Early consolidation and the crisis of the fragmented democracy:

The majoritarian-consensual democracy debate in Hungary

This paper has a shorter theoretical and a longer „empirical” part. The introduction deals with the conceptual framework, followed by its application as a Hungarian case study in an East Central European context. The theoretical analysis focuses upon the explanation of the early consolidation in ECE that has been a new (sub-) stage of democratization. The case study, in turn, argues that Hungary may be the model for the competing conceptions of democracy in political practice, since (i) an extended version of consensual democracy was established in the early nineties but opposed by the first government; (ii) there was an attempt by the second government to complete consensual democracy but it failed; (iii) an abrupt turn was made towards majoritarian democracy in the late nineties by the third government. In Hungary there has been a long debate on majoritarian versus consensual democracy, involving the politicians, the experts and the larger public. Finally, some general conclusions can be drawn about the troubles of the young democracies.

The theoretical framework: early consolidation and fragmented democracy

In international political science there has been a long debate on majoritarian and consensual democracy as well as on democratic transition and democratic consolidation. As a reflection of these current theoretical debates, this paper intends to set up a conceptual framework for the democratization process by redefining its stages and introducing the concepts of fragmented democracy and/or asymmetrical democracy. I have contributed so far to the discussions on consolidation by describing the distinction between democratic transition and democratic consolidation in the ECE countries comparatively (Agh, 1998a,b) and by suggesting an intraregional and interregional typology of the new democracies in ECE and in the Balkans, or recently by elaborating the concept of early consolidation in ECE (see e.g. Agh, 1999a,b,c).

First, I have distinguished between early and mature consolidation as substages of that development that has been described by the „consolidology” in Southern Europe (SE) because I suppose that the democratic consolidation will be longer and more difficult in ECE than it was in Southern Europe. This distinction is necessary for both external and internal reasons, since the external conditions are much less favourable and the tasks of the socio-economic transformations are much bigger. The ECE countries have had more or less a common course of democratization, at the same time they have their own particular ways of development within the region, although at least Hungary and Poland have definitely entered the period of early consolidation.1

The main task of democratic transition was institution building („polity first”, Merkel, 1998: 43, 56), while the task of democratic consolidation is the „Cultural Revolution”, i.e. the emergence of civic culture and civil society. Democratic consolidation takes place unevenly in various social sub-systems, i.e. it begins in some parts of the polity and society earlier than in other parts. Thus, for a detailed analysis, one has to identify those subsystems where consolidation begins and to
describe the sequence of subsystems driven into consolidation. Whereas democratic transition has covered a short decade in ECE, democratic consolidation will obviously be a more prolonged stage of democratization. Hence, it needs its own internal periodization. I call its initial period „early consolidation” and its final period „mature consolidation”. Early consolidation in ECE actually overlaps in many ways with the end of democratic transition, since democratic institution building still continues in meso- and micro-structures, although the basic macro-institutions have already been consolidated. Nevertheless, there has been a shift from institutionalisation to the routinization of the patterns of democratic culture and to the emergence of a multi-actor democratic society. At the level of micro-institutions there is no dichotomy between institutions and political culture but they are closely intertwined. In the period of mature consolidation the „building” of civil society comes to the fore manifestly, though its prehistory has already been very dynamic in the nineties.2

Consequently, the ECE region needs its own special theory of democratization. Instead of Huntington’s theory of a Third Wave, it would be better to call the Central and East European democratizations a Fourth Wave. The Third Wave took place in a bipolar world, the Fourth Wave in a unipolar world. The ECE countries have currently experienced the same change between the periods of democratic transition and democratic consolidation that occurred in the SE countries in the early eighties, but in a completely different environment. In international theoretical debates there has been a change from „transitology” to „consolidology”, and in consolidology from the „minimalist” concepts (the creation of formal democratic structures) to the „maximalist” ones (the routinization of the broad-based democratic culture) (see Plasser et al, 1998). But, given the fact that democratic consolidation lacks the strong EU support enjoyed by the SE countries, the process of democratic consolidation takes places in ECE under more difficult conditions and it will obviously take more time and, therefore, it has to be separated into two major sub-stages. The early and the mature consolidation as separate periods have to be defined also according to the logic of pre-accession and accession as different, sequential stages of the EU integration. Thus, the common process of internal and external developments in ECE needs a new conceptual framework in which the period of democratic transition largely overlaps with that of association to the EU and the period of early democratic consolidation corresponds to that of accession to the EU.

However, early consolidation is clearly distinct from democratic transition, since the economic recovery has begun and produced sustainable economic growth in ECE. In spite of the robust development of civil society in the late nineties, however, the criteria of a consolidation proper, i.e. the full revival of civil society and „invention of democratic traditions”, cannot yet be met by the ECE countries. Sustainable economic growth made democratic institution building in meso- and micro-politics possible, although the abrupt change from a mere multiparty to a real multi-actor politics has not yet taken place. The macro-political actors still occupy the central place in politics, although they are not able any longer to monopolise it. Altogether, one has to realise that, in general, the period of democratic consolidation is more difficult in ECE, both in domestic and international dimensions, than it was expected to be earlier, in the chaotic period of democratic transition. In the conceptual framework I suggest here, early consolidation starts with a switch from a „vicious” circle, in which economic political and social systemic changes influence each other negatively, to a „virtuous” circle, in which these subsystems mutually reinforce each other positively. The decisive push came from the results of economic systemic change, i.e. from the emergence of the dynamic market economies in ECE. The process of gradually overcoming democratic transition was generated by the sustainable economic growth from the mid-nineties on. In Hungary the average annual growth of industrial labour productivity was above ten percent and economic growth from 1997 on has been around 5 percent. It has led to an early consolidation in politics through the relatively stable quasi two party systems by the late nineties. In this way, the preconditions have been set for the emergence of a multi-actor democracy in meso-politics and for
the accelerated development of civil society in micro-politics. With all these transformations of the society as a whole, including its civic culture, mature consolidation will begin only after a couple of years through the full working of the „virtuous” circle. That is, finally, sustainable economic growth and consolidated politics will create real systemic change in the entire society.

Second, the problem of consensual democracy has also appeared in „consolidology” in an indirect way, since in most theories democratic consolidation means actually the establishment of a consensual democracy. For example, although Wolfgang Merkel raises the question of „which type of democracy” will emerge by consolidation (that is „majoritarian, consensus or intermediary”), he still defines consolidation in a particular way that covers basically the definition of consensual democracy. He links and identifies consolidation and consensual democracy first of all through „social and political inclusion” meaning that „no ‘structural’ minority group (racial, ethnic, linguistic or religious minorities) as well as relevant political minorities should be barred from or be at a disadvantage in gaining institutional access to political power” (Merkel, 1998: 48). In fact, the sequencing of development as stages of democratization means also changing types of democracies, so the issues of consolidation and those of consensual democratization largely overlap or are even treated as the same process. For Philippe Schmitter the problem of democratic consolidation can be formulated also as the „quality of democracy” by which he understands a consensual model with completed „partial regimes” (Schmitter, 1992: 433). Finally, summarising the views of the leading analysts, Peter Mair (1998: 197) notes that „the likelihood of a successful consolidation of democracy depends in large part on the willingness of the protagonists to encourage a culture of compromise and accommodation. Winners should not take all”.3

My concept of early consolidation presents this „consolidation-consensual democracy linkage” or „equation” in its initial stage. Because of the deficiencies of democratic transition in ECE, early consolidation at the political level produces a „performance crisis” in the workings of democracy. Democratic transition was connected with a low performance of the newly built democratic institutions and therefore political modernization was put high on the agenda. The EU accession process has also pushed the ECE countries towards more efficiency, emphasizing more and more the effective implementation through the increase of the institutional or administrative capacity (Agenda 2000, Hungary, 1997: 72,79). Thus, international factors have also demanded to overcome this performance crisis of democracy by the improvement of efficiency and the enhancement of the capacity of the political system.

The debate on majoritarian and/or consensual democracy has gone through the entire history of the young Hungarian democracy. However, the acute crisis of the „fragmented” and „asymmetrical” democracy in the period of the early consolidation and the entry of the new conservative-liberal government in 1998 has made it into a central issue and a permanent controversy. The more elaborated explanation of the concept of fragmented and asymmetrical democracy leads us to the story of the negotiated transition in the late eighties and to that of the establishment of consensual democracy in Hungary in the early nineties.

Establishment of consensual democracy in Hungary in the early nineties

In Hungary the constitutional engineering for a democratic polity began as early as 1988-89 and produced a consensus about the consensus, that is a general agreement of all political actors involved to establish a consensual type of democracy. The reasons for this consent were the following:
“Openness”: Hungary had a long pre-transition period, became a transparent and open country in the 1980s. In 1988-89 there was a „Spanish craze”, since Spain was a model of successful transition for Hungarians, so even the German „import” of the constitution was deeply influenced by the Spanish model. There was very early legislation on the market economy and democratic institutions, in 1987-89, before the negotiated transition (national roundtable talks took place between June and September 1989).

„Constitution-centrism”: The negotiating parties had a lot of experts of constitutional law, among leading politicians as well as in their support teams. They were quite aware of the latest constitutional developments in the West and brought in all kinds constitutional devices from Western Europe. Actually, some research on the constitutional alternatives for Hungary began at least in the mid-eighties and was already summarised in the Draft Constitution published in November 1988.

„Uncertainty”: In Hungary there were real, multiparty roundtable talks that meant at the same time a high level of uncertainty about the electoral outcome and it provoked also mutual suspicions among political actors. This situation led to pressure on elaborating an oversized system of checks and balances.

There is no doubt that this consensual process of negotiated transition produced a Constitution based on the principles of consensual democracy in Hungary. At the same time, due to the above-mentioned specific factors, the new Constitution in 1989 comprised an oversized set of checks and balances, although many of the imported institutions were vaguely defined and/or overlapping. Thus, consensual democracy emerged in a form of a fragmented democracy with an overdriven separation of powers. On the other side, consensual democracy was institutionalised as an asymmetrical democracy. The Constitution as a blueprint for democratic institution building was only „half-made”, i.e. not completed concerning some institutions, and therefore the emerging institutional system also remained „half-made”. These are the typical disadvantages of the early comer, since Hungary began the political and constitutional changes „too early”. The roundtable negotiations produced already a fully amended Constitution, with a clear profile of a consensual democracy but without a coherent arrangement of „imported” institutions and without the completion of institutional design for all institutions. When the historical moment of „consensus about the consensus” was over, the politicians and the constitutional lawyers, as well as the political scientists, realised these contradictions but the parties have never been able to find a new consensus on how to correct the unbalanced constitutional structure. Despite some very important corrections that have been made since then, the Hungarian polity has kept its infantile disease: a basically consensual democracy with many features of fragmented and asymmetrical democracy.

If the fragmented structure came in 1989 from the over-competition among the warring parties, then the asymmetrical character was caused by the marginalization of social actors by the same parties. This „over-particization” has remained a major feature of the young democracy in Hungary; i.e. as an effort by the parties to monopolize political life and institutionalize their quasi monopoly. The social actors were not really included in the process of negotiated transition, since they looked too strong at that time for the new and weak political actors. Actually, the old „official” trade unions participated as the „third side” at the negotiations but had no influence at all. Furthermore, the national roundtable talks had a section dealing with the problems of social transition but did not conclude in meaningful results, unlike the other section dealing with constitutional matters. Although organized interests play a very important role in democratization (Merkel, 1998: 53-56), in this respect, indeed, the negotiations remained unfinished. The political actors neglected these unsolved social issues more and more as the founding elections in the Spring of 1990 came closer and closer. In Hungary the main political actors, the parliamentary parties emerged in the late eighties, and with the exception of a later organized extreme right party, since then the same parties have dominated the political scene.
The same story of the half-made institutions applies also to the territorial actors. There had also been consent during the roundtable negotiations in creating the local self-governments as a separate and independent branch of power. A sharp controversy surfaced later, after the first free elections, in the process of the detailed legislation, that should have served for entitling them to a real independence. The asymmetrical elaboration of institutional structures in this respect by the Constitution and through further legislation has appeared most markedly concerning the regulations of local and regional self-governments that reflects the unfinished character of institution building. Basically, there is a huge contrast between their legal-political independence and the financial dependence of territorial actors on the state. In addition, because of the drastic restriction of the public sector and the radical economic crisis management, the incomes of local and regional self-governments were curtailed throughout the nineties, e.g. 1990 they kept 50 percent of the local personal income tax, in 2000 only five percent. With this creeping financial re-centralization, the territorial actors have become more and more dependent on the state administration and this has resulted in their partial re-politicization.

In short, fragmented democracy is an extreme version of the consensual democracy with an overdriven separation of powers and an overlapping system of „checks and balances” type of institutions. Hungary imported from the late eighties and later on (the cycles of the Transitory Parliament, 1985-90 and the First Parliament, 1990-94) all kinds of democratic devices from the West for its constitutional set-up. Including, among others, a very powerful Constitutional Court, the ombudsman system and the local-territorial self-governments as an independent branch of power. The competencies of these institutions have been partly overlapping, partly contradictory, but also partly missing as detailed regulation. This fragmentation of the polity has been one of the reasons of the relatively low performance of the new democratic regime in Hungary in the nineties that has been even worsened by troubles in intergovernmental relations.

The first freely elected government regarded this system of „checks and balances” as limits of its power and generalized it as limits of governability as such. Actually, the introduction of the prime ministerial system or the „chancellor democracy” through a major amendment of the Constitution in 1990 enhanced the powers of the executive but kept all the constitutional devices of „checks and balances”. Thus, the first government in the early nineties raised the concept of majoritarian democracy, more and more assertively. In this view, the regular free and fair elections every four years should be the only necessary institutional limitation to the government’s power. The contradiction of „democracy” and „constitutionalism” rose very strongly in the First Parliament as a tension between the freely elected government and the basic constitutional principles (see EECR Vol. 1, No. 3: 19-24). The debate began on what are the constitutional limitations of a simple majority in a four-year parliamentary cycle. In this situation, in fact, the chief „balancing” political actor was the Constitutional Court and not the parliamentary opposition. The Constitution introduced a clear separation of the acts passed by a simple majority or by a qualified, two-thirds majority. At the beginning of democratic transition, the most important acts were two-thirds majority laws. It meant indeed, a limitation of the government’s power and created a situation in which the government had to make compromises with the opposition. Actually, in the First Parliament the fierce political struggles were around these acts and only some of them were passed because the national-conservative government was not ready to compromise with the opposition. Consequently, the period of consent was over and when the first freely elected government stepped in, it turned against the structure of the consensual democracy in elaborating the details of the system of democratic institutions.

The first government claimed to represent the „national interests” and wanted, on behalf of directly represented „nation”, to transcend its competencies by dominating the other centres of power. The national-conservative government had a series of conflicts with the president of the
republic, the parliamentary opposition, the organized interests and the territorial actors. Namely, with the parliament concerning the new Standing Orders, with organized interests about social partnership, and with the territorial actors about state control in the intergovernmental relationship. And finally, with the president of the republic about the appointments of presidents of the Hungarian Radio and TV (EECR Vol. 1, No. 2: 4). The removal of the independent presidents of the public media by the national conservative government triggered a „media war”. The extreme right within the leading coalition party, the predecessor of PHJL led by István Csurka, took the „winner takes all” principle seriously by extending it to the (public) media. Actually, the first freely elected Hungarian government wanted to control the media and this media war went through the entire period of the national-conservative government.

The first government wanted to establish a quasi majoritarian democracy. The opposition was forced, therefore, into the position of representing the principles of consensual democracy by claiming that the constitution stipulated a multi-actor polity with many independent institutions and, in this way, democracy meant a permanent process of negotiations with a compromise-seeking behaviour. The opposition after the negotiated transition wanted to complete the process of the import of a Western, mostly German, model, in order to institutionalize a „negotiated democracy” (Verhandlungsdemokratie). At the same time, in this effort they took some counterproductive steps as well, when they forced some measures upon the government that further complicated the situation of fragmented democracy, e.g. by fragmenting local self-governments. Actually, at the insistence of the Alliance of Free Democrats all Hungarian settlements, no matter how small they are, have become quasi „independent republics”. Thus, 3200 „small republics” have emerged in Hungary and, in the cases of small settlements, it is still very difficult to organize their co-operation for the provision of their basic services. In such a way, the long-term tendency of establishing consensual democracy was partly overshadowed by some short-term tendencies of party politics.

The first government had a crushing defeat at the second free elections. Undoubtedly, the main reason for the failure of the first, national-conservative government was its effort to divert democratization to a majoritarian type of democracy, embracing even some features of the interwar authoritarian system, since this move was very unpopular in Hungary.

The failure of socialist-liberal government to complete consensual democracy

The next, socialist-liberal Horn government (1994-98) made it clear from the very beginning that its aim is to return to the consensual type of democracy by strengthening the consensual features of the Constitution and the ensuing legislation. Yet, the crisis phenomena of the fragmented democracy in the mid-nineties did not decrease significantly; it even increased in some respects due to the half measures of the government, since neither the political will, nor the common vision for a new, coherent Constitution was present in this coalition. Actually, the second
government made an attempt at passing a coherent Constitution, i.e. removing contradictions and legal gaps, but it failed because even between the coalition parties there was no agreement concerning the necessary changes.

Beyond macro-politics, the socialist-liberal government made a pledge in its programme for a social-economic pact, following the model of the Moncloa pact in Spain. However, they had to give it up in late February 1995, in the wake of the austerity programme (the so-called „Bokros package”, named after the minister of finance) announced on 12 March 1995 as radical economic crisis management. The same failure occurred concerning the territorial actors, since no solution was found for two interrelated problems, fragmentation of local self-governments and the relationship between the 19 traditional counties and the 7 new macro-regions. Despite these failures, the efforts for further elaborating the system of democratic institutions and their regulations by the second government were evident and had partial success in many fields. Yet, altogether the end result of the second government and Second Parliament, as prolonged and protracted institution building, finally appeared as unfinished business. In addition, due to the huge legislative burden, the parliament still worked as a law factory, that is quantitatively, since there was still no intensive or qualitative legislation.6

The socialist-liberal government failed to produce a new Constitution but unlike the premature or „rush to fix” constitutions, there was a constitutional state emerging in Hungary. If one makes a distinction between the constitution as a document and the constitutionalism as practice, then the same distinction can, and should be, made between the constitutional principles of consensual democracy and its reality as a working consensual democracy. Actually, in the theories of constitutional law there has been an attempt to express even the nuances of the rule of law system and the practice of consensual democracy. In the early nineties the term „legal security” was applied to the situation of a stable legal system (EECR Vol. 1, No. 1: 8), later on its predictability came to the fore, using the term of „legal certainty” (EECR Vol. 4, No. 4: 13). Finally, by focusing on the enforceability of rules by an independent judiciary, we can also use or introduce the term of „legal safety”. In the same way, we have to approach consensual democracy from the side of its real existence as well, then we find that constitutionalism developed a great deal in the cycle of the Horn government, although complete legal safety was not reached. The workings of consensual democracy improved a lot by the vigorous development of local self-governments, and by the other territorial and social actors, even if the proper and coherent constitution was not elaborated. Hungary, unlike other countries did not use the „rush to fix” approach that meant the „market first” principle through downgrading democratization. On the contrary, Hungary carefully managed the simultaneity of economic and political changes in a piecemeal way. Actually, the emphasis was put on the „polity first” approach, since the Hungarian constitution was conceived in the spirit of consensual democracy.

The establishment of consensual democracy led to a paradox in Hungary: the more consensual democracy a country has, the more detailed regulation has to be elaborated in its meso-structures, and, therefore, the more there is a chance of disagreements in this detailed regulation. Actually, this paradox characterised the entire activity of the socialist-liberal government. The coalition parties had no serious disagreement about the macro-political constitutional regulations (division or separation of powers), or if they had any, they pushed them into background. For instance, the HSP wanted a direct election of the president but did not insist on its introduction when it was strongly opposed by the AFD. But the two parties had sharp disagreements about meso-politics, above all about the role of social actors. Namely, the HSP wanted to include more social rights and more competencies for social actors into the Constitution and this move was fiercely opposed by the AFD. As a matter of fact, this controversy led to the failure of passing the new draft Constitution by missing the two-thirds majority hurdle in the parliament on 27 June 1996.
Despite this controversy about „corporatism” one can observe substantial developments in the mid-nineties in three fields that are very characteristic for a consensual model: minority rights, social rights and media freedom. First, in December 1994 at the municipal elections, minority self-governments were elected and, based on them, minority national councils were organised. Second, although the austerity package reduced its extension, the corrections of the Constitutional Court reconfirmed the vigorous existence of social rights in Hungary, including the participation of social actors and relevant organizations in its enforcement. Third, the media law in 1996 carefully outlined consensual democracy by establishing all-party steering committees (curatoria) to control the public media and by inviting social actor and civil society representation beyond parties into these bodies. Conversely, these steps taken by the Horn government widened the horizon of consensual democracy and its enforceability, although the „performance crisis” of young democracy was not solved.7

Even though, there was a genuine effort for further developing the system of democratic institutions by the second government, the contradictory steps in institutional developments prepared and provoked the crisis of the fragmented democracy. In this situation there were two ways of getting out of this incoming „performance crisis” in order to increase the capacity of the political system substantially: towards majoritarian or consensual democracy. The socialist-liberal government in the cycle of the Second Parliament wanted to keep consensual democracy by enlarging it and, with fine-tuning in the constitutional engineering, by harmonising the competencies of the various institutions. They failed, but did the job of radical crisis management and created sustainable economic growth. However, crisis management was one of the reasons for the relative electoral defeat of the socialist-liberal coalition. Namely, due to the particular character of the electoral system HSP with more votes received fewer seats than Fidesz. Thus, after the third free elections, in the cycle of the Third Parliament and the new national-conservative government, a new effort to create a majoritarian democracy has come clearly to the fore.

„Presidentialization of democracy” by the conservative-liberal government

In 1998 a new attempt began to return to majoritarian democracy by the new centre-right government. The new coalition has intended to concentrate all executive powers in the central government in order to cut short the decision-making process and to enhance the policy-making capacity of the political system as a whole. The government has used all possible means to the - partial or complete - exclusion of the other actors, first of all the opposition parties, from the policy-making process. Moreover, in Central Europe there is still a living conservative tradition of a strong state, so different from the current idea of the „effective state”. Therefore, when conservative governments try to return to majoritarian democracy they copy not so much its present models from the West but the Hungarian authoritarian traditions from the past, the periods at the turn of the century or in the interwar years.

The efforts to return to majoritarian democracy or to establish a presidential-type of democracy in a parliamentary disguise can be noticed in three fields:

1. In the prime-ministerial system the Prime Minister’s Office (PMO) plays a central role, as it does in Germany and Spain as well. Actually, in Hungary during the first and second governments there was an incompatibility between the constitutional powers and the capacity of the office-organization of the Hungarian prime minister, since the „import” of this constitutional arrangement was not accompanied by that of the proper organization. The third government has completed this „import” by establishing a big central organization similar to the Chancellor’s Office in Germany. This is a very powerful organization but its working does not lead „automatically” to
majoritarian democracy, since it has been properly balanced by other institutions in all countries concerned. The completion of democratic institutions with a proper Prime Minister’s Office has not produced in itself a move towards majoritarian democracy in Hungary either. To the contrary, it has been a positive step that has been, however, driven to the other extreme, and in this particular form has become the „flagship” of the new government, as the new „minister of the chancellery” said.

Thus, the Prime Minister’s Office, controlling closely all ministries and extending its powers well beyond the traditional competencies of its German model, has become the symbol of the recent effort at majoritarian democracy in Hungary. The PMO has developed a large department for political communication and it has also received the function of interest reconciliation. In both functions it has tried to influence and control civil society, putting pressure on the media and on the top civil organizations. The individual ministries have lost power and influence by this power concentration process that has continued in the ministries themselves by their drive to weaken their quangos and to reduce their relative independence. Some important independent agencies like the National Board for Technological Development have been turned into simple departments in ministries, and many public foundations have been directly attached to the ministries concerned. In such a way, the rather differentiated field of the central government has been much more concentrated vertically. At the same time it has also been reduced horizontally through the extension of competencies of the Prime Minister’s Office at the expense of the individual ministries (see EECR, Vol. 8, No. 4: 14).

2. In 1998 simple majority rule began in the Third Parliament. When the new parliament was elected and in the first session the parliamentary positions were distributed, the first conflict broke out immediately, since the new government was not ready to allocate the committee seats proportionally as the Standing Orders stipulate. HSP, the largest opposition party received fewer committee memberships than its proportion of seats. It is not simply an interruption of a tradition and violating a rule but it has a practical function as well. One-third of committee members has special rights, e.g. they can present their minority views in the plenary session, so the reduction of the opposition MPs below one third in some committees is a powerful tool to silence the opposition in the parliament. In addition, in early 1999 the government wanted to amend the police law, a two-thirds majority law, by a simple majority but the Constitutional Court ruled the bill anti-constitutional (Vol. 8, No. 3). When this way of legislation was barred for the government, it has tried to circumvent the qualified majority laws in other fields, as they call it, by „reinterpreting” them.

The central issue for „reinterpretation” has been the schedule of parliament. The most effective idea to reduce the role of the opposition, the media and the public at large in the parliamentary affairs has been the introduction of the three-week working cycle in the Third Parliament. The First and Second Hungarian Parliaments had a one-week cycle of working, i.e. every week began with a two-day plenary session, followed with a one-day meeting of parliamentary committees. In such a way, both the public and the media followed the parliamentary debate carefully all the time. The parliament could react to all events directly, the legislation was continuous and the opposition had ample time to scrutinise the executive. The new system in the Third Parliament has a three-week cycle, i.e. the first week for plenary sessions, the second week for committee meetings and the third week for constituency work (albeit only 45 percent of the Hungarian MPs have their own single member individual constituency). It is against the Standing Orders, again, and the Constitutional Court ordered the parliament to stop this practice or rearrange it by amending the Standing Orders until the end of 1999, but nothing has happened. The governing coalition has not amended the Standing Orders because they have no two-third majority necessary to amend it as they like. But they have continued the practice of the three-week cycle, disregarding the ruling of the Constitutional Court and claiming that they have not changed but only „reinterpreted” the Standing Orders (see EECR, Vol. 8, Nos. 1-2: 16).
The ruling coalition has argued that the new system has been more efficient, actually the opposite is true. By the new practice, however, they have radically reduced the frequency of the public appearance of the opposition as well as the time allocated for the opposition MPs to criticise the government and scrutinise the current legislation. The new arrangements altogether reduced the control function of the parliament itself. The legislation has become discontinuous, interrupted for two weeks, still the attendance of the plenary sessions and parliamentary committees has not improved, and many MPs have been quite often missing, first of all from the governing coalition. As a result, the Hungarian parliament has been devalued and the parliament as a political actor has played a much less important role in the recent parliamentary cycle than it did in the First and the Second Parliaments.

In the current parliamentary cycle, the image of the parliament has been blurred for the public anyway, since the opposition has become very heterogeneous in the Third Parliament. Only the HSP and AFD represent a real opposition, the extreme right PHJL has formally been in opposition, but it has usually supported the government. So, in fact, the incumbent centre-right government has a parliamentary coalition with the extreme right. Having an ally in the opposition has also been a powerful tool for the government in the composition of the steering committees (curatorium) controlling public media. These committees are all party bodies but have been composed of coalition parties only and acted as exercising government control over the media, that is, basically contrary to that function that was assigned to them by the 1996 act on the public media. The PHJL has demanded more representatives in these bodies than proportionally it would have deserved and the government has claimed that the opposition, so to say, has not been able to agree on its delegates. By this trick that is by silent co-operation with the extreme right the government has appointed steering committees exclusively from pro-government delegates. The first case happened to the public TV steering committee and the Constitutional Court ruled that an incomplete committee was better than no committee (see EECR Vol. 8, No. 4: 23). Encouraged by this decision, in late February 2000 the government elected these incomplete, pro-government steering committees for all institutions of the public media through the assistance of the extreme right party. As a protest action, the MPs of the HSP and AFD walked out from the plenary session on 29 February 2000. The issue is back again at the Constitutional Court and on 6 March 2000 the Chief Public Prosecutor resigned in protest. The establishment of pro-government committees has been a model case. The incumbent government has clearly overstepped the formal regulations by „reinterpreting” them in order to stretch its powers beyond its real competencies, violating the spirit of democracy.

In the Third Parliament even the definition of party faction has become vague and elusive. The electoral law puts a threshold of five percent for the parties to enter parliament but the Standing Orders demand 15 MPs for establishing a party faction. These two criteria have come into conflict in the Third Parliament, since the PHJL reached the five percent threshold but had only 14 MPs (now 12 MPs) and the HDF did not reach the threshold but had 17 MPs from the individual single member constituencies. The new coalition included the HDF but also the PHJL voted for the government’s programme „with some reservations”. Hence, the interest of the new government was to grant a faction status with all the provisions (financial and personal resources and the right for participation in House Committee and standing committees, etc.) to both parties. The Constitutional Court accepted this decision but instructed the Third Parliament to pass a coherent regulation on the faction status in the Standing Orders that has not taken place so far (see EECR Vol. 7, No. 3: 15). With these dubious decisions, the national-conservative government has created two partners in the Third Parliament, not only for a governing coalition but for a broader parliamentary coalition as well. By its qualification as a parliamentary faction, the PHJL could send delegates to the steering bodies of the public media. Moreover, the PHJL has served as a tool for the government in order to
prevent an agreement between the three opposition parties, giving in such a way an excuse to the government for the creation of the exclusively pro-government media steering bodies.

3. The incumbent government has pursued a policy of confrontation not only with political actors but also with social actors. Meso-politics, as a site of asymmetrical democracy, has not been further developed or „completed” by removing its asymmetrical character. Quite to the contrary, its capacity and competencies have been reduced and this has enhanced its asymmetrical character. The imperfect but still rather efficient system of the tripartite Interest Reconciliation Council (established in 1989) has been abolished and an Economic Council has been organized instead. This is only a consultative body without actual powers, convened twice a year. Parallel with it, the National Labour Council has also been established in the competitive sector with very restricted negotiating powers. By these transformations the whole system of interest reconciliation and concertation has become meaningless. Not only the trade union confederations, but also the business interest organizations have been marginalised as partners. So both types of interest organizations have turned against the government and concluded a series of agreements between themselves that is on a bipartite basis. In early 2000 a strike wave began which indicated that the long period of labour peace has come to an end because the government has not been ready to accept organized interests as real social partners to negotiate with. As the current EU literature has demonstrated, however, the social dialogue is important also for the concertation of various policy fields (Ebbinghaus and Hassel, 2000: 45).

The territorial actors have also been marginalised. The independent tax income of the territorial and local self-governments has been further reduced, this time to a mere five percent of the personal income tax of the residents. In 1998 the government lost the electoral fight for the post of Lord Mayor of Budapest, so the capital city has had to face a series of punishments by the central government, first of all drastic reductions of the infrastructural investment in the capital city. Moreover, the heads of the county administrative offices were fired in December 1999 and new heads have been appointed who are loyal to the government. These county offices were established in 1994 to provide a legal control on the territorial actors without intervening into their internal affairs. The heads of the county offices, supposedly, are civil servants and not political appointees. Thus, by removing the independent civil servants and appointing „party soldiers” instead, the government has promoted its regional clientura and the local patronage system, but again has „reinterpreted” the legal regulations.

All these efforts to establish a quasi majoritarian democracy can be summarised in the tendency of „the presidentialization” of Hungarian democracy by the incumbent prime minister. The prime minister has attended the parliamentary sessions very rarely so far and he has also avoided parliamentary control in the cases of the interpellations and parliamentary questions by shifting the duty to answer them to the other ministers who are, indeed, his „secretaries”. He has introduced a series of „Messages to the Nation” like the American president at the beginning of the political season, every year in early February, but outside the parliament, addressing only his followers in a ceremonial building but televised by the public TV channel. This prime minister with presidential manners has not been ready to negotiate or communicate with the leaders of the opposition or with prominent social and business actors. He has sent only his delegates to them in order to express that he is above the other actors and not one of them to negotiate with.

This practical-political turn towards majoritarian democracy, as an effort for „the presidentialization of parliamentary democracy”, has been accompanied by sharp discussions at three levels that have to be treated separately:

(f) The new national-conservative government has tried not only to introduce a quasi majoritarian democracy in its political practice. Its practical steps have induced an intensive
political struggle and have also been accompanied by the official declarations on the necessity of majoritarian democracy. This approach has opened a political and theoretical debate on the future, and the optimal type, of democracy in Hungary. Some theoreticians of the new national-conservative coalition like Béla Pokol, a constitutional lawyer from the national-populist Independent Smallholders Party (ISP), have made an effort to explain the principles and reasons for the return to majoritarian democracy. He has argued in several publications, but also in newspaper articles, that the representatives of the former regime still control the major social sub-systems like e.g. media, organized interests and territorial actors. So, according to him, the independence of these spheres from the central government would mean a continuation of the former communist regime, and therefore the autonomy of these structures has to be abolished. In general, according to most representatives of the new conservatives, a real systemic change needs power concentration in the hands of the central government and, hence, a return to majoritarian democracy (Pokol, 1999).

The opposition politicians, like the president of the Hungarian Socialist Party, the largest opposition party, have emphasized that the biggest difference between the government and the opposition in the Third Parliament has been in „the concept and the practice of democracy” (Kovács, 2000). The opposition has demanded consensual democracy and the continuation of its practices. Beyond this political conflict, new forms of social conflicts have arisen about the distribution of the gains coming from the accelerated economic growth. There has been a public debate about the role of social actors and their claim for wage increases. Among others, Gábor Obláth, the Head of Kopint-Datorg, one of the most influential policy institutes, has pointed out that a new and basic compromise is needed between the government and the society for the further crisis management under the circumstances of sustainable economic growth (Obláth, 1999). The government, however, has refused the principle of social partnership. The railway strike in early 2000 has become over-politicised and it has divided the country in two „camps” in public debates.

(ii) Throughout the nineties an academic debate has been going on about the concepts of democracy and the sequencing of democratization that has accelerated and intensified with the entry of the new government. Most Hungarian political scientists have taken consensual democracy for granted in Hungary. But in the late nineties some scholars have supported the turn of the new government towards majoritarian democracy. The idea of majoritarian democracy has been incorporated into the book of András Körösényi, The Hungarian Political System (1998). At the same time, this idea has appeared in the papers of Körösényi and Béla Pokol written for the Decade-book of Hungary (1999), still the other contributions to this book on the ten years democratization of Hungary have represented the idea of consensual democracy.

(iii) The public at large has had its own discussions about the types and performance of democracy that can be detected from public opinion surveys. Public support for the third government has drastically declined and the same has happened to its leading figures. According to the public opinion surveys in March 2000, the HSP had at least a ten percent lead over Fidesz and among the 25 leading politicians the prime minister ranked only as the 13th and Csurka as the last one. After the second year of the Third Parliament one can already see that this attempt at creating a majoritarian democracy in Hungary is doomed to fail, still it is going to produce a lot of tensions in the coming years.8

Conclusion: Perspectives of consensual democracy in the context of Europeanization

The Hungarian case study on the controversy between majoritarian and consensual democracy has some general conclusions for democratization theory in ECE and beyond:
*There is a relative consensus about democratization at the beginning of systemic change that evaporates with the growing strength of political parties looking for conflicts within the newly established system of institutions.

*There is consent about the safeguards of democracy in the constitution in general terms but the governments taking office consider them as limits of their power and obstacles to governability.

*The type of democracy – consensual or majoritarian, or a particular mixture – will be decided only in the period of early consolidation, and, vice versa, this is a definition of early consolidation versus democratic transition.

Consequently, the full conflict comes into being after the successful completion of democratic transition, therefore, early consolidation as a new period has a higher level of political and social conflicts than before, except for the initial period of systemic change in 1989-1990. In some ways, history does repeat itself, the same conflict comes back „on a higher level” over the future of democracy based on the experiences of the first decade of democratization. Jon Elster already in 1992, after the first round of free elections, realised the danger of majoritarian democracy for the democratizations in Central and Eastern Europe: „In this region, majority rule is being adopted across the board. (…) there has been a shift from the despotism of the Party to the despotism of majority, both inimical to the protection of minority rights.”. Therefore, he has indicated some majoritarian problems and suggested counter-majoritarian solutions that I briefly summarise (Elster, 1992: 19).

First, a majority government will always be tempted to manipulate political rights in order to increase its chances of re-election. The timing of elections, economic provisions for the population before the elections, abusing public media for self-presentation, etc., may be used to prevent the popular majority from putting a new government in place.

Second, the government may have both a standing interest and „momentary passion” that makes it deaf to the demands of the rule of law. It presents its particular interest as common or national interests to suppress other interests and, driven by the illusion of representing national interest, tends to silence minority or partial interests.

Third, a majority type of government develops an ideology to exclude minority rights and to legitimise its claim for exclusivity. This is usually religious fundamentalism like the „Christian Europe” or exclusive nationalism like the monopoly of national traditions and interests (see Elster: 1992: 20).

The following counter-majoritarian, rights protecting or constitutionalism oriented devices can be used against the extremes of majoritarian democracy:

1. Constitutionalism in general as a basic device against the short-term efforts of incumbent governments; or constitutional entrenchment of rights in particular, with special respects to various minority rights. The best protection is the system of the two-third majority laws, and „The Hungarian constitution specifies that statutory legislation in a number of specific domains (e.g. electoral laws) also requires a two-thirds majority.” (Elster, 1992: 22).

2. Judicial review by Constitutional Courts as „ex ante” or „ex post” review of legislation. Elster notes that „The Hungarian court has been by far the most active one. In the last few years it has emerged as a major political force, and has in fact been characterized as the most powerful constitutional court in the world.” (Elster, 1992: 22).

3. The Constitutional Courts have to protect first of all the separation of powers, including the dependency of the judiciary on the executive. They have to protect this system from themselves as well, that is „The task of the court, it has argued, must be purely negative one of
voiding unconstitutional laws, and it must never get involved in positive lawmaking.” (Elster, 1992: 23).

4. Instead of the textbook idea of the three main institutions - the executive, the legislative and the judiciary - a „new trinity” of checks and balances has come into being: government, parliament and president. In Hungary, „Although the rule of a constructive vote of no confidence ensures that government has some independence from parliament, the strongest constraint on the legislature is provided by the constitutional court.” (Elster: 1992: 24).

As we have seen, the problem of majoritarian democracy and that of the counter-majoritarian measures has appeared very markedly in Hungary, since „the country that was least despotic – Hungary – is emerging as the one most strongly wedded to the principles of constitutionalism” (Elster, 1992: 24). My argument is that this contradiction between the most developed consensual democracy and the strongest effort for a return to majoritarian democracy has emerged in the sharpest way, so Hungary can be considered in this respect a classical case. I would also argue that „separation of powers” and „checks and balances” systems in Hungary cannot be reduced to the role of the Constitutional Court as it may seem from the analysis of Elster, although, no doubt, the Constitutional Court has become one of the major players. But I would add a series of other important institutions, like the ombudsman, the independent office of the Chief Public Prosecutor, the National Judicial Council separated from the Ministry of Justice and supervising courts, the fully independent National Bank and the Audit Office. All these institutions have been attached to and controlled by the parliament, so instead of the traditional control of the executive power by the legislative one, the Hungarian parliament controls the government mostly through these new institutions, including of course the Constitutional Court. This huge system of institutions has properly worked to counterbalance all tendencies by the governments to divert developments towards majoritarian democracy on one side. But, as a fragmented democracy, it has contained a series of contradictions, legal gaps and overlaps within the system that has prevented the good performance of the democratic polity as a whole on the other.

Beyond these domestic problems, there are two external factors that are nowadays pushing for the completion of consensual democracy and basically determining the „forced course development” or „path dependent development” in Hungary:

1. Hungary has to accomplish a full structural adjustment to the institutional structure of the EU. In the EU a new, extended meaning of representation has appeared (see e.g. B. Wessels) and in the direct accession process it has been formulated as stringent and mandatory preconditions for entry. The EU has clearly formulated the demand for the end of the „performance crisis” in the ECE countries.

2. The globalization process has also been pushing for a consensual structure of decision-making, i.e. for the involvement of all the interest groups concerned. „No globalization without representation” was also the slogan in the streets of Seattle, at the WTO meeting that expresses the new requirements of globalization. The ECE states have been shooting at a moving target because they have to secure a favourable business climate under the permanently changing conditions of globalization.9

This confrontation of the two concepts of democracy has surfaced under the new circumstances of globalization and Europeanization, and given the structural determinants of former development in consensual democracy. Thus, it is not by chance that the efforts of the third government to establish a quasi majoritarian democracy in Hungary have already met a strong international and internal resistance, and they have basically failed. Somewhat paradoxically, the EU has set higher standards for applicants than for members. The EU has always had a concept of consensual democracy, but the particular requirements as entry conditions have been constantly
redefined by the main EU institutions, and also by the Council of Europe. This paradox, however, has played a positive role, since it has pushed the ECE states, including Hungary, towards consensual democracy, including the minority issues. Actually, the correction of the present „asymmetrical” democracy means the establishment of those particular institutions in meso-politics in Hungary that are vitally needed for the EU integration in order to fit into the system of the EU institutions (top organizations of organized interests and Council of Regions).10

Finally, the governments of new democracies have to understand that winners should not take all.

Notes:

1. Concerning ECE developments, the focus of theoretical debates has shifted from transition to consolidation and there have been several attempts to define the features and criteria of democratic consolidation. Beyond the discussion about the sequencing of the democratization process, or about the stages of systemic change, there is another discussion about the different „hybrid” forms of democracy from the illiberal to the consolidated democracy, even the possibility of a Reverse Wave has not been excluded for some countries. See e.g. Linz and Stepan, 1996; Merkel, 1998 and 1999a,b; Plasser et. al., 1998.

2. There has been a robust development of civil society organizations in Hungary since 1989. In 1997 there were already 51,032 non-profit organizations (Kurt n et al., eds., 1998: 673). Fuchs and Roller give an overview of the definitions of political culture. They summarise their approach as follows: „the political culture of a democracy can be determined on two levels. The first is that of the structurally relevant values which are legally codified by a constitution. The second level is that of community commitment to the implemented values. Where there is a high degree of commitment, political culture is institutionalized. Common to both of these levels is a concern for values. And it is these values that are central to our conception of culture. The political culture of a democracy thus consists of implemented and institutionalized values.” (1998: 40, see also their definition of consolidation, 1998: 62). The concept of Robert Putnam on the role of civic communities in democratic consolidation has also been frequently mentioned, see e.g. Thomassen and van Deth, 1998: 142).

3. In fact, the same effort can be noticed by Richard Rose and his co-authors when they have described the consolidation of democracy as „completing democracy” by arguing that in the former stage there is only an „incomplete democracy” and in this presentation the consolidated democracy has been defined as completed with some consensual practices and high performance of the democratic polity (Rose at al.,1998: 199-200).

4. The main political parties have been in Hungary as follows: Alliance of Free Democrats (AFD), Christian Democratic Peoples Party (CDPP), Fidesz-Hungarian Civic Party (Fidesz, earlier Alliance of Young Democrats), Hungarian Democratic Forum (HDF), Hungarian Socialist Party (HSP), Independent Smallholders Party (ISP) and Party of Hungarian Justice and Life (PHJL). The first government was a coalition of the HDF, ISP and CDPP, the second government comprised the HSP and ADF. The incumbent coalition embraces Fidesz, ISP and HDF. For the electoral results and the parliamentary strength of parties see Annex.

5. In April 1990 the then two largest parties (HDF and ADF) concluded a pact about some constitutional changes, including the introduction of the prime ministerial system and qualifying 20 acts to be passed as two-third majority laws (16 of them were already passed, so their number is altogether 36).

6. In Hungary there has been a high level of political output between 1990 and 1999 in general and in the parliament in particular. The number of laws, all parliamentary decisions and

7. E.g. Fuchs and Roller (1998: 48) note the salience of the term effectiveness of democracy. They quote its classical definitions as „the extent to which the system satisfies the basic functions of government” (S. M. Lipset), or „the capacity of a regime to find solutions to the basic problems facing any political system” (J. Linz) and , finally, „the effectiveness of different regimes in dealing with the critical problems” (R. Dahl).

8. The results of the latest public opinion surveys at the time of writing this paper by the five largest institutes show levels of support for the HSP and Fidesz are respectively the following: 44-35 (Gallup), 47-30 (Marketing Centrum), 43-33 (Median), 44-30 (Szonda Ipsos) and 45-37 (Tarki) (see Népszabadság, Budapest daily, 8 March 2000). The trend changed in favour of the HSP in July 1999.

9. The ECE states have been rather effective in managing the global financial crisis so far, e.g. in 1998 in the case of the Russian crisis. Still the Russian crisis was detrimental to their economic development, especially in respect to foreign investments, so the ECE financial ministers asked Western bankers to make a distinction between Central and Eastern Europe.

10. Of course, there has been a long debate about the nature of the EU polity, including the character of its democracy and/or its democratic deficit. But, without entering this discussion, I think that by and large the multi-actor character of EU policy-making definitely proves its consensual character.

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