EUROPE 25.03.2020 | Paul Hockenos

Emergency powers are a gift to Europe's autocrats

In Hungary, open-ended restrictions to combat Covid-19 may imperil democracy. The EU must show its ability to react

Citizens around the world have, so far, been remarkably understanding about and cooperative with the emergency measures, such as limiting freedom of association, introduced by governments in the name of curtailing the Covid-19 virus.

But in regions where liberal democracy is fragile – and authoritarian governments have already eroded liberal principles, such as in Central Europe – the new measures that go much further, even proffering executives indefinite far-reaching powers, pose an explicit threat to the democratic order, and perhaps even to the EU itself.

In Europe, the extraordinary emergency decrees endanger democratic norms even in the most solid democracies, such as Germany and France. But the first naked power grab has come in Hungary, where the national populist Fidesz government has chipped away at democratic norms and institutions for a decade.

Orban seizes the moment

Hungary's national populist leader Viktor Orban – a beacon for national populists across Europe – has pounced on the opportunity to expand his powers. Last week, he proposed a far-reaching emergency law that would enable his nationalist government to rule by decree for an unlimited period of time. The sweeping special powers that would enable the government to circumvent legislative processes and control the media go further than any such emergency decree elsewhere in Europe.

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The law would enable Hungary's executive to 'suspend the application of certain laws, derogate from legal provisions, and take

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extraordinary measures in the interest of guaranteeing the stabilisation of the lives, health, personal and material security of citizens, as well as the economy,' according to the bill. During an extended and indefinite state of emergency, the publication of false or distorted facts that interfere with the 'successful defence' of public health, or can create 'confusion or unrest,' may be punished with up to five years in prison.

The measures would end when the government itself deems the crisis over. During the state of emergency there will be no elections, including by-elections, local elections and referendums.

The end of Hungarian democracy?

In Hungary, the five-party parliamentary opposition is united against the bill, and on 23 March voted against the government fast-tracking the bill through parliament, which required a four-fifths majority. But the legislature, in which Orban's Fidesz party owns a two-thirds majority, will vote on it again next week – a version not fast-tracked – when it is almost certain to pass. Orban told opposition parties: 'We will solve this crisis without you'. He insisted that 'the defence [against the virus] is impossible with peacetime laws'.

'It's scary,' says András Bozóki, a political scientist at the Central European University in Budapest. 'We're afraid that Orban wants to secure lifetime presidential powers for himself. Had the bill mandated emergency powers for a month or even three months, the opposition might have voted for it. But with no end date, that could spell the end of what's left of Hungarian democracy.'

'Orban has never missed an opportunity to consolidate his own power, to go further and further, so this isn't surprising,' says Laszlo Andor, a Hungarian economist and former European Commissioner. Andor expects that Hungarian democracy will experience more erosion during the crisis. In the worst-case scenario, he says, 'Orban will rule by decree, completely eliminating parliamentary control. This would be another giant leap in the direction of autocracy.'

The threat to free media

In Brussels, a European Commission spokesman, Christian Wigand,

responded though without mentioning Hungary directly. Wigand reminded member states that ‘any emergency measures taken to address the crisis [...] should be proportionate and necessary. Democracy cannot work without free and independent media,‘ said Wigand. ‘All emergency measures should be temporary in nature to address a particular crisis situation,‘ he said.

Not only are the bill’s measures more draconian and open-ended than those elsewhere in Europe, they were drawn up without the input of other stakeholders, such as the opposition, regional authorities, social partners or civil society. In contrast, Germany's emergency measures were formulated in close consultation with its 16 state governors.

Andor is particularly worried about the law’s repercussions for the independent media, which has already been woefully diminished during the decade of Fidesz rule. ‘This constitutes an explicit threat to journalists,’ he says about the draft bill. ‘If someone deviates from the government’s narrative of the crisis, then it could be deemed fake news or fear-mongering. This could even bring a prison sentence.’

It is imperative that the EU be on top of attempts to utilise the Covid-19 crisis to expand the powers of authoritarian-minded states.

An able free media is all the more important in such a time of crisis, says Andor. The government, for example, had attempted to blame the virus on immigrants and foreigners in Hungary – an accusation, says Andor, that the independent internet daily 444 disproved. In fact, it is most likely that the high number of Hungarians recently returning from work in Italy or skiing in Austria, and the lack of adequate testing in the early phase of the crisis, sparked the crisis in the country. ‘Exposing incompetence and manipulation is why the independent media is so critical in Hungary today,’ he says. With the political opposition so weak, says Andor, the media is all the more crucial for providing at least a minimum check on Orban’s power.

The EU needs to be on top of this

Hungary’s substandard health care system, drained of funding by Orban, is the government’s Achilles heel, argues Kim Lane Scheppele, Professor of Sociology and International Affairs at Princeton University. The state has sapped it of personnel and monies causing an estimated 5,000 doctors and many nurses as well, to leave the country for better paying jobs

abroad. The proposed emergency powers do nothing to bolster the health care system, she says.

Rather, the decree, Scheppele argues in the daily Internet media *Hungarian Spectrum*, 'gives Orbán powerful tools to use when and if the virus takes a toll in Hungary and the citizens of the country rebel at the avoidable losses that his government should have protected them against. [...] Orbán would have the power to lock down his own population with draconian decrees backed by force. The law hands to Orbán the fully-fledged dictatorial powers he would need in order to cling to office.'

Beyond Hungary, there are a host of like-minded national populists who aspire to be as effective as Fidesz and will surely attempt to follow Orban's lead. Other governments with predispositions to the strong-arm state and illiberal politics, such as Poland, the Czech Republic and Slovenia, could also try to exploit emergency powers to expand their power, including the scaling back of civil liberties and the silencing of opposition rivals as well as civil society critics. The crisis could well normalise emergency measures making them harder to reestablish in full once the crisis comes to an end.

It is imperative that the EU be on top of attempts to utilise the Covid-19 crisis to expand the powers of authoritarian-minded states. Its cautious warning thus far is much too timid, as have been its reprimanding of Hungary and Poland's undemocratic moves in past years. Proceeding against Hungary and perhaps others, too, is going to be all the more complicated as long as the pandemic reigns. But these countries' further drift to illiberal, strong-arm states undermines the EU itself. Brussels shouldn't wait until the crisis is over to take action to prevent them from going too far. As difficult as this may be, it will prove easier than trying to roll back authoritarian power plays a year from now.



Paul Hockenos
Berlin

Paul Hockenos is a Berlin-based author and political analyst. Among

other media, he has written for The New York Times, CNN Opinion, Foreign Policy, and Foreign Affairs. Paul served on the postwar missions in the Balkans and is the author of four books on European affairs.