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When Electoral Reform Fails: The Stability of Proportional Representation in Post-Communist Democracies

CSABA NIKOLENYI

This article examines the failure of three attempts to replace proportional representation with a majoritarian alternative in post-communist Eastern Europe: Slovenia in 1996; the Czech Republic in 2000; and Romania in 2008. The central argument of the article is that majoritarian electoral reform is both incompatible with and prevented by the institutions of consensus democracy. The constitutional design of consensus democracy creates multiple veto points and veto players that limit major policy and legislative change, such as electoral reform. As such, they also provide for self-enforcing stability in the electoral system by making it very difficult for political actors to build a winning coalition to reform it.

Most countries that made the transition from communism to a multi-party democracy in Eastern and Central Europe adopted some version of proportional representation (PR) to elect their first post-communist national parliaments in the early 1990s. In several cases (e.g. Poland, Romania, and Slovakia) these initial PR systems underwent subsequent amendments that generally reduced their proportionality. However, in none of these new democracies was PR ever reversed in favour of a majoritarian electoral system (Juberias 2004). As we shall see, this was not for lack of trying: in three instances (Slovenia in 1996, the Czech Republic in 2000, and Romania in 2008) clear attempts were made to replace PR with a majoritarian alternative; however, they all failed.

This article examines the reasons that account for their failure. It presents the argument that majoritarian electoral reform is both incompatible with and prevented by the institutions of consensus democracy (Lijphart 1999), which these new democracies have adopted for the most part. Constitutional

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design of the consensus type creates a large number of veto points and veto players (Tsebelis 2002) that limit the scope for policy and legislative change. As such, they also provide for self-enforcing stability in the electoral system by making it very difficult for political actors to build the kind of winning coalition whose members would have an instrumental reason to change the electoral system in order to increase their own electoral prospects (Benoit 2004).

This is not to say that electoral reform is not possible in a consensus democracy. However, the kind of electoral reform that is not compatible with the power-sharing characteristic of consensus democracy, which is what the movement from PR to a plurality or majority-based electoral system would imply, is unlikely to succeed due to the opposition of institutional actors who benefit from sharing in political power under the status quo. As such, consensus democracy acts as the key barrier to electoral reform in the new democracies of Eastern and Central Europe (Leyenaar and Hazan 2011; Rahat and Hazan 2011). However, this argument is certainly not unique to post-communist democracies. In fact, there is evidence from a number of established democracies, such as Belgium (Hooghe and Deschouwer 2011), Italy (Baldini 2011), or Canada (LeDuc 2011), pointing to the ways in which consensus politics and institutions can prevent electoral reform.

The article develops this argument in four sections. The first section reviews the main theoretical perspectives that account for electoral reform and stability in post-communist democracies. Next, it presents an overview of the constitutional architecture of the three states in order to define the key players that are involved in any discussion over electoral reform. The third section provides a narrative of the context in which the proposals for electoral reform emerged in the three countries, and the processes by which the eventual outcome was decided. The fourth section discusses how and why the institutions of consensus democracy acted as a safeguard of PR in the three states.

Theoretical Perspectives on Electoral Reform in Post-Communist Democracies

A number of works have drawn attention to the similarities between the waves of electoral reform that swept Eastern and Central Europe at the demise of communism and the one that had occurred in Western Europe at the turn of the twentieth century (Andrews and Jackman 2005; Lijphart 1992). Lijphart argues that Stein Rokkan's (1970) famous hypothesis about the adoption of PR in Western Europe can be logically extended and applied to the new democracies of Eastern Europe. In Western Europe, PR emerged as a result of a compromise between the increasingly more powerful and organised parties of the working class, which sought to replace a majoritarian and plurality based system with PR in order to

benefit from lower thresholds of entry to parliament, and those established parties that felt most threatened by the workers' parties under the existing rules.

Similarly, Lijphart (1992: 209) claims that PR was adopted in Eastern Europe also as a result of a bargain between weak incumbent communist parties, seeking a guarantee that they would be protected from an all-out loss in the first competitive elections, and the new opposition parties which sought a guarantee that they would have substantial representation in the newly elected parliament. Andrews and Jackman (2005) disagree with the view that rationally coordinated strategic interaction drove the two waves of electoral reform. Instead they claim that decision-makers were 'strategic fools' who had to make choices about electoral laws under conditions of extreme uncertainty both in Western Europe in the early 1900s and in Eastern Europe almost a century later. In this, however, Andrews and Jackman (2005) still stress the essential similarities of the two waves of reform.

A contrary view is expressed by Birch *et al.* (2002) who point out three major differences between two waves of electoral reform. First, the adoption of PR in Western Europe occurred more or less simultaneously with the extension of voting rights. In contrast, post-communist electoral reform revolved only around the rules of contestation since formally the expansion of the franchise had already been completed under communism. A second difference concerns the magnitude of the societal and political changes that surrounded electoral reform in Eastern Europe relative to the West. Finally, a third difference concerns the mode of electoral reform. In contrast to Western Europe, where electoral reform proceeded via the normal channels of parliamentary politics, the East European reform process was characterised by a 'radical institutional dislocation' – the parliamentary route to electoral reform was replaced either by informal round-table talks between the regime and the opposition (e.g. Poland, Hungary) or by executive decree (e.g. Russia, Romania).

These differences notwithstanding, the development of electoral systems in the new post-communist democracies accords very well with the broader patterns observed elsewhere. Colomer (2004: 55–60) reports that, in general, changes in electoral systems towards more inclusive formulas are more frequent than the other way around, and that while the number of countries around the world that use indirect or majoritarian electoral system decreases over time, the number of countries using PR does not. Patterns of post-communist electoral reform conform to these universal trends. Most new democracies in the region adopted PR soon after the transition to democracy. While some started out with and have retained mixed systems (e.g. Hungary, Lithuania), others have moved toward greater proportionality either by replacing their mixed systems with PR (as in Bulgaria, Croatia, Russia, and Ukraine) or fine-tuning their existing PR systems (Birch 2003: 40). Regressive movements from PR toward less inclusive systems have been noticeably absent although this was not for lack of trying,

as we shall see. According to Birch *et al.* (2002: 186), parties in Eastern and Central Europe 'seek both to maximise their seat share and to minimise their potential loss. This will tend to lead them to adopt proportional representation over majoritarian systems, as the former lead to greater predictability in outcomes, which are less costly.'

Theoretically, two competing approaches dominate the literature on electoral reform in post-communist democracies: rational choice versus structural accounts. In terms of their empirical foci, rational choice studies tend to focus on individual country cases (Benoit and Hayden 2004; Benoit and Schiemann 2001; Grofman *et al.* 1999; Kaminski 2002; Remington and Smith 1996) and provide analytical narratives (Bates 1998) of their attempts at electoral reform. They share the common view that electoral laws are essentially the products of social choices. Therefore, they assume that in order to understand what determines electoral reform, we need to understand the motivations and strategies of the actors themselves that were involved in designing and re-designing the electoral system. Structural accounts do not dispute the importance of actors' self-interest. However, they also highlight the important role of contextual variables (Birch *et al.* 2002), history (Lijphart 1992), and path dependence (McFaul 1999) in understanding electoral reform. Yet, apart from their differences, both the rational choice and the structural perspectives agree that uncertainty plays a very important role in determining the politics of post-communist electoral reforms. Because electoral law choices in these new democracies take place under very high degrees of informational uncertainty, conventional models of institutional design, of either the rational choice or the structural bent, cannot be easily applied to the region (Geddes 1996).

Rational choice accounts point out that the adoption of initial electoral systems at the time of the transition to democracy was often characterised by miscalculation and unintended consequences due to the uncertainty associated with a yet un-institutionalised party system and a poor informational context for public opinion and expert knowledge about the effects of electoral systems (Grofman *et al.* 1999; Kaminski 2002). Since decision-makers were uncertain about the number of political parties, the preferences of voters, and the exact impact that electoral rules would have, they often supported institutional choices that worked against their interest in the longer term (Andrews and Jackman 2005: 68–9). Therefore, even though electoral reformers may have behaved in a self-interested manner *ex ante*, the prevailing uncertainty severely hindered their ability to correctly predict the consequences of their institutional choices *ex post* (Shvetsova 2003).

For instance, Moraski and Loewenberg (1999: 162) draw attention to the unanticipated effect of legal thresholds of representation. While electoral reformers expected that thresholds would keep extremist and post-communist parties marginalised, they could not foresee that proportional representation would open 'the parliaments of these countries to the

fluctuation of public support in newly democratic countries not yet having stable party systems . . . the principal effect of thresholds was not to create obstacles to particular parties but to exaggerate swings in electoral support in the allocation of parliamentary seats'. Uncertain expectations about the consequences of electoral systems also meant that decision-makers who were involved with the crafting of the transitional electoral laws focused a lot more on the basic choices of the system, i.e. whether it should be based on proportional representation, plurality-majority, or a mixed principle, while ignoring very important technical details, such as the district magnitude, the level of the threshold, etc. (Shvetsova 2003: 203–6).

Rational choice recognises that the sources of uncertainty become weaker with the passage of time as party systems get more institutionalised, expert knowledge becomes more widely available, the effects of electoral laws become better understood, and parties develop more reliable estimations of the distribution of their electoral following (Benoit and Hayden 2004; Benoit and Schiemann 2001; Remington and Smith 1996). Therefore, instances of miscalculation in electoral reform processes also ought to decrease over time and subsequent, i.e. post-transitional, changes to the electoral system will be more likely to be guided by the logic of actors' rational calculations. However, reduced uncertainty might actually reduce the likelihood of future electoral reform. Shvetsova (2003: 201) predicts that as '[i]nformational improvements . . . clarify the distributive consequences of institutional choices', they lead to more intense conflicts and disagreements over them, which in turn will make future electoral reform either much less likely or more protracted than was the case with the relatively speedy adoption of the initial transitional electoral systems.

Structural accounts of post-communist electoral reform do not deny the importance of self-interested strategic calculations under conditions of uncertainty. However, they add that the political actors' choices are also influenced and constrained by broader forces that were outside their immediate control. For example, electoral reform may be path dependent. Through the examples of the establishment of the Russian Presidency, the Duma election law, and the upper house of the Russian parliament, McFaul (1999) shows that institutions may become sticky once they are created and they may prove to be very resistant to amendment even if they no longer reflect the interests of the powerful actors who could change them. Lijphart cites the availability of foreign electoral system models, historical models from the countries' pre-communist democratic past, and the presence of politically strong ethnic, linguistic and religious minorities as possible sources of influence on electoral system choice (1992: 216–19).

In what remains the most comprehensive survey of the variety of contextual factors that shaped the design of post-communist electoral systems, Birch *et al.* (2002) point out that the initial transitional electoral systems were often negotiated and arrived at in informal roundtable discussions among the elites of the regime and opposition. However, once

the transitions have been completed and the new constitutional order established, subsequent changes to the electoral system are subject to the formal rules of political reform that also specify the range of actors involved, e.g. the presidency, the upper chambers, the Constitutional Court, and the population via referendum.

Several of the factors that complicated electoral system choice at the time of the transition to democracy, or soon thereafter, are either no longer present or they are present with much less intensity at later stages. As mentioned, the passage of time reduces the uncertainty of the informational context, and the appeal of foreign or past historical electoral system models is no longer as strong because decision-makers do not face the pressure they faced at the time of the regime change. Also, even though party systems still display considerable volatility, they become increasingly more institutionalised over time. Therefore, the overall conditions ought to be much better for well-conceived electoral reform at later stages than they were at the initial moment of transition. Yet, as our three cases clearly demonstrate, reform attempts can and do fail. In the context of Eastern and Central Europe this is particularly surprising given the observation that ‘in no other region of the world is it possible to find such a widely acknowledged disregard for the benefits – in terms of institutional and political stability – of keeping the rules of the electoral game constant’ (Juberias 2004: 315).

Our account of the resilience of PR against moves towards majoritarian reform starts with Katz’s (1997) argument that an electoral system, as well as the broader constitutional architecture of the state, reflects the type of democracy that decision-makers sought to establish at the time of its adoption. Indeed, Taagepera (2003) shows that proportional electoral rules tend to result in consensus rather than in majoritarian features of democracy on the executive–parties dimension, such as executive power sharing in coalition governments, a balance of power between the executive and the legislature, and a multi-party system. For the most, post-communist democracies belong to the consensus type on this dimension (Roberts 2006: 50). Consensus democracies have multiple veto points and veto players, which makes political reform, including electoral reform, more difficult relative to majoritarian democracies (Blau 2008; Tsebelis 2002). As such, consensus democracy creates a self-enforcing bias against major electoral reform. This should be particularly the case with respect to regressive electoral system change, such as a movement from PR to either a mixed or to a majoritarian system, because more exclusive electoral systems have the potential to lead to further institutional changes that would ultimately undermine other important aspects of consensus democracy. In contrast, major electoral reform should be relatively easier to accomplish in majoritarian democracies with fewer veto points and players to defend the status quo.

The central hypothesis that will inform the ensuing analysis of the politics of electoral (non-)reform is that *consensus democracy creates critical veto*

points, and players, that make 'major' electoral reform, defined as the wholesale replacement of PR with a more exclusive electoral system, unlikely. Two further points are worth adding. First, the hypothesis does not say anything about the fine-tuning of PR systems, which can, and does, happen very often even in consensus democracies (Birch 2003; Birch *et al.* 2002; Shugart 1992). As we shall see, fine-tuning of PR did in fact take place in each of the three countries. However, each of these partial PR reforms was the by-product of the failure of the initial majoritarian proposal. The failure of those reforms resulted in reducing the winset of the status quo PR electoral system, which significantly limited the availability of further options to change the electoral system. Second, PR systems in the post-communist democracies also enjoy 'normative protection' against majoritarian alternatives. Since communist-era elections relied on majoritarian electoral systems, the adoption of PR was seen as an integral part of the transition to and consolidation of democracy in the early 1990s. Therefore, proposals to adopt majoritarian electoral institutions also suffer from an apparent association with the political institutions of communism, which further weaken their popularity and ability to replace PR.

The Institutions of Consensus Democracy in Slovenia, the Czech Republic, and Romania

Following Lijphart's (1999) seminal work on majoritarian and consensus democracy, Roberts (2006) provides an assessment of the institutional features of the 10 post-communist members of the European Union in order to establish which type of democracy emerged in Eastern Europe. Table 1 summarises the scores that Roberts (2006) reported on each of the institutional variables for the three countries in comparison with the mean scores for all East European states and those provided for 36 democracies that Lijphart studied. The first five variables in Table 1 (the number of parties, the percentage of minimum winning cabinets, executive dominance, the disproportionality of electoral results, and corporatism) capture what Lijphart called the 'executive-parties' dimension of democracy, while the remaining five variables (federalism, bicameralism, constitutional rigidity, judicial review, and the independence of the central bank) make up the second, i.e. the 'federal-unitary' dimension. Table 1 shows that post-communist democracies tend to have the features of consensus democracy on seven out of the ten variables. It is only with respect to disproportionality, corporatism, and federalism that the new democracies possess majoritarian characteristics.

The Czech Republic, Slovenia, and Romania clearly follow the broader East European trend with respect to the number of parties, the percentage of minimum winning coalition cabinets, and executive dominance. They all have more fragmented party systems than the average that Lijphart reported for the 36 established democracies; minimum winning coalition cabinets are

TABLE 1
 PATTERNS OF DEMOCRACY IN THE CZECH REPUBLIC, SLOVENIA,
 AND ROMANIA

Variable	Czech R.	Slovenia	Romania	E. Europe	Lijphart 36 ^a
Parties	4.08	4.99	3.57	4.38	3.2
Cabinets	39.3	24	29.4	33.7	60.2
Executive	2.78	1.58	1.46	1.92	3.32
Disproportionality	6.43	4.1	5.67	6.94	8.02
Corporatism	2.2	1.6	3.2	2.5	2.2
Federalism	1	1	1	1	2.9
Bicameralism	2	2	3	1.5	2.2
Constitution	2.5	3.5	4	3.1	2.6
Judiciary	3	3	2	3.1	2.2
Bank	0.73	0.63	0.34	0.60	0.38

Notes: The figures indicate the following measures. Parties: the effective number of parties. Cabinets: percentage of minimum winning coalition cabinets. Executive dominance: cabinet duration. Disproportionality: Gallagher index. Corporatism: Siaroff's scale of corporatism. Federalism: dummy for unitary or federal state. Bicameralism: Lijphart's 4-point scale of bicameralism. Constitutional rigidity: parliamentary majority required for constitutional amendment. Judiciary: Lijphart's 4-point scale of judicial review. Bank: Lijphart's 0–1 scale of central bank independence.

^aThe cells in the column 'Lijphart 36' contain the average score on each variable for the 36 established democracies that Lijphart's (1999) study covers.

Source: Adapted from Roberts (2006: 40, 44).

rare; and executive dominance is weak due to unstable governments. It is important to note that, in general, electoral and party politics are considerably more volatile and less institutionalised in Eastern and Central Europe than in the established democracies of Western Europe. However, two of the three post-communist states that we examine (the Czech Republic and Slovenia) actually have more stable party systems than most other states in the region (Birch 2003; Lewis 2006).

Similarly, on the second dimension, all three states have stronger than average degrees of bicameralism compared with the rest of Eastern Europe, reflecting the fact that all other post-communist democracies, except for Poland, have unicameral parliaments (Olson 1999; Patterson and Mughan 1999). In comparison with the mature democracies, however, bicameralism is weak in the Czech Republic and Slovenia, and it is only moderately strong in Romania. As in Poland, the two chambers of the Romanian parliament are elected concurrently, which reinforces the dominance of the same political coalitions in both houses. In contrast, only one-third of the Czech Senate is elected every two years, which often leads to different majorities in the two houses. However, since the Czech Senate has only very limited veto over legislation, bicameralism remains weak. In Slovenia, bicameralism is more formal than substantive given that the second chamber of parliament (the National Council) is a non-elected body that provides corporate representation to local bodies and various socio-economic groups.

The written constitutions of all three states are rigid and difficult to amend, especially in Slovenia and Romania where a qualified parliamentary majority is supplemented by a referendum (optional in Slovenia but compulsory in Romania). Finally, with regard to the judiciary and central bank independence, only Romania displays more majoritarian features, while both the Czech Republic and Slovenia have established strong constitutional courts and highly independent central banks.

The three institutional variables on which the post-communist states have majoritarian features are disproportionality, corporatism, and federalism. With regard to disproportionality, Roberts (2006: 51) noted that even though East European democracies tend to have PR system, electoral results are markedly less proportional than in the mature democracies due to their relatively un-institutionalised party systems. 'A major reason why disproportionality is so high is that voters waste a high percentage of their votes. They often vote for parties that do not pass the threshold – typically 5 percent – for representation in parliament'. Regarding corporatism, while the adoption of tripartite arrangements of interest intermediation is common in Eastern Europe, corporatist practices are substantively weak. Finally, in the wake of the collapse of all communist-era federations, post-communist states are invariably unitary which is reflected in their majoritarian scores on the federalism variable.

The Narratives: Electoral Reform Failure in Slovenia, the Czech Republic, and Romania

Slovenia 1996

The opening for the debate on replacing Slovenia's PR system with a majoritarian alternative was provided by a Constitutional Court ruling in January 1996 that obliged the National Assembly to amend the electoral law. According to the Court, the status quo electoral system did not comply with the constitutional requirement of *direct* elections to the National Assembly because the political parties' lists of candidates were not made available to the voting population in advance of the polls (Fink-Hafner 2008: 12). In response to the Court's decision, the small opposition Social Democratic Party, which had only won 4.4 per cent of the seats in the previous elections, took up the cause of advocating a two-round majority rule in single-member districts. Small parties are usually not in favour of majoritarian electoral systems. In this case, however, the Social Democrats calculated that a run-off electoral system would help it consolidate the Slovenian Spring Alliance, a new partisan bloc that it had formed earlier with the centre-right Christian Democratic and the Slovenian Peoples' parties (Fitzmaurice 1996: 405; Matic 2000: 78).

The Slovenian constitution requires a two-thirds parliamentary majority in order to change the electoral law. Since the combined seat share of the

three parties that made up the Spring Alliance was very far from this legislative strength, the Social Democratic Party decided in 1996 to force the issue to a referendum. In order to do so, the party had to collect the signatures of at least 40,000 voters – Article 90 of constitution allows the National Assembly to call a referendum only if one is demanded either by this number of electors or by at least one-third of the deputies. The Social Democrats barely started their signature campaign when a group of 35 deputies, barely more than one-third of a total of 90 members in the National Assembly, also submitted their own demand for a referendum. However, this group wanted the electorate to vote not on the Social Democrats' proposed majoritarian run-off formula but their own modified PR system. Furthermore, almost immediately, the National Council, the second chamber of parliament, also passed its own resolution to call a referendum, which Article 97 of the constitution allows, to decide on its own preferred alternative electoral system, a German-style mixed-member rule (Fink-Hafner 2008: 13). As a result of these heresthetic manoeuvres, the Social Democrats' majoritarian run-off proposal lost centre stage in the debate on electoral reform. The public was no longer presented with a binary choice between the status quo PR and the run-off rule. Instead, three alternative reform proposals were launched against the status quo, which increased the likelihood of its stability.

The referendum on the question of alternative electoral reforms eventually took place a month after the 1996 general elections. Due to the combination of low electoral turnout (38 per cent), a very divisive ballot with three questions on different electoral systems, and lack of clarity on how the results would be interpreted, the referendum failed to change the status quo. Of the three electoral systems that were proposed on the ballot, the majority run-off system sponsored by the Social Democrats received by far the largest number of Yes votes (44 per cent), followed by modified PR (26 per cent), with the mixed-member proposal trailing at the end (14 per cent). However, since majority support was not demonstrated for any of the proposals, the referendum could not alter the status quo. Yet the issue of electoral reform did not disappear from the political agenda. Two years later, the Constitutional Court issued a proactive abstract review in which it declared that the winner of the referendum was the proposed majority system that clearly received plurality support from the electorate (Matic 2000: 79). Accordingly, the Court instructed the Assembly to pass a new electoral law. In the tumultuous landscape of Slovenia's third post-communist parliament, however, no such legislation could be passed. What parties eventually agreed on, in 2000, was an amendment to the Constitution stating that 'deputies . . . are elected according to the principle of proportional representation with a four percent threshold required for election to the National Assembly, with due consideration that voters have a decisive influence on the allocation of seats to the candidates' (Article 80/5).

Czech Republic 2000

The origins of a majoritarian electoral reform in the Czech Republic can be traced back to the surprising conclusion of the famous Opposition Pact between the Czech Social Democratic Party (CSSD) and the Civic Democratic Party (ODS) after the inconclusive parliamentary election of 1998 (Nikolenyi 2003; Roberts 2003). According to the agreement, the ODS pledged its parliamentary support for the formation of a CSSD minority government in exchange for key parliamentary posts as well as a common bi-partisan commitment to constitutional and electoral reform. With regard to the latter, Article 7 of the agreement specified that the two parties 'commit themselves to present within 12 months of signing this agreement a proposal of such amendments of the Constitution of the Czech Republic and other laws that ... in harmony with the constitutional principles of the Czech Republic strengthen the significance of the outcome of the competition of political parties' (Roberts 2003: 1302). While the article clearly implied that the coalition partners sought to write a new electoral law that would privilege them in the allocation of seats after future elections (Birch *et al.* 2002: 80), the call for a constitutional amendment also suggested that the coalition partners considered the wholesale replacement of PR, which at the time enjoyed constitutional entrenchment (Article 18/1). However, the prospects for an outright abolition of PR vanished when the CSSD and the ODS lost their requisite three-fifths majority in Senate by-elections in 1999.

In the absence of a qualified majority, the CSSD and the ODS proposed changes to the status quo electoral system that would seemingly not alter its PR character (Crawford 2001). For its part, the ODS proposed reducing the number of seats in the Assembly from 200 to 162; increasing the number of districts from 8 to 35; retaining the 5 per cent threshold but replacing the Hagenbach-Bischoff with the Imperiali quota. The CSSD agreed with the drastic increase in the number of districts; however, it proposed to leave the size of the Assembly intact and to replace the Hagenbach-Bischoff quota with the d'Hondt highest average formula. The parties eventually arrived at a compromise and passed legislation in 2000 increasing the number of electoral districts to 35, leaving the size of the Assembly intact but adopting the d'Hondt formula, and increasing the threshold for electoral alliances of two, three, four or more parties to 10 per cent, 15 per cent, and 20 per cent, respectively (Kopecky 2004: 352).

In spite of his earlier support for a single-member majoritarian electoral system, President Havel vetoed the electoral reform bill on grounds that it violated the constitutional protection of the principle of PR (Birch *et al.* 2002: 83). Indeed, it was obvious that the proposed electoral system was PR in form but majoritarian in its mechanical operation – reports showed that if the proposed electoral system had been used to decide the outcome of the 1998 elections, the CSSD would actually have won a narrow single-party

majority in the Chamber of Deputies, while the smaller parties would have lost significantly (Birch *et al.* 2002: 82; Roberts 2003: 1289). Although the CSSD–ODS coalition overturned the presidential veto and re-passed the bill, President Havel referred the bill to the Constitutional Court, which struck it down in 2001 in all but one respect: the Court left the new threshold structure in place (Crawford 2001: 55; Kopecky 2004: 352). Upon the initiative of the CSSD, a new bill was passed in both houses of parliament in 2002 increasing the number of districts moderately from 8 to 14 and adopting the d'Hondt formula. Thus, PR was eventually saved, albeit in a modified form, at the end of the protracted battle over electoral reform.

Romania 2008

In comparison with Slovenia and the Czech Republic, Romania's PR system underwent frequent changes prior to the emergence of a majoritarian reform proposal on the political agenda in 2008. These changes are summarised in Table 2. While they point to a gradual weakening in its inclusiveness, the electoral system has consistently retained its fundamentally PR character (Pilet and de Waele 2007).

The origins of the attempted majoritarian electoral reform in Romania can be traced back to the outcome of the 2004 parliamentary and presidential elections, which was the first to produce a divided executive. Previous elections (1992, 1996, and 2000) always resulted in the same political party capturing both the presidency and the prime ministership. However, in 2004, the presidential race was won by the candidate of the National Liberal Party (PNL), Basescu, while the prime ministership went to Tariceanu, the leader of the Democratic Party (PD) that contested the election in alliance with the PNL. As part of his strategy to combat corruption in state institutions and Romanian politics in general, President Basescu advocated the idea of adopting the majority run-off voting system in national elections that were already used at the local level. In doing so, the President drew on his party's earlier support for a candidate-centred electoral system that it had proposed in 2000. An interesting feature of this proposal was its populist overtone: the PNL expressed its support for a

TABLE 2
CHANGES IN ROMANIA'S ELECTORAL SYSTEM

	1990	1992	2000
Assembly size	396	328	345
Number of districts	41	42	42
Formula	Hare	D'Hondt	D'Hondt
Threshold	None	3% ^a	5%

^aElectoral coalitions faced an added 1 per cent threshold for each additional party joining the coalition up to a maximum of 8 per cent.

Sources: Birch *et al.* (2002: 90); Rose and Munro (2003: 248–50).

candidate-centred voting system that would increase the power of the electorate at the expense of party leaders by making deputies directly accountable to their constituents (Birch *et al.* 2002: 102–3; Pilet and de Waele 2007: 7).

In March 2007, the parliament defeated the President's request to hold a referendum on the question of electoral reform (*Southeast European Times*, 2 March 2007). Souring relations between the President and the Prime Minister, made worse by the conflict over electoral reform, led to the latter's dismissal of all PNL ministers from the cabinet, thus terminating the PNL–PD coalition in April. Two weeks later, the parliament voted to suspend the President on grounds of alleged unconstitutional interference with the Prime Minister's position – which the Constitutional Court did not uphold. Nonetheless, a referendum now had to be held, according to Article 95 of the constitution, to decide whether the President's impeachment would stay in effect or not. The question of electoral reform took centre stage at this juncture.

Basescu claimed that if he won the referendum he would press ahead with electoral reform and call yet another referendum on the introduction of a majority run-off electoral system and a 20 per cent reduction in the size of parliament. Indeed, the President won the impeachment referendum (*Southeast European Times*, 21 May 2007). To counter the President's agenda, the government proposed an electoral reform bill that combined a candidate-centred vote with compensatory seats to be distributed among national party lists. The President vetoed the bill and referred it to the Constitutional Court on the grounds that its provision for national party lists, which were not directly voted for by the electorate, violated the principle of popular sovereignty enshrined in the constitution.

The referendum on electoral reform was held concurrently with Romania's first elections to the European Parliament. Although an overwhelming majority of voters supported the presidential initiative, low turnout at 26 per cent rendered the referendum inconclusive (*Southeast European Times*, 27 November 2007). Thus, the issue of electoral reform returned to parliament where a compromise was hammered out with the approval of the President and all the parliamentary parties except the extreme-right Greater Romania Party (*International Herald Tribune*, 4 March 2008).

The compromise proposal divided the country into 315 single-member districts for elections to the Chamber, and 137 for electing the Senate. Voters no longer voted for closed party lists but for individual candidates who could win the district upon securing a majority of the votes cast. Districts where no candidate won a majority were re-allocated among the parties using the d'Hondt formula and subject to a 5 per cent threshold. Parties allocated the seats that they qualified for among their candidates in a descending order of their electoral performance in the district where they ran. Since the system ensured that every deputy who entered parliament

would have run in the election and faced the electorate directly, the major objective of the electoral reform initiative was met. However, the essentially PR character of the electoral system has remained. In fact, the Gallagher index of disproportionality yielded a very low value of 3.85 for the 2008 election, the first one held under the new electoral system.

Discussion

The attempts to replace PR with a majoritarian electoral system in the three countries varied significantly in terms of both the identity of the actors that led the proposal to change the status quo and the strategies they used (or had to use). However, with regard to the eventual outcome, they all converged on implementing partial changes to the status quo electoral system. We now review these differences and similarities, summarised in Table 3.

First, regarding the actors, the only instance in which the incumbent executive was clearly part of the broader coalition that called for change was the Czech Republic. However, the CSSD minority government did not push the reform agenda on its own but in coalition with the largest opposition party, the ODS. The Romanian executive had already split by the time electoral reform was on the agenda. The President, who called for the candidate-centred electoral system, lost his majority in the Chamber as a result of the dismissal of his party's ministers from the coalition cabinet. His proposed electoral reform was not supported by the government, which had a seriously reduced minority, nor by the opposition. In Slovenia, the proposal for a majoritarian electoral reform came from both an opposition party, the Social Democrats, and a segment of the electorate that signed the petition to hold a legislative referendum on the question of electoral reform. Thus, the three actors that initiated the proposals for change varied considerably in both the size and the type of coalition they relied on at the inception of the process. In two of the three cases (Czech Republic and Romania) the proposal to replace PR came from the political elite, while in Slovenia there was also public involvement via the signature drive. Of the two elite-initiated processes, the reform proposal was supported by a large legislative coalition, which also bridged the government–opposition divide

TABLE 3
A COMPARISON OF THREE ATTEMPTS AT MAJORITARIAN ELECTORAL REFORM

	Proponent	Form of proposal	Outcome
Czech Republic	Governing 'coalition'	Legislation/constitutional amendment	Partial reform
Romania	President	Referendum	Partial reform
Slovenia	Opposition	Referendum	Partial reform

in the Czech Republic. By contrast, the Romanian reform proposal had a very narrow base of political support.

Second, only one of the reform attempts, in the Czech Republic, pursued the parliamentary route to change. As mentioned, the PR system was entrenched in the Czech constitution, which could only be amended by a large three-fifths majority in both chambers of parliament. Since the CSSD and the ODS did have a combined majority that met this requirement, they were in a position to press ahead not only with a thorough constitutional amendment to replace PR but also to change other important parts of the Czech constitutional structure including the powers of the presidency. In the process the pro-reform coalition eventually lost its majority due to the successful coordination of the smaller non-communist parties in the Senate elections. As a result, the CSSD and the ODS had to reformulate their reform proposal so that it would no longer require a constitutional amendment. In the Romanian and Slovenian cases, the proponents of electoral reform had to rely on public involvement to boost their chances because their legislative bases were too narrow. In both cases, the referenda failed due to low voter turnout, although in Slovenia the interpretation of the results proved to be more complicated. It is also worth stressing that the voters who participated in the respective referenda voted against PR in large numbers. In Romania, over 80 per cent voted in favour of the President's proposed system, while in Slovenia the two-round majority system received the largest number of 'For' and the fewest 'Against' votes. Interestingly, the mixed system that was proposed by the National Council, the second chamber of parliament, received the weakest support.

Finally, with respect to the outcome of the reform process, all three countries ended up with relatively minor changes in what fundamentally remained PR electoral systems. To use Sartori's (1986) terminology, each of the three countries ended up with 'stronger' electoral PR systems than they had had before the reform process started. The changes that were made to the Slovenian and Romanian PR systems bore some formal resemblance to the failed majoritarian proposals by making the voters' choice on the ballot clearly candidate-centred. In both countries, the pre-reform PR systems presented voters with a single vote that they could cast for closed party lists. After the reform, however, voters could cast their support for individual candidates, whose votes were pooled either at two tiers, as in Slovenia, or only at the national level, as in Romania. In the Czech Republic, no such changes to the ballot structure were introduced.

The central hypothesis of the article stated the expectation that the removal of PR in the post-communist democracies would be prevented, or at least made very difficult, by the institutional architecture of consensus democracy. The narrative provides considerable evidence in support of this hypothesis in all three cases. In Slovenia, the Social Democrats took advantage of the constitutionally enshrined referendum process – a quintessential element of consensus democracy (Lijphart 1999: 230–31) –

in their effort to replace the status quo PR system, which was supported by the governing coalition. The very fact that the referendum was actually held testifies to the success of the Social Democrats since a public vote was held on the issue against the wishes of the incumbent government. However, the majoritarian proposal failed to receive the kind of broad electoral support that would have allowed electoral reform to pass. As such, it was precisely the institution of the referendum that saved PR in the Slovenian case.

After the failure of the referendum, the issue of electoral reform re-surfaced as a result of pro-active judicial review – another pillar of the institutional design of consensus democracy (Lijphart 1999: 41, 216–32) – by the Slovenian Constitutional Court. Although the Court's initial ruling to declare the referendum valid in favour of the majoritarian reform proposal was toned down, the status quo PR system eventually had to be amended. This partial electoral reform of PR in Slovenia was, therefore, not the result of the current winners, i.e. the incumbent government, trying to manipulate the electoral system to their partisan advantage. Instead, it was the result of the institutions of consensus democracy defending PR against a majoritarian alternative, via the referendum, and pushing for further change within PR, via judicial review. The Slovenian story nicely illustrates Katz's (2008: 61) assertion that:

[i]n some cases . . . the winners of the last election are not completely in control of events. Many of the conditions associated with Lijphart's model of consensus democracy . . . may mean that the 'government' will not be able to prevent the enactment of reforms it opposes (or secure the enactment of reforms it wants), except perhaps at prohibitive costs.

The attempt at a majoritarian reform of the Czech electoral system also failed on the same account. In spite of nearly complete unity between the governing CSSD and the formally opposition ODS on the question of electoral reform, the parties were unable to secure successful passage of their agenda. The constitutional entrenchment of the electoral system required the formation of large coalitions in favour of reform in both houses of parliament. Although the CSSD and the ODS had the necessary number at first, subsequent elections to the Senate resulted in the loss of their combined majority. Finally, the intervention of the President and the Constitutional Court delayed the amendment process and put an effective veto on what the Court ultimately assessed as a majoritarian reform that did not comply with the constitution. In short, the institutions of constitutional rigidity, judicial review, and bicameralism prevented the replacement of PR in the Czech Republic. What makes the eventual passage of partial PR reform in this case different from that in Slovenia is the role of the incumbent government. While the process of partial reform in Slovenia was set in motion by the

Constitutional Court, in the Czech Republic this role was played by the initial proponent of reform, the CSSD and the ODS.

Finally, in Romania we found the consensus institutions of the referendum and a divided executive, which provides greater independence to the legislature, acting to prevent the reform of PR in favour of a majoritarian alternative. In contrast to the Czech Republic, the President of Romania played a key role in advocating the cause of a majoritarian electoral system. Since he had lost his legislative support base, the only option he had was to call for a referendum, which, as in Slovenia, protected the status quo. At the same time, the government was also unable to pass its own version of electoral reform, favouring a mixed system, due to the presidential veto and its minority status, which paved the way to the eventual compromise.

Conclusion

PR systems have tremendous staying power in general (Colomer 2004) and especially so in the post-communist democracies (Birch 2003). However, this does not render them immune to challenges in favour of more exclusive alternatives. By examining the three major cases of such reform attempts in Eastern and Central Europe, the article shows the ways in which the institutional architecture of these new democracies acted to prevent the removal of PR. Had these majoritarian electoral reforms succeeded, consensus democracy itself would have been seriously undermined. In the absence of a broad consensus on such a change on the fundamental nature of post-communist democracy, the PR systems ultimately survived the challenges.

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