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Journal of Democracy, Volume 27, Number 4, October 2016, pp. 77-87 (Article)

Published by Johns Hopkins University Press
DOI: *https://doi.org/10.1353/jod.2016.0064*

The Specter Haunting Europe

SURGING ILLIBERALISM IN THE EAST

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From the Baltic in the north to the Adriatic in the south, the specter of illiberal democracy has come to haunt the countries of Central and Eastern Europe (CEE). Yet despite what this paraphrase of Winston Churchill's famous 1946 speech might suggest, there is no new Iron Curtain descending across the continent. Rather, Europe's young post-communist democracies have become part of a broader process that is affecting politics across Europe: the rise of populist nationalism.

From the United Kingdom's Brexit referendum ("the greatest act of defiance against the establishment since the coming of universal suffrage"[1]) to the Austrian presidential election, and from the Sweden Democrats to Marine Le Pen's National Front in France, European democracies are now facing the emergence of a variety of nativist and populist political forces. These forces are reshaping the political landscape of most EU member states and threatening the Union itself with paralysis and possibly even disintegration. Only in Central and Eastern Europe, however, have such parties reached power. That is a contrast of importance as well as a warning.

What, then, are the specific features of Central and Eastern Europe's democratic regression? What are its main causes? What hypothesis best explains it? What features of the populist challenge to liberal democracy are commonly seen in Europe both east and west? And is the process of European integration solely a collateral victim of the crisis of democracy, or might it also be a contributing factor?

A democratic regression is underway in CEE countries that only a decade ago were the leading success stories of the years following 1989.

Journal of Democracy Volume 27, Number 4 October 2016

The Balkans had seen democratic transitions derailed by economic backwardness, weak civil societies, and the wars of the Yugoslav succession. The countries of the former Soviet Union, the three tiny Baltic states aside, had fallen under the sway of "competitive authoritarianism" in one guise or another. Yet in Central and Eastern Europe—the Czech Republic, Hungary, Poland, Slovakia, and Slovenia, plus more recently Bulgaria and Romania—it proved possible to combine both the establishment of liberal democracy and EU integration. For each of these three groups of countries, distance from Brussels mattered as much as their internal dynamics.

Orbán's challenge to media independence and the rule of law was replicated in Poland following the victory of Jarosław Kaczyński's PiS (Law and Justice) party in the October 2015 election.

For more than two decades, the CEE region underwent a formidable and historically unprecedented process of convergence with Western Europe. This was true in economic terms (as measured by GDP per capita compared to the EU average); in sociological terms (ranging from personal mobility to consumption patterns, from lifestyles to life expectancy); and, most importantly for our purposes, in political terms (as measured by the growth and consolidation of key liberal-democratic institutions). The "transformative power" of the EU, an institution based on shared rules and legal norms, rested on the link between the conditionalities required for EU accession and the shaping of rule-of-law institutions in Central and Eastern Europe.

In recent years, however, the region has presented a picture of democratic regression that combines two main features. These are: 1) a departure from the rule of law as the foundation of liberal democracy, and 2) a recourse to nationalism as the principal source of political legitimation, complete with hardened identity politics. In the context of a major crisis of migration into Europe, these features have reopened an East-West divide within the EU.

The harbinger of all this was the victory of Viktor Orbán's Fidesz party in Hungary in 2010. With a two-thirds constitutional majority in the National Assembly on the strength of a 53 percent vote share, Orbán and Fidesz set about undermining the separation of powers, the independence of the judiciary (starting with the Constitutional Court), and the freedom of the public media. Legal scholar Kim Lane Scheppele calls the result a "Frankenstate" since it takes the worst practices in all major areas of governance and puts them together.[2]

Orbán's challenge to media independence and the rule of law was replicated in Poland following the victory of Jarosław Kaczyński's PiS (Law and Justice) party in the October 2015 election. Within weeks

of coming to power, the PiS government began changing the rules for naming judges to the Constitutional Tribunal, ordered a major purge of public radio and television, and abolished the political neutrality of the civil service. In the old days, dissidents used to meet in the mountains on the Czechoslovak-Polish border in their joint endeavor to bring democratic change to the region. Last December, Kaczyński and Orbán, two former dissidents, met in the Tatra Mountains to jointly help bring about "illiberal democracy": the restoration of "popular sovereignty" in domestic politics and national sovereignty in European politics. Until then, Orbán's self-proclaimed "illiberal democracy" in Hungary could be treated as an exception.[3] But when Poland, the region's pivotal country, embarked on a similar course, that pretense became impossible.

Between Hungary and Poland lies their smaller neighbor Slovakia (population 5.4 million). Its leader for eight of the last ten years has been Prime Minister Robert Fico, whose strident opposition to taking in migrants and refugees has some calling him "the Orbán of the left." His government rests on a coalition between his own Direction–Social Democracy party (Smer-SD) and the right-wing nationalist Slovak National Party (SNS). The latter has softened its rhetoric compared to a decade or two ago, but that seems to have left room for the neofascist People's Party–Our Slovakia to win 14 seats in the 150-member parliament in the March 2016 election. That party's leader, Marian Kotleba, is known for his xenophobic rhetoric and his praise of the Slovak Nazi puppet state (1939–45).[4]

Hoping to deprive other nationalists of political oxygen, Fico based his 2016 campaign on open xenophobia in the face of the migrant crisis gripping Europe, vowing that "nobody can force us to accept migrants in Slovakia," and adding, "I will never allow a single Muslim immigrant under a quota system."[5] In the event, he still found himself rhetorically outbid by xenophobes of an even more radical stripe. Slovak politics might thus be described as a continuum of nationalisms stretching from Fico's left-populist variant through the SNS's right-wing conservative version and on to Kotleba's outright fascism. In November 2015, Fico was publicly challenging the European Commission's decisions to share migrants according to a quota system at the European Court of Justice. As of July 2016, he took over the rotating presidency of the EU.

To complete the picture, Croatia, the EU's newest member, confirms the illiberal drift in the region. Since January 2016, the the driving force in the government coalition has been the conservative-nationalist Croatian Democratic Union (HDZ). This government has been purging public media and cultural institutions while cutting funding for independent media and civil society groups. The key executor of this policy is Culture Minister Zlatko Hasanbegović, a revisionist historian in his early forties and an open admirer of the fascist Ustaše regime that ruled Croatia as a Nazi puppet state from 1941 to 1945.[6]

The HDZ's promotion of highly controversial historical narratives as part of a strategy of political polarization is a departure from the approach of Franjo Tudjman,[7] adopted during a time of war and state-building in the 1990s, that emphasized national unity across the political spectrum. The recent "lustrations," say official apologists, are only meant to help Croatia "catch up" to the rest of the region in terms of dealing with personnel associated with the former communist regime—not an obvious priority a quarter-century after the end of communist rule. Meanwhile, the rehabilitation of the wartime Ustaše regime comes two years after Croatia's joining the EU, a project founded precisely on the repudiation of the regimes and ideologies defeated in 1945.

Winners versus Losers of the Transition?

A number of explanations might be offered for all the foregoing, and they are not mutually exclusive. The most widespread—though not necessarily the most convincing—tells of societies split between the winners and losers of the post-1989 era. The winners are big-city dwellers, the better educated, and the young. These are the main beneficiaries of a quarter-century of economic growth, and the stalwarts of the market-liberal course that has predominated during most of that time. The losers tend to be voters from more rural areas, less educated, and older; to them, liberal democracy has not brought prosperity.

This is the tale of two countries, "two Hungaries" and "two Polands." Their inner cleavages (cosmopolitan big-city elites versus "the people") reprise old divides in the political culture. In Hungary, this refers to "urbanists" (liberals or social democrats) who are adepts of modern open society versus "populists" (nationalists) concerned about the preservation of traditional values. And the Polish electoral maps of the last decade's contests between Civic Platform and Law and Justice reveal patterns harking back to the joint Russian, Prussian, and Habsburg partitions that erased Poland's national sovereignty in the late eighteenth century.[8]

It would be misleading to call Orbán's Hungary or Kaczyński's Poland an authoritarian regime. This is neither Putin's Russia nor Erdoğan's Turkey. "Illiberal democracy," to use Orbán's preferred term, seeks a strong executive power and sees checks and balances, constitutional courts, and other presumably politically neutral institutions as imposing undue constraints on the sovereignty of the people. "Legal impossibilism," to use Kaczyński's phrase, is the enemy. Clearly, this is closer to Rousseau's "general will" than to Montesquieu's separation of powers. László Sólyom, who has served both as Hungary's president and as the chief judge of its Constitutional Court, lamented in 2013 that "the rule of law had ceased to exist."[9] Instead, there is the hegemony of a democratically elected ultramajoritarian and illiberal party.

The case against liberal democracy has perhaps most clearly been framed by Zdzisław Krasnodębski, a Polish political scientist, member of the European Parliament, and the leading PiS ideologist. Liberal democracy, he has long charged, is a post-1989 elite project that has led to the atomization of Polish society and the takeover of Poland's economy by foreign interests. There have been three Polish republics, he adds, and now a fourth is needed.[10]

A major reason behind the support for Orbán and Kaczyński is their rejection of the transition period's dominant mantra, which conflated political with economic liberalism. The code word for the then-dominant project was building "market democracies." Orbán, in his 26 July 2014 "illiberal democracy" speech, argues that a liberal political order is not needed for economic success, and cites the cases of China, India, Singapore, Russia, and Turkey.[11]

Fidesz and even more so PiS have done well at the polls in no small part because they mix economic nationalism with social welfarism. These parties are culturally on the right, but economically they lean "left." Leftist parties, meanwhile, have been championing societal pluralism (legalized abortion, the rights of gays and other minorities) but subordinating the social question to the task of promoting free-market reforms. Both Hungary and Poland have seen the left collapse, while the nationalists of the right propose compassionate conservatism and concern for those whom the transition to the market has left behind.

The "winners versus losers" template translating into the politics of "the people versus the elites" may be a partial explanation, though it ill fits the Polish case. Poland is the only European country to have escaped falling into recession since 2008. Between 2000 and 2014, its economy grew 64 percent, with robust 3.5 percent growth in 2015. The benefits of that growth have not been evenly distributed, but Civic Platform did not lose in 2015 because of the economy—it lost because it could no longer give voters a reason for keeping it in power. In other words, it had no collective project and no vision beyond "more of the same." There is, by contrast, a PiS collective project: It features a vision of the sovereign nation, united around Christian values and standing in opposition to liberal elites and to Brussels (where Civic Platform's Donald Tusk landed a top EU job after leaving the Polish premiership).

The right-versus-left divide has been replaced by a split between national conservatives and pro-European liberals.[12] In the context of a major migration crisis, it is culture war—rather than the economy—that has weakened liberalism and facilitated the slide toward "illiberal democracy."

Observing the Hungary of the 1920s and how it had sped from nascent democracy to authoritarianism in the aftermath of the First World War, the historian Oskár Jászi (1875–1957) observed that a regression (*Rückschlag*) of democracy can occur when a crisis hits and its pressures

cause old structures to reassert themselves.[13] Is Hungary, and indeed Central and Eastern Europe, as a whole, now caught in the grip of such a crisis-and-regression dynamic?

Another distinguished Hungarian political thinker, István Bibó (1911–79), in a masterwork written during the Second World War, argued that democracy would find itself endangered by fascism "when, following a cataclysm or an illusion, the cause of the nation separates from that of freedom, where a historic shock generates the fear of seeing freedom threaten the cause of the nation."[14] The migration wave of 2015, unprecedented in postwar European history, was framed by CEE political elites as such a shock. The "cause of freedom" (in this case, the freedom of movement)—embodied by German chancellor Angela Merkel's decision to open the borders of the EU—was seen as a threat to national and indeed European identity.

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In order to fend off that threat, Hungary in June 2015 began building a border fence. On 4 September 2015, Hungary joined its three fellow Visegrád Group countries (the Czech Republic, Poland, and Slovakia) in rejecting the EU's proposed quota system for taking in refugees. The threat of a "Muslim invasion" has clearly been used and abused by politicians: Orbán's declining favorability ratings began to surge, and the rhetoric helped Kaczyński's PiS to win an absolute parliamentary majority in Poland's October 2015 election.

This kind of identity politics has deep historical resonance in CEE societies. Since the late nineteenth century, these countries have been lands of emigration, not immigration. The end of the Cold War did not change that: Over the last twenty years, about a million Poles have moved to the United Kingdom, with about a hundred-thousand Slovaks and sizeable numbers of people from the Baltic states following suit. Moreover, one of the effects of the twentieth century's traumas—the mass murders and forced expulsions perpetrated by Hitler and Stalin—was to make these lands between Germany and Russia more ethnically homogenous. Thus while Western Europe, with its postcolonial legacies and economic migrations from the southern shores of the Mediterranean, set about trying to transform itself to accommodate "diversity," Central and Eastern Europe's closed societies had no such experience.

This is a key to understanding the current East-West contrast. The CEE nations do not share the West European postcolonial complex. In-

deed, they see themselves as recently having reclaimed their own freedom from the clutches of history's last big colonial empire, the Soviet bloc. The migrant crisis has laid bare a widespread perception across Central and Eastern Europe that Western Europe (and hence the EU) is trying to force on them a multicultural model of society which in their eyes has "entirely failed."[15] Orbán has been especially blunt: "Europe is under invasion," he has said regarding the migration crisis, warning of "an unprecedented challenge which could crush and bury under itself the form of existence we have known up to now."[16]

Here is the clash between Bibó's "cause of the nation" and the "cause of freedom." The free movement of non-European people into the heart of Europe represents the prime threat of today, say Orbán and his ilk. He is putting the question of whether Hungary should have to accept the EU's migrant quotas before the voters in a national referendum. He expects a resounding "no," and hopes that the referendum will serve as a plebiscite in support of his government. The date chosen for the referendum on immigration, 2 October 2016, coincides with the rerun of the Austrian presidential election, where the immigration issue has become central. Austria-Hungary is back, in populist garb.

Orbán and Angela Merkel have laid out the contrasting narratives and their profound political implications. The former says that he is shielding his small country (and indeed European civilization) from an existential threat. The latter says that European solidarity and the importance to European values of a shared commitment to universal human rights demand that asylum be offered, and on generous terms. The EU indeed rests on shared norms. Asylum policy is not an option but an obligation consistent with human-rights commitments that all EU member states have endorsed as a baseline requirement of their membership. "The dignity of man is inalienable," reads the first sentence of the 1949 German Basic Law (most EU member states have similar language in their own constitutions). In 2015, Merkel interpreted that to mean a de facto unlimited right to asylum. Germany's parallel conversion to a civic concept of nationhood and a multicultural concept of society is the most visible illustration of its current understanding of European values. For Jürgen Habermas, Europe should be based on "constitutional patriotism." In the words of sociologist Ulrich Beck, Europe stands for "substantial void and radical openness." This German and West European quest for *neutrality* of an EU as "normative power" is most explicitly at odds with the Central European *Zeitgeist*.

The Central Europeans have their own understanding of nationhood and what it means to be European, one that is very much at odds with Merkel's. Their sense of these matters goes back to the nineteenth century "German model" of *Kulturnation,* that is, nationhood defined by language, culture, and often religion. Ironically, Central Europeans have transposed this *Kulturnation* concept to the European plane—defining

Europe as a distinct culture and civilization—at the very moment when Germany has gone universalist.

As migrants from the Middle East took the old Ottoman route to Europe via Turkey and the Balkans, CEE political elites reverted to a historically loaded type of discourse in which the protection of the nation combines with its mission to serve as the "rampart of Europe" (*antemurale christianitatis*) against external threats.[17] In the Central European narrative, the region offered in the postwar era cultural and spiritual resistance to Soviet totalitarianism that came in from the East. While the western reaches of the continent stood for a "Common Market," a trade bloc with shared legal norms, Central European dissident intellectuals were stressing their nations' belonging to *Western* culture and *European* civilization. They were, in the Czech-émigré novelist Milan Kundera's phrase, "the kidnapped West." 1989 was their triumph. For a time, there was a hope that Central and Eastern Europe would help to redefine the identity of a reunited Europe. But prosaic matters of economic integration and EU accession soon came to the fore, and that illusion vanished.

And yet: In the 1980s, the word coming out of Central and Eastern Europe had combined a vision of the continent as home to a pluralist culture and civilization with the language of human rights, civil society, and democratic change. Back then, the "Kundera moment" combined with the "Havel moment." Today, they are at odds. Kaczyński and Orbán may be former dissidents, but to gain and keep power each has clearly chosen identity politics over the human-rights legacy of dissent. That choice has been a major catalyst of their region's democratic regression.

The EU: Collateral Damage…*and* Cause?

The illiberal CEE turn challenges what until recently had been received academic wisdom on the subject: Democratic *transition*s were supposed to be followed by liberal-democratic *consolidation,* which in turn would lead to European *integration,* which stood for the completion and the irreversibility of the process. Today, however, democratic regression seems to be under way, with illiberal democracy and ethnonationalism challenging from within some of the basic tenets of the European Union.

The return of CEE illiberalism has revived talk of an East-West split in Europe, and even suggestions that EU enlargement was a mistake, or at least premature. Such talk misconceives the situation. The crisis of liberalism and rise of populist nationalism are pan-European phenomena. In the CEE region, post-1989 liberalism meant "democracy, markets, and European integration." All three are in now crisis, and this crisis is EU-wide. Traditional mainstream parties are in decline and the old left-right

divide has receded, leaving a vacuum for identity politics and populist parties to fill.

The EU can be seen as the victim of collateral damage caused by the rise of antiliberal populism, with its challenge to the old pro-European elite consensus. However, the EU can be seen as having contributed inadvertently to that rise. European integration has been based both on shared legal norms and on a consensus regarding economic policies. Since the Eurozone crisis, however, the EU has been seen as a tool of (not a shield against) market globalization. Since the migration crisis began, moreover, the EU has been seen as having abolished internal (national or intra-EU) borders without securing external borders. Market globalization and unchecked migration, both associated with the EU, have been the two main sources of the politics of fear and resentment that is undermining the liberal consensus associated with European integration. Neither of those sources, of course, is affecting the CEE region alone. This is a pan-European crisis.

Can the EU, the last elitist project in the age of populism, overcome its internal divisions and the populist challenge? Can a Union weakened by the possibility of Grexit and the reality of Brexit, and facing the challenges of populism and nationalism, contain the drift toward illiberalism? There are three reasons to think that it can.

The first flows from the combination of the EU's institutional resilience and the interests of the CEE countries. The EU has been slow and cautious in responding to the Hungarian situation since 2010, but has moved swiftly—in just days and weeks, which is lightning-fast in EU terms—to counter Poland's more recent illiberal moves concerning the Constitutional Tribunal and media independence. The Venice Commission report, the EU monitoring process, and talk of sanctions are unlikely to go very far, since unanimity is required, but the mere existence of the process should help to act as a check, especially after Brexit and the departure of the Central European Euroskeptics' major ally. The process may be all the more effective since neither Orbán nor Kaczyński really wants a showdown and neither is ready to take his country out of a Union that offers billions of euros in economic subsidies each year. Orbán's and Kaczyński's adventures in illiberalism have been sustained on the EU dime.

The second reason is geopolitical: The EU may have lost clout, but the instability on its eastern and southern fringes still serves to concentrate minds. Both Russia and Turkey are increasingly and assertively authoritarian, and they are not going away. There are obvious geopolitical constraints on the EU's democracy-promotion abilities in its neighborhoods,[18] but geopolitics can work as a constraint on the centrifugal tendencies in the EU and can help to contain the drive toward illiberalism that is now occurring in some CEE member states.

Finally, beside the containment from above by the EU there is also

containment from below. In Poland, a powerful movement has emerged to protest PiS illiberalism. The name of the Committee for the Defense of Democracy (KOD) is meant to echo that of the old Committee for the Defense of Workers (KOR), which was founded in 1976 and became the forerunner of Solidarity. The KOD is a horizontal movement. It stages mass protests against specific government measures, but it refuses to turn itself into a political party.

Pierre Rosanvallon identified "counter-democracy" or the "democracy of defiance" as a response to the hollowing out of democratic politics in Europe.[19] This "defiance" contains a populist streak of hostility to liberalism and elites, and yet protest movements that are based in civil society and that challenge existing party structures may also come to serve as sources of rejuvenation that breathe new life into tired democratic institutions. The democracy of defiance developed in Western Europe in opposition to the liberal consensus there. Poland suggests that the democracy of defiance can also emerge as a challenge to the illiberal drift of politics in Central and Eastern Europe.

NOTES

1. Nelson Fraser and James Forsyth, "How Teresa May Can Seize the Brexit Revolution," *Spectator* (London), 9 July 2016.

2. Speaking to the Council on European Studies on 7 July 2015, Kim Lane Scheppele noted how, by lowering the mandatory retirement age, Orbán put in place a younger and politically more reliable set of judges. Author's notes.

3. Orbán's speech on illiberal democracy of 26 July 2014 has been translated at *http://budapestbeacon.com/public-policy/full-text-of-viktor-Orbáns-speech-at-baile-tusnad-tusnadfurdo-of-26-july-2014*. It is interesting to note that Orbán borrows a concept of "illiberal democracy," widely discussed in political science since Fareed Zakaria's article some twenty years ago. Similarly, but from the opposing side of the political spectrum, Pablo Iglesias, the leader of the Spanish movement Podemos, refers positively to populism in the definition given by the political theorist Ernesto Laclau.

4. David Klimeš, "Slovaks Afraid of Just How Far Extremist Kotleba Will Go" (in Czech), *E15 Weekly* (Prague), 25 November 2013.

5. Henry Foy, "Slovakia Election: PM Uses Migrant Fears to Boost Poll Support," *Financial Times,* 3 March 2016, *www.ft.com/cms/s/0/f3c6a6f8-e11e-11e5-8d9b-e88a2a889797.html*.

6. Paul Hockenos, "Croatia's Far Right Weaponizes the Past: The New Government Includes an Outspoken Apologist for the Country's World War II–Era Fascist Regime," *ForeignPolicy.com,* 6 May 2016.

7. The HDZ's founder was Franjo Tudjman (1922–99), a former Yugoslav Army general turned nationalist historian who governed throughout the 1990s as newly independent Croatia's first president.

8. During the communist period, these political traditions were repressed, then revived in parts of civil society or used by the regime as a surrogate source of legitimation. Some

of these issues are discussed in Michal Kopeček and Piotr Wciślik, eds., *Thinking Through Transition: Liberal Democracy, Authoritarian Pasts, and Intellectual History in East Central Europe After 1989* (Budapest: Central European University Press, 2015).

9. László Sólyom is quoted in "Ex-President Sólyom Urges Successor to Veto Constitutional Changes, Slams Use of Fidesz of Basic Law for 'Daily' Political Goals," *MTI* (Budapest), 11 March 2013. Orbán could make a new constitution because the center-left governments that ran Hungary in the 1990s had failed to produce a new basic law breaking cleanly with the communist past. See Andrew Arato, *Post Sovereign Constitution Making: Learning and Legitimacy* (Oxford: Oxford University Press, 2016), ch. 4.

10. Zladisław Krasnodębski, *Demokracja periferii* (Gdansk: Słowo/Obraz Terytoria, 2003). See also his "Grzeznaca revolucjain," *Polityka* (Warsaw), 25 April–6 May 2006.

11. See the speech cited in note 3 above. Orbán said: "The defining aspect of today's world can be articulated as a race to figure out a way of organizing communities, a state that is most capable of making a nation competitive. This is why . . . a trending topic in thinking is understanding systems that are not Western, not liberal, not liberal democracies, maybe not even democracies, and yet making nations successful. Today, the stars of international analyses are Singapore, China, India, Turkey, Russia."

12. Slawomir Sierakowski, the editor of *Krytyka Polityczna,* describes the political system in Poland as "dominated by a dysfunctional conflict between modernization and anti-modernization instead of a proper conflict between two versions of modernity, between Left and Right."

13. Jászi's 1927 essay appears in a collection of his writings titled *The United States of Europe* (Budapest: Hungarian Europe Society, 2006). He borrowed the term "regression" from psychoanalysis.

14. István Bibó, *Le misère des petits états d'Europe de l'Est* (Paris: L'Harmattan, 1986), 115. Bibó wrote this work in 1944, and published it in Hungarian in 1946.

15. They actually borrow the term that Chancellor Merkel had used in December 2010 at the Congress of the Christian Democratic Union.

16. "Viktor Orbán's Speech at the Opening of the World Science Forum," Budapest, 7 November 2015, *http://2010-2015.miniszterelnok.hu/in_english_article/viktor_Orbán_s_speech_at_the_opening_of_the_world_science_forum.*

17. References to the "Ottoman" migration route evoke the forces of the Turkish sultanate that seized and held Buda from 1541 to 1686, and that were stopped at the gates of Vienna in 1683 by Poland's King Jan III Sobieski and a multinational European army.

18. Jacques Rupnik, ed., *Géopolitique de la démocratisation: L'Europe et ses voisinages* (Paris: Presses de Sciences Po, 2014).

19. Pierre Rosanvallon, *La contre-démocratie: La politique à l'âge de la défiance* (Paris: Seuil, 2006).