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# THE FAKE POPULIST THREAT TO THE REALLY EXISTING MAASTRICHT EMPIRE<sup>1</sup>

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“Citizenship in its thinnest form is mere membership. Anything slightly more robust inevitable links with patriotism, love of *patria*, whether the object of attachment is city, country, team, firm or cosmos.”(Brown, 2015, p.218)

## Abstract

A spectre is haunting Europe, the spectre of populism. All the forces of the globalized multinational corporations have united against it and all the forces of the European bureaucracy in Brussels complain about it in world media. Populists are supposed to close open minds and to lock open societies down. They are told to spread viruses by political mobilization. Progress must be defended, enlightened bureaucracies must be obeyed. Populists are accused of orchestrating Brexit. Top EU functionaries wash their hands. Poland modernizes the courts and reduces stalinist caste privileges. Populists are accused of winning elections there. Top EU officials blame the modernizers and fight to preserve stalinist rules of judicial games. Brexit and the rebellion of the postcommunist judges are lumped together as populist threats to a manageable democracy. Conservative British and Polish citizens are scapegoated as meritless enemies of the Brusselian meritocracy. Is Brusselian bureaucracy an embodiment of meritocracy? Of democracy? Not really, we see more bureaucracy and pecking order games than democracy in EU top institutions.

**Key words:** Populism, poststalinism, democracy, bureaucracy

## Introduction

If the European Song Festival had evolved into the European Political Hits Festival, we would have a winner whose name begins with a “P”. If viewers, listeners and readers were allowed to vote, they would confirm this choice of “P”. Constituencies of most political parties would agree – after the red scare, the brown scare, the green scare and the XYZ scare we are clearly dealing with a “P”scare. The popular vote of mass media audiences and the elitist vote of the experts from think tanks of major political parties would leave no doubts. “P” as in “populism” is on the rise and we have to beware of the populist beast slouching towards Brussels to be born. There is no festival of pop political music in the European media, but a sensitive public intellectual can detect a common note and a shared set of political stage directions behind the red alert and systematic hunt for the “black” (as in “bad”, not as in “Negro”) populism. Hunting instructions are announced in Brussels but they are conceived in seats of power that be. Political scientists are free to guess whether the real power holders sit in managerial teams of multinational corporations, which prompted the European treaties determining rules of the game for nation states. The corporate boards do decide and influence, but they are not omnipotent. The monopoly of the major corporations

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<sup>1</sup>The expression “l’empire maastrichtienne” has been introduced by Michel Onfray (cf. Onfray, 2019) who speaks openly about coup d’Etat perpetrated by the elected politicians (les élus) against the very same citizens who had voted them into power.

too large to fail in their contracts with the Pentagons of this world has been reduced when NASA had to share the glory of cosmic progress with a relative start-up, that is SpaceX, while more competition is in the wings. Googles, Apples and Microsofts, Facebooks and Amazons already suspect their destiny; with every start-up they buy, with every creative idea minced in the mills of mergers and acquisitions, these giants of data clouds come closer to the anti-monopolist butchers' blocks. After Brexit, which took the functionaries of a multinational semi-public corporation of the EU Headquarters by surprise, there is also a growing uncertainty about the future of reduced European Union. Is the season open for hunting for the political coalitions to decide the continental policies by national governments? What is the current rallying cry of the largest nations ? After Brexit only Germany and France remained on the top, and both are sinking into profound stagnation in their domestic policies. In their foreign policy they try to transform the EU political agencies (council of Europe, European Parliament, tribunals and online media) into a swarm of killer drones executing their political decisions without due respect for the legal issues. Hence a growing tendency to undermine the rule of law, for instance the legally binding treaties signed by member states of the EU. Disregard for legality in political actions undertaken by the reigning EU top officials is opposed by scapegoated national governments – the Hungarian, Polish and Slovenian ones. Why do EU officials emerge as the top enemies of European law and continental justice?

### **Legal, legitimate, lobbied for**

Dramatic breaking of the international treaties by Germans who misuse their presidency of the European Union (second half of 2020) is vital from the point of the hotly disputed legitimacy of the current actors on the political stage. Having broken the legal constraints of the European Union, German power elites chose governments to be broken in the next step. Who needs to be broken no matter how democratically elected? First, these governments, which try to purge stalinist ghosts and reform their national judiciary branch. Second, these governments, which try to purge their societies of the Soros-led sabotage. Third... Sacrificing these scapegoats on the altar of orwellized law and justice in the European Union is expected to protect German interests. Nord Stream II is harmful for the European Union but profitable for some German corporations. The old dream of turning the postcommunist nation-states into second-rate (second speed) members of the European Management Team in Brussels has also never been forgotten in Berlin. A German owned company, Siemens, encouraged their Polish employees to go on strike and to participate in illegal demonstrations (illegal because of the pandemic restrictions, not political oppression) promising paid holiday if they did so. Majority of Polish media are currently owned by German companies. No wonder citizens of Europe failed to take note of this encouragement of civil disobedience. German intervention in Polish domestic politics went unnoticed and unreported to the European public opinion. How come the democratic government of a country, whose population is most enthusiastic about the European Union among the EU member states is scapegoated as a veto-wielding populist monster?

The attempt to link the financial decisions of the EU to an arbitrary judgement based on capricious taste for political allies in member countries is a much more dangerous threat to the future of the European Union than the Brexit or the illegal migration from Asia and Africa. Let us look at the story kept out of the European media and covered with the fiction of a populist threat to mankind's peaceful future.

The judiciary power is usually corrupted by the ivory tower enclosure of lawyers in caste-like privileges, which ensures the non-elected but bureaucratically nominated judges and other employees of a legal profession are virtually free of any social control, except the one exercised by their peers.

Courts themselves have shifted from deciding what is prohibited to saying what must be done – in short, from a limiting function to a legislative one that effectively usurps the classic task of democratic politics. If living by the rule of law is an important pillar of most genres of democracy, governance by courts constitutes democracy's subversion. Such governance inverts the crucial subordination of adjudication to legislation on which popular sovereignty depends and overtly empowers and politicizes a non-representative institution. (Brown, 2012 in: Agamben et al., 2012, p.48)

This corrupt development (immunity from external examination and monopoly on the authorized exercise of knowledge) within the legal profession has frequently been criticized by experts and general public – in the past decade most visibly by Polish, Dutch, and US politicians. In the Polish case, and in the Polish political context, this “caste” rebellion of a judicial branch of power led to a spectacular defense of the professional privileges of Polish judges. These privileges date back to the Stalinist regime, which used death sentences as part and parcel of the systematic terror campaigns and tried to shield judges (by blindly authorizing their terror) from social responsibility. Granting them immunity from penal prosecution even if caught red-handed shaped their caste-consciousness, their sub-class awareness. This is why they listened only to the voice of the elite of the secret services of the communist totalitarian party in the past, and why they listen only to their successors in current institutional landscape, namely, those segments of the emergent power elites based on the “round table” talks on the postcommunist political order in Poland. The main thrust of this agreement, which had been engineered by the secret services of the disappearing communist state, was to co-opt carefully selected members of the elites of the Solidarity movement. The list of the co-opted individuals included those who had either been compromised by their former role of secret informants of the communist regime or promised not to purge all former communist secret service employees from public service and privatization campaigns. To a certain extent, the postcommunist and neocommunist politicians, entrepreneurs, and media professionals are the biological or political children of the communists. Due to the round table talks and due to the compromise of the thick red line of forgiveness, they were able to slip into the reconstructed networks of power in post-communist Poland. This included filling the slots in the judicial bureaucracy as well.

The ironic twist in this historical tale is manifested in the fact that this defense of communist injustice in the management of justice, which survived well into post-communist Polish society, was, and is, openly supported by the left and the liberal European parties after Donald Tusk's party repeatedly lost the democratic elections in Poland but preserved network connections within the top EU bureaucracy.

Why Donald Tusk defeated in democratic elections is presented in the EU media as the voice of Poland, while the democratic government, twice elected with a comfortable majority, is not? This definitely calls for a public scrutiny of the democratic deficit inside the political machinery of the European Union. From the point of view of the majorities of the voting constituencies in Poland and Hungary, it seems the elite of the EU institutions suffered a very serious historical amnesia and imposed it through the mass media on the societies west of the Elbe. The cases of interesting instant amnesia abound: in the spring of 2020 the Munich-based “Suddeutsche Zeitung” praises the mail vote in Bavarian elections and, a day later, condemns the Polish government for planning mail-vote elections in Poland. Hungary is criticised for announcing the state of emergency for combatting the corona virus while Poland is criticised for not doing so.

## **Cold War Scars**

The EU witch hunt against Poland and Hungary demonstrates that communists and neocommunists have been tacitly forgiven and the new bad guys of the European politics are vaguely defined populists. For instance, political forces in Polish and Hungarian societies that want to complete the process of de-communization and de-Stalinization are branded as “populists” and found guilty of refusing to accept the pecking order of the EU technocrats. Their leaders – in this case, Victor Orban in Hungary and Jaroslaw Kaczyński in Poland – become the targeted enemies of progress. Does the defense of the communist legacy by the EU elites really serve the cause of progress? Some EU experts disagree.

The Polish judiciary is arguably the most “post-communist” of the three branches of government. It is all but insulated from the electoral competition in the public agora, which over time has forced personnel changes in the executive and legislature. Reportedly, in 2019, every tenth judge in the ordinary courts and 36 of the maximum allowable 125 Supreme Court judges began their legal careers during the communist era. Additionally, 101 of the Supreme Court judges that have served over the past 30 years allegedly issued sentences on behalf of the communist regime during the Martial Law period (though no judges currently sitting on the highest court were involved in sentencing Solidarity activists under communism). (Michta, 2020, p.2)

This quote illustrates the cunning of the communists surviving the fall of communism as a well-embedded network capable of enduring any changes in political systems. The stubborn defense of this cunning by the EU elites should give us pause. Is progress whatever is managed and monopolized by the enlightened politicians advised by “the best and the brightest” experts? Is progress automatically linked to the recognized causes of the politically acknowledged excluded groups fighting for fairness (opposing LGBT qualifies as excluding; discrimination of the current immigrant labour does not)? The aura of the critical theory of the Frankfurt School – but not the substance – is still useful in the ideological policing of social and political sciences. Perry Anderson’s remark that Habermas is decorated with left and liberal medals as a Soviet general under Brezhnev did not lie well in the media under the EU Gleichschaltung. The mainstream media of France and Germany, but also Belgium, Spain, Italy, and the Netherlands, neglected the hidden injuries of communism and the Stalinist undermining of social trust, and never demanded international tribunals for the genocide committed under the Russian communist rather than German national socialist flags. Why? Different circumstances contributed to this neglect in the past but the most recent ones are quite clear and offer circumstantial evidence for starting a public investigation into the European political past. Why would the unholy Polish alliance of neocommunists and former Solidarity politicians softened by the communist secret services successfully convince EU officials to focus their anti-totalitarian radars on what is perceived as the right side of the political spectrum? When eighty thousand members of average Polish families with children celebrated the anniversary of the Polish independence after WWI, one of the members of the EU elite, former Belgian prime minister Guy Verhofstadt, claimed in public that he had seen a crowd of Nazis and white supremacists. He knew that it was not true but he also knew that his colleague Tusk wanted a propaganda weapon for his political vendettas. **This defense of Stalinism and Stalinist institutional heritage is one of the most sinister and dangerous political crimes and misdemeanors of the representatives of the political and judicial bodies associated with the European Union.** The irony of historical fate is that the judges of the Tribunal of Justice of the European Union, who defend the Polish communist legal system inside the post-communist democracy, disregard the fact that the reforms they oppose bring the system into line with the regulations in most of the other member countries of the European Union. In a curious display of inequality within the EU, politicians can nominate judges in Germany and The Netherlands, but not in Poland. The German constitutional

tribunal can defend the primacy of a German law over the EU legal regulations, but the Polish constitutional tribunal is refused the same right. Here is a brief overview of the reforms:

Since coming to power in 2015, Poland's Law and Justice party (PiS) has enacted into law extensive reforms of the judicial system, including new rules for how judges are appointed, retained and disciplined. The reforms include provisions lowering the mandatory retirement age of Supreme Court Judges from 70 to 56 and ordinary court judges to 60 for women and 65 for men, down from 67 across the board (though the Polish president can extend the tenure of Supreme Court Judges by five years at will). Another law established a disciplinary chamber empowered to investigate and punish judges in cases where their rulings are questioned, while a law concerning the Constitutional Tribunal shortened the tenure of its president from nine to three years and allowed the current Sejm (lower house of parliament) to annul and replace with its own nominees the appointments of three judges selected by the previous parliament. However, arguably the most significant source of the current controversy has been changes to the National Council of the Judiciary (KRS) responsible for appointing judges. While previously the KRS had been appointed by sitting judges, this power now rests with the Sejm, which had thus far approved 15 of 25 KRS members. (Michta, 2020, p.1).

Clashes of the executive branch with judicial power are not uncommon in the European Union's member states. Angela Merkel and her predecessors frequently ignored the verdicts of the Constitutional Tribunal in Germany (and the European Union agencies kept silent every time), while the Dutch and Belgian politicians (like Timmermans and Verhofstadt) ignored the legal constraints forbidding intervention in national affairs by frequently attacking the Polish (and Hungarian) democratically elected government. Political correctness prompted the EU elite to defend the policies of the defeated party of their colleague, Donald Tusk, as if he and his party were a guarantee of progress and harmony within the European Union, more important than democracy, legality, and the interests of the Polish constituencies. It should be remembered that the Polish constituencies removed them from power in a clear manifestation of rational choice and democratic rights – hence an attempt to demonize these constituencies as enemies of progress is legally and morally wrong.

### **Professional castes put democracy on trial**

Meanwhile, Dutch politicians (Thierry Baudet is a case in point) accuse Dutch legal professionals, primarily judges, of escaping all forms of social control in their professional activities. One would expect that Baudet would name the examples of a similar self-encapsulation of judges in Poland – but like all Dutch politicians, he follows the same mainstream media. This means that he and his colleagues are either ignorant of the analogies to the Polish policies of the Law and Order party or, more generally, reluctant to learn from their Polish colleagues. The problem of a too-limited political control of judges by ministers and parliaments – by representatives elected by the population – is linked to the undermining of democracy. The fact that this Dutch criticism demonstrates numerous analogies with the problems the Polish politicians and citizens have with the Polish judges deserves attention. It deserves the attention of the former citizens of the Warsaw Pact countries who idealized the western part of Europe, but also of the former citizens of the countries west of the Elbe who tended to demonize and scapegoat central and eastern Europe. Paying attention would require a radical breaking of the media censorship, which limits the access of EU citizens to a well-balanced database. The EU-wide public discussion of the alienation of the judicial powers

would be much easier to manage if the European public could rely on the media to notice and debate analogies of this kind. **It would seem that the analogies in corruption of the judicial branches in the Netherlands and Poland are too striking to be ignored by the Dutch and Polish media and in the European Parliament. And yet ignored they are – not to mention the reluctance to learn from the US experiences, where strong presidential privileges keep judges in check.**

Again, ideological bubbles stand in the way of acknowledging loss of equality and the forming of privileged castes. These bubbles prevent the public recognition and acknowledgement of a democratic deficit. Noticing and opposing de-democratization takes longer than necessary by politicians shaping their agendas on the national or European political stage (as if there was a point of view from which everybody could see what is objectively needed by everybody everywhere for all possible purposes).

Even democracy's most important if superficial icon, "free" elections, have become circuses of marketing and management, from spectacles of fund-raising to spectacles of targeted voter "mobilization". As citizens are wooed by sophisticated campaign marketing strategies that place voting on a par with choosing brands of electronics, political life is increasingly reduced to media and marketing success. (Agamben et al., 2012, 47)

Data can be traced, but they are not particularly easy to find for the average citizen. For instance, the only attempt to acknowledge the ambiguous legacy of the Cold War in the Netherlands can be traced to some obscure reports of government thinktanks that remain hidden in specialist publications and expert resources (cf. Jennissen, 2013). Otherwise, the best way to follow immigration issues is to read the economic reports in the commercial dailies – of which *Financieele Dagblad* is a case in point. FD warns of the shortage of seasonal migrant labor in the Netherlands in view of the recent incentives announced by the German ministry of economics. This warning is formulated as the marginal input of labour experts but it already reveals a significant assumption by the Dutch government – namely that the new member states of the EU are legitimate hunting grounds for companies looking for low-cost labour power. The German government sent Lufthansa planes, a national carrier downed by the corona virus lockdown, to collect temporary Romanian labourers to work in agriculture, especially in the labour-intensive harvesting of asparagus and strawberries. This assumption leads us to two very important migrations that are shaping the future of the EU but are almost totally ignored by the mainstream media in France, Germany, the United Kingdom, and The Netherlands – the Polish migrant labor in Germany, the UK and The Netherlands, and the Ukrainian migrant labor in Poland. The silence about these sizeable migrant pools (approximately 400,000 Polish laborers in the UK and 160,000 in the Netherlands, and 1 million Ukrainian laborers in Poland) is ringing in the ears of all researchers, and yet no German politicians will read about them in *Frankfurter Allgemeine Zeitung*, no French politicians will read about them in *Le Monde*, and no Dutch politicians will read about them in *de Volkskrant* or in *NRC Handelsblad* (cf. van der Marel & van der Boon, 2020).

## Conclusions

This is how fakes are born. This is how discussing fake populism influences the European politics, poisoning the cultural communications with an ideological gas of "populist threat", attacking the hearts and minds of citizens and blinding them. Blinding them with fakes instead of enlightening them with facts. Blinding free citizens to reality of the lobbying parties and supranational powers that be. Binding them to the consumption of fakes. One would like to tell all those who contribute to the witch hunt for "populists" – if you do not like reality (and disregard democracy), go somewhere else. Where else? Ask the experts.



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