

The Illiberal Turn and Quasi-Militant Democracy Measures During the Coronavirus Crisis in the Czech Republic¹

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Introduction

The result of democratic backsliding and the growing populist rhetoric, an illiberal turn has become the primary challenge for semi-consolidated democracy in Central and Eastern Europe.² One of the main results has been an outbreak in several consolidated political party systems, including Czechia, experiencing a shift toward Eurosceptic and anti-liberal rhetoric and politics.³ The illiberal turn is defined often on a linear trajectory (a sequence of ‘episodes’) of persistent backsliding within a consolidated democratic system.⁴ The challenges posed to liberal democracy in the age of Covid-19 generated an opportunity for populist governments to consolidate their power and bypass checks and balances. Anti-pandemic measures strengthened the executive power, weakened parliamentary oversight, and suspended certain rights and liberties.⁵

The following article aims to reflect upon the illiberal turn by using theories and frameworks of quasi-militant democracy and reviews attempts to limit a political nation’s sovereignty through legal restrictions. It is an antinomic ideal type of new-militant democracy, a modern type of militant democracy that seeks to protect democratic regimes. According to Lenka Bustikova and Petra Guasti, one of the pre-conditions of the illiberal turn is the contestation of sovereignty. It confirms the application of this conceptualization, considering the aims of quasi-militant democracy to limit sovereignty through legal restrictions and controls.⁶

The starting point is March 2020, following the first publicly declared state of emergency in Czechia. The final point is in April 2021, after the conclusion of an unconstitutional state of emergency. This study attempts to address the following questions: (1) What quasi-militant democracy instruments were adopted in Czechia? (2) How did these measures impact the dynamics of the illiberal turn and reduce the sovereignty of the political nation? (3) How can the political nation defeat attempts to use these measures? The study draws on a qualitative analysis of sources, including legislative acts adopted to respond to the COVID-19 pandemic. Quasi- and new-militant democracy rest on the categorization of militant democracy introduced by Karl Loewenstein. In the face of the fascist threat in Europe, Loewenstein called for the use of legal instruments to protect democratic regimes.⁷ At present, militant democratic measures include anti-extremism, counterterrorism, and

anti-terrorism legislation, restrictions on the registration of political parties, freedom of speech, the press, religion, association, passive and active voting rights, and access to public employment, citizenship, and referendums.⁸ However, some scholars over time challenged the goals of using militant democracy measures.⁹ For this reason, Roman Bäcker, and Joanna Rak proposed a new conceptual distinction between neo-militant democracy and quasi-militant democracy. Neo-militant democracy, as a modern type of militant democracy, seeks to protect democracy, defined by Rak and Backer as the sovereignty of a political nation. Roman Bäcker understood the political nation as a set of equal individuals who comprise a single society, capable of deciding the most important matters of the state in a sovereign manner. The political nation does not have to be identical to a cultural nation, or even to an ethnic nation. The political nation is a component of democracy (Bäcker, 2020, 35).¹⁰ In turn, quasi-militant democracy is the antinomy of militant democracy. It leads to authoritarianism, defined as the lack of the sovereignty of a political nation, utilizing the same means of the state but with opposing goals for a political regime.¹¹

Before analyzing quasi-militant democracy measures in the age of COVID-19, it is worth noting that the ruling elites in Czechia utilized the following instruments prior to the coronavirus crisis: the politicization of domestic media; Prime Minister’s and President’s cooperation against the opposition; combating non-governmental organizations; changes in the Czech judicial system’s structure to limit the sovereignty of the political nation.¹² Most of them were adopted by Andrej Babiš’ party ANO (in Czech: Akce nespokojených občanů; “Yes” in English) took power in 2017. The subsequent dynamics of the illiberal turn were the outcome of a struggle between neo- and quasi-militant democratic actors. Therefore, the Czech political system was dominated by the technocratic Babiš’s government with the solid support of the President, as well as the partisan media sector. Moreover, ruling elites attempted to put political pressure on judiciary power and ignore parliamentary opposition.

Quasi-militant Democracy Measures as a Base of the Czech Response to the Pandemic

On March 3rd, 2020, a state of emergency declared by the Czech government and approved by the parliament was the first event to confirm the presence of quasi-militant

democracy. The possibility of resisting limitations of certain rights and freedoms was minimal, and the circumstances of spreading coronavirus suggested the need for a rapid response. One of the first decisions, classifiable as a quasi-militant democracy measure, was to postpone by-elections to the Senate, abusing the core of the political nation's rights, through interference in the constitutional process of electing national representatives.¹³ Next, Babiš's cabinet began governing by resolution, excluding legislative bodies, especially the Senate, when the opposition gained a majority.¹⁴ Such measures reduced the level of the sovereignty of the political nation. Moreover, during the first wave of the pandemic from March to April 2020, the parliament reorganized the government's activities and reduced the frequency of its sessions. It should also be classified as quasi-militant democracy given that these decisions reduced the possibility to participate in the democratic decision-making process by representatives of the political nation.

Nevertheless, parliamentary opposition attempted to prevent further autocratization using quasi-militant democracy by rejecting reauthorizing a state of emergency. On the one hand, the opposition fulfilled the role of a brake against illiberal governance and sought to slow the dynamics of that turn. On the other hand, the state of emergency provisions limited the possibility of undermining the ruling camp's decisions and changing the schedule of parliamentary work to reduce the number of parliamentary meetings. Quasi-militant instruments were adopted to limit the freedom of the press by preventing the political nation from obtaining public information from the state hospital personnel for Czechia journalists.¹⁵

Other measures of quasi-militant democracy were adopted during the second wave of the pandemic, from October 2020 to April 2021, when the Czech government once again declared a state of emergency. In February 2021, the Senate refused an application for a request to extend the ongoing state of emergency, and the opposition argued that a national lockdown had not led to improvements to the country's pandemic situation. Despite that decision, the ruling elites adopted a new law that allowed the Minister of Health to impose lockdown measures (e.g., shut down trade, services, production facilities, and restrictions on public and private events) and limit freedom of movement without a state of emergency.¹⁶ As a result, the Minister of Health was given the extraordinary power to adopt restrictions without parliamentary approval. It reduced the opposition's opportunities to discuss and challenge their decisions in practice. By this logic, continuing illiberal governance by resolution without coordinating with legislative institutions became possible. This expansion of ruling elites' power by violating fundamental rights and rules of liberal democracy is peculiar to quasi-militant democracy. Rejecting the extension of the old state of emergency by the opposition was ignored by declaring a "new state of emergency."

How can the political nation defeat attempts to limit its sovereignty? On April 21, 2020, the Prague municipal court

recognized four emergency measures, including limiting freedom of movement, a travel ban, and compulsory closure of large shops, as illegal.¹⁷ This decision undermined the pandemic-driven measures of quasi-militant democracy and exacerbated the dynamic of the illiberal turn. Although judgment provisions were obligatory for the government and public administration, the Prime Minister ignored them in practice. In the face of the illiberal decision of the Czech government, political opposition, media, and courts provided an effective bulwark against the rise of illiberalism.

Conclusions and discussion

The genesis of the illiberal turn in the Czech Republic emerged prior to the rise of ANO. Numerous corruption scandals led to a decline in confidence in traditional political parties and led to an increase in the popularity of populist rhetoric. Crucial for establishing ANO's popularity was Babiš's purchase of Mafra, a Czech media house. Influential newspapers and websites allowed ANO to spread an illiberal agenda, leading to subsequent success in the 2013 Parliamentary Election. Since the nomination of Babiš to Prime Minister by the President, the dynamics of the illiberal turn gained momentum because these politicians began to cooperate and contest groups recognized as enemies (e.g., the parliamentary opposition, NGOs, and journalists). The fig leaf for the illiberal turn was the promise of changing public governance and implementing technocratic rules against public administration corruption. Therefore, the Czech experience in adopting illiberal rules was reasonable grounds for accelerating this process during the coronavirus crisis. The illiberal turn's dynamics increased in 2017-2020 and had its apogee in February 2021, when ruling elites adopted an unconstitutional state of emergency. Since March 2020, declaring states of emergency allowed the government to implement such quasi-militant democracy measures and to continue forms of illiberal governance to expand their grip on power and limit the sovereignty of the political nation.

Nevertheless, the opposition, judges, and independent media attempted to engage with the illiberal forms of governance. Since 2017, the political nation has attempted to resist the illiberal turn by mass anti-government protests in 2018 and the obstruction of the government's decisions in the Senate. The main obstacle to the rise of the dynamic of the illiberal turn was a robust Czech political nation that protected democratic standards. During the pandemic, the possibilities to undermine the government's decision were minimal by the emergency provisions. To stop the illiberal turn in the future, if the pandemic crisis recurs, it is necessary to protect democratic regimes by pursuing a balanced anti-pandemic policy that would not inherently challenge the political nation's sovereignty and present a long-term threat to the nation's checks and balances mechanism.

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ENDNOTES

- 1 This research paper is a result of the research project Contentious Politics and Neo-Militant Democracy. It was financially supported by the National Science Centre, Poland [grant number 2018/31/B/HS5/01410].
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