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Part One
Introduction

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The Challenge of Transformation since 1989: An Introduction

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In January 1989, the countries discussed in this book were all ruled by communist parties. There was considerable variation in the systems operating in these countries, with extensive private agriculture permitted in Poland and Yugoslavia, for example, and collectivized agriculture elsewhere in the socialist bloc. But there were some common features too, among them the principle that the communist party should rule, censorship of the press, party and state supervision of religious organizations, and close supervision of any ad-hoc associations, which, typically, were required to register with the police. The German Democratic Republic, Poland, Czechoslovakia, Hungary, Romania, and Bulgaria were, as of 1989, all members of the Warsaw Treaty Organization, a Soviet-led military alliance known colloquially as the Warsaw Pact. Those same countries were also members of an economic organization known as the Council for Mutual Economic Assistance (or COMECON). Albania was active both in the Warsaw Pact and in COMECON until 1961, when relations between that country and the Soviet Union cooled, and Albania withdrew from those organizations.

Three decades since the Great Transformation of 1989, neither the Warsaw Pact nor COMECON exists any longer. The Soviet Union has broken up into fifteen successor states, of which Russia and Kazakhstan are the largest. Yugoslavia has broken up into seven successor states. The breakup of Czechoslovakia gave birth to the Czech Republic and Slovakia. And the German Democratic Republic united with the Federal Republic of Germany in 1990, ending forty-one years of separate existence.

Today, most of the states of the region have joined both the North Atlantic Treaty Organization (NATO), thus entering into alliance with the United States, Britain, France, Germany, and other West European states, and the European Union (EU), a political and economic community which, at the time of writing, unites twenty-eight European states in a single market with common standards for legislation and a common trade policy, albeit with Great Britain moving toward exiting the union. In 2004, the Czech Republic, Hungary, Poland, Slovakia, and Slovenia were admitted to the EU, along with Cyprus, Estonia, Latvia, Lithuania, and

Malta. Romania and Bulgaria were admitted to the EU in January 2007, followed by Croatia in 2013. In June 2018, the EU announced that it was starting accession talks with Albania and Macedonia. Bosnia-Herzegovina, Kosovo, Montenegro, and Serbia are considered potential candidates. Macedonia signed a Stabilization and Association Agreement (SAA) with the EU in April 2001, although the agreement entered into force only in April 2004;¹ the SAA is considered a first step toward eventual membership in the association. In October 2007, Montenegro signed an SAA, followed by Bosnia-Herzegovina in June 2008; subsequently, Serbia signed an SAA, which entered into force in September 2013.²

At the time of writing, Albania, Bulgaria, Croatia, the Czech Republic, Hungary, Montenegro, Poland, Romania, Slovakia, and Slovenia are all members of NATO. Macedonia became a participant in NATO's Partnership for Peace in 1995, as did Serbia and Bosnia-Herzegovina in 2006. Macedonia's accession both to the EU and to NATO was held up by Greece's decades-long insistence that it holds a copyright to the name "Macedonia" and that that candidate country would have to change its name if it wished to join the military alliance. Macedonia finally agreed to do so and, in June 2018, the governments of Skopje and Athens signed an agreement, under which the Republic of Macedonia would henceforth be known as the Republic of North Macedonia and, in exchange, Athens would lift its veto of now-North Macedonia's entry into the EU and NATO.³ The Macedonian parliament approved the agreement with the support of 69 out of 120 deputies; immediately following the agreement, Greece lifted its veto on Macedonia's entry into these international organizations and, in mid-July 2018, NATO extended a formal invitation to Macedonia – now North Macedonia – to start accession talks. Where EU membership is concerned, this appeared to be more complicated but, at the time of writing, had not been ruled out.

This tidal change in membership in regional organizations already points to the dramatic change which has taken place in the region since 1989. This change was driven in the first place by discontent with the socialist system and its various constraints (on foreign travel, on internal movement, on associations, on free speech, on the press, on religion, etc.) and by dissident elites who, in many cases, rose to high office (the examples of Lech Wałęsa, who became president of Poland, and Václav Havel, who became president first of Czechoslovakia and later of the Czech Republic, serve to make the point). But, from an early point, local politicians looked to foreign models, studying the constitutions and laws of West European and other countries in drafting new constitutions and laws for their own lands, and inviting foreign organizations, such as the Central and East European Legal Initiative (CEELI) of the American Bar Association to send delegations to share their expertise. With EU and NATO accession, moreover, have come standards to which candidate countries have had to adapt, and this has served to bring these states into a common framework with West European states.

There have continued to be problems in the region, especially in the south-east, where Kosovo and Moldova are Europe's two poorest countries, while, in Serbia, the authorities did not arrest Radovan Karadžić and Ratko Mladić, the last two war crimes indictees wanted by the International Criminal Tribunal for the former Yugoslavia, until July 2008 and May 2011, respectively.

The fall of communism sent ripples throughout the societies in the region, bringing changes in politics, in the economic sphere, and in the media, opening up new opportunities for corruption, and sparking a revival of religion in parts of the region, even as the past collaboration of clergy with the communist-era security services came to light. We shall discuss these changes and processes in the following sections.

Progress with Democratization

After the implosion of the communist systems in the course of 1989–1990, some scholars argued among themselves about whether the post-communist (or post-socialist) systems had entered a process of *transition*, or whether that process could be more aptly called a *transformation*. Of all the debates which have been waged within the walls of academia, this was surely one of the most pointless since, when things change, there is surely transformation and, when the leaders in the societies in transformation have a goal in mind, they surely think of their societies as being in transition to a defined and better future. The goal which all the principal political leaders in Central and Southeastern Europe had in mind from the beginning was membership in the European Union (EU) and, upon attaining such membership, their “transition” may be said to have reached their goal, even if transformation continued (as it does everywhere in the world to a greater or lesser extent). Entry into the EU entailed meeting the requirements imposed in the *acquis communautaire*, the accumulated body of EU treaties, laws, regulations, declarations, and resolutions. That said, the desire for democracy had a life of its own. A formula for democracy may refer to multicandidate elections, uncensored press, separation of powers, an informed public (capable of understanding their own interests), and campaign funding from public coffers (rather than from corporations or lobby groups). But, for those in the post-socialist countries, what mattered the most (possibly in this order, with a variation in the case of the Yugoslav successor states) were the freedom to travel, freedom of speech, freedom of religion, economic freedom, and political pluralism. And yet, as the locals appreciated, political pluralism was the key to achieving the various desired freedoms listed above. As for the socialist Yugoslavia in its dying days, first Serbian and then also, to a lesser extent, Croatian elites stoked nationalist sentiments, tempers rose, and the dogs of war could be heard howling in the distance – some people wanted war, others peace; some wanted justice or revenge or territorial expansion, others wanted to be safe; some hoped that the arrival of war would mean a chance for profiteering, while

Table 1.1 Comparative rankings for democratic attainment

<i>The Democracy Index from The Economist (the higher the score, the higher the ranking)</i>	
Flawed democracies:	Czech Republic (7.62); Slovenia (7.50); Slovakia (7.16); Bulgaria (7.03); Poland (6.67); Hungary (6.64); Croatia 6.63); Romania (6.44); Serbia (6.41)
Hybrid regimes:	Albania (5.98); Montenegro (5.69); Macedonia (5.57); Bosnia-Herzegovina (4.87)
<i>Rankings for Democracy (2018) from Freedom House, Nations in Transit: Confronting Illiberalism (the lower the score, the higher the ranking)</i>	
Consolidated democracies:	Slovenia 2.07; Czech Republic 2.29; Slovakia 2.61; Poland 2.89
Semi-consolidated democracies:	Bulgaria 3.39; Romania 3.46; Hungary 3.71; Croatia 3.75; Montenegro 3.93; Serbia 3.96
Hybrid regimes:	Albania 4.11; Macedonia 4.36; Bosnia-Herzegovina 4.64; Kosovo 4.93

Sources: The Economist – Intelligence Unit, *Democracy Index 2017*, at www.eiu.com/topic/democracy-index; and Freedom House, *Nations in Transit: Confronting Illiberalism* (2018), at <https://freedomhouse.org/report/nations-transit/nations-transit-2018> [both accessed on 30 June 2018].

others just wanted to hold onto what they owned. And then, after the war, the people in the damaged economies of the post-Yugoslav region were faced with more complicated challenges accompanying efforts at democratization.

The post-socialist transition/transformation has been rocky, with progress sometimes followed by backsliding. Identifying just how democratic a country is, at any particular time, is difficult, although not impossible.⁴ Backsliding can be subtle, often unfolding more slowly than a coup.⁵ Election fraud is typically accomplished well before the date for an election. As Nancy Bermeo notes, “Today, only amateurs steal elections on election day.”⁶ Bermeo defines democratic backsliding at its most elemental as “state-led debilitation or elimination of any of the political institutions that sustain an existing democracy.”⁷ Admittedly, this is a porous definition; the term, Bermeo notes, “embraces multiple processes.”⁸

The British magazine *The Economist* and Freedom House both track democratic progress in the post-socialist world. Both of these placed the Czech Republic, Slovenia, Slovakia, and Poland in the highest category, with both placing Albania, Macedonia, and Bosnia-Herzegovina in the lowest (“hybrid”) category. The main differences between the two sets of rankings are that Freedom House arrays the states across three categories, while *The Economist* collapses them into just two categories, and that Freedom House gives Montenegro a higher grade than does *The Economist* (see Table 1.1). Bulgaria, Croatia, and Romania are all consistently ranked higher than Serbia, Hungary, and Poland.

Before 2010, observers tended to be largely optimistic about the democratic prospects and progress of Hungary and Poland. Under Prime Ministers Gyula

Horn (1994–1998), Péter Medgyessy (2002–2004), and Ferenc Gyurcsány (2004–2009), the Hungarian government raised salaries and pensions, held a referendum on EU membership, and introduced austerity measures to tackle the budget deficit. It was also in 2009 that Hungary introduced same-sex partnerships, with almost all of the benefits associated with heterosexual marriage. But in May 2010, Viktor Orbán, who had previously served as prime minister between 1998 and 2002, returned to the prime minister's office and soon succeeded in passing a new constitution and pledged to build an “illiberal democracy” in Hungary. Since then, Hungary has wandered off the democratic path, even though *The Economist* optimistically still ranks the country as a flawed democracy.

In Poland, the Social Democratic Party and Democratic Left Alliance controlled the prime minister's office between 1996 and 2005. Then, after an interlude during which the clerical Law and Justice Party controlled that office – October 2005 to November 2007 – the centrist Civic Platform, led by Donald Tusk, began an eight-year mandate. Tusk's regime was open to Western democracies, friendly toward same-sex relationships, and open to foreign investment. Then, in October 2015, the Law and Justice Party garnered 37.58 percent of the vote; with that, its candidate, Beata Szydło became prime minister. Since then, after the death of President Lech Kaczyński in a controversial air crash, his brother Jarosław Kaczyński has been the acknowledged head of Law and Justice. What is striking is that both Orbán and J. Kaczyński have followed the same playbook, intimidating, or in Hungary taking control of, the media, establishing party control of the judiciary, and playing the patriotic card.

Hungary and Poland both belong to the EU, but the EU has treated them differently. On 13 January 2018, after repeated warnings directed at Warsaw, the European Commission opened an inquiry to determine whether judicial reforms and restructuring of the media in Poland were consistent with the rule of law. In Hungary, by contrast, even after Orbán had turned the media into a government mouthpiece and forced 274 judges into retirement, the European Commission restricted itself to registering its concern, but did not activate Article 7 of the Treaty of the European Union against Hungary. At the time of writing, the European Commission has not activated Article 7 against Poland, which could involve the suspension of voting rights within the EU. However, raising the issue of the rule of law is nonetheless a serious step.

Why has the European Commission responded more quickly to democratic backsliding in Poland than it did in Hungary? There are several explanations that present themselves, including that the EU was preoccupied with the euro crisis during the years 2010–2012, that Orbán's Fidesz party has more powerful allies (in the European People's Party) than does Kaczyński's Law and Justice Party, and that Poles are more pro-European than are Hungarians; indeed, 55% of Poles have a positive view of the EU, versus 39% of Hungarians.⁹ Nor are Hungary and Poland the EU's only worries. Among aspiring would-be

members, Serbia is rated as a “flawed” and at best “semi-consolidated” democracy, while both *The Economist* and Freedom House describe Bosnia-Herzegovina as having a “hybrid regime” or rather, in the case of divided Bosnia-Herzegovina, hybrid *regimes*.

Corruption

Corruption is also a problem in many countries of the region, in spite of steady pressure from the international community. In 2007, Transparency International (TI) ranked Slovenia in 27th place in the organization’s corruption perception index among 179 countries ranked – and Slovenia was said, by TI, to be doing quite well in assuring rule of law and clean government. Hungary followed in 35th place, the Czech Republic in 41st place, Slovakia in 49th place, Poland in 61st place, Bulgaria and Croatia tied for 64th place, and Romania ranked at 69th place, with the remaining countries in the region ranked 79th or lower.¹⁰ Ten years later, Slovenia, Slovakia, Hungary, and Bulgaria were ranked appreciably lower, with the Czech Republic ranked marginally lower (42nd place, down from 41st place). By contrast, Poland, Croatia, and Romania all improved their rankings for corruption between 2007 and 2017¹¹ (see Table 1.2). Already in 1995, András Sajó noted that the “emerging post-Soviet states” were “unstable” and “sometimes *pre-modern*.”¹² This was so, he

Table 1.2 Corruption Perception Index 2017 (ranking 180 countries)

Country	Rank	Score (out of 100)
Slovenia	34	61
Poland	36	60
Czech Republic	42	57
Slovakia	54	50
Croatia	57	49
Romania	59	48
Montenegro	64	46
Hungary	66	45
Bulgaria	71	43
Serbia	77	41
Kosovo	85	39
Bosnia-Herzegovina	91	38
Albania	91	38
Macedonia	107	35

Source: Transparency International, *Corruption Perception Index 2017*, at www.transparency.org/news/feature/corruption_perceptions_index_2017?gclid=Cj0KCQjw1NzZBRCoARIsAIaMwuvjTOKJQryM_hpIJJXc6undxyvoauzDrFjkzMXR3r5xeWh7UkYzXfcaAptREALw_wcB [accessed on 30 June 2018].

argued, because there was a “lack of proper bureaucracy in the Weberian sense.”¹³ In the short term at least, the law would be uncertain and statutes would be “disregarded by unclear governmental regulations.”¹⁴ This then ultimately gave way to “unlimited discretionary powers of the officials” and the ability to turn a blind eye to fundamental rights and their enforcement.¹⁵ Seven years later, Rasma Karklins presented her detailed typology of post-communist corruption, confirming Sajó’s observations. Karklins noted that, although the extent and practice of corruption were different across countries, their general features were the same. Moreover, echoing Sajó, she laid fault at the “systemic features of the preceding regimes and the transition from them.”¹⁶ The communist systems had been characterized by monopolies of various kinds – political, social, and economic¹⁷ – features that would be found also after communism. Robert Kitgaard has proposed “monopoly and discretion-accountability” as a formula to describe this situation.¹⁸ The question, therefore, is the following: To what extent do officials have discretion over decisions and to what extent, if at all, has the institutional brake – accountability – been retained?

Corruption today has many faces. Within this framework, lying, nepotism, bribery, and profiteering are only the symptoms of a systemic cancer. The really invidious nature of such activities is how they “distort the workings of the political system.”¹⁹ And to that may be added the direct costs to the citizens of any given state.

Karklins sets out three types of post-communist corruption: “low-level administrative corruption, self-serving asset stripping by officials and ‘state capture’ by corrupt networks.”²⁰ As is demonstrated by countries analyzed herein, one or more of these forms of corruption may be found wherever the level of democracy is changing – whether the direction is toward greater democracy or toward a more authoritarian system. For example, the current *enfants terribles* in the group we are considering, and within the EU generally, are Hungary and Poland. Sajó writes that, when the state is seen as a “provider of welfare services” and the law is not viewed as above politics and the self-interest of individuals and groups, the result is instrumentalism, with consequences prioritized over the rule of law.²¹ Rights, then, cease to be an impediment to the maximization of profits and advantage by the rich and powerful.

Poland possessed a more or less healthy *nomenklatura* in 1989. While healthy alternative networks may have existed at that time, thanks to Solidarity, a “clientistic network” was in place and maintained. Solidarity’s structure and organization did not lend itself to direct translation into a political party, and the opposition fragmented.²² In Transparency International’s Corruption Perceptions Index, Poland’s score has hovered around 60 since 2012, and Poland was ranked in 36th place in 2017.²³ Among other problems, Poland continues to have problems with judicial review.²⁴

Even in Slovenia, the “darling” among the Yugoslav successor states, protests in 2015 led to the ouster of then-Prime Minister Janez Janša, who had been imprisoned in June 2014 after being convicted of having accepted a bribe.²⁵ But, after Janša’s Slovenian Democratic Party won the largest slate of deputies in parliament in the June 2018 elections, Slovenian President Borut Pahor opened discussions with Janša with an eye to granting him the mandate to form a new government.²⁶ However, Janša proved unable to put together a working coalition and, by 8 August, Marjan Šarec, former comedian and former mayor of Kamnik, whose party had finished second, had put together a coalition with four other parties. Šarec was confirmed as prime minister the following month.²⁷ Nonetheless, in the aforementioned 2017 Corruption Perceptions Index, Slovenia ranks highest among the post-socialist states discussed in this volume. Poland was ranked in 36th place, followed by the Czech Republic in 42nd place. The lowest scores in this index, among the post-socialist states of Central and Southeastern Europe, were registered by Bulgaria (71st place), Serbia (77th place), Kosovo (85th place), and Albania and Bosnia-Herzegovina (tied for 91st place). Corruption may be considered the single most important challenge for the region since 1989, since it has potentially repercussions for the rule of law, the fairness of elections, the fairness of hiring in the government sector, the freedom of the media, and the level of poverty.

Economic Transformation

All of the Soviet bloc countries experienced recessions in the early 1990s, ranging in intensity from severe to extreme. It would take a decade (until 2000) before Poland and Slovenia registered GDPs significantly greater than their respective GDPs in 1989, while other states in the region would take even longer.²⁸ Some scholars have suggested that the region-wide economic recession of the early 1990s was associated with the policy of economic “shock therapy.” However, as John Marangos has pointed out, “[t]he implementation of the shock therapy model was short lived,” above all because of “undesirable outcomes . . . , such as unemployment and inflation.”²⁹ One after the other, the formerly socialist states abandoned shock therapy in favor of gradualism, beginning with Poland in September 1993 and Russia three months later. In December 1994, Bulgaria followed suit, followed by Estonia in March 1995, the Czech Republic in June 1996, Albania in June 1997, and Latvia in July 1997. Shock therapy was adopted for economic reasons but abandoned for political reasons. M. Boyko explains that “no matter how strong the purely economic case for ‘big bang’ price decontrol is, this measure cannot be recommended to a politically weak government whose primary objective is to stay in power.”³⁰ By contrast, in Yugoslavia, as is well known, economic decay can be traced to the OPEC oil price hike of 1974, but intensified over the course of the 1980s.