**The Twin Challenges to Separation of Powers in Central Europe: Technocratic Governance and Populism**

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*Separation of institutions, functions and personnel – Checks and balances – Hungary, Poland, Czechia, Slovakia – Short tradition of separation of powers in Central Europe – Fragile interwar systems of separation of powers – Communist principle of centralisation of power – Technocratic challenge to separation of powers during the EU accession – One-sided checks on the elected branches and empowering technocratic elitist institutions – Populist challenge to separation of powers in the 2010s – Re-politicising of the public sphere, removing most checks on the elected branches, and curtailing and packing the unelected institutions – Technocratic and populist challenges to separation of powers interrelated more than we thought*

We show in the paper that the separation of powers is at best a flimsy and certainly not a particularly longstanding tradition in Central Europe and that this path-dependence has substantial ramifications for present-day political developments. Contrary to many contributors to the ongoing debate on the state of the rule of law in Central Europe, we thus emphasise the embeddedness of the current problems in the history and legal cultures of the region. In other words, the history of the separation of powers and the abuse thereof plays a significant role in understanding the current predicament of Central European countries.

Our argument is threefold. First, we argue that the fragile interwar systems of separation of powers in Central Europe were further disfigured during communist rule, and subsequently by the EU’s technocratic ‘let the experts rule’ approach to the separation of powers. This made it easier for populists to attack the separation of powers and, in particular, its checks and balances component. Second, with an overview of the Central European trajectory in this area, we argue that the two major recent challenges to the separation of powers in the region – the rise of the unelected and the wave of populism – are more interrelated than usually thought and that the former has greatly contributed to the latter. In fact, it can be understood as a direct precursor to, and an important part of the triggering mechanism of, recent populist expansion. We construe this series of developments and the related phenomena as an ‘overreaction’ to an ‘overreaction’. The accession period overreacted to the communist past by extreme depoliticisation of the public sphere, installing one-sided checks on the elected branches and empowering technocratic elitist institutions (especially the judiciary). This, in turn, led to populist overreaction, which swung the pendulum back to the other extreme by the re-politicising of the public sphere, removing most checks on the elected branches, and curtailing and packing the unelected institutions (in particular the judiciary). Third, we show that each Central European regime attacked some components of separation of powers more aggressively than others. In general, we argue that the problems of the separation of powers in Central Europe are greater than any quick institutional fix could remedy.

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