

Orbán Uses Coronavirus to Put Hungary's Democracy in a State of Danger

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Over the past ten years, Hungary's Prime Minister Viktor Orbán has followed the principle of "Never let a good crisis go to waste when it offers opportunities for an authoritarian power grab." Today, at the height of the coronavirus crisis, he wants to use the state of emergency to expand the powers of his government to a level seen more in hardcore autocracies rather than in EU member states.

In 2010 Orbán returned to power at the height of the financial and debt crisis. He not only exploited the crisis for his "economic freedom fight"—disciplining foreign investors with heavy special taxes or pushing them out of the country—but also for eroding all constitutional checks and balances, practically pulling the curtain down on liberal democracy in Hungary.

Later Orbán used the 2015 refugee crisis to forge an unmatched electoral base united by the government's tireless hate propaganda and fear of migration. In September of that year, his government introduced a special "state of emergency caused by mass migration," which is still in power, having been diligently prolonged in six-months installments to the present day. Nonetheless, the coronavirus crisis offers Orbán the chance for a crowning achievement in his authoritarian power grab.

The Enabling Act

On March 11, the government declared a "state of danger"—a special state of emergency regulated by the Fundamental Law—in order to get exceptional competences to combat the coronavirus pandemic. According to the Fundamental Law, parliament is required to authorize the extension of decrees ordered by the government in a state of danger beyond 15 days.

The governing Fidesz party has the necessary two-thirds majority required to prolong the state of danger, and opposition parties had signaled their readiness to support such an extension until the end of June. Yet, on March 20, the government filed a motion for an enabling act that would allow it to govern by decree practically without limits in time and extent as well as disable parliamentary control over the executive.

The act also introduced two new offenses in the criminal code. Persons who "claim or spread a distorted truth in relation to the emergency in a way that is suitable for alarming or agitating a large group of people" or

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obstruct the implementation of measures taken to prevent the dissemination of infectious diseases would be liable to five years in jail. In light of the government's track record, journalists critical of it, watchdog NGOs like the Hungarian Helsinki Committee, and international scholars say the law gives huge discretionary power to strike down anyone critical to the government and ultimately it could be used to further intimidate and subjugate independent media through criminal prosecutions.

On March 23, the government failed to secure support from opposition parties to win the four-fifths majority in parliament required to pass laws in an urgency procedure. However, the enabling can be passed in a normal legislative procedure with a two-thirds majority on March 31, in spite of the opposition's resistance and its offer to prolong the normal constitutional status of state of danger until the end of June.

Crossing the Rubicon

Even at a time when Western governments are proclaiming states of emergency and seek extraordinary competences to fight the coronavirus epidemic, Hungary's enabling act stands out. Under it, in practice all government decrees would not be bound by any current laws. Elections and by-elections would also be suspended for as long as the enabling act is in force. Minimal checks are built in the legislation, such as guaranteeing the functioning of the Constitutional Court. But the court has been hijacked by Fidesz since 2013 and is hardly a shield against possible violations of fundamental rights.

The law would remain in effect as long as the state of danger persists, which would be determined by the government. The only way to return to normality against the will of the government would be by revoking the law with a two-thirds majority in the parliament, which is politically impossible under the current conditions and absent elections.

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The fact that Orbán refused the prolongation of the state of danger offered by the opposition parties on March 23 shows that combating the coronavirus epidemic is not the real intention behind the enabling act

Scapegoating till Death Do Us Part

Orbán is taking a risk with the effective introduction of permanent emergency powers. He does not seem to have anything to win by this step: his power is cemented and with his two-thirds parliamentary majority he can deal with any new challenges. Until now, the stability of his regime was mostly guaranteed by retaining a democratic appearance while Hungary turned into a "competitive autocracy" years ago. Giving himself permanent emergency powers smashes the illusion of democracy and in the long term may undermine his domestic support as well the tolerant attitude so far of the EU institutions and member states.

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The prime minister can only keep these powers for a short time if he wants to avoid potential backlashes. Maintaining a coronavirus-related state of danger for years, as with the migration-related state of emergency, will be hardly possible as an EU member—unless the pandemic deals European integration a fatal blow and the number of authoritarian regimes around the world increases significantly. Although such a development would be not against Orbán's preferences, he is likely aware of the low probability of this scenario.

Most likely, Orbán has a short-term plan to exploit the current situation. The unnecessary attempt to push the enabling act through parliament in an urgency procedure, which was bound to fail, appears to have been an orchestrated move. It laid the foundation for scapegoating the opposition for any serious consequences of the epidemic. The government's propaganda machinery is already strongly pushing the narrative that the opposition parties are responsible for measures necessary to protect the population not being taken in time. Now the opposition is framed not only as the enemy of the nation, but also as literally threatening the life of citizens.

Orbán must be well aware that the underfunded healthcare system cannot cope with high infection numbers and that a wide dissemination of the coronavirus can result in a high death toll. To protect the foundations of his power and electoral support, he orchestrated a situation where opposition parties had to reject the government's initiative if they wanted to avoid give Orbán unconstrained power. He now exploits the situation to shuffle off political responsibility for the consequences of his own healthcare policy and poor crisis management onto the opposition.

The King Is Naked

Whatever Orbán's motivations, the proposed law constitutes a serious authoritarian power grab. The regime will consider whether to keep the state of danger in the next couple of months. In light of previous experiences with authoritarian dynamics in Hungary, once passed the enabling act will not be rescinded anytime soon in the absence of determined domestic and international opposition. It will thus transform Hungary's system from competitive autocracy to "authoritarianism without adjectives."

The EU institutions and member states have to closely follow developments in Hungary and pressure the government if it is not willing to end the coronavirus-related state of emergency once the pandemic is under control or over. (And the same applies to any other member states where a similar situation arises, such as Bulgaria.) Hungary has reached a point where the democratic appearance of the regime has evaporated. European and other partners of the country have the means to do something about this; it is now only a question of their political will to oppose the complete autocratization of an EU member state.

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