; R.S. Foa, Y. Mounk, op.cit., pp. 5–17; J. Rupnik, *Explaining Eastern Europe. The Crisis of Liberalism*, "Journal of Democracy" 2018, vol. 29, iss. 3, pp. 24–38; F. Zakaria, op.cit., pp. 22–43.

the state¹⁴. Fourthly, after the victorious elections, the populist parties express the lack of belief in the primacy of constitutionalism and liberal democratic institutions¹⁵. Illiberal democracy underlines the primacy of the majority, questions the tripartite division and let the executive power to subordinate both the legislative and judiciary powers.

IV.

The initial factor that triggers the illiberal democratic project is the expansion of frustration of society which is prone to believe in the primacy of fast tracking solutions of problems done by the executive power. That is why the societies opt rather for a lame democracy that gives only the illusion of influence on public decision and permission to limit freedom.

When we take a look at the fears of Hungarians and Poles, during the electoral campaigns to the parliaments, both from 2010 (Hungary) and 2015 (Poland) and the following ones, Fidesz and PiS referred to such concerns of their compatriots as, e.g.: economic situation, unemployment, terrorism, immigration. The populist parties blamed previous elites for social frustrations and promised to reduce social frustration¹⁶.

Referring to the social evaluation of two internal concerns that were felt by the Hungarians and Poles: economic situation and the fear of unemployment, just before the first electoral victory of the populists¹⁷, the Hungarians were afraid of their economic situation as follows: 51% (2009), 45% (2010) and

¹⁴ I. Krastev, *The Strange Death of Liberal Consensus*, "Journal of Democracy" 2007, vol. 18, iss. 4, pp. 56–63; M.F. Plattner, *Populism, Pluralism and Liberal Democracy*, "Journal of Democracy" 2010, vol. 21, iss. 1, pp. 81–92.

¹⁵ A. Antoszewski, op.cit., pp. 55–56; F. Zakaria, op.cit., pp. 22–43; T. Drinóczi, A. Bień-Kaćała, *Illiberal Constitutionalism....*, pp. 1140–1166.

¹⁶ S.G. Knight, *Dismantling Democracy: The Orbánization of Hungary*, "Illiberalism Studies Program Working Papers" October 2021, no. 1, pp. 1–15, <https://www.illiberalism.org/wp-content/uploads/2021/10/ILLSP-Working-papers-Student-1-2021-Knight-1.pdf> (28.02.2022).

¹⁷ Fidesz won the first parliamentary elections in 2002 and PiS in 2005, yet here it is analyzed the first victory from the perspective of the repeated successes, so Fidesz: 2010 and PiS: 2015.

of unemployment: 58% (2009), 57% (2010). Relations to immigrants and terrorism can be measured as the fear of external problems. One per cent of Hungarians was afraid of immigrants and terrorism in 2009 and 2010. The Poles were afraid of their economic situation as follows: 26% (2014), 20% (2015), and of unemployment: 26% (2014), 20% (2015). They were afraid of immigrants 15% (2014), 24% (2015), and of terrorism 8% (2014), 22% (2015)¹⁸. In Hungary before 2010 and Poland before 2015 the social fear of internal situation was quite big and the populists used it to show that then political elites were responsible for bad situation. The fear of external problems was higher in Poland before 2015 than in 2010 in Hungary. It was so because the immigration crisis expanded in 2015.

By introducing and developing pro-social politics, the two parties succeeded after their victories in 2010 and 2015 and retain power¹⁹. We can see the level of social concerns of internal problems dropped. In 2021, the fear of economic situation in Hungary and Poland was 23%, while unemployment was 5% in both countries. But, reversely, the populists need to maintain a high level of external fear to put themselves as fighters of the outer enemy. The fear of immigrants in 2021 was 33% in Hungary and 21% in Poland. 18% of Hungarians were afraid of terrorism and 9% of Poles²⁰.

The abovementioned resentment is not the only one that the populist Fidesz and PiS have been grasping. They merged abovementioned concerns with the fear of liberal and open values that promote individualism at the expense of patrimonialism.

The second factor that develops the project of illiberal democracy is free elections. Hungarian and Polish populist authorities need free elections to show their commitment to democratic world. Yet, though they remain free elections, we have observed some malpractices connected with electoral law that have reshaped the political landscape.

¹⁸ European Union. Eurobarometer, <https://europa.eu/eurobarometer/surveys/browse/all/theme/000007> (12.01.2022).

¹⁹ A. Dzięgielewska, *Exclusive vs. Inclusive Social Populism? A Comparative Legal Analysis of Welfare Policies in Hungary and Poland under Populist Regimes*, "Przegląd Prawa Konstytucyjnego" 2021, no. 6, pp. 237–256.

²⁰ Ibidem.

From 2010 up to 2013 the Hungarian parliament adopted the new electoral law to bolster the chances of Fidesz's electoral victory and reduce such chances for other formations:

1. There was a change in constituency borders, based on gerrymandering, which allocated the electorate in the new constituencies so that persons likely to support Fidesz were in the majority.
2. It was permitted that persons living abroad but holding Hungarian citizenship could vote in national elections, which favors traditional and populist Fidesz.
3. The electoral law helps to win large formations, which at the time being, in the light of Fidesz's dominance and complete division of the opposition, is obviously favourable to Viktor Orbán's party²¹.

PiS won two consecutive parliamentary elections in 2015 and 2019 and the presidential ones in 2015 and 2020. But it has never gained 2/3 of mandates in the parliament as Fidesz. Although the changes in the electoral law were not so significant as in Hungary, PiS forced some of them in 2018 into the Electoral Code:

1. Currently, 7 out of 9 members of the National Electoral Commission are elected by the Sejm, which helps PiS control this electoral body.
2. The head of the Electoral Office attached to the National Electoral Commission is elected out of three candidates submitted by the Minister of the Interior and Administration.
3. The possibility of voting by post was eliminated and it prevented Poles living abroad to decide. The vast majority of Polish immigrants supported previously centrist party PO²².

The third core element of illiberal democracy refers to the strong position of leaders of populist parties. The popularity of such organizations is observed in Central and Eastern European countries²³. The leaders of populists are Jarosław Kaczyński in Poland and Viktor Orbán in Hungary. They are

²¹ M. Barański, A. Czyż, S. Kubas, R. Rajczyk, *Wybory, prawo wyborcze, systemy wyborcze w państwach Grupy Wyszehradzkiej*, Katowice 2016, pp. 152–158.

²² W. Sadurski, *Polski kryzys konstytucyjny*, Łódź 2020, pp. 218–223.

²³ S. Kubas, *Deterioration of the quality of liberal democracy in the Central and Eastern European Countries. The Case of Eleven Members of the European Union*, "Przeгляд Prawa Konstytucyjnego" 2019, no. 5, pp. 79–90.

co-founders of their parties and long time presidents: J. Kaczyński from 2003, V. Orbán from 1993 (except 2000–2003). Before their first consecutive victories of 2010 in Hungary and 2015 in Poland, they were parts of political elites and were prime ministers (J. Kaczyński: 2006–2007, V. Orbán: 1998–2002)²⁴.

They both embody the ambitions of their numerous countrymen. However, in a democratic environment they cannot aspire to attain the position of a father of the nation, that is an unambiguously and generally worshiped leader, since in such case they could be easily considered dictators. Therefore, they need opposition to polarize the society and, against such background, show their magnitude²⁵. For that purpose, they use instruments that are characteristic of illiberal democracy, such as the lack of transparency of their actions or emphasis on the social legitimation expressed in the primacy of the majority principle²⁶.

They retain the position of leaders by benefiting from the following mechanisms. First, they effectively control their position within their own parties. They admit as their associates only the most loyal collaborators and dispose of the ones who might threaten their position. Second, they control the politics in the country. They create enemies, that is the European Union, immigrants, left-wing intellectuals, economic liberals, Jews, and sexual minorities. Third, they exploit economic operators to raise the funds necessary for the development of their parties and their influence in the society by enlarging the vassal system.

The fourth and decisive element that resides illiberal democracy in a state is undermining the liberal constitutional order. It leads to strengthening the effective and fast acting track of the implementations of political decisions by the executive branch at the expense of violating the principle of separation of powers by weakening the checks and balance system and making the legislative and judiciary be subordinated to the executive authorities²⁷. To picture

²⁴ J. Debreczeni, *Viktor Orbán*, Warszawa 2015.

²⁵ A. Bień-Kacała, T. Drinóczi, *Illiberal Constitutionalism in Poland and Hungary...*, pp. 46–70.

²⁶ P. Krekó, Z. Enyedyi, *Explaining Eastern Europe: Orbán's Laboratory of Illiberalism*, "Journal of Democracy" 2018, vol. 29, iss. 3, pp. 39–51.

²⁷ J. Jaskiernia, *Authoritarian Tendencies in the Polish Political System*, [in:] *New Authoritarianism: Challenges to Democracy in the 21st century*, ed. J.J. Wiatr, Toronto 2019, pp. 152–168.

the abovementioned changes that deteriorate democracy let us take a look at the evaluation marks of Polish and Hungarian democracy mirrored by the index of democracy (Economic Intelligence Unit).

Table 1. The index of democracy of Hungary and Poland (2006–2021) reported by the Economist Intelligence Unit

	2006	2008	2010	2012	2014	2016	2018	2020	2021
Hungary	7.53	7.44	7.21	6.96	6.90	6.72	6.63	6.56	6.50
Poland	7.3	7.3	7.05	7.12	7.47	6.83	6.64	6.85	6.80

Source: The Economist Intelligence Unit, <https://www.eiu.com/n> (1.03.2022).

The index presents the aggregated marks of several fields connected with the performance of democracy. The maximum score equals 10 which means a country is a perfect liberal democracy, the minimum score is 1. The results of Poland and Hungary from 2006 to 2021 have been lower and lower, although Poland hit the growth between 2010–2015 that reflected positive effect of the governance of PO party (Civic Platform). But then, after PiS gained power, the index has been showing deterioration signs again. The liberal democracy in Hungary has worked worse for more than a decade and the index dropped about 0.5 point between 2006 and 2021. According to the index Hungary and Poland are now flawed democracies (8.00–6.01), but if they cross 6.00 point they can become hybrid regimes²⁸.

Let us analyze what is behind the curtain of worsening condition of the performance of institutional aspects of liberal democracy in Hungary and Poland. In the legislative field the parliaments are controlled by the populist parties of PiS (majority of seats in the Sejm) and Fidesz (2/3 of seats in unicameral Assembly). Possessing of majority of mandates allow the populists to break the workout pattern of oppositional consensus which was developed during the process of democratization after 1990. Then they produce defective law²⁹. As we observed the illiberal democratic malpractices in Poland and

²⁸ The Economist Intelligence Unit, <https://www.eiu.com/n> (1.03.2022).

²⁹ T. Drinóczy, *The Rule of Law: The Hungarian Perspective*, [in:] *Rule of Law, Common Values, and Illiberal Constitutionalism. Poland and Hungary within the European Union*, eds.

Hungary there are the following problems: the lack of public consultations of the act projects or its superficial character in pre-legislative phase, the growth of lack of self-restraint of the government in the field of imposing own will without searching for compromise with opposition, the amendments are introduced just before the final voting which makes consensual deliberations impossible and the quick procedures for passing some acts that shorten the deadlines for any comments and possible changes of the deputies. The role of opposition is diminished, just as an example let us see that in Hungary between 2010 and 2014 only 3 out of 533 legislative proposals of opposition were adopted by the parliament³⁰.

In the field of the judiciary, the executive branch dominates as well. After 2010 Fidesz gained the immediate possibility to control the judicial system by the creation of the new institution of the National Judicial Bureau (2011). The Head of the Bureau was supplemented by huge competencies³¹. After 2011 we observed the process of earlier and forced by law retirement of judges who were 62 (previously 70) just to nominate loyal ones for Fidesz. The Head of the Bureau can appoint and dismiss the presidents of the common courts and the ones of appeal as well³². The Hungarian Constitution vaguely refers to the judiciary system in Hungary, stating that Curia is on the top of the structure. It seems that today the judiciary reflects the idea of state vision preferred by Fidesz. However, recently Fidesz abandoned the process of transformation of the administrative judiciary system due to EU criticism.

Poland started to change the system of judiciary soon after the 2015 elections. In 2017 the parliament passed the act of the system of common courts,

T. Drinóczi, A. Bień-Kacała, New York 2020, pp. 119–132; I. Wróblewska, *The Rule of Law: The Polish Perspective*; [in:] *Rule of Law, Common Values, and Illiberal Constitutionalism. Poland and Hungary within the European Union*, eds. T. Drinóczi, A. Bień-Kacała, New York 2020, pp. 133–149.

³⁰ V.Z. Kazai, *The Instrumentalization of Parliamentary Legislation and its Possible Remedies: Lessons from Hungary*, "Jus Politicum" 2019, no. 23, pp. 237–256.

³¹ The Act CLXI of 2011 on organization and administration of courts, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2012\)007-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2012)007-e) (4.01 2022).

³² R. Grabowski, I. Halász, *Ewolucja węgierskiego modelu zarządzania sądownictwem i samorządu sędziowskiego na Węgrzech w latach 1989–2019*, „Przegląd Prawa i Administracji” 2019, no. 346, vol. CXIX, pp. 171–180.

which enabled Zbigniew Ziobro, the minister of justice, to replace 150 out of 730 presidents of common courts by the end of 2019³³. Although the president of Poland vetoed two other acts on the system of courts, the changes were finally introduced. They enabled to get rid of the part of the compositions of judges by sending them on earlier retirement as in Hungary. The acts transformed the structure of the Supreme Court as well by introducing two new chambers. The Chamber of Extraordinary Control and Public Affairs can validate the results of the popular elections. The Disciplinary Chamber gained the competence to supervise and evaluate the judges. It is evident that by the creation of the two chambers, PiS can expand the control on the independent branch of judiciary power.

The destruction of liberal democratic constitutionalism means undreaming the independent position of the Constitutional Court as well. Both in Hungary and Poland, after some years of formal and informal activities done by Fidesz and PiS, these institutions serve today as mute bodies, although during the process of democratization after 1990, they were able to gain esteem and high position in political systems and many times they decided the unconstitutionality of the provisions passed by the parliament³⁴.

V.

Upon the research one can validate that Hungarian and Polish political systems embedded in liberal democracy by more than two decades after 1989, suddenly showed signs of immaturity and fatigue and did not resist illiberal project of democratic regime. In 2010 in Hungary and 2015 in Poland social dissatisfaction with the economic and political situation was used by populist parties to show the weakness of liberal democracy. It occurred that although the two systems tried to petrify liberal democracy before, they failed because society believed in illiberal project offered by populist parties at the expense of liberal democratic guarantees of the state of law.

³³ *Dostateczna zmiana. Ranking polityk publicznych 2015–2019*, Warszawa 2019, eds. P. Musiałek, T. Ociepka, M. Kędzierski, p. 90.

³⁴ S. Kubas, *The Position and Activity of the Constitutional Court in Hungary: 2011–2019*, "Przeгляд Prawa Konstytucyjnego" 2019, no. 5, pp. 351–364.

Referring to the first question from the introduction which was about the essence of illiberal democracy, the changes brought by this version of democracy are implemented by populist formations. First, they must gain social support in free elections. Institutionally, illiberal democracy questions the autonomy of three branches of power. It favors the executive power at the expense of the legislative and judiciary ones. To get as full freedom as it is possible, the executive authorities subordinate the system of courts, including the Constitutional Courts and neglect the role of opposition both inside parliaments and outside.

The second question referred to the way Hungarian and Polish populists have been introducing the illiberal democratic changes at the expense of liberal democratic ones. It must be emphasized they misuse the principle of the majoritarian advantage acquired in parliamentary elections, which I believe is the institutional essence of liberal democracy. Fidesz and PiS think they can act in the name of the nation and without respecting the opposition and minority. The two parties benefit from the social uncertainty and skepticism towards the liberal democratic political elites and highlight the prophetic role of a strong leader who can fight off all odds. Due to free elections, the populists gain power and legitimization. Fidesz and PiS represent the lack of faith in the primacy of constitutionalism and representative institutions at the expense of primacy of fast acting and effective executive power. The way of transforming political regime follows the idea of illiberal democracy, which at the same time means the rejection of the principle of liberal constitutional order. As a summary, let us refer to Wojciech Sadurski who claims that such transformation is connected with the unequivocal violation of liberal democratic constitutional norms which goes through the destruction of norms when they cease to exist and their decomposition when they are interpreted differently than before)³⁵.

The research verified the hypothesis of the emergence of institutional pattern of illiberal democracy results from the dominant position of the executive power controlled by populist formations of Hungarian and Polish political systems. The illiberal project of democracy has been supported by Fidesz and PiS which have introduced such a version of regime and then have main-

³⁵ W. Sadurski, *op.cit.*, 404–405.

tained it. The executive powers have limited the scope of autonomy of the legislative and judiciary branches. This solution causes the deterioration of the value of law as it is created and executed by the disciplined army of Fidesz and PiS's politicians and officials.

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