

# Lustration and Democratisation in East-Central Europe

NATALIA LETKI

THE COMMENCEMENT OF THIS PROJECT coincided with the first wave of lustration in Poland. The publication of the names of communist secret service collaborators in March 1999 received extensive commentary from Polish and international media and dominated public discourse in Poland. Most of these opinions were extremely emotional and critical, targeting both the procedures and those implementing them and, above all, the idea of lustration itself. The Polish situation was no exception: the public cleavage over the assessment of the communist period and the desired ways of ‘coming to terms’ with this past marks the politics of all East-Central European societies.

Although the issue of disqualification from certain spheres of the public realm on the basis of involvement with the communist regime is socially such an important topic throughout East-Central Europe, it seems to have received relatively little scholarly attention. The purpose of this article is to present an objective and impartial investigation of the role played by lustration in the democratisation of East-Central Europe (ECE). Understanding the consequences of lustration for the consolidation of democracy is anything but simple, as purging procedures are not traditionally considered to contribute to the building of new democracies. Moreover, while the literature on democratisation is extremely rich, theoretical works on lustration are scarce. This results in a noticeable imbalance between the space allocated to the investigation of the two phenomena addressed in this article, with lustration being discussed in a much more extensive way. However, this seems unavoidable in order to provide sufficient basis for the discussion of the role lustration has played in ECE.

The present article not only approaches the problem of lustration but also merges the issues of lustration and democratisation. It will argue that, despite the popular conviction, lustration contributes to the consolidation of democracy. It will not claim that there exists a strong causal relationship between these two, or that lustration is necessary for democratic consolidation, as neither of these is theoretically or empirically viable. However, it will challenge the widespread opinion that lustration is harmful to the consolidation of young democratic regimes. The article will refrain from making moral or ethical arguments, as these are usually responsible for the emotionality of the lustration discourse, and instead will focus on the functionality of lustration for the new democratic institutions.

All the considerations below will be placed in the context of the East-Central

European transition. Therefore the analysis will be narrowed to only two types of regimes: communist and democratic. The next section will reconstruct the definitions of two main variables: lustration and consolidated democracy. It will also categorise the 13 countries of East-Central Europe according to their stage of democratisation. After that we will focus on the general sociological model of lustration, discussing the elements important for its shape and implementation. In the final part we will examine the relation between lustration and consolidation of democracy and conclude presenting the empirical findings.

### *Basic concepts*

Politicians and journalists use the terms 'lustration' and 'democratisation' (the former less often than the latter, although it has occasionally dominated the media and politics) as if both phenomena were clear and obvious to the wide public to whom most of their addresses are directed. However, the objectives of this article make it necessary to use clearly specified variables and claims about how they interrelate. Thus we will first focus on reconstructing the definitions of the phenomena we are investigating in precisely the way they will be employed in this article.

### *Lustration*

The issue of dealing with the past is not only morally and legally controversial but also implies certain definitional problems. To 'lustrate' means 'to purify ceremonially as a means of removing blood-guiltiness and cleansing a house';<sup>1</sup> the word therefore seems to encompass very effectively the problems of coming to terms with the past. However, the authors dealing with this issue are not unanimous about the meaning of the term 'lustration'. Some of them use it as equivalent to 'the exclusion of individuals from political life or their judicial punishment for past actions under a previous regime'.<sup>2</sup> In such an approach, lustration seems to fall into two main components. Karstedt, for example, defines it as consisting of two types of public procedures: (1) 'criminal proceedings against members of the elites and authorities over the lower ranks of the state bureaucracy' and (2) 'mass and screening procedures, which are conducted against collaborators, party members or employees of state organisations (e.g. the police; security agencies) mainly from the middle and lower ranks of the hierarchy'.<sup>3</sup> An alternative approach in which 'political decisions made in the immediate aftermath of the transition and directed towards individuals on the basis of what they did or what was done to them under the earlier regime'<sup>4</sup> is termed 'retroactive' or 'transitional justice'. The two main elements are analogous to the ones present in Karstedt's definitions quoted above, but the meaning of lustration is narrowed to the cleansing of personnel only. Although Offe does not use any of the terms listed above, he differentiates between retribution and disqualification. The latter is defined as 'legal acts designed to deprive categories of perpetrators of their material possessions and [or] civic status'<sup>5</sup> and therefore constitutes the equivalent of lustration.

In the present article we will use the term 'lustration' in its narrower meaning, i.e. as the procedures for screening persons seeking selected public positions for their

involvement with the communist regime. However, before moving on, some caveats should be mentioned. First, the term 'lustration' is used here because of the convention; 'screening' or 'decommunisation' are equally meaningful, but 'lustration' is definitely the more popular term and in some countries, e.g. Poland or the Czech Republic, the procedure is indeed called the 'lustration process' and the legal act regulating it is called the 'Lustration law'.<sup>6</sup> Secondly, although the discussion of lustration is incomplete if the other solutions adopted to deal with the files created by the communist secret service are ignored,<sup>7</sup> for the purposes of this article these two problems will be (to some extent artificially) separated, and the analysis will be narrowed to lustration only. Therefore, only the countries that introduced legal screening procedures will be considered as 'lustrated'.

### *Consolidation of democracy*

The second variable investigated in this article is the consolidation of democracy. As there are many schools of defining democracy and they place emphasis on different aspects of a democratic system, the main difficulty with measuring the degree of consolidation consists in deciding what indicators should be used. Moreover, because of the complexity of the phenomenon and its dependency on economic and ethnic issues, it is almost impossible to create any kind of ordinal scale. Linz and Stepan identify the transition to democracy as complete

when sufficient agreement has been reached about political procedures to produce an elected government, when a government comes to power that is the direct result of a free and popular vote, when this government *de facto* has the authority to generate new policies, and when the executive, legislative and judicial power generated by the new democracy does not have to share power with other bodies *de jure*.

They insist on avoiding the so-called 'electoralist' fallacy and focus on three main aspects: behavioural, i.e. when the democratic regime is not seriously threatened by any political group; attitudinal, which can be interpreted as a relatively firm and stable commitment to democracy among the citizens, and constitutional, when political conflicts are resolved only by means of established procedures.<sup>8</sup>

Although the definition used in this article respects Linz and Stepan's caveats about the multifarious aspects of the consolidation of a democratic system, as well as about the existence of many types of consolidated democracies, it follows Schedler's concept of the 'continuum' of democratic consolidation, consisting of three main types of democracy: electoral, liberal and advanced.<sup>9</sup> Each of the three conditions, which will be discussed below, represents an important aspect of democracy: the first two are often used independently as sufficient indicators of the democratic character of a given system. As this section investigates the 'working' definition of a consolidated democracy, only the countries that do not 'fail' any of these three conditions will be considered as 'advanced in consolidation'.<sup>10</sup>

*Electoral democracy.* The first and most basic criterion is represented by the minimalist definition of a democratic system as a 'regime in which governmental offices are filled as a consequence of contested elections. Only if the opposition is

allowed to compete, win, and assume office is a regime democratic'.<sup>11</sup> This 'minimalist' or 'procedural' definition focuses on only two issues: the electoral character of the chief executive and legislative body and on the element of contestation. All countries of East-Central Europe but Belarus fulfil this procedural definition. President Lukashenka's authoritarian rule violates not only human rights but also basic democratic principles: an example is the proceedings against the oppositional Belarusian Popular Front. In all other countries relatively free and fair elections took place, and between 1990 and 1997 on average 3.5 effective executive turnovers occurred (in Romania only one, in Poland and Bulgaria six).<sup>12</sup> In 1997 Kaldor and Vejvoda maintained that Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia met the formal criteria of democracy. Only Estonia and Latvia were described as not fully implementing the formal procedures of free and fair elections.<sup>13</sup> Germany, although not included in this or any other ECE-focused study, does not raise doubts about its procedurally democratic character. Albania and Ukraine seem to be more problematic. In 1997 Ukraine was reported to have set back political (and economic) progress because of rampant corruption and Albania was strongly criticised for the harassment of the political opposition. However, both would be identified as democratic in the minimalist, procedural sense.

*Liberal and advanced democracies.* The second 'filter' to be applied to the ECE countries scrutinised in this article is the level of guarantees of democratic values: civil liberties and political rights. In the latest (1998) edition of the Freedom House Survey (the most popular and widely used measure of liberal democracy) 10 out of 13 ECE countries investigated here were classified as 'free'<sup>14</sup> (Bulgaria, the Czech Republic, Estonia, Germany, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia), two countries as 'partly free' (Albania and Ukraine) and one—Belarus—as 'not free'.<sup>15</sup> The group of liberal democracies is therefore narrowed down to 10 countries.

Although the Freedom House scores are definitely reliable, the survey is aimed at assessing 191 countries and grouping them into three rough clusters ('free', 'partly free' and 'not free'), which results in lack of differentiation within the group of ECE countries, for the sake of a clear and sharp distinction between, e.g. China or Cuba and the Czech Republic or Bulgaria. However, if the detailed scores of the 10 'free' ECE countries are taken into account, this group falls into two categories: the Czech Republic, Estonia, Germany, Hungary, Latvia, Lithuania and Poland have an average score of 1.5 (1 on the political rights dimension and 2 on the civil liberties dimension) while Bulgaria, Romania and Slovakia have a higher average score (Romania and Slovakia 2 and Bulgaria 2.5). This cleavage will definitely be important for analysing the relation between lustration and the degree of democratic consolidation; therefore only the first seven states will be considered as close to the 'advanced democracy' model.

*'The only game in town'.* The two conditions discussed so far seem to generally capture Dahl's definition of polyarchy.<sup>16</sup> However, we are interested here not in the definition of a modern democratic polity, but of a consolidated democracy. One additional element that is essential to the quality of democracy is public opinion.

TABLE 1  
REJECTION OF NON-DEMOCRATIC FORMS OF GOVERNMENT IN EAST-CENTRAL EUROPE

	<i>a</i>	<i>b</i>	<i>c</i>	<i>Mean</i>
	(% disagreeing)			
Czech Republic	87	97	90	91.3
Hungary	78	98	79	85
Poland	68	95	92	85
Romania	70	88	87	81.7
Slovakia	82	99	81	87.3
Bulgaria	79	86	73	79.3

Source: New Democracies Barometer, 1995.

Therefore, the third condition used in this article is the rejection of non-democratic forms of government by the publics of post-communist countries. Analysing the rejection of non-democratic alternatives seems to be more standardised than analysing citizens' commitment to democracy, as it is less dependent on a country's present political and economic situation and is not directly connected with the evaluation of system performance. On the other hand, it is impossible to set the precise threshold of rejection below which a country fails, i.e. it cannot be called a 'consolidated democracy' anymore. It may be stated that, in general, the less support for the non-democratic alternatives the better, yet the 'sufficient' level of rejection would probably be country-specific.

Table 1 displays the percentages of respondents who disagreed or strongly disagreed with the statements below. The results are taken from the 1995 New Democracies Barometer survey. Only six out of 10 countries defined here earlier as liberal democracies were included in the survey: there are no data on Germany and the former Baltic republics.

Q: *Some people say that we would be better off if the country was governed differently. What do you think?*

- (a) *Best to get rid of parliament and elections and have a strong leader who can quickly decide everything.*
- (b) *The army should govern the country.*
- (c) *We should return to communist rule.*

All the countries have very high means for rejection of non-democratic regimes. The mean of countries representing the 'advanced democracies' (Czech Republic, Hungary and Poland) is slightly higher than the mean of the group of 'liberal democracies' (Slovak Republic, Romania and Bulgaria): 87.1% and 82.8% respectively. Both averages are much higher than in the countries classified earlier as not belonging to liberal democracies (e.g. in Belarus 62.3% and in Ukraine 57.3%). In general, although owing to the incompleteness of the data (the 'advanced' group is represented by only three countries) the results displayed in Table 1 cannot be considered a decisive argument for or against, they do not disprove the earlier classification. Moreover, the means of the particular groups support the earlier conclusion about the existence of three main clusters of countries: electoral democracies (Ukraine, Alba-

nia), liberal democracies (Bulgaria, Romania, Slovakia) and advanced democracies (Germany, Czech Republic, Hungary, Poland, Lithuania, Latvia, Estonia). Belarus is left aside as a non-democracy.

*Lustration: a theoretical model*

An emerging democracy's decision to come to terms with the past is only one of the possible strategies of transition. However, despite successful transformations not involving confrontation with past experiences (Spain is one clear example), most transitions are followed by attempts to bring justice and/or some sort of lustration.<sup>17</sup> This section seeks to reconstruct the 'ideal type' (in the Weberian sense) of lustration, i.e. the general model which was at least partly adopted by the ECE countries. This is not to say that such a ready model had existed and was simply 'deployed' in the ECE transitions: the analysis below will reconstruct it from the main elements of the ECE lustrations. We will therefore present some general considerations on the purpose of lustration, discuss its possible sources and finally focus on its results. As lustration is, at least in the case of ECE democratisation, one of the most controversial issues, the 'model' would not be fully reconstructed without analysing the positive and negative consequences of its implementation.

*The purpose of lustration*

As we have noted, lustration is usually discussed as an aspect of the so-called 'retroactive justice'. For example, Elster's general model of coming to terms with the past captures the main issues related to political decisions concerning coping with the legacy of the past. However, it overlooks important differences between measures such as criminal proceedings and lustration.<sup>18</sup> Although both of them are the 'consequences' of past actions, the types of these actions, as well as the legal, moral and political/institutional dimensions of their consequences are most dissimilar.

First of all, in most ECE countries the attempts to bring justice by means of criminal law have focused on so-called 'crimes against humanity', such as Honecker's 'shoot-to-kill' policy at the Berlin Wall, the quelling of the 1956 Hungarian uprising, or the Polish December 1970. The usage of the term 'crimes against humanity' in relation to those and other events in East-Central Europe was initially highly controversial, but it was later recognised that the 'human rights abuses in party-state systems ... took the form of mass surveillance instead of mass killings'.<sup>19</sup> Accepting this approach addressed the problem of the extension of the statutes of limitations.<sup>20</sup> It also highlighted the difference between crimes subject to the penal code (such as torturing or killing people) that were not prosecuted for political reasons, and offences that were legal when they were being committed (like membership in the political party or work for the secret service) and are legal under the new democratic regime. Thus the consequences of the first group of acts should definitely be defined in terms of negative, retributive measures of punishment, while the consequences of the 'lustratable offence' are not taken automatically (like in the case of criminal persecution) but only in particular, legally regulated circumstances, e.g. when a person aspires to certain public positions. There is, therefore, a distinct difference

between the unconditional retribution and the withdrawal of special rights or privileges from certain categories of people. They should be clearly separated as representing, respectively, the implementation of justice and a voluntary and negotiable process of 'purification' resulting from lustration.

Another issue important for discussing the problem of dealing with the past is captured by Offe's distinction between 'backward-looking justice' and 'forward-looking justification'. Although Offe presents them as components of disqualification, in fact they may be considered as representing the different logics guiding criminal proceedings and lustration respectively. The sample (or maybe rather summary) of forward-looking justification consists in the main and most popular argument for introducing the screening law: 'the people in question, their attitudes and competence, and the networks of solidarity existing among them, would constitute a threat to the orderly functioning of the new democratic regime if they were allowed access to important political, administrative or professional positions'.<sup>21</sup> Again, lustration should not be perceived as a punishment or revenge. For example, in Polish lustration law there is no punishment for the act of collaboration with the secret service as such, but a person is 'disqualified' if proven to have lied about their collaboration. Therefore, lustration, although based on acts that took place in the past, does not have a retroactive character: it is embedded in the forward-looking perspective.

As it is not the purpose of lustration to use the negative measure of punishment, it simply does not fit into a 'transitional justice' framework. Moreover, it should not be regarded as retroactive, because it does not change the legal status of the past actions. Instead, lustration may be considered as one of the possible measures taken to minimise the influence of the legacy of the non-democratic past on the democratising present. This strategy is (ideally) used when it is assumed to contribute to the consolidation of the emerging political system.

### *The sources*

If it is assumed that the political decision to establish formal screening procedures is made under an already democratic regime, there are three possible sources of such a decision: popular will, the will of the elite and external factors. Of course, these three dimensions are present in each political decision, but the balance between them differs in different contexts, e.g. the importance of the external situation should be the greatest in the case of a transition imposed by another regime or international community (the best example is democratisations and re-democratisations after World War II).

Theoretically, in the case of democratisation resulting from a revolution (or even 'only' *refolution*), the element of public opinion should be of primary importance: the society should be interested in 'judging *itself*'.<sup>22</sup> Also the elites, to provide their decisions with legitimacy as well as to make the process of transition 'more democratic', might be expected to carefully consider people's opinions and expectations. Therefore, the ECE lustrations should have resulted from popular will transferred into political decisions by the elites, with minor significance attaching to 'international climate'. However, the reality seems to diverge significantly from this ideal.

*Public opinion.* Despite the popular belief that, owing to the hardships of the 'double transformation' and the weakness, or absence, of civil society, people in East-Central Europe are uninterested in dealing with the past, some societies did show support for lustration.<sup>23</sup> It is difficult to analyse this issue exhaustively, because of the lack of complete, comparative data. However, even the available figures are meaningful.

Between 1992 and 1994 surveys by the Central European University asked respondents in the Czech Republic, the Slovak Republic, Hungary and Poland about their support for certain political goals.<sup>24</sup> One of the listed goals was to 'remove former communist party members from positions of influence'. Significant differences are visible between particular countries: in the Czech Republic the percentage of those who considered the issue of de-communisation important was definitely the highest (mean from five surveys: 56.8%), in Poland it was the lowest (38%), while in the Slovak Republic and Hungary it was 44% and 42.6% respectively. Yet what is striking is the same 'pattern' of support for de-communisation in the Czech and Slovak Republics and the similar pattern in Hungary and Poland. These observations are important as the political and economic differences between the Czech and Slovak Republics and the different moments of re-communisation in Hungary and Poland might have been expected to make the changes in support for de-communisation more country-specific.<sup>25</sup>

Nonetheless, even the lowest mean (Poland) seems to support the claim that people had a relatively strong interest in de-communisation. To strengthen this conclusion it should be noted that the question about 'removing former communist party members' was placed in the context of basic welfare, economic and nationalist issues. Furthermore, the question did not refer precisely to support for lustration, and the surveys on the 'need for screening for collaboration with the communist secret service' conducted by CBOS in Poland between 1994 and 1997 show the rise of support from 57% to 76% of respondents.<sup>26</sup> These figures are significantly higher than in the earlier CEU survey. Thus it might be assumed that in the remaining countries the results would be higher as well, if the question referred precisely to lustration, i.e. screening, and not its consequences.

Public opinion about the issue of screening in other countries cannot be discussed here in such a detailed way owing to the lack of data. However, an incident from August 1991 when the Bulgarian Socialist Party's headquarters were attacked and burnt down as a result of a mass demonstration is 'an example of de-communisation undertaken directly by the people'.<sup>27</sup> A similar scenario was prevented in the former GDR, where special measures were undertaken to protect the secret service archives from attacks by the crowd, but where citizen committees also protected the files against STASI activities. And although public support for the continuation of lustration in the former GDR decreased between 1990 and 1994 from 73% to 48%, its level can still be considered relatively high.<sup>28</sup> To sum up, the predicted 'end of de-communisation'<sup>29</sup> was more a wish on the part of commentators than reality.

*The political elite.* The second component, the will of the elite, should be convergent with people's opinions and expectations. No matter whether one supports the 'radical', participatory or minimalist, representative version of democracy, popular will is, by definition, the original source of political decisions. Thus, a decision about



lustration should result from the belief that society cares about it. However, again, the reality seems to differ from the ideal.

Although systemic transition, such as in the ECE countries, is directed towards democracy, one of its main features is that it is elite-centred: 'independent of whether regime change has been initiated from above by political elites or from below by the masses, the terms of transitions are settled by emerging elites, not by the public'.<sup>30</sup> In Hungary, Poland, Czechoslovakia, East Germany, Bulgaria and even Romania round-table talks took place and, in most of them, transition was determined by the results of those negotiations. In 'transitologist' terminology, ECE countries represent different modes of transition such as 'transformation', 'replacement' and 'transplacement'.<sup>31</sup> However, these concepts obviously refer to the composition of the elite. The ECE countries are often praised for the fact that, with the exception of Romania, their transitions, facilitated by elite negotiations, were extremely peaceful. The importance of the elite does not conflict with the significance of public will, provided the politicians' actions were really based on their belief in the peoples' interest. The example of lustration shows that this is not always the case.

First, round-table talks, so characteristic of the ECE transitions, 'combined public with secret negotiations, and one of their trademarks was the exclusion of public discourse'.<sup>32</sup> As a result, the new democracies emerged on the basis of agreements and decisions made in the name of the public good but in fact strictly determined by bargaining between the communists and the opposition. Therefore, the decisive element was the balance of power between these groups. The two countries in which the communists were the weakest in round-table negotiations were definitely the former GDR and Czechoslovakia, where the communist regime had simply collapsed. In neither of them has a post-communist party played a significant national political role after 1989. In Poland and Hungary the opposition was forced to engage in negotiations with the communists about power sharing. Polish Solidarity dramatically underestimated its own political and social capital and the weakness of the communist government. As a result, it started from the contract elections. In Hungary, despite the opposition's reluctance to adopt a strategy of consensus and power sharing with the communists, it became 'the prevailing decision-making mode for the duration of the National Round Table' and shaped the 'terms of transition'.<sup>33</sup> Lithuania constitutes the special case of secession: there were no negotiations with the Soviet government, and there was also no confrontation with the Lithuanian communists. In all these countries the post-communist parties managed to get elected in free elections held between 1992 and 1994. Bulgaria and Albania are both examples (next to Romania) of the 'reshuffling of the [communist] elite'.<sup>34</sup>

Obviously, former communists were not interested in being screened or deprived of any rights, positions or possessions. As a result, whenever possible they made 'gentlemen's agreements' with the opposition during negotiations<sup>35</sup> and/or, once members of the new democratic elite, opposed attempts to deal with the past.

The politicians of the non-communist opposition should have favoured coming to terms with the past. However, some of the former dissidents were radically against any measures of this sort. For example, in Poland and the Czech Republic some members of Solidarity and Charter 77 who were involved in politics after 1989 had had periods of membership in a communist or regime-related organisation.<sup>36</sup> Thus,

'for many members of the first-generation power elite after 1989, de-communisation would have been a painful and fearsome experiment in soul searching'.<sup>37</sup> Therefore, the composition of the opposition and the political origins of its members are no less important than the strength of the communists: the former dissidents with infamous pasts proved likely to form groups opting for forgiveness and reconciliation. Such an argument is particularly sound in the case of the communist regimes of East-Central Europe which were 'legitimised' by the massive participation of their citizens: 'in East Germany there were 500 000 *nomenklatura* jobs; in Spain there was almost none'.<sup>38</sup> Another problem related to the role played by the anti-communist opposition politicians in the process of introducing lustration refers to the countries where, owing to an extremely oppressive pre-1989 regime, there were actually no dissidents, so in the new democratic polities there are very few people with a dissident background: the best examples are probably Albania and Romania.

Lustration is therefore the outcome of the people's interest and that of the elite. It may happen that screening measures are undertaken despite a lack of popular interest in the topic, or that the issue is avoided in spite of public support. Of course, it is possible for the interests of the elite and the public to converge and for society's lack of interest to result in a neglect of the issue by the elite or for public support to lead to binding political decisions. If the data about support for purging former high-rank communist members in the Czech and Slovak Republics, Hungary and Poland are taken into account, it is noticeable that in ECE the levels of popular support for certain issues were, in fact, very weakly connected with the political decisions.<sup>39</sup> The situation is further complicated by the struggle within the elite and the existence of factions supporting or avoiding lustration. It becomes even more complex when the third element—external factors—is taken into account.

*The external factors.* In the case of the ECE transitions, the external factors were essentially limited to the 'international climate'.<sup>40</sup> Initially, the existence of the Soviet Union and the presence of its troops in some ECE countries significantly influenced the scope of political decisions considered as politically important or attainable by both the communists and the opposition. Poland is often identified as paying a price for being first: the international context in which Poland began its transition definitely influenced the agreements at the round-table negotiations and the decisions of the first non-communist government. In subsequent negotiations, after the collapse of the Soviet Union, the 'Western climate' became much more important.

Western democratic regimes did not play an analogous role in East-Central Europe to that played after World War II in fascist countries, but their attitude towards 'dealing with the past' seems to have been of crucial importance. As one commentator observed, 'for its part, the international community generally has opposed any application of a policy of lustration'.<sup>41</sup> Although the Western experience of overcoming totalitarianism was not applicable in the ECE context, lustration was judged as 'politically incorrect'. This manifested itself in the official conviction of the unimportance of the issue of screening in the post-communist countries, while in fact in most countries this topic was an issue of hot political discussion. ECE politicians turned out to be extremely sensitive to Western criticism. Since 1989 the lion's share of ECE countries have been strongly Western-oriented: 'catching up with the West' became

one of the most popular political slogans and membership of NATO and EU the proof of a country's 'success'. As a result, seeing lustration with 'Western eyes', i.e. democratic and liberal but lacking an understanding of the totalitarian experience,<sup>42</sup> became extremely popular among centre and left-wing politicians, who persuaded their electorates that 'doing nothing' was the best and most prudent strategy of breaking with the legacy of the past. Astonishingly, this general 'climate' has not been reflected in the actual policy of the West towards the ECE countries: the Czech Republic, Poland and Hungary, despite being 'lustrated', have also been the most successful in their pursuit of membership of NATO and the EU.

The importance of the Western approach towards lustration was definitely reflected in the activities of international organisations. The Czech Lustration Act and the 1992 Bulgarian screening law were criticised by the Council of Europe, the International Labour Organisation and international human rights activists, while the Albanian screening bill was denounced by the International Centre Against Censorship—Article 19. In addition, the Czech Communist Party sent a letter to the European Court of Human Rights, Amnesty International and other international organisations protesting against a law on the illegitimacy of the communist regime. However, the intervention of the international organisations did not result in the cancellation or even amendment of the lustration law in any case.

### *The results*

Lustration was earlier defined as a screening policy meant to diminish the significance of at least some aspects of the communist legacy in East-Central Europe. With the exception of the former GDR, lustration usually focused on the top state positions: only the Czech Republic accepted screening procedures in business and Bulgaria in academia. It was also intended to de-politicise the military. Owing to the massive involvement of the public in the communist regime, employing extensive screening procedures was hardly possible. In most countries, including Poland, Hungary, Bulgaria and Albania, the initial attempt was aimed at 'de-communisation', i.e. screening for holding top state or communist party positions *and* work for the secret service, but, for a number of reasons, the proceedings were narrowed to secret service employees and collaborators.

The facts about the actual numbers of people affected by lustration do not support the vision of 'a spectre of purging haunting Central-Eastern Europe'. Definitely the most extensive and most immediate screening policies were implemented in East Germany and the Czech Republic. In the GDR, where officials were screened not only for being involved in the previous regime but also for 'technical incompetence', '250 000 state sector employees ... were transferred to a status of "pending"', all academic departments of law, economics and social sciences were dissolved and fewer than 5% of the scholars were re-employed.<sup>43</sup> In the Czech Republic there were around 15 000 positive lustrations, but most of them 'did not result in change of labour status because the lustrated were not in elite positions'.<sup>44</sup> In Hungary the law applied only to some 600 positions, in Lithuania the lustration action resulted in suspension of some 80 people (and can be applied to some 300) and during the 1998 Bulgarian lustration process there were only 25 disclosures made and an earlier screening law

was annulled. In Albania the law was applied to around 200 parliamentary candidates, but later the range of screened positions was narrowed. Poland, with its 20 000 positions to screen, seems to be an example of an extremely extensive action. However, former collaborators were not removed from their positions unless they produced a false statement. Taking into account the above numbers, and in particular the Hungarian, Lithuanian, Bulgarian and Albanian lustrations, it is obvious that the scope of purging was very limited.

Nevertheless, the number of purged individuals is not the only consequence of lustration. Other aspects of this process will be described in the next section. Thus, further reasoning will focus on the anticipated results, as well as side-effects of lustration, and will analyse its positive and negative consequences.

### *The needs and constraints*

Implementation of screening procedures is intended to bring about positive change/transformation of the structures inherited from the authoritarian/totalitarian regime. As a result they should become more functional in the context of a democratic polity. However, in addition to the anticipated positive results, such as purging officials who were strongly involved with the previous regime, or providing public opinion with certain information, lustration also carries certain risks and negative consequences. These two groups of issues, despite being heavily exploited during the 'lustration debates' in particular countries, deserve discussion, as they highlight the most important social and institutional consequences of screening.

'Pros.' The main argument for introducing lustration is definitely the so-called public interest. Although all other issues discussed below as positive consequences of lustration undoubtedly contribute to the generally defined public interest, the problem of 'bad' social capital deserves a separate discussion. Networks of solidarity and cooperation are usually considered to be the main elements of social capital, and it is assumed that social capital is a positive phenomenon bolstering the state as well as the economy.<sup>45</sup> However, the societies in transition from a non-democratic regime to democracy face 'bad' social capital, i.e. networks of *nomenklatura* members interested in maintaining social status and material wealth gained under the older regime.<sup>46</sup> The Czech Republic and Poland are often quoted as examples of a united *nomenklatura* dominating the newly emerging free market. In Poland *nomenklatura* businessmen additionally had strong ties with the bureaucracy, which resulted in information leaks and abuses of 'gaps in the law'. Another example of the destructive influence of *nomenklatura* social capital is definitely Bulgaria: the lack of a ban on *nomenklatura* members and secret service collaborators holding positions in the banking system resulted in its breakdown. For this reason, the Polish, Lithuanian and Bulgarian lustrations are recognised as reactions to the corruption among the post-communist politicians and bureaucrats. The first positive result of screening should therefore be a dismantling of the post-communist clique and weakening its social/political/economic capital.

The second aspect, purification, refers to the power of symbols and rituals. 'Performing' the rite of passage during the transition is necessary for the radical

redefinition of the social and political order. Political anthropologists point to the importance of the liminality phase<sup>47</sup> as a ritual purification of a body politic. The most common way of redefining relations in politics is surely the identification of the 'enemy' group and putting it into a state of liminality: the power of symbols is usually strong enough to deprive the group of its status. The aim is then to weaken and humiliate. In the case of ECE transformation the 'enemy' group is the communist *nomenklatura* and weakening and humiliation are achieved by barring its members from high office as well as passing legal acts condemning the previous regime (the Czech Republic, Lithuania and Poland accepted such resolutions).<sup>48</sup> Such a 'ritual purification' represents the condemnation and banishment of the communist regime: 'people can see the body politic as cleansed'.<sup>49</sup> This should aid the consolidation of support for a newly defined social/political order.

The third issue is related to the previous one, as providing the newly emerging polity with legitimacy is strictly connected with cleansing its structures. Breaking the general tendency of distrust towards all aspects of a public sphere demands a purge so that people can see that those steering reforms are not the civil servants who previously acted against the principles of democracy and the free market. The most popular reasons for political apathy are the opinions that 'nothing has really changed' and 'it does not matter for ordinary people whether the regime under which they are living is democratic or not'. Thus, when the government is cleansed of the communists, people are more likely to suffer calmly the hardships of the transformation as they 'feel more confidence that their leaders are not merely mouthing democratic ideas while surreptitiously undermining the foundations of democracy'.<sup>50</sup>

The problem of meritocracy is present in all discussions on screening, but it dominated the German lustration. The main argument for screening officials holding high public posts rests on the assumption that they had been nominated for these positions on the basis of their loyalty to the communist regime and not their professional qualifications. Although many opponents of lustration policy insist on the necessity of keeping these people in office because of their technical competence, in fact the skills and knowledge obtained under the previous regime have turned out to be completely irrelevant in the new democratic/capitalist context. Obviously, the rapid reform of the economy demands the replacement of 'communist specialists' with real ones.

'Cons'. In some countries the argumentation against lustration outweighed the arguments about its functionality, at least for a certain period of time. Probably the most frequently used argument referred to the moral aspect of creating a new democracy on the basis of exclusion. The popular slogan 'we are not like them' was meant to indicate the break with the undemocratic policy of disqualification on the basis of beliefs and to express the moral superiority of those who forgive in the name of democratic ideals. However, the system based on full inclusion is a utopian idea. The best reference is Dahl's conception of polyarchy as a contemporary democratic polity distinct from the ideal democracy. Although Dahl's main assumption is that the inclusiveness of a democratic system is positively correlated with its quality, he remarks that 'a reasonable argument may be presented on behalf of a particular judgement as to the proper boundaries of inclusion and exclusion ... the exact

location of any boundary is necessarily a highly debatable issue'.<sup>51</sup> Lustration does not represent the equivalent of exclusion but merely the limitation of certain civil and political rights. If 'a reasonable argument' for such limitation is to be used, it should definitely point to the lustrated individuals' support and loyalty for the non-democratic principles. It should also refer to a wider debate on the legality of non-democratic groups in a modern democratic system.

The second argument dominating the 'lustration debates' was the fear of violence and disorder. The Romanian events of 1989 were interpreted by most ECE leaders as a warning. Purging was believed to provoke assaults on, and defensive reactions from, communist elites. However, as history showed, violent events resulting from the implementation of disqualification procedures did not occur in any of the 'lustrated' countries.

The last two arguments against lustration are of a more technical nature. One of the essential worries was the lack of personnel to replace the purged persons and implement further reforms; the only country that did not face this problem was East Germany, as it was able to 'import' specialists from West Germany. In most other countries the legal profession and the army constituted the spheres in which radical screening was virtually impossible. For example, Poland and Hungary faced problems with staffing the bodies to implement lustration. Nevertheless, political positions could have been held by people with no political background, especially as the political skills of the communist officials were not applicable to a democratic system anyway. It is difficult to discuss this issue here in depth but, for example, in Poland and Hungary there were around 600 major official positions (e.g. heads of departments), and in other countries even fewer. Thus, as lustration was not really an extensive process in any country apart from the GDR and the Czech Republic,<sup>52</sup> replacing the purged high-rank bureaucrats and politicians was a feasible process not threatening the state's stability.

The last argument against lustration refers to secret service files' reliability and completeness. As de-politicisation (de-ideologisation) and the restructuring of security services proved time-consuming, in most countries significant numbers of files were destroyed. Again, the only exception is the former GDR where, despite some acts of destruction, the citizen committees carefully preserved the files of over 6 million people. It is estimated that in Poland around 40–50% of files were destroyed, while in Czechoslovakia the number was as high as 90%, but the lists of agents and collaborators were kept in an electronic form. In Hungary there were also incidents of destruction of secret police documents. In Bulgaria some files were removed and in the former Baltic republics the KGB moved its files to Russia.<sup>53</sup> It is also problematic that screening is based on evidence prepared by the secret service: the files are simultaneously 'over-inclusive', as not all people listed as agents or informers really collaborated, and 'under-inclusive', as the major agents were probably not listed. Additionally, in some countries the secret service employees added fictitious collaborators to improve their results: in Poland the number of registered collaborators rose each spring, just before calculating the quotas. The question of whether the problems with files' completeness and reliability should result in the abandonment of the idea of lustration or whether they should only raise awareness of the risk of committing a mistake is open to debate. In the case of ECE the technical

argument was used in all lustration debates: nevertheless, in no country did it result in the rejection of the lustration bill.<sup>54</sup>

*For or against?* It seems hardly possible to state categorically whether lustration should or should not be introduced in democratising states. The consequences described above, such as prevention of abuse of their privileged position and access to information by the *nomenklatura*, increase in the legitimacy of the new state and replacement of communist officials with competent specialists, should be considered highly beneficial. At the same time lustration carries certain problems, such as the reliability of the material to be used as the basis for screening. Although opponents of the policy of lustration usually raise some additional issues, like the non-democratic character of screening or the threat of disorder resulting from disqualification, these arguments seem to be relative and dependent on the context, and thus open to debate. All in all, the decision to commence a policy of screening should be preceded by a 'calculation of risk'. One of the essential elements of such a calculation is the degree of public support for lustration: if the decision is made in spite of public opinion, the significance of screening is most likely to be limited to political conflicts and its efficiency greatly reduced.

The preceding section, owing to its rather theoretical character, was unable to provide definite conclusions about whether lustration can really be beneficial for the consolidation of new democracies. However, by the end of 1999 lustration had been attempted in eight ECE countries; analysis of the political processes aimed at its implementation and their link with the quality of democracy in these countries provides a basis for answering this question.

The next section will therefore look at whether the introduction of screening procedures in post-communist countries harmed or hampered democratic processes as feared by many commentators. To understand the link between lustration and the consolidation of democracy, we will first classify the eight lustration processes as successful or unsuccessful. Then we will look at the correlation between the type of transition (and the strength of the communist legacy) and the features of the political process aimed at the introduction of screening procedures in particular countries. Finally, we will try to complement our earlier theoretical considerations about the functionality of lustration for the consolidation of democracy in post-communist Europe with examples and to merge the theme of lustration with the consolidation of democracy.

### *Lustration and democracy in East-Central Europe*

#### *Lustration: success or failure?*

To understand the impact of a lustration process one must first decide whether such a process was successful or not. Obviously, there is no objective measure that could be employed to classify lustration as a success or a failure. However, there are three main criteria which seem to be essential for a successful lustration: its actual implementation, the practicality of the scope, and the impartiality of the act.

The first, most basic criterion is the enforcement of the lustration act. Obviously,

no legal act can be effective if it is not enforced. Therefore Slovakia, which abandoned the screening policy it inherited from the Czechoslovak period, cannot be recognised as successful in terms of lustration. The remaining seven countries (the former GDR, the Czech Republic, Hungary, Poland, Lithuania, Bulgaria and Albania) managed to implement the procedures established by their lustration acts, although the 1998 Bulgarian Lustration Act was subsequently annulled by the BCC.

As was mentioned before, discussing lustration only in quantitative terms, i.e. how many people are screened, is an oversimplification of the issue. Nevertheless, the 'purging' act, to be recognised as efficient, should apply to a practicable number of people. The scope of lustration in particular countries has varied from thousands (the GDR, the Czech Republic) to tens (Lithuania, Bulgaria to date). And although it is believed that 'both massive purges ... or the absence of any significant change ... will create problems for democracy',<sup>55</sup> countries such as the GDR and the Czech Republic have no problems with being recognised as democratic, while those where the policy of screening is absent, like Romania or Ukraine, do face such problems. There are three acts whose scope raises some doubts about their effectiveness: those of Lithuania, Albania and Bulgaria. The Lithuanian screening act, owing to the limitation of a 'lustratable offence' to KGB collaboration *after* March 1990, applies to not more than 300 people. In Albania, in 1996, around 200 parliamentary candidates were screened; only one year later the definition of a 'lustratable offence' was significantly narrowed from the original 20 categories to 'former members of the ex-communist party politburo, former agents of the secret police or foreign intelligence agencies, and those convicted of crimes committed against humanity'.<sup>56</sup> In Bulgaria, in 1997, the acts of only 25 former agents were disclosed. Compared with other countries (including Hungary, where lustration applies to candidates for some 600 positions, and Poland, where the law is applied to all top state officials, including the heads of public TV, radio and press agencies<sup>57</sup>), Lithuania, Albania and Bulgaria seem to have introduced regulations that do not bring any significant change in terms of cleansing. However, if Lithuania implements the pending act demanding the purging of former communist officials, it will join the group of most extensively screened countries. Therefore, the Albanian and Bulgarian lustrations are considered here as insufficient, while Lithuania constitutes a borderline case.

The third condition might be called the 'impartiality' and general character of the act (which seems an obvious feature of every legal regulation). Although in all cases the lustration acts were aimed at certain social groups (e.g. the former members of the communist *nomenklatura*) and emerged from the political struggle between the post-communist and post-opposition parties, only in Albania was the bill designed as a tool for disqualifying the political opposition. The construction of the act, composition of the screening body and timing of its implementation (very soon before the elections) left no doubts about the real purpose of the Albanian lustration act. As a result, under international pressure, the elections had to be annulled.<sup>58</sup> Poland is often quoted for the 'political turmoil' surrounding the issue of lustration,<sup>59</sup> but the Polish lustration act in the form passed by the parliament in April 1997 fulfils all the requirements of the rule of law. Therefore, although political exploitation of the lustration issue is unavoidable (in all countries apart from Poland and Albania the act was passed during the rule of the post-opposition parties), the implementation of the



screening act should not be driven by the desire to eliminate a concrete political group. Such an intention is clearly visible in the way the act was applied to political opponents in Albania.

The above considerations single out Germany, the Czech Republic, Hungary and Poland as the only four countries to have introduced a 'sufficient' lustration, and Lithuania as a borderline case. The Slovak, Bulgarian and Albanian lustrations must be considered as insufficient owing to their non-implementation, too narrow scope of screening, and manipulative character of the implementation of legal regulations respectively. Of course, there are some other issues that might be introduced to assess the 'quality' of a given lustration. Among them, the most important and most obvious issue refers to the constitutionality of a screening act. However, if a legal act is appealed to the Constitutional Court (which happened in the case of most ECE lustration bills), it cannot be enforced unless it is recognised as constitutional or is amended. As a result, the lustration acts implemented must have been recognised as constitutional or amended to become constitutional. Among the countries that were earlier classified as successful implementers of lustration the former took place in the Czech Republic and Lithuania and the latter in Hungary. In Poland parts of the law had to be amended, but this was due not to its unconstitutional character but to problems with forming a Lustration Court. In Germany the constitutionality of lustration was not an issue of importance. As a result, this aspect of lustration is not a useful tool for classifying lustrations in ECE countries.

### *Transition and lustration*

If the theoretical model of lustration discussed in the second section of this article is set against the actual events in ECE, it becomes obvious that some issues have been more important than others. So far, lustration has been introduced in eight countries in East-Central Europe: the processes of reaching this solution, as well as the scope and consequences of screening in particular countries, have been strongly conditioned by their political and social context, but they have also shared certain characteristics. As was noted before, the decision to get involved in the lustration issue was mostly dependent on the elites, while public opinion exerted a minor influence. Although the renewal of politicians' interest in lustration in particular countries is said to be related to their beliefs about public support for this issue, in fact in no country was there a referendum prior to the introduction of lustration. The political exploitation of the lustration issue should not be mistaken for genuine concern about the public good. Examples such as the divergence between the level of public support for decommunisation in the Slovak Republic and the non-enforcement of the Lustration Act, or the 'blitz' lustrations in the Czech Republic and the former GDR, suggest that public opinion does not represent a decisive factor for the implementation of screening procedures.

Our earlier considerations showed that lustration is not only dependent on the interest of the elites but also on their composition. In most cases the screening act was initiated by the anti-communist parties (the exceptions were Albania and the first lustration in Bulgaria) and passed during the rule of an anti-communist government (the exception was Poland, where the Lustration Act was passed under the left-wing

coalition, albeit very shortly before the right-wing coalition's electoral victory), while the post-communist parties strongly opposed the policy of screening. Thus the conclusion above must be supplemented by the remark that the interest of the elites in the issue of lustration is the outcome of three interdependent issues: the regime of 'departure', the type of change and the elite's continuity.

Linz and Stepan list four types of preceding non-democratic regime: authoritarianism, totalitarianism, post-totalitarianism and sultanism. The general classification places Hungary, Czechoslovakia, the former GDR, Bulgaria and the USSR as post-totalitarian regimes, Poland as an authoritarian regime and Albania as having made a transition from a mixture of totalitarianism and sultanism. The differences within the post-totalitarian group are referred to as mature post-totalitarianism (Hungary), frozen post-totalitarianism (Czechoslovakia) and early post-totalitarianism (Bulgaria, the USSR). The type of preceding non-democratic regime strongly determined the 'negotiating capacity of regime and opposition alike, opened and/or blocked certain transition paths, and helped generate distinct constellations of consolidation tasks'.<sup>60</sup> Thus the issue of lustration was pursued differently in the democracies that replaced early post-totalitarian states, in which the transition was controlled by the communist politicians, in the former late-totalitarian or authoritarian states, where the regime collapsed or the transition resulted from negotiations, and in the regimes formerly approaching totalitarianism-sultanism, which experienced the reshuffling of the old elite. The description above is very brief and therefore insufficient for such subtle cases as Slovakia or Lithuania, yet it points to the main dependencies between the 'regime of departure', the type of change, and the presence of the communist elites on the political scene in a new democracy. The type of prior non-democratic regime is additionally important to the shape of democratic politics, as in the totalitarian or 'sultan' states the sphere of civil society and, consequently, the possibility of regime contestation were dramatically limited. As a result, there are fewer former dissidents who might support the idea of lustration.

### *Lustration and democracy*

So far, our considerations have predominantly focused on lustration, its main features and the conditions necessary for its successful implementation. This section will discuss the influence of lustration on the basic spheres of a democratic state and the ways in which it contributes to their transformation and consolidation. In some respects the arguments will resemble the problems described during the earlier discussion of the pros and cons of lustration, yet the present reasoning will use a different perspective, concentrating on the consolidation of democracy rather than lustration.

The bureaucracy is the sphere of an emerging democratic state that is most obviously influenced by lustration, as it constitutes the planned target of screening procedures. The existence of depoliticised officials, including the judiciary and military, is an indispensable condition of a successfully implemented reform, as well as effective state administration. Screening officials for their involvement with the previous regime should limit the influence of those supporting a non-democratic regime, be they confirmed communists or conformists interested in preserving their

dominant political and economic position. Lustration is also aimed at assessment of the moral standards and technical skills of those holding high-ranking positions in the public sphere. Therefore, the successful implementation of screening procedures should increase 'the usability of the state bureaucracy by the democrats',<sup>61</sup> as well as contribute to breaking the legacy of popular distrust of the state.

The issue of free and fair political competition is one of the defining features of democracy as a form of government. The transition from party-state to pluralist polity demands the dismantling of the dominant position of the communist party. One of the most essential components of the strong position of post-communist parties after 1989 was definitely the facilities they inherited from their communist predecessors. Obviously, lustration acts could not be useful for weakening this material aspect of post-communists' power, yet they could prevent the domination of communist structures in politics. In fact, the only two countries in which, after 1989, post-communist parties neither came to power nor gained an influential position on the political stage were Germany and the Czech Republic, i.e. the countries with the most extensive screening procedures.

Another aspect of a democratic state that is crucial to its existence is the rule of law 'embodied in a spirit of constitutionalism'.<sup>62</sup> The reform of the legal system to make it compatible with democracy, as well as changing its politicised and instrumental character inherited from the communist regime, may be (at least to a certain extent) achieved by means of purging judges and lawyers practised at manipulating the law for the purposes of the party-state. In fact, after 1989 in East-Central Europe the judiciary was recognised as one of the most corrupt and 'communised' professions.<sup>63</sup> As a result, legal decisions are often less trusted than public opinion judgements. The events preceding the introduction of the lustration acts in particular countries showed the power of libel, as well as the necessity of limiting the political purge by means of legal procedures. Therefore, introducing fixed and clear procedures of screening should not only 'refresh' the legal profession but also contribute to the creation of a democratic constitutional and legal culture.

The fourth issue, no less important than the previous three, is the economy. In most countries the transition from a state-regulated to a market economy was significantly marked by the communists' fight to preserve material assets or exchange political for economic capital. 'The *nomenklatura* took advantage of the absence of rule of law and its preferred position to steal massively and moved its gains to Western banks'.<sup>64</sup> The emerging economic organisation was therefore dominated by *nomenklatura* enterprises and former officials' influence. Although lustration is focused on the public sector and does not refer to private enterprises, the introduction of screening procedures for the top positions in finance, banking and key industries should increase the transparency of decision making and diminish the threat of managers' corruption and dependency on the old cliques. Some authors go as far as suggesting 'causality between the radical break with the communist past in Czechoslovakia and the formidable economic performance and political stability in the Czech Republic'.<sup>65</sup>

The four main spheres of democracy discussed above definitely do not exhaust the list of issues positively influenced by the introduction of lustration. Even if screening is not followed by purging, but only by public announcement of information about a person's involvement with the previous regime, it promotes transparency, the rule of

law and certain moral standards.<sup>66</sup> Of course, these conclusions, as well as the preceding considerations, ignore the distortions of the lustration process resulting from its dependency on the interests and political connections of its implementers. Thus it must be borne in mind that, in reality, the positive consequences of lustration are diminished by the political and social context in which it occurs.

There is one more aspect of lustration that is highly relevant for discussing the role it plays in the process of democratic transition. While investigating 'what makes democracies endure' Przeworski *et al.* noted a dependency between the level of economic development and the irreversibility of the democratisation process.<sup>67</sup> Successful introduction of a screening act can be considered analogous to Przeworski's threshold of economic development: a country which successfully puts a lustration law into force marks its break with the past, as well as radically limiting the influence of the elite with experience of (and presumably preferences for) non-democratic practices. As a result, it is unlikely to revert to a communist regime.

#### *Final conclusions: empirical findings*

The considerations contained in this article were aimed at analysing the relation between introducing screening procedures and the consolidation of democracy in East-Central Europe. Its sections have dealt with the ECE countries' advancement in transition, the theoretical model of lustration, the particular characteristics of ECE lustrations and the basic dependencies between lustration and democratisation. This final section will attempt to summarise the analysis by presenting some empirical findings.

To merge the concepts of screening and democratic consolidation, the model described in the introduction should be recalled. Table 2 contains the 13 countries taking part in our 'experiment': they are grouped according to their performance in terms of consolidation of democracy and lustration. Out of 13 countries, Germany, the Czech Republic, Hungary, Poland, Lithuania, Estonia and Latvia form the group of 'advanced democracies', i.e. close to the ideal of a consolidated democracy. Our analysis showed that the eight countries that introduced lustration can be divided into two categories: 'sufficiently' (East Germany, the Czech Republic, Hungary and Poland) and 'insufficiently' lustrated (Bulgaria, Slovakia and Albania), while Lithuania constitutes a border-line case with significant chances of being sufficiently lustrated. As it is impossible to speak of the contribution of insufficient lustration to the consolidation of democracy, Bulgaria, Slovakia and Albania were put in the same category as non-lustrated countries, i.e. Estonia, Latvia, Romania, Ukraine and Belarus.

The 'combination' of the two variables shows that all the lustrated countries fall into the category of 'advanced democracies', while all the countries that have not reached the level of 'consolidated democracy' are simultaneously the non-lustrated ones. Moreover, if the Lithuanian 'pending' case is left aside, the only 'advanced' and non-lustrated countries are Estonia and Latvia. Although limited space does not allow us to investigate these two cases thoroughly, it may be stated that they also experienced a specific purification process. Estonian and Latvian problems of dealing with the legacy of the past focused on the Russian minority issue: both countries are

TABLE 2  
LUSTRATION AND CONSOLIDATION OF DEMOCRACY IN EAST-CENTRAL EUROPE

	<i>Lustrated</i>	<i>Non-lustrated</i>
Advanced democracies	Germany, Czech Republic, Hungary, Poland	Estonia, Latvia
Liberal democracies		Lithuania
Electoral democracies		Bulgaria, Slovakia, Romania,
Non-democracies		Albania, Ukraine, Belarus

described as 'exclusionary', while the incentives for introducing 'screening' procedures for members of the non-Russian majority resemble some of those present in the 'political' lustrations in other ECE countries. In Latvia and Estonia 'part of the citizenry and the political elites looked upon distinctive sub-populations as (potential) enemies, not worth being entrusted with the status of unequivocally equal members of the political community',<sup>68</sup> not only because of their nationalistic prejudice but also because the issues at stake were the newly regained independence, the necessary qualifications (such as knowledge of the national language) of officials, as well as their loyalty. Thus the screening processes in Latvia and Estonia have targeted aspects of a democratic state similar to those present in the ECE lustrations.

The analysis of the influence of the mode of extrication from the non-democratic regime on the formation of democracy reveals a pattern similar to the one presented in Table 2. Elster *et al.* differentiate between two types of the 'use of new space of action': investive and consumptive, and two approaches to the old elites: exclusion and inclusion. Although this analysis covered only seven countries, their grouping according to their 'use of new space' resembles the division between lustrated and non-lustrated countries: the GDR, the Czech Republic, Poland and Hungary form the group that 'invested' in the newly emerged space of social action to create new institutions, while Slovakia, Romania and Bulgaria 'consumed' this space for 'the accumulation of power and the *ad-hoc* dealing with new problems'.<sup>69</sup>

The relationship between lustration and the consolidation of democracy seems to be simple, but nevertheless important: theoretical analyses, as well as empirical findings, have shown that there exists a positive link between these two phenomena. This is not to say that the relationship between them is causal, i.e. that adopting screening procedures will certainly lead to the consolidation of democratic institutions, but, at the same time, it may be expected to aid this process. Of course, successful lustration is, itself, contingent on the existence of certain elements of a democratic system, e.g. the basic features of the rule of law are necessary for the successful implementation of screening procedures. However, while lustration can be problematic both ethically and practically, when it is used as an 'ad hoc' political tool, if it is implemented as an element of planned transition strategy it is valuable in overcoming the legacy of a non-democratic regime, as shown by the examples of East Germany, the Czech Republic, Hungary and Poland.

I am grateful to Margaret McCown, Mirosława Grabowska and Andrzej Rychard for support and encouragement, and to two anonymous reviewers for helpful comments.

<sup>1</sup> V. Cepl, 'The Transformation of Hearts and Minds in Eastern Europe', *CATO Journal*, 17, 2, 1997, on-line: <http://www.cato.org/pubs/journal/cj17n2-7.html>.

<sup>2</sup> P. Goble, 'Analysis from Washington—Toward Collective Innocence?', *Radio Free Europe/Radio Liberty (RFE/RL) Report*, May 1996, on-line: <http://www.rferl.org>.

<sup>3</sup> S. Karstedt, 'Coming to Terms with the Past in Germany after 1945 and 1989: Public Judgements on Procedures and Justice', *Law and Policy*, 20, 1998, p. 16.

<sup>4</sup> J. Elster, 'Coming to Terms with the Past. A Framework for the Study of Justice in the Transition to Democracy', *Archives Européennes de Sociologie*, 39, 1998, p. 14. See also A. Tucker, 'Paranooids May Be Persecuted: Post-totalitarian Retroactive Justice', *Archives Européennes de Sociologie*, 40, 1999, pp. 56–100; N.J. Kritz, 'The Dilemmas of Transitional Justice', in N. J. Kritz (ed.), *Transitional Justice*, Vol. I (Washington DC, United States Institute of Peace Press, 1995), pp. xxi–xxxii.

<sup>5</sup> C. Offe, *Varieties of Transition. The East European and East German Experience* (Cambridge, Polity Press, 1996), p. 88.

<sup>6</sup> In the Polish 'lustration argument' there is a general practice of distinguishing between decommunisation, understood as disqualification on the basis of membership of communist organisations and work for the secret service, and lustration, based on the latter aspect only. It may happen that while discussing certain issues we use 'decommunisation' and 'lustration' to refer to, respectively, screening for communist membership and for secret service collaboration. In all other cases the word 'decommunisation' will not be used to avoid confusion.

<sup>7</sup> There are three main strategies observable in the case of ECE countries: (1) lustration accompanied by the act of granting access to the files for the public (e.g. Czech Republic, Germany, Bulgaria); (2) lustration process implemented but the files sealed for the public (Hungary, Albania); (3) lustration and access to the files treated separately and regulated by independent statutes (Poland, Romania (where the Chamber of Deputies decided to make Securitate documents public but has not introduced a 'proper' lustration act yet)).

<sup>8</sup> J. J. Linz & A. Stepan, *Problems of Democratic Transition and Consolidation* (Baltimore and London, The Johns Hopkins University Press, 1996), especially pp. 3–6.

<sup>9</sup> For defining liberal democracy Schedler adopts Dahl's concept of polyarchy, i.e. 'civil and political rights plus fair, competitive, and inclusive elections'; electoral democracies are 'all those borderline cases that possess some but not all of liberal democracy's essential features'; while advanced democracies are the polities which 'possess some positive traits over and above the minimal defining criteria of liberal democracy' (A. Schedler, 'What Is Democratic Consolidation?', *Journal of Democracy*, 9, 2, 1998, pp. 92–93).

<sup>10</sup> Considering the ECE democracies as consolidated is, of course, conventional. None of the ECE countries has reached, e.g. the GDP or levels of civic participation even close to 'Western standards'. However, almost all of them are more consolidated than 5 years ago.

<sup>11</sup> A. Przeworski, M. Alvarez, J.A. Cheibub & F. Limongi, 'What Makes Democracies Endure?', *Journal of Democracy*, 7, 1, 1996, p. 50

<sup>12</sup> The definition of the 'executive turnovers' should be quoted directly from the source: 'executive turnovers consist of the number of times the country's lead policy-making executive has been replaced during the time period' (J. S. Hellman, 'Winners Take All: The Politics of Partial Reform in Postcommunist Transitions', *World Politics*, 50, 2, 1998, p. 212).

<sup>13</sup> M. Kaldor & I. Vejvoda, 'Democratization in Central and East European Countries', *International Affairs*, 73, 1997, pp. 59–82. Rose *et al.* say of a similar range of countries that 'the accountability of governors to the populace has been confirmed by the government of the day leaving office peacefully and promptly after it has lost an election or a parliamentary vote of confidence' (R. Rose, W. Mishler & Ch. Haerpfer, *Democracy and Its Alternatives. Understanding Post-Communist Societies* (Baltimore, The Johns Hopkins University Press, 1998), pp. 77–78).

<sup>14</sup> 'Free': ratings not higher than 3 on either of the axes and the average not greater than 2.5.

<sup>15</sup> A. Karatnycky, 'The Freedom House Survey. The Decline of Illiberal Democracy', *Journal of Democracy*, 10, 1, 1999, pp. 112–125.

<sup>16</sup> R. A. Dahl, *Democracy and Its Critics* (New Haven and London, Yale University Press, 1989).

<sup>17</sup> Elster's analysis of the first re-democratisation—Athens in the 5th Century BC—uses the examples of policies used to deal with the non-democratic legacy. They are strikingly similar to the modern solutions, e.g. 'those who had sided with the oligarchs or failed to oppose them might find it difficult to be approved for political office' (Elster, 'Coming to Terms with the Past', p. 13).

<sup>18</sup> Elster, 'Coming to Terms with the Past'.

<sup>19</sup> G. Halmai, 'The Hungarian Approach to Confronting the Past', paper delivered at the Seventh Annual Conference on the Individual vs. the State, 'Just Transitions': The Right to Justice and Truth in Transition, Budapest 7–9 May 1999, p. 23.

<sup>20</sup> There is no statute of limitation on crimes against humanity in international law. After several years of struggle for retroactive justice in Hungary, the legal measures to deal with those guilty of crushing the 1956 Hungarian uprising were accepted by the Hungarian Constitutional Court because their acts were defined as 'crimes against humanity'.

<sup>21</sup> Offe, *Varieties of Transition*, p. 93.

<sup>22</sup> Elster, 'Coming to Terms with the Past', p. 14. The term 'refolution' was coined by Garton Ash to describe reform introduced from above in response to pressures for revolution from below (Timothy Garton Ash, *We the People: The Revolution of '89 witnessed in Warsaw, Budapest, Berlin and Prague* (Cambridge, Granta, 1990)).

<sup>23</sup> One commentator remarked with discontent that 'it is rather surprising that Poland, while being so busy with the numerous problems of economic restructuring, devotes so much of its energy to dealing with the past' (B. Misztal, 'How Not to Deal with the Past: Lustration in Poland', *Archives Européennes de Sociologie*, 40, 1999, p. 31).

<sup>24</sup> CEU (Central European University), *The Development of Party Systems and Electoral Alignments in East Central Europe: The 1992–1994 Survey in Czech Republic, Slovak Republic, Hungary and Poland*. Machine readable data files. Budapest: Department of Political Science, Central European University.

<sup>25</sup> If it is taken into account that the surveys in particular countries were conducted in different months, the general trends of support for decommunisation in all four countries look even more similar.

<sup>26</sup> CBOS, *Co myślimy o lustracji?*, January 1998, on-line: <http://www.cbos.org.pl>. The results of this survey compared with another one conducted regularly by the same research institution are slightly confusing: the support for the removal of former secret service collaborators from positions of influence dropped from 72% in 1994 to 53% in 1999 (CBOS, *Polacy o lustracji i ustawie lustracyjnej*, June 1999, on-line: <http://www.cbos.org.pl>). However, the survey quoted above referred to the need for screening, while this one, similarly to the CEU survey, concerned the support for certain consequences of such screening. The conclusion should therefore point to the fact that the rise of support for lustration is accompanied by the inclination to its 'milder' form (e.g. the Polish 'Lustration Act' can be considered as a 'mild' solution compared to the Czech one). Nonetheless, the decline of the 'die-hard' approach should not be mistaken for the general decline of support for lustration.

<sup>27</sup> C. C. Bertschi, 'Lustration and the Transition to Democracy: The Cases of Poland and Bulgaria', *East European Quarterly*, XXVIII, 1995, p. 440.

<sup>28</sup> Karstedt, 'Coming to Terms with the Past', p. 43.

<sup>29</sup> S. Holmes, 'The End of Decommunization', *East European Constitutional Review*, 3, 3/4, 1994, pp. 33–36.

<sup>30</sup> H. A. Welsh, 'Political Transition Processes in Central and Eastern Europe', *Comparative Politics*, 26, 4, 1994, p. 382.

<sup>31</sup> See S. Huntington, *The Third Wave, Democratization in the Late Twentieth Century* (Norman, University of Oklahoma Press, 1991).

<sup>32</sup> Welsh, 'Political Transition Processes', p. 384.

<sup>33</sup> *Ibid.*, p. 387.

<sup>34</sup> Tucker, 'Paranoids May Be Persecuted', p. 76.

<sup>35</sup> The two examples can be Poland and Hungary: in both cases, although officially denied, some forms of secret agreement were allegedly made.

<sup>36</sup> While Tucker gives the example of Petr Pithart, the Czech prime minister between 1990 and 1992, in Poland such names as Michnik, Kuron and Mazowiecki can be mentioned (Tucker, 'Paranoids May Be Persecuted', p. 80).

<sup>37</sup> W. Osiatynski, 'Decommunization and Recommunication in Poland', *East European Constitutional Review*, 3, 3/4, 1994, p. 37.

<sup>38</sup> Linz & Stepan, *Problems of Democratic Transition and Consolidation*, p. 252.

<sup>39</sup> The best example is perhaps Slovakia with its relatively high support (higher than in Poland and Hungary) accompanied by the non-enforcement of the lustration act.

<sup>40</sup> The special case is definitely the former GDR, where screening was 'imposed' and implemented by the already existing FRG.

<sup>41</sup> Goble, 'Analysis from Washington'.

<sup>42</sup> A good example is Tina Rosenberg, who considers lustration 'a product of the same mentality' as 'world-class thuggery'. She writes also: "'We are not like them!' cried the people of the Velvet Revolution—the cruellest lie, crueller still for being their own'. See T. Rosenberg, *The Haunted Land: Facing Europe's Ghosts After Communism* (New York, Random Press, 1995), pp. 108, 112.

<sup>43</sup> Offe, *Varieties of Transition*, pp. 94, 214.

<sup>44</sup> Tucker, 'Paranoids May Be Persecuted', p. 91.

<sup>45</sup> The best examples of this approach are definitely Robert Putnam's *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton, Princeton University Press, 1993) and his articles 'Bowling

Alone', *Journal of Democracy*, 6, 1, 1995, pp. 65–78 and 'Tuning In, Tuning Out: The Strange Disappearance of Social Capital in America', *Political Science and Politics*, 28, 1995, pp. 664–683.

<sup>46</sup> In the light of the most recent literature, this type of social capital would be classified as 'bonding' (members of a certain group) and preventing the emergence of social capital 'bridging' the groups. See R. Putnam, *Bowling Alone. The Collapse and Revival of American Community* (New York, Simon & Schuster, 2000).

<sup>47</sup> The notion of liminality, 'refreshed' by the anthropologist Victor Turner, refers to the very moment of passage from one state to another by means of achieving 'statelessness'. V. W. Turner, 'Liminality and Communitas', in V. W. Turner, *The Ritual Process, Structure and Anti-Structure* (London, Routledge and Kegan Paul, 1969). See also L. Hunt, 'The Sacred and the French Revolution', in J. C. Alexander (ed.), *Durkheimian Sociology: Cultural Studies* (Cambridge, Cambridge University Press, 1992).

<sup>48</sup> Retribution and restitution are definitely other ways of 'ritual purification'.

<sup>49</sup> Cepl, 'The Transformation of Hearts and Minds in Eastern Europe'.

<sup>50</sup> *Ibid.*

<sup>51</sup> Dahl, *Democracy and Its Critics*, p. 128.

<sup>52</sup> Moreover, the Czech case shows that extensive screening procedures can be implemented despite the high dependency of professional appointments on loyalty to the totalitarian regime.

<sup>53</sup> GDR: H. A. Welsh, 'Dealing with the Communist Past: Central and East European Experiences After 1990', *Europe-Asia Studies*, 48, 3, 1996, pp. 413–428; Poland: *RFE/RL Report*, 26 September 1996; Czechoslovakia: Tucker, 'Paranoids May Be Persecuted'; Hungary: Halmi, 'The Hungarian Approach to Confronting the Past'.

<sup>54</sup> This argument also did not seem to be of crucial importance in the countries where lustration was not implemented: Romania, Ukraine or Russia are just a few examples.

<sup>55</sup> Linz & Stepan, *Problems of Democratic Transition and Consolidation*, p. 251.

<sup>56</sup> 'Constitutional Watch: Albania', *East European Constitutional Review*, 6, 2/3, 1997.

<sup>57</sup> *RFE/RL Report*, 5 August 1997.

<sup>58</sup> *RFE/RL Report*, 21 June 1996.

<sup>59</sup> The discussions of this issue began as early as 1990 and re-emerged regularly as one of the main tools to discredit political opponents, including former dissidents.

<sup>60</sup> Linz & Stepan, *Problems of Democratic Transition and Consolidation*, p. 295.

<sup>61</sup> *Ibid.*, p. 11.

<sup>62</sup> *Ibid.*, p. 10.

<sup>63</sup> Examples such as Polish problems finding a sufficient number of judges to form the Lustration Court or the Hungarian Lustration Panel consisting of judges who had a 'lustratable' past themselves should be recalled here (Halmi, 'The Hungarian Approach to Confronting the Past', p. 18).

<sup>64</sup> Tucker, 'Paranoids May Be Persecuted', p. 70.

<sup>65</sup> J. Elster, C. Offe & U. K. Preuss, *Institutional Design in Post-communist Societies. Rebuilding the Ship at Sea* (Cambridge, Cambridge University Press, 1998), p. 58.

<sup>66</sup> Cepl describes this process as 'changing the moral culture' and 'metamorphosis of the rules of human conduct' (Cepl, 'The Transformation of Hearts and Minds in Eastern Europe').

<sup>67</sup> Przeworski *et al.*, 'What Makes Democracies Endure?', p. 41.

<sup>68</sup> Offe, *Varieties of Transition*.

<sup>69</sup> Elster *et al.*, *Institutional Design in Post-communist Societies*, pp. 59–60.



Copyright of Europe-Asia Studies is the property of Carfax Publishing Company and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.