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# Fidesz's Double-Talk Concerning EU Issues

## ABSTRACT

*During the last decade the European Union has faced a new challenge posed by its established members: the rise of political practices in member states that violate European norms and the values of democracy. Hungary has witnessed a democratic backsliding which provoked a conflict with the European Union that escalated both in the domestic and the European arena to the point that the European Parliament triggered the Article 7 procedure in September, 2018 and the Fidesz's membership in the European People's party got suspended soon after. The paper analyses the dynamic of the conflict between the EU and Hungary by comparing two politically distinct periods of 2010-2014 and 2014-2018. The analysis focuses on the activity of the Commission as the key actor at the European level, and on the Hungarian government/Fidesz as the key actor at the national level, with the main conflict of interest being the application of the rule of law and the compatibility and compliance of the Hungarian and European legislation. Our research analyses the infringement processes during the two periods examining their content and their resolution with special attention to the cases where the application and/or the violation of the European rule of law is/are concerned. We argue that the two periods of 2010-2014 and 2014-2018 are similar in terms of the populist strategy applied by Fidesz but they are very different in terms of the EU's reaction which can be explained by the increasingly heterogenous European sphere.*

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## INTRODUCTION

During the last decade the European Union faced a new challenge posed by its established members: the rise of political practices in member states that violate European norms and the values of democracy. Hungary, Malta, Romania and Poland have all caused a serious headache within the Union experiencing what is called democratic backsliding. While the EU has established a partially political criteria, the so-called Copenhagen criteria (including variables of democracy, rule of law, human rights, and the protection of minority rights) to assess whether a country is eligible to join the European Union, it has severe shortcomings when addressing the same problems in its own member states. Several arguments were brought forward to explain the lack of push-back against these developments (see Müller, 2013 for an overview of the main arguments), many of them promoting a more aggressive use of enforcement tools (Blauberger-Kelemen, 2017) along with the development on new measures (Halmai, 2018). These analyses often focused on the role of the Commission as an institution that plays the role of safeguard of the Rule of Law and as an institution that already has access to legal measures such as the infringement procedure to motivate the compliance of members with the European legislation and/or penalize its unwillingness to comply.

Since the very first moment of the electoral victory of Fidesz in 2010, Hungary has been the black sheep of the EU encompassing all that can go wrong and beyond. At the beginning the European Union was often criticized for tolerating too much and doing too little regarding the Hungarian political developments. However, during the period of 2010-2019 the conflict between Hungary and the European Union has escalated both in the domestic and the European arena to the point that the European Parliament triggered the Article 7 procedure in September, 2018 and the Fidesz's membership in the European People's party got suspended soon after. What were the driving forces of this escalation? There are many possible scenarios such as the easement of the economic crisis which allowed the EU to shift its attention from economic matters to democratic problems or the upsurge of more populist leaders and political forces that made the EU face its democratic consequences or even the political motivation of European leaders (a reason often cited by the Hungarian government). As a first approach, in our paper we do not attempt to address the validity of these claims one by one but rather ask the question if the dynamic of the conflict between the EU and Hungary has changed and if so, how it has. In order to answer these questions, we compare two politically distinct periods established according to the European and the Hungarian political cycles. We chose 2014 as the dividing moment since it was a year when both the Hungarian national elections and the European Parliamentary elections were held bringing along a new Commission and Council as well. Thus the 2010-2014 Orbán government (which is the second Orbán government after 1998-2002) coincided with the working of the second Barroso Commission while the third Orbán government, 2014-2018, coincided with the Juncker Commission. Our aim in this paper is to compare these two periods to assess if the conflict between Hungary and the EU changed its dynamic and whether these changes can be attributed to the characteristics of the given period.

The paper focuses on the activity of the Commission as the key actor at the European level, and on the Hungarian government/Fidesz as the key actor at the national level. While there have been significant tensions between these two actors in the various spheres of the political arena and several other actors intervened in the political space, the main conflict of interest remained the application of the rule of law and the compatibility and compliance of the Hungarian and European legislation. Thus, our

research analyses the infringement processes during the two periods examining their content and their resolution with special attention to the cases where the application and/or the violation of the European rule of law is/are concerned. We argue that the two periods of 2010-2014 and 2014-2018 are similar in terms of the populist strategy applied by Fidesz but they are very different in terms of the EU's reaction which can be explained by the increasingly heterogeneous European sphere.

In the subsequent columns we will introduce the theoretical background of the conflict claiming that it centres around populism or rather populist strategies that result in democratic backsliding. Then we will reveal how the European Commission aimed to deal with this crisis during the Barroso and the Juncker eras and then we will proceed to demonstrate how the European conflict plays out in the national sphere.

### THEORETICAL BACKGROUND: POPULISM AND DEMOCRATIC BACKSLIDING

The conflict between member states and the European Union seems to revolve around the rise of populist leaders who are perceived as a threat to democracy. Indeed, based on the study of Kyle and Mounk “democracies that elect populists are at a far greater risk of democratic backsliding than democracies that elect non-populist leaders” (Kyle-Mounk, 2018, online). While the above statement reflects a common sentiment, in order to apply ‘populism’ and ‘democratic backsliding’ as somewhat useful analytical concepts, we need to unpack these concepts to a certain extent and we need to define their use in the European and the Hungarian context.

The paper does not and cannot aim at the discussion of the whole literature of populism so it only reflects on the most important and relevant studies. The main question connected to populism is whether it is an ideology or a party strategy. Most definitions focus on the conflict between homogeneous elite and the people (Canovan, 1981) and state that populism is basically an ideology (Mudde, 2004; Albertazzi and McDonnell, 2008). Any contrast of the ‘corrupt’ elite and the people is a part of the concept but it is not enough to consider populism as an ideology. According to Mudde (2004), populism is more than that because it also means that politics is to be based on the general will of the people. However, in a representative democracy every relevant party expresses some kind of ‘volonte generale’. Albertazzi and McDonnell (2008) argue that populists ‘depict’ the elite and ‘others’ as reducing the sovereignty of the people, which is also a part of the elite versus people division.

The theory of populism as an ideology is also undermined by the fact that totally different parties are considered to be populist. For instance, the centre-left Direction (Smer) in Slovakia, the centre-right Citizens for European Development of Bulgaria (GERB), the centrist-liberal Yes 2011 (ANO 2011) in the Czech Republic or radical left- and radical right parties. Harmsen (2010) argues that the only common value among the different types of populism is anti-elitism. Populist parties reject the national elite as a whole in the name of people whose interests are ignored according to them. So, the politics of populism is built on the wisdom of ‘common man’ (Harmsen, 2010). Naturally, making some kind of enemy (Laclau, 2005) is also part of the concept.

Accepting Harmsen's ascertainment it could be stated that populism is not an ideology but a party strategy, attitude, or behaviour. As a consequence of this definition populist strategy cannot usually be maintained in government because a populist governing party would criticise itself first of all as part of the ‘corrupt governing elite’. This self-contradiction has resulted in the collapse of public support of parties considered

as populist once they entered into government (e.g., Freedom Party in Austria), although there have been attempts by governments to maintain their outsider status as we will see in the Hungarian case.

The populist strategy of Fidesz originates in 2002. After four years in government (1998-2002) Fidesz went through a crisis due to its unexpected electoral defeat in 2002. The party responded to it with a turn in its politics and became more critical *inter alia* about the European integration but this rhetorical criticism was based on cultural disagreements and some ambiguous statements of the party leaders. However, the Fidesz' politics and decisions avoided anti-EU stances and the official party line remained in favour of more integration in several issues (Enyedi, 2006). The pro-European behaviour of Fidesz could be easily observed by the fact that its MPs and MEPs supported both the European Constitution and the Lisbon Treaty (Dúró, 2017). As far as other issues relating to populism are concerned, in March 2008 the fees abolishment referendum initiated by Fidesz was finally held and over 3 million people voted against the government's actions. Fidesz communicated it as an overwhelming victory of the people over the government. Later, the strategy of the party was built on 'economic populism' as anti-austerity politics (Tóth and Török, 2015). This latter issue played a key role during the second Orbán government (2010-14) and resulted in the 'unorthodox' economic policy. As Enyedi and Róna note Fidesz started to build its economic populist image well before its election in 2010 with promoting an active and strong state that could contain the market forces (2019:255-256) that resulted in decisions such as the bailout of foreign currency borrowers, taxes on bank and price cuts on utilities when in government (2019:263). All these decisions that can be labelled economic populist went hand in hand with building an active, strong and capable government that became less controlled by the system of checks and balances weakened either through a downgrade in competencies or through packing institutions with loyal decision-makers.

The changes provoked concerns in the European Union soon after the election of the second Fidesz government in 2010. As Szente points out the main issues were to be found about the new constitution including the legal process of drafting the constitution, its content along with the amendments introduced later (seven as of 2019). Problematic practices included the adoption of the Fourth Amendment in particular which introduced provisions that had been declared unconstitutional by the Constitutional Court before. The new constitutional framework disturbed the system of checks and balances particularly through the practice of Court packing that allowed Fidesz to shift the political balance of the Court. The establishment of the Budget Council limited the scope of parliamentary decision-making which along with the introduction of new policies to the group of cardinal laws (which can only be amended by qualified majority) can limit the field of action of upcoming governments as well. Finally, the Media Law adopted in 2012 further weakened the independence of the public media and threatened the autonomous functioning and the pluralism of the media sector as well (Szente, 2017).

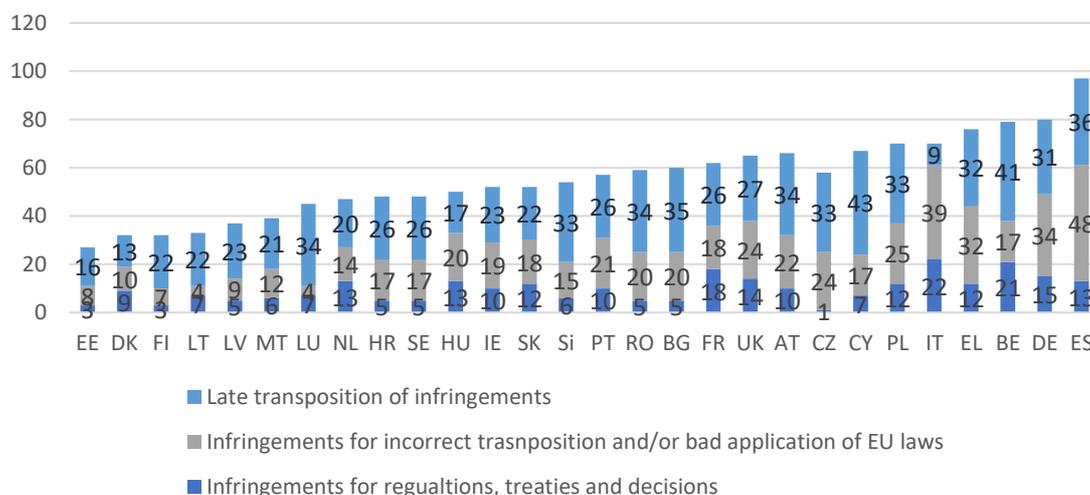
Various definitions were developed to capture the phenomena of democratic backsliding calling the Hungarian political system „electoral authoritarian regime” (Kelemen, 2017), „hybrid regime” (Cianetti et al, 2018), „simulated democracy” (Lengyel-lonszki, 2012), „populist democracy” (Pappas, 2014) and of course, „illiberal democracy” (Enyedi, 2016) following the Prime Minister's definition (Orbán, 2014). The lack of common definition derives from the fact that Hungary onsets a particular combination of democratic deficits that Bogaards calls „diffusely defective democracy, combining features of an exclusive, delegative, illiberal, and tutelary democracy” (2018:1491). It is not our task to vote on the best concept, especially because all of the above concepts share

two important characteristics: they describe the misuse of political tools and institutions and they point out a distortion in the system of political checks and balances, both of which call for attention beyond the national borders.

### THE REACTION OF THE EU

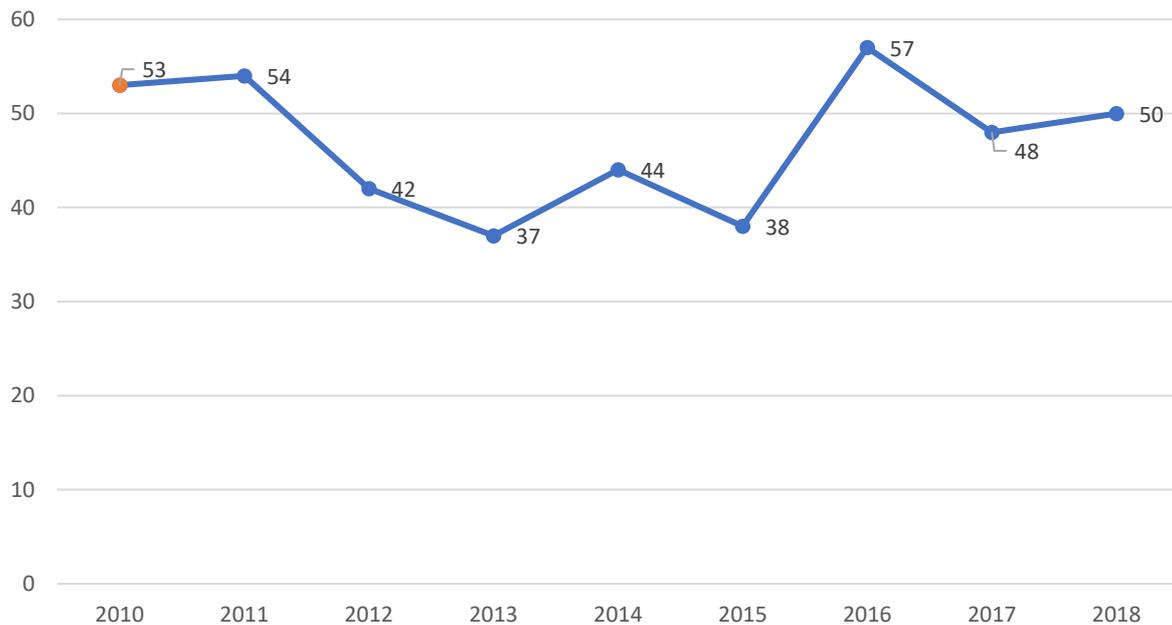
Clearly, after 2010 the EU became more pressed to answer the political processes in Hungary. In the European toolkit the most used method to address the non-compliance of member states with given European rulings is the infringement process thus the Commission launched several of them against Hungary. The Commission launched the process to address the potential infringement of EU Law which can be the lack of or the insufficient transposition of directives or the violation of EU Law. First, the Commission asks for further information on the matter from the member state country, then it gives its reasoned opinion on the matter and finally if necessary, it refers the issue to the Court of Justice. Launching infringement processes is in a sense normal within the EU as member states have problems of compliance in a wide range of policy fields. Figure 1 shows all of the open infringement cases as that of December, 2018 signalling that Hungary is not among the top sinners as far as infringements go. Even if we make a difference between the various types of infringement processes (late transposition, incorrect transposition/bad application of EU law and infringement for regulations, treaties and decisions), Hungary does not have extreme numbers for any of them.

Figure 1. Infringements cases open on 31/12/2018



Source: European Commission, 2019

If we concentrate on Hungary, we can get a bit more detailed picture about the dynamics of infringements: it seems that having 50 open cases is a rather high number for the country, although 2016 saw a record of 57 open cases. If we look at the two different periods, we can see that while in the 2010-2014 period there is a slight decrease in infringements, the 2014-2018 period saw just the opposite of increasing cases.

*Figure 2. Open infringement cases against Hungary*

*Source:* European Commission, 2014, 2019,

Clearly, the absolute number of infringement procedures does not paint the whole picture. Szente makes a distinction between two types of conflicts: „failures to implement secondary EU legislation and Rule of Law problems violating the basic values of EU law” pointing out that while the first type is quite common among member states, it is the second type that worries the backsliding literature (2017:457). However, the infringement processes are designed to address the first type of conflicts, to investigate policy questions instead of more fundamental issues of rule of law or democratic norms thus they are rather technical and narrow-focused. Still, the Barroso Commission aimed at attacking the democratic backsliding based on technicalities: in the period of 2010-2014 it launched three infringement procedures to address the independence of the Central Bank, the retirement age of judges, and the termination of the ombudsman for personal data protection and freedom of information. The weakness of this approach was clearly its narrow focus on technicalities and that its case-by-case nature did not allow for assessing a bigger picture of the abuse of the system of checks and balances.

*Table 1.* Infringement procedures against Hungary in the field of the Rule of Law launched by the Barroso Commission

<b>Infringement number</b>	<b>Title</b>	<b>Policy field</b>	<b>Decisions</b>	<b>Resolution</b>
<b>20112020</b>	Violation de l'article 130 du TFUE	Economic and Financial Affairs	Formal notice	Agreement about the adoption of legal amendments to the central bank statute on 6 July by the Hungarian Parliament
<b>20122011</b>	Violation of independence of data protection supervisory authority	Justice, Fundamental Rights and Citizenship	Referral to Court	Court ruling stating that the abrupt termination the Hungarian Data Protection Commissioner's term in office by the government constitutes an infringement of the independence of the Hungarian Data Protection Authority and is hence in breach of EU law
<b>20122012</b>	Retirement age of judges, prosecutors and public notaries	Justice, Fundamental Rights and Citizenship	Referral to Court	Court of Justice of the European Union ruled that the abrupt and radical lowering of the retirement age for judges, prosecutors and notaries in Hungary violates EU equal treatment rules

*Source:* European Commission's website on infringement processes, 2019

The Juncker Commission entering into office in 2014 had a new rule of law framework at its disposal that Halmai describes as “pre-Article 7 procedure, since it establishes an early warning tool to tackle threats to the rule of law, and allows the Commission to enter into a dialogue with the Member State concerned, in order to find solutions before the existing legal mechanisms set out in Article 7 will be used” (Halmai, 2018:316-317). Basically, in this process the Commission evaluates the situation of the given member state, issues recommendations in case needed and monitors their execution. In spite of the availability of the new tool, the Commission continued to launch infringement processes against Hungary. While most of them still tackle policy problems, a few notable exceptions follow up on the questions of rule of law as seen in Table 2.

Table 2. Major infringement procedures against Hungary in the field of the Rule of Law in 2014-2018

<b>Infringement number</b>	<b>Title</b>	<b>Policy field</b>	<b>Decisions</b>	<b>Resolution</b>
<b>20142246</b>	Termination of certain existing usufruct rights and of certain other contracts related to agricultural land by Act CCXII of 2013	Financial Stability, Financial Services and Capital Markets Union	Referral to Court	Active case
<b>20152201</b>	Incorrect implementation of EU asylum and migration acquis	Home Affairs	Referral to Court	Active case
<b>20152206</b>	Non-conformity with Directive 2000/43/EC on Racial Equality - Discrimination of Roma children in education	Justice, Fundamental Rights and Citizenship	Formal notice	Active case
<b>20172076</b>	Violation of the EU Law by amendments of the Hungarian Higher Education Act (CCIV), adopted on 4 April, 2017 affecting foreign higher education institutions	Internal Market, Industry, Entrepreneurship and SMEs	Referral to Court	Active case
<b>20172093</b>	Failure to implement correctly Council decision 2015/1601 on relocation	Home affairs	Referral to Court	Active case
<b>20172110</b>	Violation of the Eu Law by the act on the transparency of organizations supported from abroad (Act LXXVI/2017) adopted on 14 June, 2017	Justice, Fundamental Rights and Citizenship	Referral to Court	Active case
<b>20182247</b>	Violation of EU Law by means of the act VI of 2018 amending certain acts with respect to measures against illegal immigration and the seventh amendment of the Fundamental Law of Hungary	Home Affairs	Referral to Court	None

Source: European Commission's website on infringement processes, 2019

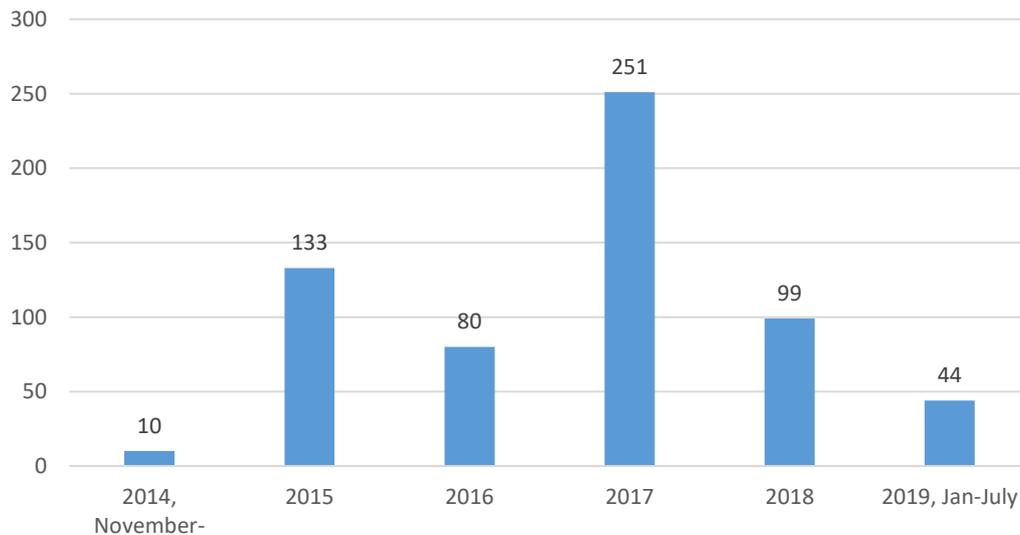
While most of the infringement processes are closed before being referred to the European Court all of the above mentioned cases (except for the discrimination of Roma children, still at the first step of the process) have been referred to Court, which suggests a reluctance for cooperation and bargaining both on the side of the Commission and of Fidesz.

Based on the dynamics of infringement processes, we cannot demonstrate radically different patterns of conflict in the Barroso and the Juncker Commission. The differences observed concern rather the increasing willingness of the Commission to engage in conflicts as the number of infringement processes seem to increase. Among the increased number there are also more infringements that address the violation of the Rule of Law explicitly. This same trend, however, also suggests the Commission's reluctance to apply different, more political tools to address the problems of democratic backsliding.

### POPULIST RESPONSES

In the previous paragraph we demonstrated that the Commission started to consciously address the violation of the rule of law through infringement processes. However, this approach can be problematic as the infringement process is suited to address a more technical question, thus many of these rule of law procedures focused on narrow dimensions of the problem missing the complex misuse of power and the alternation of the political power structure. This weakness also allowed Fidesz to evade compliance with the rule of law in many cases. But how did exactly Fidesz handle these conflicts? If we focus strictly on the resolution of these infringement cases we can observe that most of them were referred to the Court, which suggests that Fidesz was reluctant to cooperate and responded only to the strongest legal incentives. But in cases when the Court ruled against Fidesz, full compliance can be questioned: as Szente (2017) explains regarding the cases of the 2010-2014 period, due to the highly technical nature of the objections, all three questions were resolved through technicalities. The question of discrimination based on the age of judges was resolved through the increase of the age of retirement but the dismissed judges were never reemployed. The Ombudsman received financial compensation for the early termination and the government waited till the end of the term of the governor of the Central Bank to nominate a new and loyal one. These solutions are the textbook cases of what Batory calls creative compliance which according to her definition is: "Symbolic and creative compliance occurs when an addressee, in this case a member state, pretends to align its behaviour with the prescribed rule or changes its behaviour in superficial ways that leave the addressee's original objective intact. The two strategies differ somewhat in that in the former the addressee puts legislative change in the books which, however, is never put into action, while in the latter the addressee accepts measures that, in their totality, render enforcement action inconsequential." (2016:689). Thus, we state that on the practical level, Fidesz reacted on a policy level and was only willing to treat the cases as technical policy problems instead of serious political conflict. On the level of rhetoric though, its reactions were entirely different.

Figure 3 shows the number of news about infringement process issued by the Hungarian News Agency under the Juncker Commission. It seems that the number of news follows somewhat the number of open infringement processes which is not a surprise in itself. What is more informative is the framing of these news: 98% of the news were coded as "internal affairs" by the MTI while only about half of them got relevant policy codes ("agriculture" for example).

*Figure 3. N of news about infringements*

*Source:* Hungarian News Agency (MTI), 2019

## POPULISM IN HUNGARY

As Figure 3 shows, the national news agency handles these procedures as politics-based issues rather than policy-based ones. It highlights the nature of the government's strategy very well. On the one hand, the conflicts between the government and the European Commission take place in the policy field. On the other hand, Fidesz uses some of these disagreements to present its fight vis-à-vis the European elite which – according to the rhetoric of the government – is against the Hungarian people (e.g., in the case of migration). This double communication is the very essence of the strategy of Fidesz. At national level, it communicates these conflicts as politics-based ones to keep its voters while at the European level, it tries to seem less vocal critic of the European Union than at the national level.

We can conclude that Fidesz needs these conflicts to keep its populist strategy. As Enyedi (2016) points out, after the 2010 electoral victory, Fidesz represents Hungarians not against the domestic elite but against foreign-minded people. The reason is quite simple. Following the 2010 elections, the Hungarian party system became a predominant one. Fidesz has not really had any real domestic enemies and its voters have not believed in the real domestic challengers of Orbán. So Fidesz sought for external enemies to fight. First, it was the International Monetary Fund against which Orbán called for an economic freedom fight. However, Hungary paid back her loans to the IMF so the government needed another visible enemy to maintain its strategy.

As Csehi (2019) concludes in his article on Hungarian populism, over the years, Orbán successfully reframed his enemies, widened the concept of people, and emphasised the people's sovereignty which is a core value of populism according to Albertazzi and McDonnell (2008). First, Fidesz started using the European Union as a threat ('Brussels bureaucrats') and in the 2014 European elections campaign the party used some messages against the EU ('Let's send a message to Brussels: more respect for Hungarians'). Later, by the migration crisis, the European Union has become a quasi second-order enemy because the communication of Fidesz turned against migrants and

against the ‘drivers’ or ‘organisers’ of migration, i.e., the Soros network (basically NGOs which got financial support from him). In parallel, however, ‘Brussels’ has remained another important player from whom the Hungarian people need to be protected. Brussels has been depicted however as part of the ‘Soros network’ or at least some leaders of the EU were and still are under the influence of the billionaire of Hungarian origin (e.g., Origo.hu (2018) a popular news site closely related to Fidesz published a list of MEPs who received financial support from one of the NGOs partly financed by Soros). While the threat from Brussels had been present already during the first examined period (2010-2014), it only became a personalized message during the second period when the European Union’s negative side became equal with the Juncker Commission. The personalization went as far as in 2018 billboards with the image of Juncker and a negative message about Brussels were advertised all over the country.

Secondly, according to Csehi (2019), Orbán restructured the concept of ‘pure people’ as well. First, Fidesz politicians often cited that the Hungarian people gave them an extraordinary empowerment in 2010. Following the electoral victory of the party in 2014 and 2018, this argument reemerged in the communication of Fidesz. Nevertheless, the migration crisis resulted in a quite united position of the Visegrad countries. It created the opportunity to Orbán to redefine the people from Hungarians to Central Europeans on the one hand, and to deny the isolated position of his government in the EU on the other hand. He could use this new cleavage to attack Brussels. Later, as the migration issue became one of the most important problems across the European Union, and more governments have had a similar point of view to that of Orbán, the Hungarian Prime Minister once again re-defined the concept of people to sovereign nations (Csehi, 2019:7), which seems to be a quite clear concept against the federalist ideas on the future of the European integration.

Csehi (2019) states that the third important feature of Fidesz’s populism is emphasising popular sovereignty. The two most used tools have been the peace marches and the national consultations. Peace marches were organised by the Civil Cooperation Forum (CÖF), an NGO closely related to Fidesz to support particular actions by the government. Though in recent years CÖF has not organised any such event. National consultations are also arranged by the government. Every citizen gets a questionnaire in which the government asks the opinion of the people about some questions. The limits of these consultations are the directed questions and the fact that mostly the voters of Fidesz send them back. Referenda have not been usual in Hungary since 2010. The only one was initiated by the government against the migration quotas of the European Union, however, it was boycotted by the opposition parties. Hence, the turnout remained below the validity threshold (50%), nonetheless, the government implemented the ‘decision of the Hungarian people’ into the Fundamental Law. The application of national consultations instead of referenda reinforces Enyedi’s (2016b) observation that Fidesz’s populism is strongly paternalist and only motivates the participation of a small, chosen group of citizens while discouraging others, especially those belonging to the lower strata of the population.

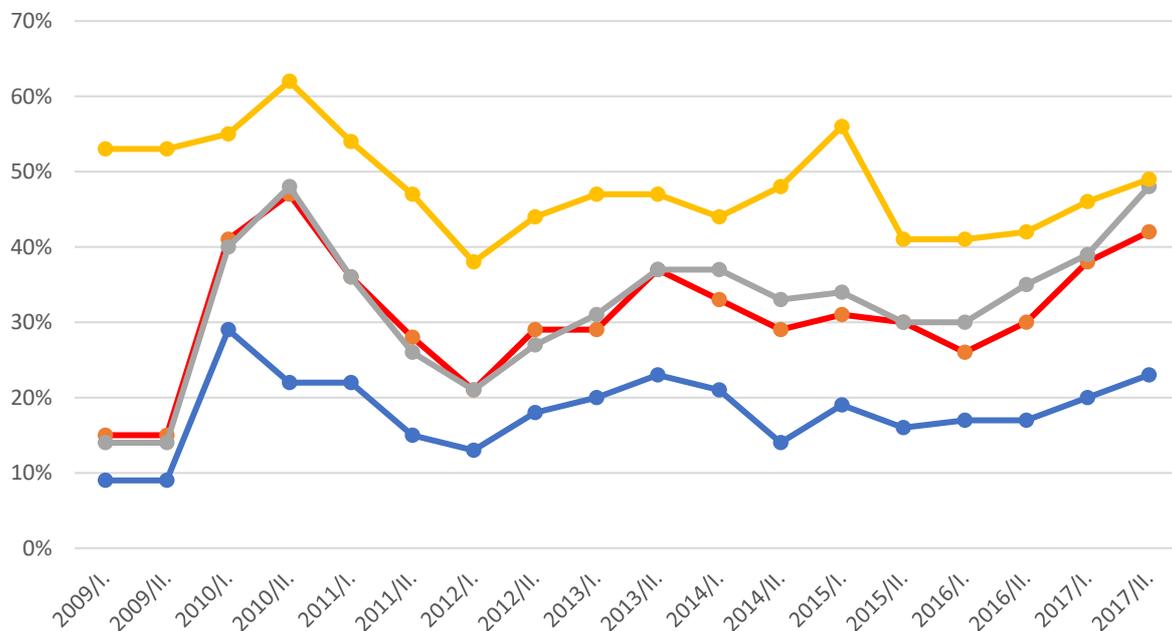
To sum up, Fidesz’s populism has some specific elements. These are mostly the consequences of the lack of a domestic enemy or a challenger. First, the homogeneous people are not the Hungarian people anymore, but (Central) Europeans. Secondly, the corrupt elite is not the domestic one, but some leaders of the European Union (especially Jean-Claude Juncker as President of the European Commission) and Soros. And thirdly, the leaders of Fidesz often cite the sovereignty of people and Orbán himself made the concept of sovereignty one of the key elements of his ideology.

## PLAYING THE BLAME GAME

Blaming international actors including the European Union is not a new phenomenon. If the European Union intervenes or at least criticises a democratically elected government it may trigger a counter-reaction, namely, the government can depict the EU as an illegitimate and antidemocratic actor (Schlippahk and Treib, 2016). The blame game strategy clearly moves the conflicts from the policy field to the area of politics. This strategy can be efficient from the point-of-view of the blaming actor. Sanctions introduced by the member states against Austria in 2000 resulted in the increase in support of the punished government, hence the EU and its member states did not achieve their goal (Leconte, 2005). This 'Haider-affair' is the main reason why the European Union uses softer tools to try enforcing the member states to meet the European law.

Nonetheless, the European Commission initiated several infringement procedures against Hungary in various cases (see above). The problem with these processes is their nature, in other words, infringement procedure can be initiated if there is a suspicion that a member state violates the EU law. Most of the *acquis communautaire*, however, regulate various policy fields, the functioning of the EU institutions, and in some cases the domestic ones. Thus, the bulk of the conflicts resulting in infringement procedures has always been policy-based. On the other hand, Orbán successfully channelled these conflicts into the domestic politics-based arena. Schlippahk and Treib (2016) argue, that in spite of the fact that the general trust in EU institutions is higher than the trust in domestic ones (see in Figure 1), Orbán has successfully blamed the EU thanks to the large share of Eurosceptic voters in Hungary.

Figure 4. Trust in various political institutions



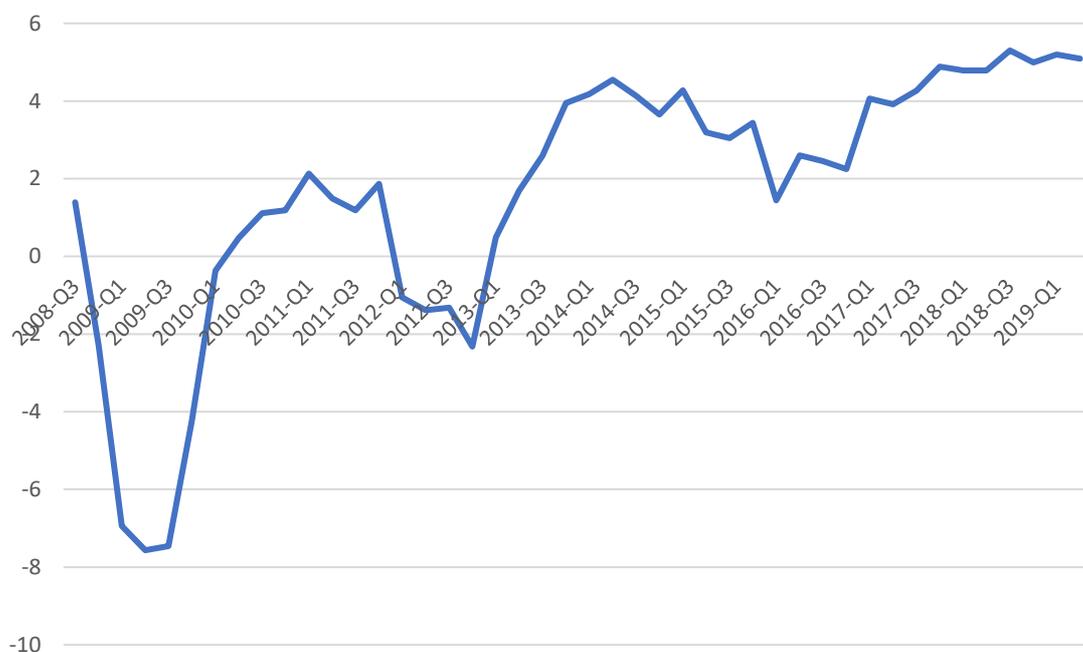
yellow: EU, grey: government, red: parliament, blue: parties

Source: Eurobarometer surveys 2009-17

The truth is, however, not as simple as Schlippahk and Treib (2016) describe. First, Eurobarometer surveys do not confirm that two-thirds of the Hungarian voters are sceptical about the EU: their trust in the EU is above average, they have a rather positive

image of the EU and are quite optimistic about the future of the integration (Eurobarometer, 2019). Secondly, as Figure 4 and Figure 5 show the trust in the EU and in domestic political institutions moves along with the GDP growth. Hence, the support of the government partly depends on the state of economy. Fidesz has 2-2.2 million core voters who are committed to the party and vote for it even in an economic downturn. A small recession in 2012-13 decreased the support of the government, which clearly had a negative effect on the share of votes of Fidesz in the 2014 parliamentary elections: they got 2.14 million votes (excluding votes from abroad), approximately as many as in 2002 and 2006 when they lost the elections to the Socialist Party. While in 2018, the annual GDP growth was among the highest ones in the European Union, which could strengthen the final result of Fidesz in the elections via the increase in wages and salaries (both in private and public sectors) among other factors. In those elections, the party gained more than 2.6 million votes (excluding votes from abroad). We do not say that economic performance determines the support of the government in Hungary but we do state that it has a strong effect on it, as good economic performance can increase the support of the governing party and vice versa.

Figure 5. GDP growth (% , annual basis)



Source: OECD

We argue that playing the blame game has not primarily aimed at gaining new voters, but it has had a different purpose in the strategy of Orbán, namely, keeping the core voters engaged and keeping them disciplined, mobilised, etc. constructing an external enemy, the EU or the Juncker Commission. The most spectacular manifestation of this strategy was the 2016 referendum on the rejection of the migration quota. Although the referendum itself was invalid due to the lower turnout, more than 3.3 million voters supported the standpoint of the government meaning Fidesz could mobilise its core voters. These voters can feel that Hungary is threatened by or is under attack by foreign forces, and psychologically it probably has a similar effect as it did on the Austrian voters in 2000. Fidesz voters may think they are in a besieged fortress and even if they have problems with the government, they cast their votes for the party to avoid the bigger evil.

## BEYOND INFRINGEMENT

In the paragraphs above, we demonstrate that while some disagreements between the Hungarian government and the European Commission are politics-related, the latter actor still prefers policy-based solutions, e.g., infringement procedures. Fidesz has reacted to these actions in the field of policy at the EU-wide level and transferred them into political problems in domestic politics. However, in recent years the nature of conflicts has changed at the supranational level as well. Neither the Juncker Commission, nor other EU institutions (e.g., the European Parliament) needed the camouflage of policy-based conflicts anymore because they could respond to the politics-based rhetoric of Fidesz which was losing the unconditional support of the European People's Party step by step. The clearest cases were the triggering of Article 7 against Hungary by the European Parliament when a significant part of the EPP group also voted in favour of the process and the suspension of the membership of Fidesz in the European People's Party.

The former speaker of the European Parliament, the German Socialist Martin Schulz often criticised the Orbán government due to its actions and the European Parliament approved the Tavares (Portuguese Green MEP) report on Hungary in 2013. Yet, these cases fit well the left-right division of politics, as right-wing parties did not fully approve of these. In 2018, however, the European Parliament approved the Sargentini (Dutch Green MEP) report and asked the Council to trigger Article 7 (clear risk of serious breach of EU values) against Hungary. Lots of MEPs from the EPP (including group leader and later top candidate Manfred Weber) voted in favour of it, though a significant number of EPP members, inter alia Forza Italia, French Republicans, most member parties from post-Communist states, and all the remaining MEPs of the Bavarian CSU, opposed the sanction (EUObserver, 2018). This division within the European People's Party continued when some member parties, mainly from the Benelux states and Scandinavia, initiated the expulsion of Fidesz from the party. As a compromise, Fidesz suspended its membership in the Europarty until the European elections in 2019, and a three-member committee started investigating the party, whether it has a place in the EPP.

The abovementioned cases may make the impression that the EU seriously punished the Hungarian government. However, the truth is probably more nuanced. First, the European Parliament initiated the Article 7.1 process, however, this part of the Treaty does not provide an opportunity to sanction the member state, the Council can issue recommendations. Article 7.2 cannot be initiated by the Parliament, though it may end in Article 7.3 (it requires a unanimous support by the European Council) process during which the voting rights of the member state can be suspended. By and large, the Parliament's action may only influence the judgment of the Hungarian government, triggering Article 7.3 can be initiated by the support of all member states. Nevertheless, as this article was also used against Poland, and the Polish government is one of the closest allies of Orbán, the suspension of voting rights does not seem plausible.

As far as the suspension of EPP membership is concerned, it follows a similar pattern to that of the Article 7 issue. It does not really have any impact on the government except for tarnishing the reputation of the party. By this compromise, the EPP leadership avoided the split of the party which would have resulted in an even sharper decrease of the size of the EP group by losing one of the largest national delegations, while it sent a clear warning to Fidesz. The Troika which examines the party consists of three influential members from the EP. First, Wolfgang Schüssel, former Austrian PM who was the head of the sanctioned Austrian government in 2000 and who was supported by the then Hungarian PM who was Orbán. Secondly, the German Christian Democrat Hans-Gert Pöttering,

former head of the EPP-ED group and former Speaker of the EP, a long-time friend of Orbán. Thirdly, the Flemish Herman Van Rompuy, former president of the European Council, who has been in favour of the expulsion of Fidesz. The composition of this ‘council of wise men’ clearly underlines the fact that the real goal of the suspension was not the serious punishment of Fidesz but rather a way to keep Fidesz within the party family to have better positions during the negotiations over the President of the Commission, the President of the European Council, the Governor of the European Central Bank, the Speaker of the European Parliament, and the High Representative. This strategy was rewarding for both actors. EPP could keep the position of the head of the Commission by the key votes of the Fidesz MEPs on the one hand, while Fidesz and Orbán could veto the top candidate of EPP, Manfred Weber, who supported Article 7 against the Hungarian government.

The other reason why the EU has not yet punished hardly the Hungarian government is the fact that the number of Orbán’s allies has been increasing in recent years. It resulted in a new debate over the future of the European Union. While 10-12 years ago, it was clear that the European Union had a trajectory (mostly defined by the accession of new members), nowadays, we are witnessing a debate over the optimal form of the integration. The conflicts around the ‘Spitzenkandidat’ process put this debate into the limelight, when both Orbán and the clearly pro-European French President, Emmanuel Macron also opposed to elect a top candidate to the position of the President of the Commission. Naturally, there are Eurosceptic actors, however, the real participants of this debate are the representatives of the competing visions over Europe, e.g., Guy Verhofstadt stands for a United States of Europe, while most heads of government prefer lesser integration to a federative model of the EU. But we can say that Orbán is an active participant of this dispute and the visions are not black and white. E.g., the Hungarian Prime Minister called for a common European army, common energy policy on the one hand, and strong nation states and national migration policy on the other hand.

## CONCLUSIONS

As we demonstrate in this paper, Fidesz started misusing democratic institutions to extend the power of the government. This process, however, does not mean the dismantling of democratic framework: democratic institutions still exist in Hungary but their operation is distorted due to the political appointees (e.g., in the case of Prosecutor General). The European Union responded to this phenomenon by triggering infringement processes. The answer from the 2<sup>nd</sup> and 3<sup>rd</sup> Orbán governments was carrying a double-talk strategy. The government offered technical, policy-based solutions at the European level, but talked about a political fight for sovereignty at the domestic level. As part of the populist strategy of Fidesz, the European Union was presented as the enemy of Fidesz and Hungary, first because the EU criticised the government and second, because Fidesz needed an external enemy in order to maintain its saviour image and populist strategy. This assaulted castle strategy also strengthens the position of the party in Hungary, as it helps keeping voters committed to the government. These characteristics were present in both the first period (second Barroso Commission) and in the second (Juncker Commission), although as a reaction to the strengthening critics, Fidesz also became more aggressive (see the Juncker billboards) but its strategy remained the same.

The European Union reacted to the Eurosceptic rhetoric of Fidesz by introducing more infringement procedures in the field of the rule of law. These actions, however, resulted

in some controversies. First, the EU defined neither the rule of law, nor the European values, which resulted in further clashes, and reinforced the fact that the debates between the Hungarian government and the EU are politics-based. Moreover, mostly left-leaning parties and politicians criticised Orbán and his endeavour while centre-right actors have had the same criticisms relating to the social-liberal Romanian government. This latter also underlines the left-right logic of these conflicts used as weapons only against those on the other side. With the increase of problematic leaders and member states, we can say that the political nature of these conflicts became more visible during the Juncker Commission. Secondly, Orbán has gained new allies in the EU by the migration crisis from 2015 on (that is during the Juncker Commission), and the number of politicians who stood for him has increased due to some changes in governments. Thus, we can conclude that the main difference between the two periods is that the European sphere became more heterogenous partly due to the migration crisis and partly due to the entrance of new populist actors after 2014. The lack of unity prompted a need to stand up stronger against a/the democratic backsliding while also weakened critics through the lack of a unified voice.

The migration crisis also made it clear that a new debate emerged in Europe about the possible future scenarios of the European integration. The disputes over the use of Article 7, a clearly political tool, very well highlights that the elite of Europe is not united anymore. Even leaders of established and mainstream parties have different views on the form of the integration from the Spitzenkandidat-system through the handling of migration till the common European army and the European budget. Hence, blaming the European Union creates the opportunity for Orbán to express his views on the integration and to become an active participant in this debate.

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