

Difficulties of Democratic Transition in Ukraine and the Republic of Moldova¹

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Abstract: This article analyses, in a comparative manner, the situation of democratization in Ukraine and the Republic of Moldova. The analysis is based on nine variables/ criteria: the effective number of political parties, the electoral system, institutional corruption, the legal background, the political freedom and civil rights, civil society, economic freedom, economic growth and the quality of democracy. The study shows that the two countries have a fragile democracy, emphasizing the main factor affecting their democratic consolidation: the fact that their Soviet past determines in the collective psychology the recurrence of communist values and practices. Democratic fragility is, therefore, both the product of a common communist history and of a civic model of the parish type, dominated by authoritarianism, political apathy and lack of 'rule of law.'

Keywords: Ukraine, the Republic of Moldova, democratic transition, communist nostalgia, rule of law, democracy

Introduction

This article provides a comparative analysis of the situation of democracy in Ukraine and the Republic of Moldova, trying to highlight the particularities of democratic transition in these two ex-Soviet states. The main question to which I propose an answer below is: what are the variables that decisively influenced the democratic transition in Ukraine and Moldova? In response to this question, I argue the following (which is, at the same time, the hypothesis I have started the research from): the democratic transition of the two states is hampered in particular by the fact that the Soviet past of the two states determined recurrence at the level of collective psychology, communist values and practices.

The situation of democracy in Ukraine and Moldova is compared in this article by analyzing the degree to which the two former Soviet states satisfy the following five conditions: i) a stable political class, elected by electoral vote after the competition between at least two individual or collective actors; ii) active civil society, representing the binder between private interests and public space;

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iii) coherent institutional design based on transparency and bureaucratic efficiency; iv) legislative framework based on respect for civil rights and political freedom; v) market economy. These five conditions are, to my knowledge, the main criteria of democratic consolidation defended in the literature devoted to transitology. This paper starts from the premise that these conditions are *sine qua non* conditions of democratic consolidation. A state cannot be described as a consolidated democracy unless it meets these five conditions. Only when a country meets these conditions, one can rightfully say that democracy has become ‘the only game in town’ (Linz, Stepan 2004, 51).

The five conditions of democratic consolidation are analysed in this article in terms of nine variables within the sphere of political elites, civil society, civic culture and entrepreneurial freedom. The nine variables, their nature in this study and the scale of measurement, are summarised in the table below:

Variable	Measure Scale	Data Source
X1 Effective Number of Political Parties	Lijphart Index of Political Parties Actual Number	European Electoral Database
	$N_2 = \frac{1}{\sum (s_i)^2}$	
X2 Voting System	[1; 7], 1- Democratic Systems 7- Dictatorial Systems	Freedom House Nations in Transit Report
X3 Institutional Corruption	[1; 7], 1- Democratic Systems 7- Dictatorial Systems	Freedom House Nations in Transit Report
X4 Legal Framework	[1; 7], 1- Democratic Systems 7- Dictatorial Systems	Freedom House Nations in Transit Report
X5 Political Liberties and Civil Rights	[1; 7], 1- Democratic Systems 7- Dictatorial Systems	Freedom House Nations in Transit Report
X6 Civil Society	[1; 7], 1- Democratic Systems 7- Dictatorial Systems	Freedom House Nations in Transit Report
X7 Economic Freedom	[0;100] 0-30- Centralized Systems 30-50- Partially Centralized Systems 50-80- Partially Free Systems 80-100- Free Systems	Hertitage Foundation Economic Freedom
X8 Economic Growth	PIB \$/ per Inhabitant	World Bank
X9 Quality of Democracy	[1; 10]	The Economist Democratic Index

Table 1: Measurement of the Research Variables

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Measures of Democratic Consolidation in Ukraine and the Republic of Moldova

The tables below summarize the main measures of democratic consolidation in Ukraine and Moldova. The data concerns the period from 2002 to 2014. As one can notice, in terms of statistical distributions the two analyzed states are quasi-identical, both being characterized by 'democratic deficit,' unstable political actors, electoral systems with disproportional effects and ambiguous constitutional framework with strong residues of the previous period of time under the Soviet regime. In this section, I am showing the quantitative results of descriptive statistics and a summary of the model based on regression equations:

	Party	Electoral System	Corruption	Judicial Framework	Political Freedom	Civil Society	Economic Freedom	Economic Growth	Democratic Index
Mean	4.60846	4.115385	5.846154	5.0384615	4.25	2.9615	49.876923	2.5384615	4.59384615
Std. Error of Mean	0.41292	0.140442	0.0451	0.1895638	0.21926	0.1162	0.9324048	1.7269188	0.07648981
Median	4.08	4	5.75	4.75	4	2.75	49.3	2	4.61
Mode	4.08	4	5.75	4.75	3.5	2.75	45.8	2	4.25
Std. Deviation	1.48882	0.50637	0.162611	0.6834818	0.79057	0.4189	3.3618333	6.2264943	0.27578792
Variance	2.21658	0.25641	0.026442	0.4671474	0.625	0.1755	11.301923	38.769231	0.07605897
Skewness	0.39945	0.385852	1.57553	0.7063383	0.85956	1.2895	0.3839749	-1.753724	-0.12923221
Kurtosis	-1.3283	-0.975028	1.801052	-0.8494804	-0.916	0.185	-1.042287	5.6133628	-1.73926928
Range	3.84	1.5	0.5	2	2	1.25	10	27	0.72

Table 2: Descriptive Statistics: Ukraine

Model		Unstandardized Coefficients B	Std. Error	Standardized Coefficients Beta	T	Sig.
1	(Constant)	0.424874155	1.232039		0.345	0.748
	Effective Party Number	0.043713332	0.043827	0.235982858	0.997	0.375
	Electoral System	-0.0025163	0.056	-0.004620138	-0.045	0.966
	Institutional Corruption	0.162729541	0.185092	0.095949086	0.879	0.429
	Judicial Framework	0.366536287	0.074914	0.908382437	4.893	0.008
	Political Freedom	0.153628773	0.087481	0.440389888	1.756	0.154
	Civil Society	0.152467517	0.119477	0.231588431	1.276	0.271
	Economic Freedom	0.001480929	0.010002	0.018052407	0.148	0.889
	Economic Growth	0.000563547	0.002659	0.012723259	0.212	0.842

Table 3: Regression Model: Ukraine

	Party	Electoral System	Corruption	Judicial Framework	Political Freedom	Civil Society	Economic Freedom	Economic Growth	Democratic Index
Mean	3.52	3.9038	6.057692	4.5192	5.15385	3.7115	56.769231	5.32307	4.90923077
Std. Error of Mean	0.052	0.0532	0.05027	0.0526	0.10415	0.0842	0.5027341	1.17190	0.04666385
Median	3.48	4	6	4.5	5	3.75	57.3	6.9	4.96
Mode	3.3	4	6	4.5	5	4	57.4	6.9	4.96
Std. Deviation	0.189	0.1919	0.181253	0.1898	0.37553	0.3036	1.8126337	4.22535	0.1682489
Variance	0.035	0.0368	0.032853	0.0360	0.14103	0.0921	3.285641	17.8539	0.02830769
Skewness	0.039	-0.4555	-0.39452	-1.4841	0.26099	-0.648	-0.117278	-1.97511	-1.14894464
Kurtosis	-1.769	0.5174	-0.75507	4.6831	-0.5015	-1.122	-0.561323	3.66806	1.91458296
Range	0.44	0.75	0.5	0.75	1.25	0.75	6.3	14.8	0.64

Table 4: Descriptive Statistics: The Republic of Moldova

Model		Unstandardized Coefficients B	Std. Error	Standardized Coefficients Beta	T	Sig.
1	(Constant)	5.021465933	1.581529		3.175	0.034
	Effective Party Number	-0.467929948	0.201543	-0.525780318	-2.322	0.081
	Electoral System	0.008335802	0.304195	0.009511889	0.027	0.979
	Institutional Corruption	0.092294297	0.138946	0.099427672	0.664	0.543
	Judicial Framework	0.487250822	0.225485	0.549919743	2.161	0.097
	Political Freedom	0.201274088	0.055909	0.449246472	3.6	0.023
	Civil Society	-0.066000011	0.120001	-0.118914727	-0.55	0.612
	Economic Freedom	-0.036128908	0.018316	-0.389235693	-1.973	0.12
	Economic Growth	0.000185281	0.003495	0.004653099	0.053	0.96

Table 5: Regression Model: The Republic of Moldova

Based on the above statistical estimates, one can see that specific indicators mark the quality of democracy, the average values being estimated somewhere in between [4.5; 4.9]. Their statistical distribution is relatively symmetrical, with a statistical error from the average of 0.27 in the case of Ukraine to 0.16 in the case of Moldova. In relation to the Freedom House measuring scale, the two political systems fit within post-authoritarian political regimes. Specific values of authoritarian systems can be found in the institutional corruption (5.84 for Ukraine and 6.04 for the Republic of Moldova), the legal framework (5.03 for Ukraine and 4.51 for the Republic of Moldova) and civil and political freedoms (4.25 for Ukraine and 5.15 for Moldova). Average statistical errors for these indicators are 0.54 in the political system in Ukraine and 0.24 in Moldova (see Tables no. 2 and 4). This summary of the quantitative analysis

reflects the image of political systems in the early stages of transition, which is reflected in the multiple elements of post-authoritarianism and an extremely fragile democratic order.

The second analytical level aimed the quantitative association of these variables to identify the most significant factors of democratic fragility. The statistical procedure was based on a linear regression model between the independent variables and the explanatory variable of the study, represented by the quality of democracy. To avoid multicollinearity effects, the research variables were associated in a nonparametric way and rescaled to the range of [0; 100]. In the case of Ukraine, the variables with the highest impact on the quality of democracy are: legal framework (B = 0.36) and institutional corruption (B = 0.16) (see Table no. 3). Similarly, in the case of Moldova, we can see that the explanatory variable of democratic fragility is represented by the legal framework (B = 0.48) and civil and political freedoms (B = 0.20) (see Table 5).

Both the elements of descriptive statistics and those specific to the quantitative model highlight the impact of post-Soviet order on the current democratic development. Based on these observations, we will detail below the impact of the communist past nostalgia, of the electoral disproportionality, of the single-party ideology and of the constitutional framework on the development of democratic transition in Ukraine and Moldova.

The Nostalgia for the Previous Communist Regime

The first issue that one can relate to as being an important proof of the impact of Soviet-style communism is the nostalgia of interventionist type of economic policies. The old communist structure seems more economically stable than transition economy. In the early 1990s, more than half of the citizens of the former communist systems were nostalgic for the economic situation existing before the collapse of the communist bloc. Citizens of Ukraine and Moldova are no exception. The situation is not surprising, since, as noted:

The economy with the strongest financial deterioration of individual households in Eastern Europe is the Ukraine: at the beginning of economic transformation in 1992, 80 per cent of all Ukrainian households indicated that their standard of living was better in the Soviet Union (Haerpfen 2002, 8).

Also, according to statistics, over 70% of the citizens of Moldova have, because of similar reasons, the same nostalgia-driven economy as in Moscow (Aslund 2010, 40).

A second difficulty of transition is the nostalgia for the centralized authoritarian governments. The single party and the single-party government find followers in most of central Europe, but above average values are found in the Hungarian and Ukrainian political spaces. From Eastern Europe,

Ukraine is the post-Communist country with the highest level of nostalgia for the former Communist political system in comparison with all eleven other countries. In 1992, the absolute majority of 55 per cent of the Ukrainian electorate showed positive evaluations of the one-party government of the late Soviet Union. This high figure went up during the process of political transformation in a steady way and reached its peak in 1998, when 82 per cent of all Ukrainian post-Communist citizens said that they think positively about the former Communist regime (Haerfen 2002, 14).

These ratings, these evaluations reflect our subjective image of an extremely fragile democracy, at which the risk of recurrence of undemocratic practices is extremely high.

Political emotions determined by past policies are based on economic stability images generated by statism, the nostalgia of collective stability and security offered by the single party system and the behavioural mechanisms generated by the communist ideology. In the case of Ukraine, this kind of political behaviour cannot be understood outside the nationalist relationship it has with the Russian Federation (Motyl 1993, 4-5).

If the Russian Federation has undergone a radical economic reform and democratization attempts, the Baltic States began the sustainable democratic construction since the mid-1990s, the Caucasus zone and the post-Soviet South zone was divided by war and by authoritarian leaderships, in Ukraine and Moldova, Soviet nostalgia was transferred to a nationalist framework. As Aslund has pointed out:

Communists remained in power as the nationalists did. The situation in Ukraine and Moldova was relatively similar. Both were pretty strong nationalist popular fronts, but were not able to earn enough democratic majorities, and their eastern parts were less nationalistic. Agile communist leaders have embraced ideas of national independence when they realised that in Moscow, the Communists were on the verge of losing power (Aslund 2010, 40, my translation).

Post-communism was hypostasized in state nationalism. Both Ukraine and Moldova have promoted political leaders who have continued the Marxist-Leninist ideological line:

Despite the proliferation of political parties in Ukraine, the size of their membership remained small, bordering on insignificance. The existence of these parties did alter the political debate in Ukraine, but these parties could neither alone nor collectively challenge the communist elite's monopoly of power (Prizel 1997, 342).

The election criteria of choosing political leaders in the Republic of Moldova and Ukraine are not compliant with the enhanced democracy principles. As Parrott used to highlight:

In this discussion, consolidation denotes the condition of a political system in which all major political actors and social groups expect that government leaders will be chosen through competitive elections and regard representative

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institutions and procedures as their main channel for pressing claims on the state (Parrott 1997, 6).

Elections in Ukraine and Moldova deviate from this minimum requirements of democracy. In Ukraine, *hyper-partidism* and the transient electoral system are the two variables that explain the absence of electoral competitiveness. These dysfunctions can be completed by the image of dominant single-partidism in Moldova, with a constant electorate that has nostalgia for the single party system.

The Stalinist political experiences, the ideological repression and censorship, the extreme nationalism and populism of economic policies were at the base of the State construction of Ukraine and Moldova. Also, state construction of the two countries has been hampered by the presence in their territory of a multitude of social identities associated with a civil society characterized by an “amalgam of fractured and alienated parts” (Kuzio 1998, 162). After two decades of independence, the disintegration of the current Ukraine came from the radical nationalism and the desire to merge with the Russian Federation. In addition to transforming political privileges in economic privileges, problems such as identity, nationalism and xenophobia have expanded in most of the CIS. Overcoming these identity and value issues is the first step in the direction of a right transition. Democratic transition should be based on a cultural civic model capable of generating democratic institutions and politics (Inglehart and Welzel 2005, 157). This cultural model should underpin the entire construction of identity and collective psychology. In Ukraine and Moldova, there is a collective mentality, strongly marked by transition, suffering “a collective and individual paranoia.” This psychosis is the product of “enclosed nationalism, which is quite natural in a social system suffering from post-partum depression syndrome” (Tismaneanu 2007, 254-255).

Transition Constraints: Political Parties and Electoral Systems

The transition process in Ukraine and Moldova faces numerous institutional, party or electoral type constraints, affecting the natural course of transition. Although individuals became autonomous in the public space, democratic principles and specific values are relatively absent. Unfortunately, Dawisha was not wrong when he observed that:

Clearly, democratic consolidation is still a goal in almost all of the postcommunist countries, yet significant strides have been made. Autonomous societal action has largely replaced communist dictatorship in most countries, and the notions of choice, competition, and tolerance are increasingly salient. (Dawisha 1997, 44).

One initial aspect that we may integrate in the category of transition constraints is represented by the structure of the parties' framework. In case of the partisan system of Ukraine, in the temporal series analyzed, one can identify

the presence of a non-homogeneous partisan system distributed during time, with a very low level of equilibrium and electoral volatility. The parties' framework is unbalanced, with a very high number of parties entering the electoral competition. One can observe a number of 30 political parties² registered in the election campaign in the years 2002 and 2006 out of which, on average, about 4 and 7 political parties managed to build the structure of representation. Between 2002 and 2006, the most significant ratios were registered in the Bloc of Victor Yushchenko "Our Ukraine" (23.57%), Communist Party of Ukraine (19.98%) and Election Bloc of Political Parties "For One Ukraine!" (11.77%). In 2006, those parties are joined by the Party of Regions (32.14%) and by the Election Bloc of Political Parties or "Juliy Tymoshenko Election Bloc" (22.29%).

The main change of the partisan framework appeared in September 2007, amid the dissolution of the parliamentary structure. Even if the elections were resumed on 30 September 2007, the Party of Regions (32.14%) and the Election Bloc of Political Parties "Juliy Tymoshenko Election Bloc" (22.29%) preserved their electoral groups. The party imbalance moment occurs in the 2012, when we identify a number of 2.75 parliamentary political parties represented by Party of Regions (30%), All-Ukrainian Association "Fatherland" (25.55%), Ukrainian Democratic Alliance for Reform (13.97%) and the Communist Party of Ukraine (13.18%).³ Summarising the quantitative electoral data, we may conclude that the first constraint of the transition process is given by an inefficient party system, with elements of hyper-partidism and an extremely weak tendency of aggregation of individual preferences.

Regarding the situation of political parties in Moldova, we see the same pattern of political failure. In the statistical distribution, we highlight a platocurtic trend, symmetrical on both sides of the average of 3.52 of parties and $\sigma = 0,18$. From 2001 until 2010, the Moldovan partisan area is dominated by the Party of Communists of Moldova. The entire longitudinal series indicates the consistency of electoral distribution in the aggregation of the parliamentary structure with the actual number between 3.48 and 3.74 political parties. In 2001 the parliamentary majority is owned by Party of Communists of Moldova (50.07) and the political opposition consists of the Election Bloc "Braghis Alliance" (13.36%) and the People's Christian Democratic Party (8.24%). Elections of 2005 called into leadership the Party of Communists of Moldova and in the opposition "Our Moldova" Alliance (28.53%).⁴ In 2009, amid political crisis, at the elections of April 5 and July 29 we witness the birth of an opposition party: the Democratic Liberal Party of Moldova. Although elections were

² www.cuk.gov.ua/pls/vd2002/webproc0e și www.osce.org/odihr/elections/ukraine/19595?download=true.

³ www.electionresources.org/ua/.

⁴ www.e-democracy.md/electionsparliamentary/2001/results.

resumed in July, Party of Communists of Moldova has preserved the status quo in the parliamentary structure.⁵

Signs of success of democratic practices can be identified from the parliamentary elections of 28 November 2010, when one can notice a decrease of 6% of the vote for the Party of Communists of Moldova and an improvement in the trend of voting for the Democratic Liberal Party of Moldova (29.42%) and of the Democratic Party of Moldova (12.70%). Basically, the legislative elections in 2010 are those corresponding partially with the requirements of the democratic order by symmetric distribution of parliamentary terms among power and political opposition. Summarising, we can appreciate that the main constraint of party order of the transition in Moldova is the existence of a policy framework crystallised around a dominant political force that polarise more than 50% of the electorate. We may speak of a political party monolithic appearance: the Party of Communists of Moldova, with a constant electorate from 2002 to 2014.

The second type of constraint of the transition process is the electoral disproportionality. Due to the mixture of majoritarianism and proportionalism, the electoral system in Ukraine caused a substantial decline of independent candidates in different rounds (Meleshevich 2007, 46). Since the 2004 changes, Ukraine’s voting system has been characterized by an inefficient political pluralism, with relatively high margins of electoral disproportionality. To prove this assertion, we have estimated the electoral balance and the Douglas-Rae disproportionality indicator:

Election	N_0 (Actual Number of Parties) $N = \frac{1}{\sum si^2}$	Douglas-Rae Disproportionality Index $I = \frac{1}{n} \sum (vi - si)$	Parties Balance $\beta = \frac{\log N_0}{\log N_\infty},$ $\beta \in [0; 1]$
2002-2006	6,59	16,7%	0,7135
2006-2007	4,65	60,12%	0,7894
2007-2012	4,08	72,29%	0,7806
2012-2014	2,75	60,38%	0,7461

Table 6: Voting Analysis: Ukraine

The analysis of statistical data evidences a quite fragile balance of electoral space, where about 70% of the electorate is represented as political preference in the political parliamentary parties. (See Table 6) These values should be correlated with a quite high index of disproportionality, with an average of values of 52.38%. In electoral terms, the main transitional constraint is given by the high trend of producing disproportions, a mixed electoral system, partially

⁵ www.e-democracy.md/electionsparliamentary/2009/results.

functional, with a competitive mechanism extremely fragile, without a valid electoral filter in the selection of political representatives.

Regarding the electoral situation in Moldova, we see an improvement in electoral practices through the presence of a proportional electoral system for the distribution of parliamentary terms. From a formal standpoint, the electoral system of the Republic of Moldova is well structured, but this D'Hont regulation only favours large political parties, which explains the constant presence of the Communist Party of Moldova in the legislative structure. In terms of statistical distribution, we are witnessing an electoral system with minimal effects of disproportion, but the background remains strictly connected to the communist ideological monopoly.

Election Cycle	N_0 (Actual Number of Parties) $N = \frac{1}{\sum si^2}$	Douglas-Rae Disproportionality Index $I = \frac{1}{n} \sum (vi - si)$	Parties Balance $\beta = \frac{\log N_0}{\log N_{\infty}},$ $\beta \in [0; 1]$
2001-2005	3,48	5,86%	0,88
2005-2009	3,3	1,80%	0,86
2009-2010	3,49	4,04%	0,88
2010-2014	3,74	2,39%	0,81

Table 7: Election Analysis: Republic of Moldova

Unlike the Ukrainian one, the Moldavian electoral system has due to the proportional electoral system type and the dispersion of parliamentary terms in the power-opposition report. If Moldova formally qualifies for a democratic electoral system, transition constraints derive from constant preference for choosing the communist ideology among both the legislative structure and the executive or monocratic functions.

The Constitutional Reform and the Construction of the Rule of Law

The detachment of Ukraine and of Moldova from USSR did not produce the political consensus relating to the state organization model or of the adoption of Western-style constitutional model. This is particularly because,

The passage to independence in 1991 was not accompanied by an underlying consensus on what kind of state Ukraine should become, nor in what ways it should draw from the Ukrainian pre-communist and Soviet traditions, as well as foreign constitutional models. As had been only too evident in 1991, the members of the ex-nomenklatura, who remained in charge of the state, lacked a vision and commitment to embark on key constitutional reforms. (Volczuk 2001, 129).

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The dominant question, with the detachment from the USSR, was related to the Moldovan and Ukrainian state architecture. In both cases, parliamentary and presidential elections have not led to an elitist model to facilitate the reform of public institutions. The parliamentary elections brought in the political organisation plan a mix between the old nomenclature and the new leading politicians, characterized by ideological ambiguity and lack of programmatic coherence in policy-making. Both political systems are characterized by the presence of Russian nationalism in the domestic policy approach. The justification for such a nationalist approach has its origins in the nineteenth century – the background of the Crimean War – and the collectivization attempts from the early twentieth century (Procyk 1995, 165-166). The communist inheritance and the pro-Russian nationalist spirit are the elements that make transition to democracy quite difficult. The nationalist spirit must be correlated with the presence of the extremist groups that advocate for Russian nationalism and for politics closer to Moscow's. Although, statistically, ultra nationalist parties did not obtain significant values in the elections in Ukraine and Moldova, there are still elements of the Soviet subculture in the collective consciousness, which generate more likely a shared social identity than a party or institutional affiliation (Mudd 2005, 250).

Continuity of ex-communist elite leadership produced an insufficient constitutional reform. The Ukrainian 1994 Legislative Reform has generated a disproportionate Parliament, whose majority election model favoured the continuity in leadership of the Ukrainian Communist Party and of the Socialist Party of Ukraine. The entire 1994-1998 election cycle indicates the prevalence of left values in the construction of the political elite. From the structural point of view, the Ukrainian Soviet is the one that continued the pretty well-articulated Unique Party approach, which remained for a decade and a half the main political force:

In terms of the institutional framework of the state, the rejuvenated leftist bloc in the new parliament upheld the traditional Soviet-era motto of all power to the Soviets' and aimed to reincarnate the Soviet system of narodovladia embedded in a hierarchy of people's Soviets (radas). The communists fervently advocated a classic Soviet model, according to which radas combined the functions of state power and local selfgovernment, with the Supreme Council at the pinnacle of the institutional framework. (Volczuk 2001, 141).

Although we are witnessing an independent state in 1991, we see an ambivalent vision about the relationship between unitary and federal systems. Although in the constitutional debates, the formula agreed was that of the uniform system, the acceptance of the Crimean autonomy can be perceived as a limitation of the model of independence and national unity and a nationalism gap and an affinity for the Russian Federation. Ukraine's territorial integrity was a priority of the political agenda since 1992, and since 1998 the Crimean peninsula received, by the constitution, a much wider autonomy.

However, the relations with Kiev were quite tense (Otfinoski 2005, 34).

The variable on the legal framework highlights, in both countries analyzed an increased democratic fragility. In Ukraine, as assessed by the Freedom House,⁶ the average distribution records the value of 5.71, placing the legal and constitutional background in the category of dictatorial political systems. Along with the constitutional framework, we may insert variables such as civil and political liberties or the role of the civil society. Civil society is stiffened with an extremely low degree of reactivity with respect to governmental decisions.

In the Republic of Moldova, we find a legal framework partially functional, rigid, rather specific to political systems at the onset of transition. In association with civil liberties, we see the lack of personal opinion right, as attested by the political events of 2009, when the replacement of the Communist with a Liberal Party with pro-European visions was intended. If civil society is absent in Ukraine, in Moldova we notice a functional societal model, semi-consolidated, visible in the protests and civil movements of 2009 and 2010.

In both transitional political systems, the hypothesis of institutional dysfunctions generated by the absence of a coherent legal framework that is based on the rule of law is confirmed. One can notice the recurrence of variables related to political rights and freedoms legal framework in explaining the transition process. A sustainable reform of the Constitution, associated with the construction of a transparent institutional structure could lead to increased quality of democracy in the two analyzed countries. Constitutional limits within Ukraine are contained in a low index of institutional potentiality generated just by the mixture of political powers specific to democratic and authoritarian regimes. Basically, the constitutional text of Ukraine is dominated by post-Soviet patterns that interfere with elements specific to consolidated democracies. The solution of state reconstruction consists in the establishment at the constitutional framework level of the freedom of choice and of political equality in setting the public agenda of priority issues (McLaren 2008, 3-4).

In the Ukrainian Constitution, ratified on 28 June 1996 and amended in 2004 and 2010, we can observe a mixture of presidential and parliamentary structure. At denominative level, the old post-Soviet names are preserved, the Ukrainian Parliament (Verkhovna Rada) having the features of the old Soviet communism. In the state structure, we can notice the mixture between presidential regimes features and a series of extensive powers granted to the President (Article 102-106). The extended role of the Ukrainian President transpires from Article 106, which allocates a total of 31 prerogatives to the presidential institution. Presidential prerogatives cover both the right to invest the governmental structure and responsibilities within the decentralised public institutions. Under Articles 113 -116, the appointment of the Prime Minister is done directly by the presidential institution, with validation by the Verkhovna Rada. In the Different political practices both for the Administration of Kiev and

⁶ <https://www.freedomhouse.org/report-types/nations-transit#.VKuwd9KsUqN>.

Sevastopol are provided in the Constitution. The mixture of political regimes, excess of presidential powers, the absence of a genuine decentralization of the state and the two-head application of the constitutional background in the territory of Ukraine and Sevastopol are some of the elements suggesting the post-authoritarian constitutional structure.

In the case of The Republic of Moldova, once can notice a number of discrepancies between the normative dimension of the Constitution and the current political practices. In this regard, Article 5 (2), is illustrative. This article states that no political ideology can be treated as state ideology. At the level of political practice, communist ideology polarizes more than 50% of the electorate. Moreover, formally, we can sense an almost inflationary approach of political rights and freedoms (Articles 24-55), which corresponds rather to a communist approach, where the state justifies its existence and legitimizes its power by maximally guaranteeing the political rights and freedoms. In the practice of authoritarian regimes, we could observe that, formally, there is an excess of rights and freedoms, which never were guaranteed in everyday political practices. In theory, the form of government of the Republic of Moldova is parliamentary. In practice, given the significant duties of the President – in relation to the Parliament (Article 85) – and the procedure for appointing the Prime Minister (who is appointed directly by the President), Moldova is rather a semi-presidential regime.

In conclusion, both political systems analyzed in this research paper possess a fragile constitutional structure, where the confusion between the parliamentary and presidential regime, as well as the procedure of control and dismissal of public authorities often produce political and constitutional crises. The clarification of the duties of public authorities and the rules of the institutional game should be the priorities of the constitutional reform and the early stages of democratic architecture.

Conclusions

The transition to democracy in Ukraine and the Republic of Moldova is hampered by factors such as the lack of real electoral competition, the absence of a proper distribution system of parliamentary seats [and the ambiguity of the legislative and executive powers. They derive from social post-communist psychology and from the institutional and electoral arrangements. The quantitative analysis applied to the two political systems confirms the hypothesis of the post-Soviet regimes, legitimized by the apathetic citizen against the democratic political values and by a political configuration in which the communist parties have the monopole. The numerical data correlated with the democracy index reflects the image of two companies without transparency in the decision, without a well defined electoral mechanism, without a non reactive civil society and without a decentralized and free economic sector.

Combined, these variables explain the fragility of democracy and lack of policy coherence in building the rule of law.

This article has highlighted the statistical correlation between the partisan and the electoral law or legal framework with the quality of democracy. Hyper-partidism specific to Ukraine, together with the monopoly of the Moldovan Communist Party is a first threat to the development and security of democracy. Another such threat is the lack of electoral competition, associated to mixed systems, which produces disproportion in the distribution of parliamentary seats. Both the election laws and those relating to the occurrence and competition of political parties are the product of a constitutional unbalanced framework, characterized by the mixture of principles of Soviet organisation with those specific to the semi-presidential regimes. The ambiguity of both political practices and of the organizational form of power is strongly correlated with the absence of decentralization and of liberalization of the public sectors.

Inefficient centralism is translated into incremental public institutions, lack of transparency in the decision making process and lack of protection of the civil rights and political freedoms. Summarizing the quantitative evaluations, we could say that the Ukrainian transitional process so far has led to a hybrid political system with multiple elements of authoritarianism, incompatible with the democratic order. In the case of the Republic of Moldova, we can observe a relatively stable institutional framework, but a weak constitutional system, associated with censorship, lack of real political freedoms and economic centralism, with negative effects on citizens' welfare.

For developing and securing the democracy, both Ukraine and Moldova would require reforming the electoral systems and the constitutional framework and a model of electoral competition based on democratic civil values. Since the mixed electoral systems produce high disproportions, maybe a possible solution would be a proportional electoral system, based on the Hare method, facilitating the representation of all political parties in the legislative assemblies of the two states. In my view, the constitutional framework reform should be based on clarifying the political system and form of government, the introduction of democratic mechanisms to reduce the credentials of the presidential institution and the mechanisms to maximize the representation, both locally and centrally. Democratic consolidation is impossible without a participatory political culture. Neither Ukraine, nor Moldova has taken until now measures to ensure such a political culture.

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