

**Europe's Other Democratic Deficit:**  
National Authoritarianism in a Democratic Union

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**Abstract:** This paper argues for a radical recasting of the democratic deficit debate concerning the European Union (EU). Critics have long argued that the EU suffers from a democratic deficit and that growing EU power undermines national democracy. The recent slide toward autocracy in Hungary - and the EU's efforts to stop it - remind us that, whatever the EU's flaws, democratic deficits can also exist at the national level and the EU may have a crucial role to play in safeguarding democracy and the rule of law. This issue of Europe's "other democratic deficit" is not confined to Hungary, as other EU member states have also experienced backsliding on democracy and the rule of law. This paper will place the EU's struggles with democratic deficits in its member states in comparative perspective, drawing on the experience of other democracies - including Mexico, to Argentina, to the United States in the era of the "Solid South" - which have struggled with pockets of subnational authoritarianism. Comparative analysis suggests that legal levers alone are unlikely to safeguard democracy at the subnational (or in EU's case, national) level: so long as political leaders are willing to put partisan interests above democratic values, they may allow local pockets of autocracy to persist for decades within otherwise democratic political systems.

## **I. Introduction**

The European Union (EU) has a democratic deficit, but not the one we thought it had. For years, many scholars of European integration have argued that the EU suffers from a democratic deficit, in the form of a lack of public engagement and political accountability at the EU level.<sup>1</sup>

According to this view, the increasing transfer of authority from democratic national

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<sup>1</sup> The literature on the democratic deficit is of course voluminous. For one well known work asserting the existence of a democratic deficit at the EU level, see Follesdal and Hix (2006).

governments to an undemocratic EU constituted a threat to democracy across Europe. While the EU does have democratic shortcomings, these have been grossly exaggerated in the literature, and today the greatest threats to democracy in the EU are found at the national level, not the EU level. In an era of democratic backsliding across many EU member states, when aspiring autocrats at the national level like Hungary's Viktor Orbán declare their rejection of liberal democracy, worries about the EU's supposed democratic deficit seem misplaced. Developments in Hungary, Romania, Bulgaria, Slovenia and elsewhere<sup>2</sup> remind us that rather than posing a threat to democracy in Europe, the EU may be crucial in defending democracy and the rule of law in its member states (Müller 2013a; Sedelmeier 2014; Closa et al. 2015).

This paper argues for a radical recasting of the democratic deficit debate. First, the paper argues that rather than seeing the EU's democratic deficit as a threat to democratic member states, scholars should view the EU as a quasi-federal democracy in which some member states suffer from profound democratic deficits – bordering on authoritarianism. Viewing the EU from this perspective, the existence of authoritarian member states in a democratic union should not surprise us: a rich literature in comparative politics demonstrates that soft versions of authoritarianism can persist for years in polities that are democratic at the federal level. Second, the paper explores the conditions under which state-level authoritarianism can survive within a democratic union and, by contrast, how and under what conditions the democratic regime at the union level can act to extinguish authoritarianism in a member state. One central claim advanced

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<sup>2</sup> This paper does not offer a detailed review of the deterioration of democracy and the rule of law in various EU member states. Detailed case studies and comparative analyses of democratic backsliding and rule of law erosion are available elsewhere. While scholars have not detected a pervasive pattern of backsliding across new (or old) EU member states, they have identified a number of threatening cases. Early studies (see for instance, Levitz and Pop-Eleches, 2010; Pridham, 2008; Spendzharova and Vachudova, 2012) tended to find a slowdown in democratic reforms rather than backsliding, whereas more recent studies (see for instance Bugarič 2015, Sedelmeier 2014, von Bogdandy and Sonnevend 2015) detect clear instances of backsliding in Hungary, Romania and Slovenia.

in the paper is that, ironically, there is a linkage between recent increases in democratization at the EU level and the erosion of democracy in some member states. With the increasing politicization of EU-level politics, partisan considerations have led some EU level politicians to shield from criticism national autocrats who are in their party families.

The remainder of the paper is divided into three parts. Section II reviews comparative politics literature on subnational authoritarianism within federal democracies, contrasting the conditions under which the democratic regime at the union level can act to extinguish authoritarianism in a member state, as opposed to perpetuating it. Section III applies this analysis to the contemporary union, explaining why the EU has failed to prevent democratic backsliding in member states and what steps would be necessary for it to do so. Section IV concludes.

## **II. Theory: On the persistence of authoritarian enclaves in democratic polities**

Many EU scholars have reacted with understandable dismay and surprise at the democratic backsliding experienced by some EU member states and at the EU's seeming inability to prevent it. Jan-Werner Müller sums up the troubling question many observers have in mind when he asks simply, "Could there be a dictatorship in an EU member state?" (Müller 2013a, p. 138). Many EU scholars treat the prospect of the existence of an authoritarian regime within the Union as a shocking possibility. How could it be that a union that sets democracy as an explicit condition for membership would tolerate the slide to autocracy of one or more of its member states? While such a development would of course be deeply troubling, the comparative politics literature suggests we should hardly find it surprising.

The comparative literature on democratization, or the lack thereof, at the subnational level, demonstrates that “regime juxtaposition” (Gibson 2005) - in which state or provincial level authoritarian regimes persist within regimes that are democratic at the national or federal level - is common. As Gibson (2005, p.104) puts it, “Subnational authoritarianism is a fact of life in most democracies in the developing and postcommunist world. It was also a massive fact of U.S. political life until the unraveling of hegemonic party regimes in the South in the middle years of the twentieth century. A look at democratic countries around the world will thus reveal the unevenness of the territorial distribution of the practices and institutions of democracy within the nation-state.” Likewise, as Gervasoni (2010, p.302) notes, “From Brazil to India to Russia, countries often show remarkable heterogeneity in the degree to which their subnational units are democratic. During the 1990s several scholars highlighted the existence of subnational authoritarian enclaves within national-level democracies especially in large, heterogeneous, third-wave federations.”<sup>3</sup> In other words, not only are variations in the degree of democracy across subunits within states common, these are particularly common in large, heterogeneous federations. If such variations are common within national polities of this type, we should only expect them to be more common in the context of the large, supranational, quasi-federal, and highly heterogeneous European Union. Moreover, this literature suggests what type of authoritarian state regimes are likely to emerge in the context of democratic federations. Because these regimes are embedded within a federal (or supranational) democracy, they are likely to be not particularly repressive, classic authoritarian regimes, but rather hybrid regimes that scholars variously refer to as “illiberal democracies,” “competitive authoritarianisms,” and “electoral authoritarianisms” (Gervasoni 2010, p.314). The existence of federal democracy and the

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<sup>3</sup> See also O’Donnell 1993; Fox 1994; Diamond 1999; Snyder 1999. Snyder 1999; Chavez 2003; Gibson 2005; McMann 2006.

possibility of federal intervention give state leaders “strong reasons to avoid blatantly authoritarian practices, which... increase the likelihood of a federal intervention (ibid.) Instead, leaders of these illiberal, quasi-authoritarian states, “resort to subtle means to restrict democracy. Elections are held and ballots are counted fairly, but incumbents massively outspend challengers; the local media are formally independent but are bought off to bias coverage in favor of the ruling party; dissidents are not jailed, just excluded from coveted public jobs” (ibid.). These insights help us understand what we may expect within the EU context: electoral authoritarian regimes in EU member states are likely to erode democracy in subtle ways, not locking up their opponents, but making life difficult for them; not openly declaring a break with democracy, but dressing up their demagoguery as democracy; and not openly rejecting the EU’s rules and core values, but violating their spirit.

The comparative politics literature on ‘regime juxtaposition’ and subnational authoritarianism also offers explanations of why subnational authoritarianism persists within democratic federations and suggests conditions under which the federation may act effectively to promote democratization at member state/ provincial level. This literature sheds light on a seeming irony in EU politics: just as the EU is becoming more democratic (with the power of the European Parliament increasing and the procedures for the selection of the Commission President being ‘democratized’), some of its member states are becoming less democratic. While these two trends would seem to be contradictory, the literature on subnational authoritarianism suggests how they may be linked. As Gibson (2005, p.107) explains, “One of the unremarked facts of the third wave transitions to democracy was that with national democratization often came the consolidation of provincial authoritarianism. Democratic transitions, while transforming politics

at the national level, create little pressure for subnational democratization. In fact, they often hinder it.” How can democratic politics at the federal level hinder democracy at the state level?

Where authoritarian state leaders are part of governing coalitions at the federal level, federal leaders may be willing to overlook concerns over the authoritarian nature of local rule. As Gibson explains, Authoritarian provincial political elites, with their abundant supplies of voters and legislators, can be important members of national governing coalitions,” and, “This increased their leverage and helped put concerns about the authoritarian nature of the local interlocutor on the back burner of the national party’s agenda.” (Gibson 2005, p. 107).<sup>4</sup> But just as federal politics may help protect local authoritarians under some conditions, under other conditions it can help bring them down. Just as some federal parties may help defend local authoritarian rulers, so too can other federal parties help spur their downfall. When federal parties who oppose the local authoritarian enter state politics to support the beleaguered opposition parties, they may bring them the resources the local opposition need (and are denied locally by the hegemonic party) in order to press for democratization and break the grip of the local authoritarian.<sup>5</sup>

This perspective helps explain the EU’s seeming inability to address *national* democratic deficits in member states. At this early stage in the development of EU democracy, the EU has enough

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<sup>4</sup> The experience of the US in which the national democratic party supported the anti-democratic practices of its co-partisans in the “Solid South” reminds us that parties of the left may engage in these practices just as parties of the right do. However, commenting on the EU context, Sedelmeier (2013, p. 119) suggests that parties of the Left, which are more “normatively committed to liberal democratic principles” are more likely than parties of the Right to support sanctioning national governments led by their partisan allies for democratic backsliding. As a result, in the EU, “democratic backsliding is more likely to be punished in countries that are governed by parties of the left rather than the right.” (ibid.)

<sup>5</sup> As Gibson (2005, 2012) notes, local authoritarians will engage in a variety of forms of “boundary control” in order to deprive the local opposition of access to national allies and resources and to maintain seal off local politics from federal influence.

partisan politics at the EU level that EU level political parties are willing to subtly (and sometimes overtly) defend local authoritarians who are members of their coalitions in the European Parliament.<sup>6</sup> However, partisan politics at the EU level has not developed to the extent that EU level parties are willing to actively and directly engage in support of local opposition parties struggling to mobilize against single-party, hegemonic regimes. Single party-hegemonic regimes at the state level do not need to solicit much in the way of material support from their federal copartisans. By dint of their control of the state, they already control substantial material resources, including any funds that flow to their state from the federal level.<sup>7</sup> It is enough for their federal copartisans to publicly defend their rule and to shield them from intervention by federal institutions. By contrast, local oppositions – deprived of needed resources by the hegemonic party - actually need sympathetic federal parties to intervene in local politics by providing material support. However, in the EU context, such intervention would continue to be viewed as illegitimate external meddling in a national democracy. Indeed, it is illegal for EU level political parties or their party foundations to fund national parties.<sup>8</sup> Tying this together, we can see, perversely, that the EU has developed just enough EU-level partisan politics to help protect local authoritarians, but not enough to support local democratic oppositions. In other words, the EU is currently trapped in what we might call and “authoritarian equilibrium” in which EU level party groups do more to support national autocrats than to suppress them.

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<sup>6</sup> Also see Sedelmeier (2014, p. 119) on this point.

<sup>7</sup> Gervasoni (2010) notes that local authoritarians may use federal transfers to support clientelist systems that perpetuate their rule.

<sup>8</sup> Regulation(EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding, Article 7 stating, “The funding of political parties at European level from the general budget of the European Union or from any other source may not be used for the direct or indirect funding of other political parties, and in particular national parties or candidates.”

### **III. Application: Addressing Europe's real democratic deficit**

This section highlights three main points. First, the greatest democratic deficits in Europe lie at the national and not the EU level. Second, the strengthening of partisan politics at the EU level which is central to many critics' understanding of what must be done to address the democratic deficit at the EU level has created partisan incentives for European party groups to defend national autocrats in their party groups. Third, efforts to arrest democratic backsliding in EU member states through various legal mechanisms are likely to fail if, A) EU level parties who support local autocrats pay no political price for doing so, and B) EU level parties who oppose local autocrats do not intervene forcefully to support of domestic oppositions in countries dominated by these autocrats.

#### *Flipping the Democratic Deficit Debate*

Now that some EU member states are risk sliding into autocracy, scholars can look back with nostalgia on the days when they believed the greatest threats to democracy in Europe stemmed from the EU's supposed democratic deficit. To be sure, as critics so long lamented, the EU has shortcomings as a democratic polity. The EU is distant from its citizens. Turnout in European Parliament elections is low. The EU lacks the common public sphere and demos characteristic of national democracies.<sup>9</sup> Perhaps most importantly, the EU's democratic processes – such as they are - do not give voters the sense that they can hold EU policy-makers accountable at the ballot box and change the direction of EU policy through an election (Føllesdal and Hix 2006).

That being said, critiques of the EU's democratic deficit have always been exaggerated, in part

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<sup>9</sup> For a classic debate on this theme, see Grimm (1995), Habermas (1995) and Weiler (1995). Also, see Nicolaidis (2013) who emphasizes that the EU has a plurality of demoi, rather than a single demos.



because the EU has been held up for comparison against unrealistic ideals of democracy rather than real existing democracies and in part because many critics have misconstrued the nature of EU democracy. As Zweifel (2002) noted, the EU compares favorably to leading models of federal democracy (the US and Switzerland) on many major measures of democracy. The EU's most powerful body, the Council, is hardly undemocratic as it is composed of elected governments. While critics may be right to complain that governments in the Council conduct their business in too much secrecy, this is less an indictment of the EU than it is an indictment of national parliamentary democracies – namely of the inability of most national Parliaments to control the governments who are supposedly their agents. The European Parliament is composed of directly elected MEPs. Critics complain that citizens feel little sense of connection with the EP and that voter turnout (at just over 42% in the 2014 election) is low. That may be true, but again, this hardly distinguishes the EU from other established democratic polities, such as for instance the US where turnout at the 2014 mid-term Congressional elections was just over 36%<sup>10</sup> - a full six points lower than in the EP election.

Until recently, it could fairly be pointed out that the EU's executive – the European Commission – lacked a clear democratic mandate in that it was composed not of elected officials but of bureaucrats appointed by national leaders. However, over the past decade the European Parliament has asserted greater and greater control over the selection of the Commission President – culminating in the 2014 *Spitzenkandidat* process and the (at least quasi) 'election' of Jean Claude Juncker as Commission President.<sup>11</sup> Whatever one thinks of this new process,<sup>12</sup> it

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<sup>10</sup> The Editorial Board, "The Worst Voter Turnout in 72 Years," New York Times, 11 Nov. 2014, available at <http://www.nytimes.com/2014/11/12/opinion/the-worst-voter-turnout-in-72-years.html>

<sup>11</sup> For a review of the EP's efforts to gradually increase its control over the selection of the Commission President, see Kelemen 2015.

seems clear that the Parliament has succeeded in injecting a greater dose of democratic participation into the selection of the Commission Presidency. The half-baked ‘campaigns’ and barely viewed Presidential candidate debates of 2014 may have been less than inspiring, but with the precedent now set that the EP elections determine the Commission President, the process is likely to attract far greater attention next time around.

The controversy surrounding the process of selecting – or electing – the Commission President brings us back to another misconception about EU democracy that has long distorted the democratic deficit debate. Many of the critiques of the inadequacy of electoral accountability (see Follesdal and Hix, 2006) in the EU misunderstand the character of EU democracy. Critics of past EP elections have complained that the electoral outcomes have not changed the direction of EU politics in a way that voters could observe, and that therefore it appeared that little if anything was really at stake in the elections – which depressed voter interest and turnout. Such critics view the new *Spitzenkandidat* process as an opportunity for voters to elect a leader who will shift the partisan orientation of the EU’s executive branch and thus change the direction of policy (which will in turn enhance voter engagement in EU politics and reduce the democratic deficit). However, this view seems to be based on a majoritarian, Westminster view of democracy, where a party that wins the most seats in the lower chamber of the legislature takes

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<sup>12</sup> In the run up to the 2014 EP election, each major party group in the European Parliament named a candidate -- a so-called *Spitzenkandidat* (top candidate) -- for the presidency in advance of the election. The parties made it clear to the heads of state and government in the European Council that the only candidate they would endorse was the winning *Spitzenkandidat*. In effect, the Parliament sought to leverage its power (under Treaty of Lisbon, Article 17(7)) to approve the candidate for President in order to transform the Commission President into a kind of Prime Minister selected by the Parliament and serving with the backing of a parliamentary majority. As the Parliament tried to assert this new power, a battle ensued between it and reluctant member states in the European Council – above all the UK. The Parliament argued that the Spitzenkandidat process would make the EU more democratic, critics argued the process was an illegitimate power grab by the Parliament. Ultimately, the European Parliament prevailed and a majority of heads of state and government voted to appoint Jean-Claude Juncker, the Spitzenkandidat of the winning European People’s Party (EPP) as Commission President. For more detailed discussion of this battle, see Kelemen and Menon 2014; Kelemen 2014.

power and governs.

But the EU is not and will never be a Westminster system. It is a consensus democracy that is based on dividing power between multiple institutions, encouraging a wide representation of diverse interests and building broad, multi-party coalitions to govern. Regardless of the partisan affiliation of the Commission President, as long as individual member states appoint the 27 other members of the Commission, the EU's executive will remain a multi-party body that seeks broad cross-party consensus, not a partisan government that caters to the parliamentary majority on the left or right.<sup>13</sup> Likewise, the Council of Ministers, which remains the most powerful legislative actor in the EU, represents a wide swathe of partisan views. Any sober assessment of EU democracy must get away from majoritarian, Westminster thinking: no single pan-European election will dramatically alter the direction of EU policies. Rather, the EU is and will remain a consensus democracy (Lijphart 1999) – based on compromise between a broad range of democratically elected representatives from national governments and the European Parliament.

EU democracy certainly has significant shortcomings, but as Barack Obama said in a very different context, it is “likable enough.” The same cannot be said for the national democracies in a number of EU member states, which – as other scholars have demonstrated in detail<sup>14</sup> - are seeing a rapid erosion of democracy. In recent years, democracy and the rule of law have come under serious threat in Romania, Bulgaria and above all Hungary. These developments have turned the democratic deficit debate on its head. The EU has emerged as a bulwark of democracy, seeking to prevent democratic backsliding and attacks on the rule of law in member

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<sup>13</sup> If any national analogue for the Commission is appropriate, it would most likely be something akin to the multi-party Swiss collective executive (the Federal Council). See U Klöti 2001.

<sup>14</sup> See *supra*, note 2.

states. And yet, while the EU has faced calls to step in to defend democracy, it has found its toolkit for dealing with democratic backsliding in EU member states to be very limited and ineffectual. The EU possesses a ‘nuclear option’ under Article 7 of the EU Treaties of suspending the voting rights of a member state that breaches the EU’s fundamental values.<sup>15</sup> But the political hurdles to deploying Article 7 are very high and short of taking that dramatic step, the EU has limited tools at its disposal to address threats to democracy and the rule of law at the national level.

For instance, in Hungary the EU has had limited success in restraining the Orbán regime’s drive to remove all checks and balances and to consolidate one-party rule (Scheppele 2013a, 2013b). Lacking tools to address these threats head on, the primary EU response has been for the European Commission to launch a series of infringement proceedings against Hungary before the European Court of Justice, cases which focus on ostensibly technical issues of compliance with EU law – rather than targeting the underlying attacks on the rule of law and democratic pluralism that are at stake. For instance, when Orbán’s government lowered the retirement age of judges in a thinly veiled effort to purge the judiciary and open up space for the appointment of Fidesz party loyalists, the Commission could only respond by bringing a case claiming that this policy violated EU rules on age discrimination.<sup>16</sup> While EU pressure has prompted Orbán to make some tactical concessions, it has by no means halted his drive to consolidate power.

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<sup>15</sup> Article 7 provides that the EU may suspend the voting rights of a state deemed by the European Council to be in serious and persistent breach of values enshrined in Article 2 of the Treaty – namely respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights. See Sadursky 2010; Closa, Kochenov, Weiler 2014.

<sup>16</sup> [Case C-286/12](#), *European Commission v Hungary*.

The EU's shortcomings in confronting the Orbán regime raise doubts about the EU's ability and willingness to take the steps needed to uphold EU values when they are threatened by governments. This has people asking troubling questions, such as whether we might witness the rise of an autocratic regime inside the EU (Müller 2013a). More powerful tools and graded sanctions may be needed if the EU is to act effectively to prevent this outcome. Commission President Barroso and Members of the European Parliament have highlighted the importance of empowering the EU with more instruments to intervene and safeguard democracy and the rule of law at the member state level where these are under threat (Müller 2013a, 2013b). The European Parliament has taken a leading role in condemning actions of the Orbán government, and in calling for concerted action by European institutions to prevent further erosion of democracy and the rule of law in Hungary.<sup>17</sup> The Commission has also acted, supplementing its regular infringement actions against Hungary by proposing, in 2014, a Rule of Law initiative<sup>18</sup> that establishes a series of intermediary steps, warning a state that it is on track for an Article 7 procedure and ratcheting up the pressure. Other leading analysts have proposed the deployment of novel legal procedures (Scheppelle 2015) and establishment of new monitoring institutions (Müller 2013b), which might strengthen the EU's ability to prevent the erosion of democracy and the rule of law at the national level. While all of these proposals might play a useful role in defending democracy in the EU, the arguments presented above suggest that legal actions alone

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<sup>17</sup> See the *Tavares Report* (Report of 25 June 2013 on the situation of fundamental rights: standards and practices in Hungary - pursuant to the European Parliament resolution of 16 February 2012 (2012/2130(INI)), prepared by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs and endorsed by the Parliament's plenary in July 2014; also see E Balazs, 'European Lawmakers Criticize Hungarian Government', Bloomberg News, 3 July 2013. Last month, in the wake of Hungarian Prime Minister Viktor Orbán's controversial comments about the death penalty and his controversial immigration consultation, the European Parliament again voted to condemn Orbán's actions, though as we will see below, the vote was along partisan lines. See <http://www.europarl.europa.eu/news/en/news-room/content/20150605IPR63112/html/Hungary-MEPs-condemn-Orb%C3%A1n%E2%80%99s-death-penalty-statements-and-migration-survey>

<sup>18</sup> Communication from the Commission to the European Parliament and the Council, 'A New EU Framework to strengthen the Rule of Law', 3 November 2014, COM (2014) 158 final.

will not stop democratic backsliding at the national level if politicians at the European level are willing to coddle the national leaders responsible.

### *Partisanship and local autocracy in Europe's Democratic Union*

To understand why the EU been so ineffective in opposing Orbán's drive to consolidate power, one must look first to the leadership of the European People's Party (EPP), the center right faction in the European Parliament of which Orbán's Fidesz party remains a member in good standing. In the interest of party loyalty and of maintaining their majority in the European Parliament, many EPP politicians have proven themselves willing to tolerate Orbán's violations of democratic values. Leading figures in the EPP have repeatedly sheltered the Orbán regime in the name of partisan politics, and this has significantly undermined the efforts of other EU institutions to censure the Orbán regime.

For example, in July 2013, when the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (the LIBE Committee) issued the Tavares Report criticizing the erosion of fundamental rights in Hungary, EPP vice-chair Manfred Weber (who has since become the party's chair), dismissed it as a politically motivated attack on the Orbán government by leftist parties. In March 2014, EPP President Joseph Daul spoke at a Fidesz campaign rally in Budapest praising Orbán and endorsing his reelection bid. After Orbán's victory, EPP leaders across Europe ignored international criticism of the election and warmly congratulated Orbán. Ironically, the EPP has placed Fidesz politicians in key leadership posts in the Parliament where they can help deflect criticism of the Orbán regime. József Szájer, a close associate of Orbán's who played a key role in Hungary's controversial constitutional reforms, is a vice-chair of the

EPP, while last year Fidesz MEP Kinga Gál was named vice-chair of the LIBE committee which had previously criticized the Fidesz government so harshly. Most recently, this month when the European Parliament passed a resolution<sup>19</sup> condemning Orbán's statements on the death penalty and his migration consultation, only parties of the Left voted in favor and the EPP leadership publicly defended the Orbán government.<sup>20</sup>

The EPP's ongoing embrace of Orbán can best be understood through the lens of partisan politics. Orbán's Fidesz party delivers MEPs to the EPP block in the European Parliament, and in exchange for his ongoing participation in their party group, they turn a blind eye to his misdeeds and offer occasional words of support that help him maintain power domestically. Meanwhile, other political parties at the EU level (those not aligned with Orbán) have few tools at their disposal with which to support the weak, fragmented opposition in Hungary that struggling in the context of single party dominated electoral authoritarian system. As noted above (see supra note 8), it is illegal for EU level political parties or their party foundations to fund national parties – and even if it were not illegal it might be perceived as illegitimate meddling in domestic political affairs.

Ironically, the drive to enhance EU democracy by politicizing the selection of the Commission Presidency discussed above enhances incentives for EU leaders to tolerate threats to democracy

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<sup>19</sup> See <http://www.europarl.europa.eu/news/en/news-room/content/20150605IPR63112/html/Hungary-MEPs-condemn-Orb%C3%A1n%E2%80%99s-death-penalty-statements-and-migration-survey>

<sup>20</sup> See EEP Press Release, Hungary: EPP Group firmly opposed to death penalty, rule of law applies to all Member States, 10 June 2015, at <http://www.eppgroup.eu/press-release/Hungary%3A-EPP-Group-firmly-opposed-to-death-penalty>. To be fair, a few EPP politicians have spoken out against Orbán. Viviane Reding, a Luxembourger affiliated with the EPP, spoke out publicly against the Orbán regime's "systematic" efforts to undermine the rule of law and constitutional values when she was European commissioner for justice from 2010 to 2014. Under her leadership, the Commission launched a series of infringement procedures targeting Orbán's moves to centralize power.

at the national level: linking the selection of the Commission President to winning a majority in EP elections increases the incentives for European Party groups to tolerate local autocrats who can deliver votes. This is equally true whether it is the EPP protecting Orbán today or the Socialists protecting one of their own – as they did briefly during the 2012 Romanian constitutional crisis. As discussed above, the experience of other democracies – from Mexico, to Argentina, to the United States in the era of the “Solid South”(Gibson 2005, 2012) – suggests that so long as party leaders are willing to put partisan interests above democratic values, they may allow local pockets of autocracy to persist for decades within otherwise democratic political systems. Only if local oppositions manage to link their local conflict to federal level politics and secure support from political allies at the federal level are they likely to break the local hegemon’s hold on power (ibid.), but there for reasons discussed above, there is little prospect of robust intervention to support local opposition parties in the contemporary EU context.

## **Conclusion**

This paper has drawn on the comparative politics literature on ‘subnational authoritarianism’ to gain insights into the EU’s current travails in addressing democratic backsliding in some EU member states. The lessons from the comparative politics literature are sobering and have clear implications for the EU. First, we should not be surprised to see local pockets of autocracy within a democratic federation like the EU; indeed, this is quite typical. Second, while various legal mechanisms may be helpful in constraining the most egregious behavior of local autocrats in a democratic federation, they are unlikely on their own to break local autocrats’ grip on power within their state. Third, partisan political considerations at the federal level will often lead federal parties to shield local autocrats who deliver votes and seats to coalitions in the federal



parliament.<sup>21</sup> Fourth and finally, a local autocrat's grip on power at the state level is only likely to be broken if the local opposition can overcome the autocrats "boundary control" (Gibson 2005, 2012) by attracting great federal attention to the erosion of democracy in its state and attracting material resources to support its efforts. To date, for better or worse, that sort of robust federal political intervention in national politics remains illegal and - perhaps more importantly - taboo. Thus, the EU finds itself stuck in an authoritarian equilibrium, with just enough partisan politics to coddle local autocrats, but not enough to topple them.

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<sup>21</sup> An interesting exception in the EU context came when leaders of mainstream conservative parties in the EPP pushed for the ouster of Silvio Berlusconi in Italy. While his regime may not have been as undemocratic as some that have emerged in new member states, it was certainly encouraging an erosion of democracy and the rule of law in Italy. On the anti-democratic character of the Berlusconi regime, see Viroli (2011).

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