

Militant Democracy: Friend or Foe of Democracy in Europe?
Rethinking the Century-Old Concept
Abstract for general public

Some traces of the concept of *Militant Democracy* (also known as *Self Defendant Democracy*) can be found already in the works of Plato and Montesquieu, who were pondering on ways for securing the stability of public authorities. However, its modern understanding was coined by Karl Loewenstein, German lawyer and political scientist, forced to flee Germany in the face of the impending Nazi threat. The concept, in its original and up to now canonical meaning, refers to a set of laws and policies aimed at restricting of the freedom of speech and association exercised by former politicians and ideologues of non-democratic regimes, and their contemporary followers and advocates in order to protect the newly (re)established democracy. It was also relevant in the post-Communist reality of the Central and Eastern European states, dubbed “transitional democracies”, when they were on the trajectory leading from the fall of a discredited, inhuman regime to a fully-fledged democracies presupposed by the comprehensive philosophy of the European protection of human rights.

Over decades, *militant democracy* played a significant role in shaping legal and social perception of what constitutes a real “threat” for democratic order. This approach had been postulated, as a scholarly conception and legal tool, on the eve of the 2nd World War, and reached its apogee in Europe (and also several non-European states) after the War. The underlying idea has been that democracy must not be defenseless against the external and internal enemies of democracy. Especially in Germany, it has been used to restrict the political rights of neo-Nazi and Communist parties to participate in the electoral processes and the German model has been followed in many other states, both as a response to right-wing extremism as well as, after 1989, to the feared return to Communist authoritarianism.

But the “success” of MD is more and more questionable, and there is a reason to believe that the conception has exhausted its pro-democratic potential and needs to be put to rest. This is mostly because the threats and “enemies” to liberal democracy in Europe have a different shape today than those which triggered the idea of militant democracy in the first place. Among other things, they come from populist authoritarian forces which are keen to use democratic institutions. Indeed, they expressly defend democracy, in the name of illiberalism and super-majoritarianism. In addition, the Project will also consider the question of whether MD measures are likely to be established in the post-war Ukraine, as a set of tools to protect the political system of potentially subversive elements, and whether this factor may revive the salience of MD in Europe. Thus, the need to undertake an in-depth research on *militant democracy* today relates to the very core of the challenges that European democracies and European societies are increasingly facing. These challenges are linked to two major factors: (1) an erosion of constitutional democracy around the world, as identified through such phenomena as the rise of populist authoritarianism, the weakening status of political parties, low levels of political participation of citizens, and a perceived globalization which renders traditional democratic mechanisms inapplicable, and (2) the perceived inefficiency of traditional *militant democracy* mechanisms. A combination of these factors makes the project particularly topical. Academic reflection on the ways to strengthen democratic systems must therefore take into account these key aspects, as the possible revision of the “security measures” that have been employed under the notion of *militant democracy* for decades may be necessary. Thus, the Project will identify alternatives to traditional instruments of *militant democracy*.

The research planned encompasses the analysis of selected country case studies (Germany, Latvia, Poland, Hungary and the UK), as well as the case study concerning the Council of Europe and European Union as actors active in the field of MD. It will be conducted by a newly set up, interdisciplinary research team, composed of both already well-established and junior scholars, representing legal and political sciences. They will be searching for answers to various research questions, including the question about the efficiency of *militant democracy* measures in defending the integral core of *democracy*, and the question about potential substitutes to the traditional MD instruments. The research will result, among other things, in a publication of a monograph, a special issue in a peer reviewed academic journal and drafting a series of policy briefs.