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The European Policy Instruments of the Fourth Orbán Cabinet

Veronika Józwiak

The measures taken by Hungarian Prime Minister Viktor Orbán after winning the parliamentary elections in April prove he is choosing new instruments in pursuit of his unchanged European policy strategy. This strategy is based on an attempt to exert a disproportionate amount of influence on the Union in relation to the country's usual potential by, on the one hand, making itself distinct through confrontational actions and, on the other, by a flexible adaptation to the current political conditions. Orbán benefits from the dispute over EU migration policy, tensions in the European People's Party (EPP) ahead of elections to the European Parliament (EP) in 2019, and support of U.S. President Donald Trump.

Goals. Orbán's long-term goal in Hungary's European policy remains the construction of a conservative political camp in the EU that could elevate him to the role of a European leader. Fidesz's victory in the Hungarian parliamentary elections earlier this year strengthened his position, both in the EPP and among Eurosceptic forces. He wants to use this strength to increase Fidesz's influence in the EPP, counting on the EP elections in 2019 to produce a favourable change in the balance of power in both the European party and parliament. He awaits a new composition of the European Commission, assuming it will be less likely to link political and budgetary issues. Therefore, it is in his interest not to make decisions in the current parliamentary term on issues most important for Hungary, including the Multiannual Financial Framework for 2021-2027 (MFF) and future European migration policy.

Foreign Policy Instruments. A characteristic feature of Orbán's set of instruments is shaping the political reality through language. The Hungarian prime minister has a lot of talent in this field. One example of this is his use in the European political discourse of the label of Hungary's system as a "non-liberal democracy". He's replaced it with what he considers a positive term "Christian democracy", understood as an alternative to neoliberal and centre-left political visions. Thanks to this, Orbán is perceived today in Europe, alongside German Chancellor Angela Merkel and President of France Emmanuel Macron, as a leader offering a third possible direction of EU development. This vision is based on strong nation-states, weaker European integration, and culturally homogeneous societies. Orbán's June telephone conversation with Trump, who expressed support for Hungary's migration policy, was of great importance for the legitimacy and elevation of this worldview into global trends. The new U.S. ambassador to Budapest, David B. Cornstein, also expressed the U.S.'s intention to improve bilateral relations. The American administration remains in open dispute with Hungary only over control of the Central European University (CEU) in Budapest.

Orbán uses the lack of a pan-European agreement on asylum reform to build his political position. He strives to bring together leaders and like-minded groups against relocation and reception of migrants. He is trying to strengthen bilateral relations with Austrian Chancellor Sebastian Kurz and Italian Prime Minister Giuseppe Conte, who advocate radical limits on migrants' entry to the EU. In this coalition-building, Orbán

also takes advantage of the fact that the other members of the Visegrad Group (along with Hungary, it includes the Czech Republic, Poland, and Slovakia) have also rejected mandatory relocation and have a similar approach to migration. Orbán also enjoys the support of Italian and Dutch Eurosceptic and extreme-right forces in such issues as limiting EU bureaucracy and strengthening nation-states. In addition, he has personally engaged in the election campaign of Janez Janša, the chairman of the Slovenian Democratic Party (SPD), which won the country's parliamentary elections in June. This support has economic ties, also. According to reports from Hungarian and Slovenian press, business circles close to the Hungarian prime minister bought shares in the Slovenian media group Nova Obzorja, linked to SPD.

Orbán has benefited from the dispute between the German governing parties CDU and CSU. A meeting with Merkel on 5 July in Berlin, the first in the last three years, was a success for Orbán because the chancellor treated him as the leader of a European political movement against the admission of migrants. She wanted to signal her openness to the demands of supporters of limiting migration and accelerating returns. In turn, the Hungarian prime minister used this opportunity to make the differences more visible between the German approach, which he characterised as "supporting migration", and Hungary's position, as "opposing migration". He did not agree to adhere to the Dublin Regulation to take back migrants now in Germany but registered in Hungary despite Merkel's clear interest in that solution. Knowing that there is no chance of a Europe-wide compromise on migration, Orbán did not have to make any concessions.

Predictions that the EPP will be weaker after the next elections in May 2019 than in 2014 stem from the grouping's greater tolerance for Fidesz and its more than a dozen MEPs in its ranks. This tolerance comes because Fidesz has not lost support, contrary to the majority of the Christian Democrat parties in the EU. This weakens the arguments of the Dutch and other EPP members that want to exclude Fidesz, including the Chairman of the EPP in the EP, Manfred Weber, who also threatened the Hungarian party with the same sanction in May. As a consequence, in a vote coming in September in the EP on the next step in launching a rule-of-law procedure against Hungary, part of the EPP will support the country, blocking the triggering of Article 7 of the Treaty on EU (TEU). Orbán, being aware of his advantage, even suggested he would leave the party and create his own party before the elections to the European Parliament, which has forced the EPP to blunt its actions.

Measures in Domestic Politics. The constitutional majority restored in the last elections enabled Fidesz to change Hungary's constitution of 2011 and further strengthen the executive. A package of amendments adopted in June was the seventh modification of the constitution, but according to the prime minister's announcement, it is only the first phase of broader changes. The recent changes oblige state bodies to protect the Christian culture of the country. Another provision prohibits the resettlement of "foreign citizens" to Hungary, which the government justifies as the need to protect the sovereignty of the country and to avoid the obligatory relocation of migrants in the EU. It refers to Article 4 (2) TEU, according to which the Union is to respect the national identity of the Member States inherent to their fundamental political and constitutional structures. Thus, it can be assumed that this provision of the Hungarian constitution will serve as a legal argument in possible disputes with EU institutions regarding the implementation of the future migration policy. The Hungarian law will not affect the implementation of Community decisions, however, because of the superiority of EU law. However, some Hungarian lawyers note that the European Court of Justice does not define the concept of national identity, but in each case individually decides whether the requirement to protect national identity makes it possible to depart from the principle of the primacy of EU law. Other constitutional amendments allow the country to refuse all asylum-seekers. They also establish a system of administrative courts parallel to and independent from the common courts that will rule on any matters specified in a separate legal act. They also make it possible to limit freedom of assembly and allow the state to de-legalise and punish homelessness.

Conclusions and Perspectives. Rejecting compromise on EU migration policy is Orbán's main instrument to achieve his goals in European policy. Extending the political dispute over migration also fuels his political position in the EU. He strives to strengthen the right wing of the EPP and stabilise Fidesz's position in the grouping. To achieve this, he needs a solid base of support, also before undertaking further constitutional changes. He probably will not create his own European political grouping, though, mostly because of the mismatch between Hungary and its potential allies—Italy is in favour of mandatory relocations and Austria is striving to reduce the next EU budget—both positions are against Hungarian interests.

The content of the seventh change to the constitution confirms that a "strong state" according to Orbán means strong executive power. However, in the EU of strong nation-states that Orbán promotes, a country's actual potential—which in Hungary's case is limited—is more important than relative political power. From Poland's perspective, this means that Orbán's short-term success will not increase his chances to become an EU leader, even in the model of the Union he advocates.