

# *The Wind of “Illiberalism” that is Blowing Around Post-Communist Countries: Solutions Must Come from Within*

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## **Abstract**

*A peculiar phenomenon that characterizes today’s Illiberal governments is that their advent to power is a legitimate process within the democratic rule; particularly, in post-communist countries like Hungary or Poland where constitutions and functional institutions stabilize and promptly certified by the European Union. In this paper, we set the scene for an ongoing theoretical debate developed between authors who stand for the liberal values priority and others who stand for democratic values priority. We think that the widespread eruption of illiberalism ensues from the decoupling of liberalism from democracy. Drawing on existing studies, the paper traces the essence and the unfolding of illiberalism, focusing the discussion towards other non-EU countries like Albania; to explore to what extent the country’s internal developments fit patterns of Hungarian-Polish model. We argue that the best solution to overcome illiberalism must come from within, similar to the Macedonian example.*

**Keywords:** *Illiberalism, post-communism, liberal values, Albania, democratic ethos*

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## The methodological and theoretical approach

This paper aims to explain the rise of illiberalism in the Balkan and in Central Europe (here and after CE). It is rooted in qualitative studies drawing information from a variety of primary and secondary sources such as books, journal articles, periodicals, papers, and internet sources. For quantitative indicators, it uses data from Freedom House, Eurobarometer and BTI report. Briefly, the research questions that we will try to answer along this paper are as follows; how can we account for the illiberal turn in post-communist countries, is it much more a democratic or a liberal backsliding? To what extent the country's internal developments fit patterns of Hungarian-Polish paradigm; what about the ambiguous role of the International community?

Furthermore, our analyses will draw upon Alessandro Ferrara's 'maximalist' conceptualization of a 'democratic ethos'. As he puts it, 'the formal definitions of democracy, such as Schumpeter's competitive elitism, are vulnerable to 'trivial emulation': no parameter is immune from being formally satisfied yet substantively deprived of all meaning' (Ferrara, 2014, p. 4). Different regimes can set up false elections to increase their reputation by adding aspects of democratic suitability. Therefore, normative political theory elucidate significant criteria based on which we can measure and evaluate the authenticity of democratic entitlements.

The paper proceeds in five sections. First, we survey the literature on the ongoing theoretical debate between scholars who attempt to explain the current situation of post-communist countries emphasising the backsliding of liberal values, and other who uncover this deterioration through the decrease of democratic values. Second, we delve in a comparative analysis of data generated by international institutions about the current state of democracy in the Balkans and CE countries. Third, we critically assess the role of the EU in supporting 'strong leaders' as a potential condition to backsliding. Fourth, we investigate the impact of Edi Rama's political style, and its influence on the government institutions, the media, civil society, and the linkages among them. Finally, we shortly evaluate the lost 'constitutional moment' of Albania's society to accomplish Ackerman's 'dualist democracy' as an alternative element for democratic consolidation. In conclusion, we summarise implications of the Albanian case for wider debates about democratization from within, as well as, at what extent, Albanian case, compares to the paradigmatic cases of Hungary and Poland.

## Illiberal Democracy or Undemocratic Liberalism? Exploring theoretical background

Twenty years ago, Fareed Zakaria authored an essay in the *Foreign Affairs* magazine, entitled *The Rise of Illiberal Democracy*; an early version of his influential 2003

book, *The Future of Freedom*. According to Zakaria democracy was progressing, but not in its virtuous way. His idea was to take the defence of the individual not only against the abuses of tyranny but also against the abuses of the democratic majority. Zakaria has made a remarkable situation about this growing new phenomenon, for the alienation of the nature of democratization from within. According to him, 'democracy is flourishing; constitutional liberalism is not'. At that moment, he wrote; '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 - the illiberal democracy' (Zakaria 1997, p 22). According to Zakaria, in the new democracies of mid-1970, the most important goal was the introduction of free election, as the cornerstone of a functional democratic system, but they had failed to build up liberal institutions that could guarantee constitutional and institutional limits on political elites. Founded on inductive observation, the main idea of Zakaria stated that liberalism in today's consolidated democracies is authentic, while in post-communist countries it's not. Therefore, the problem today is not with democracy because it 'has become a regime without antagonists, an unquestioned *horizon* (Ferrara 2014, p. 2) Here, what faces problems is the liberal paradigm. The latest translates into a decrease in control over executive power, the limitation of judicial independence, media, civil society and human rights violations by the state. (Greskovits 2015; Bermeo 2016; see also Canetti et. al 2018; Dawson and Hanley 2016). In short, there is a risk of illiberalism, but not of democratic breakdown.

Hereafter, Norberto Bobbio in his book *Liberalism and democracy* points out the early separation between liberalism and democracy. In fact, for two centuries liberal non-democratic states and non-liberal democratic states have existed. Thus, in the nineteenth century, the liberal nation-states recognized their citizen's fundamental rights, but not political rights, and moreover did not recognize any rights to the *other people*. In the twentieth century, Nazism and Fascism came to power with a democratic method, obtaining most of the electoral consents to set up a totalitarian regime. Communist advent also meant the birth of states that started as egalitarian democracies but that did not allow civil and political liberties, except on a purely formal level and devoid of real contents. Liberal states evolution in a democratic sense, the defeat of totalitarianism, and later, the failure of communism has led us to believe that by now, could no longer exist liberal but not democratic states and democratic, but not liberal states (Bobbio, 2006, p. 60). However, we deemed necessary to investigate this paradigm in the light of what has happened in recent decades. Certainly, the attempts of non-democratic liberalisms have failed, but in recent times there has been a revival of somehow an opposite phenomenon that is, illiberal democracy, which is the result of a long-lasting process

In the following, Alessandro Ferrara develops an alternative and a novel outlook on this topic. (Ferrara, 2011, Seminar, *Democracia e Liberalismo*; Maestri & Compagni) According to Ferrara, back in the 17<sup>th</sup> and 18<sup>th</sup> century, individuals understood democracy as the political system where they were the authors of the laws they obey. To the question, what distinguishes a legitimate government from an illegitimate one that depicts by an arbitrary use of force, the answer is, the consent given by the governed. This standard could be found in the heart of John Locke's liberalism. However, this is not enough because history is full of examples when enlightened elites or benevolent despots – who may grant certain freedom to the people – ill-iterated this concept and ended up abusing with power. On the other side of the argument stands Rousseau. For him, the idea of a fully democratic society based solely on consent/acceptance of the governed was not enough, because he perceived democracy as an expression of laws which project people's active will. Accordingly, today's Liberal-Democracy incorporates the intuitions of these two philosophers.

Whereas, about democratic essence, Ferrara argues that in today's democratic systems people's power illustrates much more in a technical sense, as entitled to sovereignty and not an *ethos*. In Ferrara's analysis, liberalism's essence is the *sense of limits in the exercise of power*, but not those kinds of limits understood in Machiavelli's perspective. On the way that others must subject to the Prince guidance, that the Prince itself should not force his own people beyond a certain limit, this kind of limits stands on *prudential* principles, and not on *normative* ones. The latter converts into rights but also in other forms.

Furthermore, the author addresses the usual criticism raised toward Liberalism. Through a detailed and comprehensive analysis of a plethora of authors such as Rawls, Duwei, Hegel, Mead and Croce, Ferrara traces the social grounds of Liberalism. He argues that Liberalism does not rise and fall on the idea of an individualistic conception, an atomistic system of values where individuals come prepared and enter society as rational entities maximizing only their utility and so without any reference to others. This is just one line of thought within the school of Liberalism because it can accept a bulk of notions about the individual, including the intersubjective notion of the individual as one developed at the intersection of reciprocal interaction networks. (Ferrara, 2011) On the other hand, Democracy does not have this sense of normative limits because it enjoys unlimited sovereignty of people's majority who can vote for everyone. In contexts of poor liberal culture, yesterday the people voted for Hitler [while today is Orban, or Kazinsky or Trump, or Erdogan, or Salvini, or Rama]; therefore, democracy becomes self-destructive.

In a nutshell, according to Ferrara, the heart of liberalism is the sense of *limited power based on normative principles* which must operate upon any power. To conclude, Ferrara argues that democracy today is a legitimized system without any

other counter regime. He scrutinizes democracy as *openness*, (Ferrara, 2014) and it is functioning depends on persons inner ethics/culture. In the heart of democracy is the opening to new other forms, at the same time not crystallizing solid forms of its models.

Whereas, Jan-Werner Müller poses a conceptual critique of Zakaria's thesis. Namely for Müller:

what governments like those in Poland, Hungary, and Turkey are proposing is something very different. It is one thing to criticize materialism, atheism, or even individualism. It is something else altogether to attempt to limit freedom of speech and assembly, media pluralism, or the protection of minorities. The first is a disagreement about different political philosophies that can justify democracy. The second is an attack on democracy's very foundations.... Instead of describing them as 'illiberal, we should be calling them what they really are: 'undemocratic'. (Müller, 2016, p. 2; For a more detailed conceptual critique on Zakaria's essay see also Müller, J. 2008.)

This clash between popular will and administrative power highlights a double tendency that according to the German political scientist Yascha Mounk, triggers the crisis of liberal democracy; on the one hand 'illiberal democracy', on the other 'anti-democratic liberalism' Accordingly, people who freely express themselves to limit others freedoms, while courts and other unelected bodies protect liberal rights. According to Mounk the idea to impose liberalism from above will not save us from the dictatorship of the majority. 'It is not a sustainable solution. We often see that individual rights prevail at the cost of the majority's vision of the population. One of the results is that the population does not feel heard and the populists vote. They say: institutions don't give a damn about us, so let's throw them down. In the long run, it ends up weakening liberal institutions. The problem with undemocratic liberalism is that it doesn't help, it's unstable'. (see Mounk's interview by Anna Momigliano, 11 May 2018; see also Mounk, 2018)

Whereas, Sheri Breman, in her paper *The Pipe Dream of Undemocratic Liberalism*, provides the grounds of each concept on historical analysis. She argues that the concepts have displayed their pitfalls when states tried to carry out them separately. The fact that democracy and liberalism are not indivisibly linked is proven by the historical existence both of illiberal-democracies and of liberal-nondemocracies. However, in today's new democracies highlighting the disjunction between liberalism and democracy can easily lead to new confusion. It is not a contingency that post-communist countries that hold free and fair elections are much more liberal than those that do not, and countries that protect civil liberties are much more likely to hold free and fair elections than those that do not. This is the result of

powerful intrinsic connections between electoral democracy and liberal order. In the end, Breman acknowledges for an interweaving of liberalism and democracy, however, she pushes for the extensions and furthering people's empowerment with democratic elements. As she put it:

Zakaria and others are right to worry about the rise of illiberal democracy. Without the rule of law and other basic liberal protections, democracy can easily lend itself to populist or majoritarian abuses. In the rush to condemn illiberal democracy, however, many have jumped to the conclusion that limiting democracy is the best way to defend liberalism. This is incorrect. Historically the two have developed together, with illiberal or failed democratic experiments often being part of a long-term process through which liberal-democratic institutions, relationships, and norms have gradually replaced those of the old regime..... Fighting back against the populist tide and avoiding illiberal democracy therefore requires finding ways to remove the barriers that have weakened contemporary democracy and to encourage greater citizen participation. This will require making governments and other democratic institutions responsive to the majority of the people, rather than to only a narrow elite, or to markets, unelected bureaucrats, or corporate interests. Far from seeking to restrict democracy, we should be revitalizing it instead. (Berman, 2017, p.36-38)

Whereas, according to Harvard theorists Stephen Levitski and Daniel Ziblat, in their book *How Democracies Die*, many observers in the United States find comfort in the United States Constitution designed precisely to counter and curb demagogues like Trump. Hence, two basic rules strengthened the system of check and balances in the United States, to the point that today supposed as for granted. The rules consist of *mutual tolerance* or an understanding that the competing parties accept each other as legitimate rivals and *forbearance*, or the idea that politicians should exercise moderation in establishing their institutional prerogatives. (my emphasis). In a nutshell, the authors point out that Donald Trump does not foresee the collapse of American democracy, what remains most worrying is the political legacy he will leave behind.

The debate between these authors explaining the recent backsliding of liberalism in consolidated democracies as well as in post-communist countries still continues. On one hand, Zakaria Bobbio, and Ferrara augmented for liberal values importance while, Müller, Bernman, Mounk, Levitski and Ziblat stressed for democratic value importance. As issued from authors analysis, almost each one of them argued that today is a futile endeavour to divide democracy from liberalism or vice-versa. Notwithstanding this, Zakaria provides a wide comprehensive analysis in explaining the current situation in post-communist countries. As he

puts it, 'Democracy without constitutional liberalism is not simply inadequate, but dangerous.' (Zakaria 1997, p. 42).

In the following, we will enter the empirical comparative analyses of data provided by international institutions that yield trends, and figures of illiberal uprisings.

### *The empirical background*

In 2018 Freedom House assessed the degree of freedom of 195 countries and 14 territories using two scales, one referring to political rights, and the other to civil liberties. This scale builds on a total of 25 indicators. The methodological approach assumes that freedom is best guaranteed by the principles of liberal democracy. The ten indicators that measure political rights refer to the electoral mechanism (universal suffrage, the regularity of procedures), pluralism and participation (presence of organized parties, access to elections of opposition forces and minorities, electoral choices not conditioned by any political authority, economic, religious), governmental activity (government free from conditioning, not involved in pervasive corruption, responsible before the electorate). The fifteen indicators that test civil rights related to freedom of expression and religion (independent media, the educational system not conditioned by indoctrination, the possibility of public and private discussion), freedom of association (public demonstrations, non-governmental organizations, trade unions), the autonomy of the judiciary and investigative power (independent judiciary and free from political and criminal conditioning, democratic control of police forces, mechanisms of coercion, equality of treatment), individual rights (freedom of residence and employment, access to the educational system, property rights and freedom of trade, criminal conditioning, gender equality, equal opportunities, economic exploitation). The calculation of scores measures the indicators (for example, the democratic nature of the electoral process can range from 0 to 12). The sum of the scores of the ten indicators of political rights and fifteen measures of civil liberties stands on a scale ranging from 1 (for the highest score) to 7 (for the lowest score). The average of the two scales defines the degree of freedom: free state (average from 0 to 2.5), partially free (3.0-5.0), not free (5.5-7.0). ([www.freedomhouse.org](http://www.freedomhouse.org))

The result of the survey conducted in 2018 shows that Albania has the score for both political and civil liberties for several years (equal to 3.5/7.0). Totalling a value of 6.5/7.0 for civil liberties a 7.0/7.0 for political rights, today Russia classifies as a non-free country. In Russia over time the democratic environment has blatantly deteriorated, passing from the 3.5 scores of 1995 to the current 6.5, following a growing control over the media, increasingly invasive propaganda of state television, and the introduction of movement restrictions for citizens.



The Russian matter is important because today the illiberal authoritarianism of Putin stands for the predominant model of European neo-populism. Accordingly, the Hungarian parliament approved a series of restrictive measures including the restriction of freedom of expression, homeless' criminalization, the ban on emigration for graduates for less than ten years. Simultaneously, some constitutive elements of liberal democracies namely the separation of powers, and the control over the constitutionality of law are in jeopardy. Thus far, Hungary has an average score of 2.5/7.0 but with a downward trend followed by Turkey 5.5/7.0 and India 2.5/7.0. Not to mention China 6.5/7.0 which in many ways preceded the Putinian model. Even in Poland, where a visceral anti-Russian feeling persists, the nationalist right of Jaroslaw Kaczynski, promise to realize an electoral democracy that closely resembles Putin's plebiscitary.

According to Transformation Index BTI 2018, the democratic backsliding of the region 'can best be described as 'illiberal drift,' in part because of the institutions essential to democracy is not destroyed or fundamentally questioned, but are rather, over time, re-interpreted and subject to changes, that pull them increasingly further away from the understanding of institutions that led the democratization processes of the 1990s and the eastern enlargement of the EU in the early 2000s'. (BTI 2018) Even though there is a significant variation between the countries the internal situation is the same. To name a few, attacks on the media and judiciary are still high, ethnopolitical divisions in Bosnia and Kosovo are deepening and the government interference influenced the democratic quality of elections in many countries in the region. (BTI 2018).

Briefly, according to BTI findings, countries in Central Europe and South-East Europe have moved away from the transformation as conceived in the context of the EU project. The elites increasingly take part in conflict, and the guiding principle of liberal democracy has been less able to bridge and moderate political divisions. This drift takes off from 2015, particularly in Hungary, Northern Macedonia, and Poland. In the end, according to BTI, 'methods inspired by Orbán and populist political style have spread to other countries, even if the elites are not consciously considered imitators they still lack of the ability for an integral transformation into illiberal democracy'. (<https://www.bti-project.org>)

## **The arduous pathway of Albania's liberal-democratic consolidation. Explaining the ambiguous role of Internationals**

In present days, Democracy is clearly a phenomenon of different dynamics which interactions for consolidation determine its result. Given that democratization is a controversial issue, the path leading to a full achievement



appears contentious. Guillermo O’Donnell and Philippe Schmitter (1986, 8), define democratization as:

‘...the process whereby the rules and procedures of citizenship are either applied to political institutions previously governed by other principles (e.g., coercive control, social tradition, expert judgment, or administrative practice), or expanded to include persons not previously enjoying such rights and obligations (e.g., nontaxpayers, illiterates, women, youth, ethnic, minorities, foreign residents), or extended to cover issues and institutions not previously subject to citizen participation (e.g., state agencies, military establishments, partisan organizations, interest associations, productive enterprises, educational institutions, etc.). As is the case with liberalization there does not seem to be any *logical sequence* to these processes, although some same regional and temporal patterns can be discerned. *Nor is democratization irreversible*.’ (emphasizing mine)

The path towards democratization might not necessarily lead to ‘complete’ democracy. It could end up in what O’Donnell and Schmitter named, ‘dictablandas’ or ‘democraduras.’ Dictablandas, is a combination of the Spanish words dictadura (dictatorship) and blanda (soft), or differently ‘titular democracy’ or ‘liberalized authoritarianism.’ Respectively, when authoritarian regimes allow little space for liberal activity, but on the other hand, blocking democratization process by way of not ‘altering the structure of authority’; providing no accountability toward citizen or subjecting their authority to competitive elections. Whereas, ‘Democraduras’ or ‘limited democracy’ emerge when authoritarian rulers seek to halt democratization by keeping ‘contentious issues off the agenda of collective deliberation’ and ‘continue old, or even create new, restrictions on the freedoms of particular individuals or groups.’ (O’Donnell & Schmitter, 1986, p. 9).

Today’s Albanian political reality well fits to these categories. Due to the long-lasting authoritarian culture of the political elites, the process of democratization and consolidation ended up much more in a *democraduras* than in a *dictablandas*. Political elites blocked democratization by capturing the electoral process altering it in a mere façade, recycling themselves in an endless course. The policy of expelling citizens from free deliberation depicts the elite’s current action, therefore, citizens felt powerless in organizing themselves to face ill-governance. In this equation, the role of the internationals – the most trusted institutions from Albanians – shifts in structuring a *stabilocracy* for Albania and not a functional democracy. (Demiel & Primatarova, 2012; Çullhaj 2017 p. 123-4; see also Bieber 2018).

Along these three decades, internationals felt exhausted from the strong polarization of internal political environment and elite’s immature and irresponsible

way of dealing with politics. Therefore, international primary concern remains regional stability, and not democratic consolidation within the country.

In recent years, the EU thwarted internal democracies in some Western Balkan countries by backing the so-called ‘strong leaders’ but, this remains an unproductive strategy because they continue to generate instability at the local level. Consequently, the EU must adamantly evaluate its relationship with this category of leaders, because they openly abolish the embryonic liberal values in the states where they govern. (Cianetti et.al p.246) These leaders enjoy attention and support from the EU but slowly and quietly mistreated independent institutions, and free media in their respective countries. The case of Northern Macedonia is the most representative of this phenomenon. It took more than two years – as everyone listened to the recordings of a corrupt government spying on its citizens and forcing on courts and media – to make the EU aware that the ‘strong leader’ Nikola Gruevski was no longer a factor of stability but instability in Northern Macedonia. (Gjuzelov, B. & Hadjievska, M. I. 2019) Therefore, we come to agree that the EU and the International community proved to be apathetic promptly addressing these developments, pursuing their guaranteeing and *stabilocratic* attitude. Nevertheless, the change came from within. It was the civil society, and opposition parties that carried the main burden of highlighting the acute problem with democracy and liberal principles’ application. (see Draško, G. P, Fiket, I. & Vasiljević, J. 2019)

In the same way, in Albania, the pressure for establishing the rule of law must come from within, from anyone that feels politically unrepresented and economically exploited. On the other hand, after the EU last election results and the heterogenic political configuration of each member state, rapprochement with the EU is no longer a guarantee of enhancing Albania’s democratic quality. The country’s democratic consolidation is not necessarily in line with European integration. (Richter, S, & Wunsch, N. 2020)

As an example, we assess the recent European Commission report on Albania. Despite flagrant scandals with wiretapping and direct undisputed involvements of senior politicians, in collaboration with gangs for vote-buying, the EU report revealed highly neutral in its outlook. These phenomena coupled with the absurd positioning of Albania’s Chief Provisional Prosecutor, discontinuing the investigation of such a delicate matter, provoked opposition MP to burn their parliamentary mandates. The commission’s comments on these phenomena are as follows:

‘Albania has continued to make progress on its EU reform agenda throughout the reporting period. Strong polarisation persisted in the political sphere. Parliamentary activities were affected by a prolonged boycott from opposition parties, which then

also relinquished *en bloc* their parliamentary mandates in February 2019. More than half of the relinquished parliamentary mandates have now been reassigned by the Central Election Commission and the quorum for the full functioning of Parliament is maintained. Main opposition parties decided not to register for the local elections, which are scheduled to take place on 30 June 2019. The main opposition parties' disengagement has negatively affected the efforts for a bipartisan electoral reform despite the majority's efforts to move forward. Opposition parties should constructively re-engage in the democratic institutions'. (EUROPEAN COMMISSION Brussels, 29.5.2019 SWD (2019) 215 final Introduction p 1).

According to this report, it is clearly 'the fault of the opposition forces' concerning the internal political situation. However, despite EU perspective on the matter it does not mean that we should give up on integration. On the contrary, once again we must understand that transformation towards a more liberal, democratic, pluralistic society change adamantly must come from within. It's imperative to clarify to the EU and to International community that Edi Rama is no longer a factor of stability but of instability. In the light of recent developments exhibited by the newspaper BILD<sup>2</sup> there is no longer any justifiable excuse for the abnormal political situation in the country. In synthesis, Northern Macedonia example and current political situation in Albania reinforce the belief that change literally must come from within. In the following, we will discuss some causes that brought to the populist advent in the Balkan and CE states.

## **The populist outbreak and the dissent for liberalism in the region**

The migration and refugee's crisis caused an unprecedented and unpredictable increase of populism in CE, as well as a new form of violent polarization of political discourse. This new phenomenon threatens one of the essential aspects

<sup>2</sup> The German newspaper Bild has published several other recorded conversations, which are part of the so-called 339 file that the prosecutor's office is investigating. Three of these recorded tapes involve Prime Minister Edi Rama, former socialist energy minister Damian Gjiknuri and candidate for mayor of Lezha, Pjerin Ndreu. In the first conversation, Rama is listened to while talking to Arben Keshi, an interior ministry official. During this conversation, with Keshi, who was at one of the polling stations during the 2017 elections, Rama asked if he "reached the goal". On the second tape, former minister Gjiknuri tells Keshi that he would send "a couple of troubled kids just in case". The second conversation involves the socialist deputy and candidate for the municipality of Lezha in the upcoming local elections, Pjerin Ndreu. In this conversation, Ndreu states that "every vote must be verified". Meanwhile, Prime Minister Edi Rama announced that he had decided to press charges against German journalist Peter Tiede for leaked confidential information related to an ongoing investigation. The country's Prime Minister also said that these tapes were leaked not to do justice, but to use them as a tool of blackmail and defame the country before a pending decision by the European Union on the opening of accession talks. Prime Minister Edi Rama recently promised to sue German investigative journalist Peter Tiede following the disclosure of the above-mentioned wiretaps. <https://balkan.eu.com>, Accessed on 09/09/2019

of liberal democracy, namely its ability to apiece conflict through dialog. This new development jeopardizes some fundamental hypotheses of the liberal model, based on tolerance, respect for cultural diversity, and pluralism as the cornerstone of democratic societies. Populism in CE demonstrates its own traits, but in the first place, it is a rebellion against the dangers of immigration and multiculturalism and an accommodating stance towards Putin's Russia. Whereas, populism in the Balkans does not share these exact features with CE countries, according to Nancy Bermeo the most unifying contemporary characteristics for backsliding of both regions is the model of *executive<sup>3</sup> aggrandizement*. (Bermeo, 2016) Executive aggrandizement occurs when current political élite concentrates political power by invalidating or neutralizing constitutional and institutional check and balances, mechanisms that liberal democratic constitutions specifically put in place to make sure the accountability of the political executive. Consequently, Bermeo defines democratic backsliding as 'the state-led debilitation or elimination of the political institutions that sustain an existing democracy. (Bermeo, 2016 p. 5) These governments capture and use existing institutions and regulatory mechanisms instead of committing in openly undemocratic manoeuvres. The political executive identified as the sole repository of the democratic mandate and international checking constitute the anti-people establishment. (See Khaitan, 2019; Hanley S & Vachudova M, A. 2018) The model of *executive aggrandisement* paradigm primarily incorporates States which previously assumed to be consolidated, long-established democracies or relatively homogenous democracies. However, it competently resembles the current situation in both regions, accordingly let us briefly explain region's propensity towards illiberal democracy.

In 2018, in the *Journal of Democracy* Jacques Rupnik published an article titled *Explaining Eastern Europe: The Crisis of Liberalism*, examining the liberal model adopted after 1989. The focus of his analysis expands into three aspects, namely; 'the rule of law, the recourse to nationalism, and 'culture wars.' Summarizing, according to Rupnik, in countries such as Poland, Hungary (we observe analogous tendencies in Slovakia, Croatia and Albania) the first attack aimed at constitutional courts, since such bodies supposed to hinder the expression of popular sovereignty and establishing a sort of 'legal impossibilism,' (Rupnik, 2018) According to Albania, the scenario differs in its configuration but not in its essence, as long as it yields the same results. Consequently, using the justice reform as an excuse, the government-backed by the internationals introduced a wide-ranging top-to-bottom reform pushing the system in a juridical collapse, as several judges of Constitutional Court and Higher Court resigned due to the vetting process. This manoeuvre caused a tremendous political impact, as the opposition forces felt politically powerless

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<sup>3</sup> References to the "executive" mean the political executive leadership, usually comprising the prime minister and his top ministers

against government’s power abuse. As long as no higher justice institutions subsist to judge political disputes, the opposition called for mass mobilization and protest to hold back governments power misuses.

The other aspect raised by Rupnik, is the media, which constantly finds itself at the centre of government attacks followed by civil society, two alternative powers which might play the role of a real and autonomous opposition. In 2017 Hungary passed a law which forces organizations of civil society to divulge the names of their foreign donors. While, now in Albania, concerns continue over the possible approval of the new package of amendments, the so-called ‘anti-defamation package’, for amending two important laws on the Albanian media. This reform empowers ‘a state administrative body to regulate the content of online media outlets, while at the same time not address the widespread problem of hidden propaganda and disinformation, sponsored by the government, local government units, and political parties’<sup>4</sup>, thereby effectively breaking international standards, and the principles safeguarded by the Constitution. (Surowiec & Štětka, 2020)

Albanians public discourse keeps regretting the lack of civil debate on the eve of elections processes. The idea of political conflict as having an intrinsic value begets questionable, as long as it elicits strong polarization in social relationships. Of course, for those in political contest compromise appears less possible if they continue to carry out victories. But what this conflict really stands for?

The Right-wing rejects Left’s-wing governing twisted vision on democracy because the Left-wing defends democracy fighting for preserving of the *status quo*, through Bermeo’s model, pretending to protect Albanian society from slipping

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<sup>4</sup> Ten human rights organizations in Albania on Friday denounced the Prime Minister’s initiative to “regulate the online media”, calling it “a censorship package”. The Albanian Center for Quality Journalism, Media Look, the Albanian Institute of Science, the Albanian Media Council, the Albanian Media Institute, the Association of Professional Journalists of Albania, BIRN Albania, Civil Rights Defenders, Res Publica and the Union Of Albanian Journalists urged the Socialist Party-led government to withdraw the proposal, arguing that current laws on defamation are sufficient. “We encourage the government of Albania to withdraw these two bills and call on parliament not to approve them,” the statement reads. “These drafts laws risk the increase of censorship and self-censorship in the local media and could contribute to further setbacks on media freedom and freedom of expression in Albania, which, based on the June 2019 assessment of seven international organizations, is ‘deteriorating,’” the statement adds. The government of Prime Minister Edi Rama claims the country needs “to discipline” the online media in order “to improve the quality of the information and public discourse”. This draft law gives the Complaints Council the power to oblige electronic publications service providers to publish an apology, remove content or insert a pop-up notice if they are found to have violated provisions on dignity and privacy. This council has the power to fine media up to 8,300 euros for such violations. A second law subjects online media to the Telecommunication and Postal Authority, AKEP, which will have the power to insert pop-ups on websites if they have been found in breach of the law by the Complaints Council. Failure to comply with AKEP would result in fines up to 830,000 euros. These draft laws, in an unprecedented way in democratic countries, seek to impose a regime of administrative control on the online media,” the rights organizations say. <https://balkaninsight.com/2019/07/19/censorship-bill-albania-rights-organizations-slams-anti-defamation-package/> Accessed on, 05/12/2019

into chaos. Whereas, for the Right, the struggle for breaking the *status quo*, and at the same time *executive aggrandizement* Leftist statecraft is precisely in defence of democracy

Moreover, in the last seven years, for the Left-wing, Albania's democratic quality has been the latest concern as demonstrated by the empirical data previously illustrated. Today the political system appears procedurally democratic but, state institutions such as the justice system, the media, civil society or other independent institutions acts under the direct control of the *executive*, which exploits them to control the state apparatus as well as the opposition. Synthetically, a society is democratic to the extent that it allows the state to fulfil its duties, but for society's own good. Any resistance to this process is not a democracy, is populism, is in contrast to democracy is illiberal. (Galston, 2018)

The Right-wing struggles for restoring the system to its normalcy by addressing the most pressing issues of today's political system that created current political stalemate. Therefore, to prevent the possibility of personal, bureaucratic and majoritarian tyranny, and then to set a common space for dialogue and compromise, change must transpire. This implies reasoned discussion, legitimizing popular will, and commitment to follow the best practices of democratic principles.

Furthermore, the Constitution of the Republic of Albania makes it clear that the country is a multi-party democracy. Both the preamble and Article 9 of the Constitution confirm the multiparty nature of the Republic of Albania. Furthermore, on 23 January 2008, the Parliamentary Assembly of the Council of Europe (PACE) adopted Resolution 1601 (2008) on 'Procedural Guidelines on the Rights, and Responsibilities of the Opposition in a Democratic Parliament'. The resolution emphasizes the role of the political opposition as 'an essential component of a functioning democracy' and supports a certain institutionalization of the rights of the parliamentary opposition, creating a set of guidelines through which member states' parliaments are invited to take as an example. According to the Council of Europe, democracy without opposition is dysfunctional. Summing up, since the advent to power Left-wing political activity dwells in neutralizing opposition actions. This behaviour contradicts with the letter and spirit of the Constitution and the principles of Resolution 1601 (2008) of the Parliamentary.

Modern authoritarians try to control the outcome of the election with less obvious methods to preserve the democratic veil. Even if they enjoy a vast majority of votes to legitimise their government, still fear free and fair election, as it remains a powerful tool for democratic renewal even in politically troubled environment like Albania. However, one of the disadvantages of democracy is that it often promotes the opinions of the most extreme members of society. Outside of material



incentives like the *spoil system*, most people are not so interested in politics, and Left-wing governance in Albania has deepened this practice. (Marchenko, 2016; Çullhaj 2017; Bieber 2018)

In the following, we will investigate the paradigm of 'dual democracy' presented by Bruce Ackerman and why Albania lost the possibility to fulfil such Democratic standard.

## **Ackerman's 'dual democracy' and Albania's lost 'Constitutional Moment'**

Yale professor Bruce Ackerman's three-volume work, *We, The People* became known in the 1990s in political-constitutional theory and deliberative democracy through the establishment of two concepts, namely, 'dualistic constitution' and 'dualistic democracy'. (Ackerman, 1993) 'Dualism' in Ackerman's idea is the distinctive contribution of the United States to other states for the democratic theory and practice. It refers to a 'binary' scheme of the legislative process based on a two-tiered conception of the common involvement of citizens in national politics.

Ackerman's 'dual democracy' is deliberative only in exceptional cases, those few moments when people talk, when they are so engaged in political issues that they reach what he calls a 'constitutional moment.' According to Ackerman, American politics suffers from all the most 'normal' shortcomings of a democratic system, namely, the public go on uninformed, ignored, and detached from policymaking, leaving interest groups to bid on the interests of 'Normal politics'. But in rare cases, the system moves to the second level of dualistic democracy: the 'promulgation of the highest laws' when the elites, and the people reach a common judgment through a 'deliberative plebiscite.' Because of a crisis or a political issue, people wake up and behave much more like ideal citizens. They meet in public debate, seriously consider the opponent's views, and finally reach a new consensus. (Ackerman, 1993)

According to Ackerman, there are three 'constitutional moments' of historical significance in the United States: The Foundation, the Reconstruction, and the New Deal, each of which mark the beginning of a new constitutional regime. What legitimise change in each case is not the observance to the formal rules, to the constitutional change process. Rather, it is the participation of a committed citizenry, as the latest ensures that the constitutional changes produced by these moments yields the wishes, and considerations of the people. From this analysis Ackerman develops a dualistic theory of judicial review. Respectively, when people return to their private activities, and resume normal politics, it is the Constitutional Court in charge to safeguard the results of 'superior people's



legislation' from ordinary politicians and from normal politics; hence exercising a 'guardian function' in this case. Ackerman's normative theory of constitutional legitimacy attempts to explain how Constitutional transformations occur in the US and how to justify it in theoretical terms. Ackerman's argument is not only explanatory but also normative. These transformations disclose their justification prospect in the light of a democratic theory that emphasizes the legitimacy of collective discussion. Constitutional moments form a 'high legislative act' because people engage in a broader and more informed process to reach a new consensus. The defects of democracy under so-called 'normal politics' are part of what gives higher status to 'constitutional law'. Process informality is part of what shows that a superior legislative process is underway, a conscious 'revolutionary' process.

In the last years, Albania finds itself many times in a 'constitutional moment' where citizens tried to become more involved in politics. However, the current executive show no will to cache this moment because of its low political credentials, and the only way to cope with this defeat is through intimidation towards citizens and anyone who thinks differently. Therefore, we can affirm that Albania's executive forfeits the chance to accomplish a 'dualist democracy in the best interest of future generations.

## Conclusions

In this article, we examined the effect of internal and external factors to understand whether and to what extent they cause today's 'democratic backsliding' in Albania. We have looked, especially through the perspectives of backsliding in Hungary and Poland, which depicted the pattern of democratic erosion in the region and beyond.

We also explored scholars' theoretical debate and conclude that today is a futile endeavour to divide democracy from liberalism or vice-versa. However, as Zakaria elaborated, executives embraced democracy as a procedure rather than relying on liberal values, as a result, they shifted in authoritarianism. Furthermore, violating freedom of expression or check and balances denotes rejecting constitutional liberalism in Bermeo's model of *executive aggrandisement*.

Also, we examined 2019 data generated by International institutions regarding Albania's democratic progress compared to other CE countries. These findings confirm the stagnant and at some point, deteriorating tendency of democratic process in Albania, classifying the country as a mere *façade democracy*.

We also critically examined the role of the EU in supporting 'strong leaders' in the Balkans, and elsewhere. We conclude that transformation towards a more liberal, democratic society change adamantly must come from within, through the empowerment of civil society organizations and a free media. Following the

Macedonian example with Nicola Gruevski, it is mandatory to clarify to the EU and to International community that Edi Rama is no longer a factor of stability but of instability.

Moreover, we explored whether and how Rama's power concentration is putting Albania on a path to democratic backsliding similar to what has happened in Hungary and Poland. Even if, Rama, in contrast to Orban does not offer an articulated vision of his illiberal democracy that involves centralising state power and stripping away checks and balances, he materialises this vision directly through his political deeds. In a nutshell, it is worth noting that Rama's power amassed particularly in the state, in economy, in politics, and the media, reflects the same tendencies of power structures put into place by Orban, since 2010. Since 2013, there is no question that Rama thwarted liberal-democratic norms in areas such as interference in the justice system, equality before the law, manipulation of the state administration and accountability to the media.

Finally, we shortly evaluated the lost 'constitutional moment' of Albania's society to accomplish Ackerman's 'dualist democracy' as an alternative element for democratic consolidation. We came to the conclusion that Albania's executive fails to accomplish a 'dualist democracy' in the best interest of future generations.

In the end, the schism that is taking place in these countries, between democracy and liberalism, shows how difficult it is to build a *democratic ethos*. For Darhebdorf, after the 1989 'revolution', to build a civil society with a liberal tenet will take sixty years, and this prognosis today is more than accurate. Moreover, as Zakaria pointed out, 'constitutional liberalism leads to democracy, but democracy does not necessarily lead to constitutional liberalism', (Zakaria 1997: 27-28). Or as Ferrara accurately elaborated, it is easy to export the 'movements' that define democracy, but not the culture that transforms it into a distinctive form of political and social life. Consequently, the structure of procedural democracy is simple to implement, but we cannot tell the same for its liberal basis. (Ferrara, 2014).

## About the author

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## Bibliography

- Ackerman, A. (1993) *We the People*, Harvard University Press
- Berman, Sh. (2017) "The Pipe Dream of Undemocratic Liberalism." *Journal of Democracy* 28, no. 3: 29–38
- Bermeo, N. (2016) "On Democratic Backsliding." *Journal of Democracy* 27, no. 1: 5–19.
- Bieber, F. (2018) Patterns of competitive authoritarianism in the Western Balkans, *East European Politics*, 34:3, 337-354, DOI: 10.1080/21599165.2018.1490272
- Bobbio, N. (2006) *Liberalismo e democrazia*, Milano, Simonelli
- Bustikova, L., and P. Guasti. (2018) "The State as a Firm: Understanding the Autocratic Roots of Technocratic Populism." Unpublished paper.
- Choudhry, S. (2008) Ackerman's higher lawmaking in comparative constitutional perspective: Constitutional moments as constitutional failures?, *International Journal of Constitutional Law*, Volume 6, Issue 2, <https://doi.org/10.1093/icon/mon002>
- Cianetti, L. Dawson, J. & Hanley, S. (2018) Rethinking "democratic backsliding" in Central and Eastern Europe – looking beyond Hungary and Poland, *East European Politics*, 34:3, 243-256, DOI: 10.1080/21599165.2018.1491401.
- Crowther, W. (2017) "Ethnic Condominium and Illiberalism in Macedonia." *East European Politics and Societies* 31 (4): 739–761.
- Çullhaj, F. (2017) *Democratization from Within: Political Culture and the Consolidation of Democracy in Post-Communist Albania*, (Editore: Nuova Cultura, Collana: Crossroads Nr. 81, Roma.
- Çullhaj, F. (2017) Political culture and democratic consolidation in post-communist Albania: Reassessment of authentic domestic values, *Polis Journal*, UET University Press.
- Dawson, J., & Hanley, S. (2016). The fading mirage of the "liberal consensus". *Journal of Democracy*, 27(1), 20–34.
- Draško, G. P. Fiket, I. & Vasiljević, J. (2019) Big dreams and small steps: comparative perspectives on the social movement struggle for democracy in Serbia and North Macedonia, *Southeast European and Black Sea Studies*, DOI: 10.1080/14683857.2019.1654317
- Ferrara, A. (2014) *Democratic Horizon. Hyperpluralism and the renewal of political liberalism*, Cambridge University Press.
- Ferrara, A. Seminario - Liberalismo e Democrazia, Maestri&Compagni Ferrara (10/ November/2011). <https://www.youtube.com/watch?v=vC7jMqyCdbQ> (translation mine).
- Galstone, W. A. (2018) "The Populist Challenge to Liberal Democracy." *Journal of Democracy* 29, no. 2: 5–19.
- Gjuzelov, B. & Hadjievska, M. I. (2019) Institutional and symbolic aspects of illiberal politics: the case of North Macedonia (2006–2017), *Southeast European and Black Sea Studies*, DOI: 10.1080/14683857.2019.1672941
- Khaitan, T. (2019) "Executive aggrandizement in established democracies: A crisis of liberal democratic constitutionalism", in Mark Graber, Sanford Levinson, & Mark Tushnet eds. *Constitutional Democracy in Crisis?* Oxford University Press.
- Levitsky, S., & Ziblatt, D. (2018). *How democracies die*. Penguin Books, Limited.
- Müller, J. (2008). A Critical Note on "The Rise of Illiberal Democracy. *Australian Journal of Political Science*, 43(3), 555–561. doi:10.1080/10361140802267316
- Marchenko, A. (2016) Civic activities in Eastern Europe: links with democratic political culture, *East European Politics*, 32:1, 12-27, DOI: 10.1080/21599165.2015.1130698
- Mounk, Y (2018). *The People vs. Democracy: Why Our Freedom Is in Danger and How to Save*

It, Harvard University Press.

- Primatarova, A, and Deimel, J. (2012) "Bridge over Troubled Waters? The Role of the Internationals in Albania." Center for Liberal Strategies, Sofia. <http://www.cls-sofia.org/en/forthcoming-events/bridge-over-troubled-waters-the-role-of-the-internationals-in-Albania-180.html>
- Richter, S, & Wunsch, N. (2020) Money, power, glory: the linkages between EU conditionality and state capture in the Western Balkans, *Journal of European Public Policy*, 27:1, 41-62, DOI: 10.1080/13501763.2019.1578815
- Surowiec, P. & Štětka, V. (2020) Introduction: media and illiberal democracy in Central and Eastern Europe, *East European Politics*, 36:1, 1-8, DOI: 10.1080/21599165.2019.1692822
- Surowiec, P. & Štětka, V. (2020) Introduction: media and illiberal democracy in Central and Eastern Europe, *East European Politics*, 36:1, 1-8, DOI:10.1080/21599165.2019.1692822
- Zakaria, F. (2003) *The Rise of Illiberal Democracy*, Foreign Affairs, United States, Council on Foreign Relations.
- Zakaria, F. (2007) *The Future of Freedom: Illiberal Democracy at Home and Abroad* (Revised Edition), London, W. W. Norton & Company. Lo.

### Internet Sources

- <https://balkaninsight.com/2019/07/19/censorship-bill-albania-rights-organizations-slams-anti-defamation-package/> Accessed on, 05/12/2019
- <https://www.bti-project.org/en/key-findings/regional/east-central-and-southeast-europe/> Accessed on, 09/12/2019
- <https://www.journalofdemocracy.org/articles/explaining-eastern-europe-the-crisis-of-liberalism/> Accessed on, 01/12/2019
- Interview with German political scientist Yascha Mounk, by Anna Momigliano 11 May 2018 <https://www.rivistastudio.com/democrazia-liberale-illiberale/> (translation mine) Accessed on 15.04.2020
- <https://europeanwesternbalkans.com/2019/06/10/ewb-interview-sekerinska-from-captured-state-to-shining-example-in-the-balkans/> (Accessed on 07/10/2019)
- <https://balkaneu.com> Accessed on 09/09/2019
- <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=11792&lang=en> Accessed on 09/09/2019
- <https://freedomhouse.org/report/nations-transit/2018/confronting-illiberalism> Accessed on 09/09/2019