

Democratic Backsliding After the EU
Accession in Post-communist States: Poland
And Hungary from 2004 to 2016



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Introduction

Democracy and democratic transition have been widely explored topics among the scholars. Furthermore, the process of how a state is able to achieve democracy, as well as to sustain democratic stability are much researched, yet only limited number of studies analyse the contemporary phenomena of declining democratization processes – the democratic backsliding.

This somewhat recent trend of reversal or de-democratization of a state from democratic practices can be observed across the world in several countries and continents. Especially the post-communist states have experienced the imminent threat of democratic deterioration tendencies during the past decade or so. The academic literature and the empirical data based on multiple statistics indicate how both post-communist states of Poland and Hungary represent the two of the most distinct cases of democratic backsliding across the EU (see Kelemen & Blauburger, 2017, p.317, *et al.*). The paradox however is that these aforementioned countries have been, since the collapse of the communist regime, perceived of experienced the most prominent progress towards the liberal state democracy (Kelemen & Blauburger, 2017, p.317-318).

Since the 1990s and the collapse of the Soviet Union, both Poland and Hungary took various initiatives to move away from communism and shift towards the western democratic model, by pursuing democratic practices and systems, as well as establishing democratic institutions. These steps towards state democracy were taken especially in hope of meeting those accession requirements set by the European Union (EU) in order to gain an access to the Union. According to Iusmen (2015), the EU's accession conditionality played a part in motivating these states to obtain democratic systems, as democratic reforms were expected from the CEECs wishing to join the EU (p.593). Indeed, in 1993 the EU did set those structural condition requirements for possible future member states, on the basis of the Copenhagen Criteria, which is to test the eligibility of a state to join the EU. This criteria was implemented to ensure that the potential new member state would commit in applying those democratic measures, including enhancing and sustaining human rights, minority protection and rule of law (Rose-Ackerman, 2005, p.43).

Despite both Poland and Hungary experiencing successful democratic transitions processes (e.g. implementing democratic institutions and enforcing democratic practices), the stability of the two democratic states has been questioned since their accession to the EU in 2004. Furthermore, the most recent years' trend of increasing illiberalism in these post-communist states has challenged the democratic consolidation in these relatively new democracies, despite the EU's efforts in trying to separate the anti-democratic actors or alliances, and radical nationalists (Iusmen, 2015, p.593). To add, the recent tendencies of increasing concentration of powers, among other elements that are argued to have jeopardized the effective implementation of checks and balances, have been perceived to challenge the stability of democracy in some of the CEECs. Also, the political and economic power shifts have increased concerns over the status of rule of law in democratic states such as Poland and Hungary. Moreover, the lack of pluralism together with other democratic elements have continuously challenged individual states' efforts in implementing and sustaining democratic practices (Converse & Kapstein, 2008, p.128).

The Hungarian politics have experienced some significant turmoil especially since 2010 when the Alliance of Young Democrats party (also known as Fidesz) won the Hungarian parliamentary elections. By winning with 52.7 percent of the votes, the party was able to form a super-majority, and to gain two-thirds of the parliamentary seats. This majority win provided political leverage to the Prime Minister Viktor Orbán's led parliament, which quickly after the win drafted and implement several legislative and constitutional changes. This resulted in complete constitutional reform and led to re-defined balance of power in important state institutions (Sedelmeier, 2014, p.106; see also Kelemen, 2017, p.220).

Although the legislative changes implemented by the super-majority of the government were not perceived as officially infringing the rule of law, these actions did receive criticism from the opposition and the EU leaders, as these reforms were argued to undermine the idea of 'liberal democratic competition' and therefore to challenge the political freedoms in Hungary. Not only has these constitutional amendments increased the national government's powers, but also they have considerably weakened those essential judiciary bodies', such as the Constitutional Court's, autonomous decision-making and legislative reviewing power, but also claimed to hinder their other institutional capabilities. Since 2010, the Hungarian government also adjusted the electoral law (Sedelmeier, 2014, p.106; see also Kelemen, 2017, p.220), signifying yet another change implemented in a relatively short period of time

by the national government. The EU has criticized the Hungarian government for its anti-democratic political practices and raised questions over the state's ability to sustain those stable democratic practices, as it has observed anti-democratic activities over issues such as the media control, the role and functions of the central bank, and the role of data protection authority in Hungary (Sedelmeier, 2014, p.106).

Poland, which has similar socioeconomic background and history as Hungary, has experienced some similar patterns of democratic backsliding as Hungary. In the end of 2015, the 'the Law & Justice' party (also known as PiS) won the majority of the parliamentary elections in Poland. Similar to its neighbouring counterpart Fidesz, which won a supermajority in 2010 parliamentary elections, the new ruling government led by PiS decided to introduce several amendments to the Polish Constitution and the legislative framework. These reforms, although applied between 2015-2016, have already said to challenge the independence of essential state institutions and judiciary in Poland. Similar to Hungarian declining democratic process, the reforms implemented by the PiS government have been accused by the opposition, as well as the Polish citizens, over challenging both stability and effectiveness of checks and balances in Poland. The legislative amendments have been evaluated to influence the functions of both media and judiciary bodies (e.g. Constitutional Tribunal), similar to the process experienced in Hungary since 2010. This trend of introduction of numerous reforms to the existing Constitution, and legislative framework has, within a relatively short period of time, resulted in increased concerns in the EU over the future of rule of law in Poland (Kelemen, 2017, p.220).

Although similarities exist between Poland and Hungary when it comes to experiencing democratic backsliding, clear differences can be observed as well. As an example, Hungarian de-democratization process has progressed at a slower pace (when analyzing the time period from 2004 – 2016), in comparison to Poland, where the declining democratic practices have been observed especially after the 2015 parliamentary elections.

Problem Definition and Research Questions

Both Poland and Hungary have experienced similar, parallel processes from the socialist regime to democratic state, as well as accessed the EU in simultaneously in May 2004 after successfully meeting the member state eligibility requirements set in the Copenhagen Criteria. Similarly, both of these states have experienced some difficulties of sustaining these

obtained democratic practices, and therefore have been evaluated of experiencing democratic backsliding. As both country cases indicate, various similarities exist between the two, also from the socioeconomic and historical point of view. Therefore, a question arises over which particular elements have contributed to the declining democratic practices in these states.

The main research question of this study goes as follows:

To what extent is ‘democratic backsliding’ – the so-called reversion toward authoritarianism based on non-democratic values and lack of respect for the rule of law and basic fundamental freedoms – in Poland and Hungary observable, and what elements could explain this backsliding in these two countries?

In addition to the main research question introduced above, this study also addresses and answers to the following questions:

- 1. How do Poland and Hungary compare in democratic backsliding with other countries?*
- 2. Is there a loss in quality in electoral process in Poland and Hungary in the period 2004-2016*
- 3. Is there a loss in quality in civil society participation in Poland and Hungary in the period 2004-2016?*
- 4. Is there a loss in freedom of the media in Poland and Hungary in the period 2004-2016?*
- 5. Is there a loss in quality of national democratic governance in Poland and Hungary in the period 2004-2016?*
- 6. Is there a loss in quality of constitutional, legislative and judicial framework in Poland and Hungary in the period 2004-2016?*
- 7. Is there a gain in the level of corruption in Poland and Hungary in the period 2004-2016?*
- 8. What are the commonalities and differences between the two countries and what elements can explain democratic backsliding?*

This study will analyze the developments of each of the above questions for Poland and Hungary and then compare them. As all of these questions indicate, the analytical time frame is defined as follows: the starting point of the analysis is set for 2004, which is the year when both countries accessed the EU, while the ending point of the analysis is set to 2016, in order to ensure the collection of the most recent information covering the democratic backsliding in both countries.

Scientific and Academic Relevance

A vast range of academic studies exist covering the topic of democratization and democratic transitions such as work of Tilly (2007), Dahl (1971), Bunce (2001), Collier and Levitsky (1997), and Fukuyama (2014) *et al.* Some of the scholars focus on analyzing the democratization in the light of economic reforms (e.g. Bunce, 2001), while others evaluating how the concepts of democratization could be defined, while analyzing the relation between the state and citizens (e.g. Tilly, 2007). A Large variety of academic work in the field solely focuses on specific regions when analyzing democracy or democratic backsliding, for example by focusing solely on, for example, post-communist states. The academic work of Greskovits (2015), Vachudova (2005; 2006), Ekiert (2012), Bunce (2000; 2001) *et al.*, focuses on communist countries democratic transition processes, some in Europe and some around the world.

Democratic backsliding is a relatively recent, contemporary socio-political phenomenon, and for that reason, the number of studies covering the topic is rather limited. Most relevant and contemporary studies concerning democratic backsliding or de-democratization (see Tilly, 2007), includes work of Greskovits (2015), Agh (2013; 2015), Bermeo (2016), Iusmen (2015), and Sedelmeier (2014) *et al.* Majority of these authors have focused on analysis and comparison of multiple ex-authoritarian states and/or analysis of a large number of regimes that have experienced democratic transition or backsliding tendencies. In addition, most of the existing studies on democratic backsliding compare multiple states' democratic processes, therefore providing a Large-N type of a research approach. Thus, due to a large number of cases utilized for comparison, they lack an in-depth evaluation of each specific country case.

This study contributes to the existing body of knowledge by providing a different take on the analysis of democratic backsliding. One of the differences is the number of selected cases,

limiting the case analysis to only two. The research focuses on evaluating commonalities and differences between Poland and Hungary, which according to Kelemen and Blauberger (2017) represent the most evident cases of backsliding in Europe (p.317). In addition, both Poland and Hungary share a similar socio-economic background as post-communist regimes in the CEECs. They both have experienced parallel, triple transitions (social, economic and political) to democratic states (Ekiert, 2012, para 1), and yet have also experienced similar de-democratization. The study, therefore, provides an in-depth, comparative analysis of the two most similar cases, discovering both differences and similarities between the two states regarding their democratic backsliding experience and evaluating those components that have led to democratic deterioration.

Another difference to the existing body of knowledge on democratic backsliding is that this research evaluates the process over a specific period of time. Moreover, the evaluation of these countries' state of democracy commences from the year they joined the EU, in 2004, and continues all the way until the end of 2016. This time frame will provide a wide spectrum of Polish and Hungarian democratic processes, from the democratic transition to the most recent de-democratization.

Structure of the Thesis

This research paper is divided into seven chapters. The first chapter focuses on the theoretical framework, the second one on research design and data collection, and the third one provide an empirical overview of democratic backsliding. The fourth chapter offers an in-depth case analysis of Poland, which is followed by similar case analysis of Hungary in chapter five. Chapter six, on the other hand, provides a comparative case analysis of both Poland and Hungary. The last chapter, chapter number seven, concludes the research study and its findings.

The chapter one of this study discusses the existing theoretical framework, by introducing the two main concepts of the research: democracy and democratic backsliding. The chapter will commence by providing a comprehensive theoretical review on the two concepts of the study, highlighting the most relevant and significant existing body of knowledge. This is followed by a summary of the approach adopted for this study. The second chapter focuses on both research design and data collection. It introduces, besides the design, the reasoning for the case selection, explains the data collection methods, and justifies the reason to employ

those sources. It also provides operationalization of those relevant components of democracy. These aspects are followed by a discussion regarding the validity of the research. The third chapter, on the other hand, underlines democratic backsliding by providing an empirical overview of it. Both fourth and fifth chapters provide an in-depth analysis of the two country cases: chapter four focusing on Poland, while chapter five delivers analysis of Hungary. In both chapters, the analysis is generated through contrasting the theoretical approach to the empirical evidence discovered on each particular component of analysis. The chapter number six compares the findings of the two case studies together, distinguishing those commonalities and differences between the two. Finally, a conclusion is drawn in chapter seven regarding the research and its study results, while also providing recommendations for future research.

Chapter 1: Theoretical Framework

This chapter introduces the theoretical frame of knowledge covering both concepts of democracy and democratic backsliding, by presenting the most relevant work in the field, consisting of both classic and contemporary theories.

Furthermore, this part distinguishes those particular theoretical approaches and elements that scholars employ in their analysis of democracy and democratic backsliding. After evaluating and summarizing those theories academic literature, a conceptualization of democracy will be provided. This includes not only the justification of the theoretical approach employed in this research, but also justification and explanation of those particular components of democracy.

1.1. Democratic Backsliding

In contrary to democracy, democratic backsliding is a relatively recent phenomenon and concept in the field of democracy and democratic transition studies. Although a large variety of academic studies exist on democracy and democratization, the topic of democratic backsliding is relatively understudied at this point in time (Bermeo, 2016, p.5). However, the recent years declining democratic practices experienced in various states, as observed in Poland and Hungary, have provided leverage to the study of democratic backsliding as, according to Serra (2012), the phenomena “can be observed around the world” from South America to Central Eastern Europe (p.32). In Central and Eastern European states, the trend of democratic backsliding has become apparent during the last decade or so, as states that originally transformed from the authoritarian rule to relatively successful democracies in the 1990s, have experienced a negative trend in the quality of democracy, yet especially after 2000 (Serra, 2012, p.32; Greskovits, 2015, p.28).

The concept of democratic backsliding can be defined as a destabilization process of democratic development. In a more drastic form, the process can be understood as a reversal of recent democratic practices, entailing the state-led elimination of democratic institutions (Greskovits, 2015; Serra 2012; Bermeo, 2016 *et al.*). The decline of a democratic system, including democratic practices and institutions, involves deterioration of state’s rule of law, transparency of political decisions and actions, as well as weakening human rights situation (e.g. unequal treatment of minorities). Also, increasing inability of a state to sustain effective checks and balances system often contributes to democratic backsliding (Sitter, Batory & Kostka *et al.*, 2016; Serra, 2012; Converse & Kapstein, 2008). Moreover, when especially

young democracies fail to implement effective checks and balances system, they are often times faced with executives trying to concentrate their own power, while hindering other branches of government. Therefore, whether democratic states are able to uphold both informal and constitutional institutions imposing effective checks and balances on political leaders in order to prevent them of misusing their power for personal gains, is a crucial element influencing the status of democracy within a state (Serra, 2012, p.55; Converse & Kapstein, 2008, p.128).

According to Converse and Kapstein, (2008), three different factors are drawn by various policy analyses concerning unfavorable prospects for the future of democracy in young democracies. These three factors are: initial conditions (such as natural resources, level of poverty and inequality); poor economic performance and high unemployment; and those robust presidential states that attract political leaders to authoritarian rule. For example, if a state upholds challenging initial conditions when commencing its democratization process, it is likely to hinder its ability to sustain democratic system or even lead to a reversed democracy. Moreover, regimes challenged with high poverty, inequality, ethnic fragmentation, and low per capita income, are more likely to experience democratic backsliding. However, certain country cases have challenge this assumption. Regimes, such as Malawi, Mozambique and Ecuador, have been able to maintain their democratic system despite of having rather challenging initial conditions (Converse & Kapstein, 2008, p.127; 132).

The aspect of economic growth, on the other hand, has been advocated among scholars as one of the most proven single factors to support democratic consolidation, while economic recession and crises have been labeled as the biggest challenges to it (Converse & Kapstein, 2008, p.127; 132). Lipset's (1959) classical theoretical analysis of democracy signs importance to those socioeconomic elements, which he argues to contribute to both emergence, and perseverance of state democracy. Those socioeconomic conditions, with other elements, such as citizen political mobility and role of intermediary organizations (e.g. NGOs, civil society groups and political parties), can assist in mediating social cleavages within a state and therefore contribute to sustaining democracy within a state (Matthes, 2016, p.289). Yet, as indicted by several country cases, such as Georgia, Thailand and Venezuela, the assumption of economic growth bringing democratic stability should be not taken as

given as a “[...] good economic performance does not necessarily prevent a democracy from backsliding” (Converse & Kapstein, 2008, p.127; 132).

The examples of economic recession and crises influencing states’ democracies can be found from post-communist countries as clarified in Greskovits’ (2015) study. Especially increasing economic challenges, namely the great financial crisis that erupted in 2007-2009, could be associated with declining democratic practices and systems in various democratic states. Moreover, economic challenges with banking and financial crises and austerity programs, have increased the citizen mobilization in form of several mass protests around the Europe, yet especially in CEEC where the level of inequality, poverty and unemployment have been on the rise. Furthermore, the aftereffects of these aforementioned economic challenges, together with increasing illiberal political rhetoric of CEEC leaders, have challenges even the most successful young democracies (e.g. Hungary) (Greskovits, 2015, p.28; 29). As young post-communist states’ examples indicate, the democratic backsliding is often times manifested in terms of radicalization of large groups, increasing nationalistic and anti-liberalist movement, raising populism and lost interest in complying with EU’s democratic rules and norms. In addition, weakening of a democratic state is also displayed in top-level political actors decreasing loyalty towards their democratic principles (Sitter, Batory & Kostka *et al.*, 2016, p.4; Greskovits, 2015, p.28).

The process of democratic backsliding is categorized and evaluated by the scholars such as Serra (2012) and Bermeo (2016) based on those leading forces or so called drivers, pushing for declining democratic process within a state. When analyzing the process at state-level, according to Serra (2012) the destabilizing of democratic practices can be perceived in some regimes as executive driven, while in others it might appear as party driven. This indicates that a variety of possible components might cause instability leading to de-democratization within a state (Serra, 2012, p.55).

Similar to Serra’s typology, also Bermeo (2016) divides the process of democratic backsliding into different subcategories. Her theory is based on six sub-categories of democratic backsliding, three of which are the most common ones today: “Democratic backsliding has changed dramatically since the Cold War. Three of the most dramatic and far-reaching varieties of backsliding seem to be waning. Coups d’état, executive coups by elected leaders, and blatant election-day vote fraud all have declined in frequency” (p.7),

while promissory coups, executive aggrandizement and strategic manipulation of elections have become the most common forms in the 21st Century (p.10). The first category, *promissory coups*, are processes that “[...] frame the ouster of an elected government as a defense of democratic legality and make a public promise to hold elections and restore democracy as soon as possible”. An example of this type can be found from Thailand. The second category, *executive aggrandizement*, represents an approach where democratic backsliding occurs as an opposite to coup making; the approach in implementing institutional changes takes place in a slow pace. This is one of the most common types of democratic backsliding, and “[...] occurs when elected executives weaken checks on executive power one by one, undertaking a series of institutional changes that hamper the power of opposition forces to challenge executive preferences”. An example of this type of de-democratization process can be found from Turkey (Bermeo, 2016, p.10-13). The third category includes *manipulating elections strategically*, which has become one of the most prominent forms of democratic backsliding, often times connected to executive aggrandizement. This tactic includes the purposeful manipulation of “electoral playing field”, where political actors implement an array of actions that reflect the office holding executives' preferences and benefits them. These actions may vary from hindering media access and voter registration activities. Yet, all of these actions are implemented in a way that makes the elections seem legitimate, therefore increasing the possibility that election observers are not able to pinpoint these processes or conclude that fraudulent activities have taken place (Bermeo, 2016, p.13).

The speed in which democratic backsliding process takes place is yet another aspect discussed among scholars. Differentiating opinions exist regarding this matter and question seems to remain on how to actually define the speed of democratic backsliding. Both Bermeo's (2016) and Greskovits' (2015) studies discuss this matter. Bermeo (2016) argues that democratic backsliding can obtain either a rapid and drastic speed, or gradually evolving speed. The former one entails the notion that institutional changes take place in fast speed, resulting in “democratic breakdown” as well as to regimes that can be labelled as authoritarian, whereas in the latter version, the democratic backsliding is formed through gradual institutional change processes. Furthermore, the speed in which the process takes place, influences the outcome. As an example, she notes that often times the gradual change cultivates to hybrid regimes or ambiguously democratic political systems (p.5). Greskovits (2015), on the other hand, argues that democratic backsliding is a phenomenon that is challenging to observe, as it can be perceived as a continuous process, rather than a process,

which has been caused by a single, rather drastic turning point (p.30). Therefore, his approach to the speed of democratic backsliding differs from Bermeo's approach of fast and incremental categorization. All in all, those academic studies on democratic backsliding seem to fail to provide a clear formula regarding the speed of democratic backsliding and in particular where to draw the line between a rapid or incremental backsliding process.

1.2. Democracy

Democracy is an abstract and multifaceted concept and for that reason, a profound challenge exists among scholars regarding how to conceptualize it. In addition, a high variation of approaches exists regarding how to analyze the level and quality of democracy within a state (Knutsen, 2010, p.109; Coppedge, 2012, p. 11). In its simplified definition, introduced by Dahl (1971), democracy can be perceived as a system where decision-making power is in the hands of those leaders who "are more or less responsive to the preferences of nonleaders [...]", in other words, referring to rule by people (Krouse, 1982, p.443, citing Dahl, 1971).

The theoretical conceptualization of democracy depends on the level and focus of the analysis. The selection of components therefore is linked to these aspects. Moreover, as explained by Collier and Levitsky (1997), the concept can be defined on the basis of whether it represents "an outcome to be explained, including major works of comparative-historical analysis and old and new studies of 'social requisites'", as multiple scholars have done in their studies, or by evaluating "[...] the impact of democracy and of specific types of democracy on economic growth, income distribution, economic liberalization and adjustment, and international conflict" (p. 432).

The level of analysis of democracy, or democratization (especially when one evaluates a regime change), tends to fall under one of the two commonly used categories: micro or macro-level analysis (Lee, 2001, p. 90). Macro-level approach emphasizes those objective conditions such as socioeconomic components, while micro-level analysis underlines those subjective conditions, such as political strategies created by political actors and executives. In other words, macro-level analysis focuses on broader, state level analysis (e.g. structural constraints), while micro-level analysis focuses on activities of individuals or groups (e.g. behavior of political actors such as political elites) (Lee, 2001, p. 89-90). When examining contemporary idea of democracy from the macro-level perspective, the concept of democracy does not explain in details what sets of institutions are necessary in order to reach and sustain

democratic regime. This is due to the fact that the form that democracy takes in a regime depends on its socioeconomic conditions, as well as other elements such as existing policy and state structures (Schmitter & Karl, 1991, p.76).

The concept of democracy is commonly evaluated by scholars based on procedural, which is also known as formal perspective, or substantive perspectives depending on the direction of the study. Both of these emphasize particular elements of the democratic regime functions. For example, some academic work focuses on addressing the trust of citizens towards their government or measures citizens' satisfaction with democracy, while others focus on analyzing objective components of democracy (Munck, 2016, p.5). The study of procedural democracy falls under the latter categorization, as it concentrates on the analysis of democratic processes and structures. This approach is based on examination of those decision making-processes and those methods of reaching the outcome (democracy) (Cheibub, Gandhi & Vreeland, 2010, p.72). The minimum requirement of procedural democracy is that it takes into account those democratic processes over substantive policies. Furthermore, it focuses on evaluating whether both citizens' liberties and rights are implemented and complied within a state. These rights entail, for example, citizens' ability to uphold adult suffrage during elections, to have freedom of speech, association, and assembly (Collier & Levitsky, 1997, p.434). Substantive democracy analysis, on the other hand, focuses on the outcome rather than specific processes related to democracy. In this perspective the analytical focus is given to political equality, while institutions are viewed as "necessary but not sufficient to characterize a political regime" (Cheibub, Gandhi & Vreeland, 2010, p.72).

As mentioned above, the conceptualization of democracy is also centered on the selection of components that are perceived as relevant to that particular approach of democracy. The selection of these components is most commonly based on either minimalist or 'thin' conceptualization, or maximalist or 'thick' approach (see Hollyer, Rosendorff & Raymond, 2011; Dahl 1971, Coppedge, 2012, *et al.*). Although varying perspectives exist regarding the number and selection criteria of relevant elements, it is important to note that all definitions of democracy do entail at least those minimum democratic components, referring to those ones that are viewed as essential for its conceptualization (see Collier & Levitsky, 1997, p.434).

The minimalist, or thin approach as called by Coppedge (2012), seems to enjoy the most favorable position in democracy studies, and employed by scholars such as Dahl (1971), in contrast to maximalist approach. The popularity of minimalist approach could be explained by its ability to clarify more precisely those ‘minimum conditions’ that polities must obtain in order to be perceived as democratic (see Schmitter & Karl, 1991; Munck, 2016; Morlino, 2004; Coppedge, 2012, *et al*). Moreover, these thin concepts are usually “more theoretically adaptable” as they can be used in different theories in comparison to its thick counterparts (Coppedge, 2012, p.22).

Even the most minimalist definition discusses democracy as a concept that includes the notion of legal guarantees of civil liberties and rights, such as freedom of assembly, association and speech, and regular democratic elections. Also both party competition and media pluralism are given importance in the minimalist approach. Yet, it is important to remember that their forms and degrees might differ across the regions (Fukuyama, 2014, p.1337; Collier & Levitsky, 1997, p.434, Morlino, 2004, p.10, *et al.*). Whether the study analysis utilizes minimalist or maximalist approach, one element is commonly agreed upon among scholars, besides these aforementioned legal civil rights: accountability. In democratic state, accountability is essential as those in power (principals), are always held accountable towards those ones that they serve (agents). Yet, whether those in power comply with this commitment, is indicated through their actions (Schmitter & Karl, 1991, p.76).

As the existing literature of democracy and democratization indicates, a vast number of democracy studies emphasize the importance of the following two liaisons: state and democracy, and citizens’ relationship with the state. For example, Fukuyama’s (2014) democracy analysis focuses on the former, while Tilly’s (2007), Lipset’s (1959) and Dahl’s (1971) studies give emphasis to the latter one.

Fukuyama (2014) analyses the relation of a state and democracy, by highlighting the importance of three institutions: state, accountability and rule of law, which he names as “[...] the three basic components of a modern political order” (p.1326). He also pinpoints those complexities between the state and democracy, and emphasizes how unbalanced exercise of power can jeopardize the rule of law in a state, and therefore undermine public’s will. For this reason, it is vital to evaluate both institutions: democracy and a state, and their liaison (p.1327).

Authors such as Tilly (2007), Lipset (1959) and Dahl (1971), on the other hand, focus on evaluating the relationship between a state and its citizens. Lipset's (1959) classical theory of democracy gives importance to citizens' involvement in politics, which is indicated for example, through their freedom to choose their political representation. His theory of democracy introduces Weber's and Schumpeter's idea of essential conditions that a state should uphold in order to be defined as a democratic state. These three conditions are 'political formula' with democratic belief system, including media freedom and specific democratic institutions; the ruling political leaders who hold the decision-making power; and the legitimate opposition that challenges the ruling leaders (Lipset, 1959, p.71).

Similar to Lipset's (1959) theory, also Tilly (2007) underlines the importance of citizens-state relationship, as "a regime is democratic to the degree that political relations between the state and its citizens feature broad, equal, protected and mutually binding consultation" (p.13-14). Furthermore, the emphasis is given to the breadth of the relationship between the state and the citizens' rights, as the status of state's democracy can be evaluated based on the inclusion of citizens in the political arena. How involved are the citizens in public politics? Are they regularly consulted in public policy processes and state jurisdictions? The level of equality in a state is therefore linked to the level of inclusion/exclusion of the citizens in these aforementioned processes. When breadth and equality together with the secured citizen rights are ensured in a state, they collectively constitute to the state of democracy (Tilly, 2007, p.13-14).

Similar to Lipset's (1959) and Tilly's (2007) theoretical approaches of democracy, also Dahl's (1971; 1998) minimalist, and procedural analysis underlines the importance of state-citizen relationship. He defines democracy through the idea of "rule by the people", referring to the necessity of both political equality and popular sovereignty (Krouse, 1982, p.443, citing Dahl, 1971). With political equality Dahl refers to the importance of a state's government to take into account citizens' preferences in policy decisions. After all, citizens are considered as 'political equals' within the society and therefore their preferences should matter (see Dahl, 1971, p.1; Dahl, 1998, p.37). Furthermore, Dahl's (1971) classical polyarchy-theory defines democracy based on eight components of institutional guarantees, which all collectively contribute to existence of democratic state. These eight components are:

“(1) Almost all adult citizens have the right to vote; (2) almost all adult citizens are eligible for public office; (3) political leaders have the right to compete for votes; (4) elections are free and fair; (5) all citizens are free to form and join political parties and other organizations; (6) all citizens are free to express themselves on all political issues; (7) diverse sources of information about politics exist and are protected by law; and (8) government policies depend on votes and other expressions of preference” (Coppedge, 2012, p.21, citing Dahl, 1971).

The polyarchy theory, based on all of these aforementioned conditions, can be evaluated in (at least) two dimensions, both constituting to two varying theoretical scopes of democracy. These two dimensions of democracy are public contestation (liberalization) that refers to number of elections, and the right to participate in elections and office (inclusiveness). The necessity to include both of these dimensions is due to existing differences between various states. By utilizing both of these two dimensions, a comparative analysis can be conducted regarding those eight institutional conditions, including how they are made available, employed, and ensured to political members who wish to challenge the government (Dahl, 1971, p.4; 6).

In addition, Dahl (1998) introduces five criteria that are essential of the emergence and sustainability of democracy. These five criteria are: effective participation (e.g. members need to be consulted of decisions before policy adoption); voting equality (e.g. all adults should have equal possibility to vote); enlightened understanding (e.g. members should have the equal opportunity to gain information about possible policy options); control of the agenda (members should have the automatically granted opportunity to decide what matters are to be discussed on the agenda.); and inclusion of adults (e.g. permanent, adult residents of a country should have the full citizen rights, which are indicated in the aforementioned four criteria) (Dahl, 1998, p.37; 38).

1.3. Summarizing the Theoretical Approach

Based on the existing academic literature, democratic backsliding can be viewed either as an outcome or a process depending on the focus of the study. It is often defined as a state-led process of deterioration of democratic system and practices, yet in extreme cases, can be perceived as a complete reversal of previously implemented democratic practices. This

debilitation of democracy entails weakening of democratic institutions and practices, including state's inefficiency to uphold effective rule-of-law, and checks and balances system (see Greskovits, 2015; Serra, 2012; Bermeo, 2016, *et al.*). Furthermore, the democratic backsliding is often times manifested in radicalization of different civil groups, increasing nationalism and growing inequality, as seen in some of the CEEC during the most recent financial crisis (see Sitter, Batory & Kostka *et al.*, 2016; Greskovits, 2015).

Scholars such as Converse and Kapstein, (2008) and Lipset (1959), point out how certain factors might challenge the survival of a state democracy, especially in young democracies. For example, challenging initial conditions and a poor economic performance within a state is argued to hinder democracy within a regime, while excellent economic performance is argued to improve it. Yet, as also pointed out in the academic literature, empirical evidence of multiple country cases indicates that exceptions to this assumption exists, and therefore it should not be taken as given (see Converse & Kapstein, 2008).

Both Serra (2012) and Bermeo (2016), categorize de-democratization process based on those main 'drivers' for its occurrence. Serra (2012) labels the process either as party, or executive-driven, depending on the country case. Democratic backsliding can also be defined based on how the process takes place, as argued by Bermeo (2016). The three most common forms of contemporary democratic backsliding are: promissory coups; executive aggrandizement (slow implementation of institutional changes); and manipulating elections strategically (e.g. manipulation of electoral activities, limiting the media access etc.) (Bermeo, 2016).

Another discussion among the scholars, such as Greskovits (2015) and Bermeo (2016), is about the analysis of the speed in which the democratic change takes place, moreover, whether the shift in a state occurs incrementally or in fast-pace. As indicated in the existing studies, the analysis of speed of democratic backsliding seems challenging due to the difficulty to define that possible 'turning point' for democracy. After all, the democratic backsliding can be perceived as 'an ongoing process' as defined by Greskovits (2015).

Altogether, the literature on democratic backsliding seems to indicate a rather straightforward definition of democratic backsliding, as it refers to loss in quality of those democratic institutions and practices that have been implemented in a regime in the first place. Yet, the

notion of democracy casts a greater challenge for scholars, as multiple options exist regarding its conceptualization.

As the existing academic literature indicates, democracy can be defined in various ways. In a simplified definition, it refers to ‘rule by people’ (Dahl, 1971), and can be perceived as a system where the decision-making power is in the hands of selected people, who are held accountable for those who they are representing (Dahl, 1971; 1998). As the existing studies point out, the analysis of democracy can be conducted by using macro/micro level analysis, by focusing on procedural or substantive approach, and by employing either minimalist (thin) or maximalist (thick) definition of democracy.

The majority of the academic literature of democracy, written by authors such as Dahl (1971; 1998), Lipset (1959), Tilly (2007) and Fukuyama (2014), is based on a formal/procedural theoretical approach, employing minimalist/thin conceptualization of democracy. Furthermore, the studies of aforementioned authors focus on those processes and structures in a state, by evaluating institutions and government functions in connection to implementation and sustainability of democratic practices. The commonality between these studies seems to exist in their theoretical focus: they evaluate the relationship between citizens and the state (see Dahl 1971; 1998, *et al.*), and/or state and democracy (see Fukuyama, 2014, *et al.*).

Fukuyama (2014), focusing on state-democracy relationship, underlines three essential institutions for the analysis of the status of democracy: state, accountability and rule of law, which all contribute to the political order in a contemporary society, while Lipset’s (1959) classical democracy theory, evaluates the citizen-state association and bases the analysis of democracy on three conditions: political formula, political leaders in power and the legitimate opposition to the ruling government (see Lipset, 1959, p.71). Tilly’s (2007) theoretical perspective, on the other hand, evaluates democracy regarding the inclusion/exclusion of citizens in the policy-making processes, giving significance to breadth and equality, with the citizen rights and liberties. Dahl’s (1971) classic theory of polyarchy, represents similar approach in comparison to e.g. Tilly’s inclusion/exclusion of citizens in the policy making, as he defines democracy based on eight components of institutional guarantees, representing both inclusiveness and liberalization in a regime. Moreover, polyarchy theory evaluates the quality of democracy within a state based on whether citizens’ preferences are considered in the political sphere. From Dahl’s perspective, sustainability of democracy in a regime is

based on five criteria: effective public participation; voting equality; enlightened understanding; citizens influence on the agenda; inclusion of adults, referring to full rights for citizens (see Dahl, 1998).

1.4. Conceptualization

Building upon the existing academic literature of democracy and democratic backsliding, the conceptualization of democracy in this research is based on macro-level, procedural approach, evaluating those structural and procedural functions of a state. Furthermore, the definition of democracy is based on exploring of the role of various state institutions as well as the role of the government, and focusing the attention to those procedural elements, such as policy-making processes and citizen involvement in political sphere. Also, as indicated in the academic literature, both contemporary (e.g. Tilly, 2007) and classic studies (e.g. Dahl 1971; 1998), give great importance to the state-citizen relationship when defining democracy, and therefore this liaison will be also included in the conceptualization.

The theoretical conceptualization of democracy in this research is largely, yet not exclusively, based on Dahl's (1971) polyarchy theory, which is considered as one of the classic theories on democracy and employed by multiple scholars such as Hollyer, Rosendorff and Vreeland (2011), and Schmitter and Karl (1991) *et al.* Polyarchy theory, which is based on two dimensions of inclusion and contestation, consists of eight components reflecting those institutional guarantees of democracy. As mentioned before, these eight components entail that, adult citizens have right to vote; adult citizens hold the legal right to run for public office; political leaders have the legal right to compete for votes; elections are free and fair; that citizens hold legal rights to participate in politics by forming or joining political parties and organizations; citizens' have a freedom to express their political views; diversity of information is legally guaranteed; that those government's policies reflect citizen preferences and votes (Dahl, 1971).

Although Dahl's (1971; 1998) conceptualization of democracy is rather straightforward and logical when it comes to discussing citizen liberties and rights, accountability, and free and fair elections as indicated in the aforementioned eight components, the definition neglects some other elements that are considered as essential for democracies and therefore should be included in the conceptualization. These elements include rule of law and effective checks

and balances, which are given importance in the studies by scholars such as Fukuyama (2014), Morlino (2004), and Converse & Kapstein, (2008) *et al.* In other words, Dahl's theory on democracy will be used as the basis of conceptualization, yet, also additional elements, including both rule of law and checks and balances, will be included in the conceptualization in order to provide a minimalist, procedural, institutionally based definition of democracy.

Based on the theoretical framework and the existing literature on the topic, and for the purpose of this paper, democracy is conceptualized as consisting of the following elements:

1. *Electoral process*
2. *Civil society participation*
3. *Freedom of media*
4. *National democratic governance*
5. *Constitutional, legislative, and judicial framework*
6. *Corruption*

1.4.1. *Electoral Process*

Based on the academic literature on democracy, the electoral process is one of the most agreed upon components of democracy conceptualization (see Dahl, 1971; Cheibub, Gandhi & Vreeland, 2010, *et al.*). The notion of electoral process refers to the idea of having free, fair, and regular elections (see Schmitter & Karl, 1991, p.78, *et al.*), where full suffrage is provided to adult citizens. These elements are counted as essential part of the procedural minimum requirements of democratic states (Collier & Levitsky, 1997, p. 434),

Dahl's (1971) polyarchy theory focuses on those necessary elements of institutional guarantees of democracy, which all of them are linked to the electoral process. In order to have a democracy in a state, a state needs to ensure that indeed that adult citizens have right to vote, and that they have the legal rights to run for public office if they wish to do so. In addition, competition for votes should be ensured and also embedded to electoral legislation. Besides having free and fair elections, the citizens should be guaranteed the right to join a political group, party or organization or even establish one by themselves if they wish to do so. Also, citizens' should have the opportunity and freedom to express their (also critical) political views and have access to diversity of information so that they can formulate a well-

educated decision regarding voting. Lastly, those policies drafted by a government, should reflect these votes and preferences of the citizens (see Coppedge, 2012, p.21, citing Dahl, 1971).

Overall, the electoral process-component distinguishes “the core value of making rulers responsive to citizens through competition for the approval of a broad electorate during periodic elections” (Lindberg, Coppedge & Gerring *et al.*, 2014, p.160). Therefore, contested elections do not solely take into consideration of opinions, as well as preferences of citizens and involve them into the policy making, but they also ensure that a government is held accountable for its actions (Cheibub, Gandhi & Vreeland, 2010, p.72).

1.4.2. Civil Society Participation

The second component included in the conceptualization of democracy, focuses on the evaluation of the role of civil society in the political decision-making processes. Tilly (2007), for example, evaluates the quality of democracy within a state based on the inclusion or exclusion of civil society when it comes to political decisions (e.g. decision on policies). The notion of civil society consists of citizens and various civil society groups, such as NGOs and civil society organizations (Lindberg, Coppedge, Gerring & Teorell, 2014, p.160).

The existing academic studies emphasize how the status of democracy in a state is often reflected on its ability to legally ensure both political and civil rights for its citizens (see Geskovits, 2015; Converse & Kapstein, 2008; Dahl, 1971, Collier & Levitsky, 1997, p. 434, *et al*). The aforementioned rights consist of, for example, freedom of speech (e.g. expression of political views), association (e.g. citizens have legally embedded right to participate in politics by forming or joining political party and/or organization), and assembly (e.g. citizens right to participate or organize in demonstration) (see Dahl, 1971; Collier & Levitsky, 1997, p. 434; Morlino, 2004, p.11). Overall, civil society’s involvement in the policy making processes and state jurisdictions, are held in high importance in democracies, as the central assumption is that a democratic state policies should take citizen preferences into account, and that these preferences should be reflected in those policies implemented by the government (see Tilly, 2007; Dahl, 1971).

Civil society participation can also consists of deliberation and cooperation through sovereign group activities (Schmitter & Karl, 1991, p.79). These types of activities include those non-

electoral participation methods, such as participation through civil society organizations, reflecting the aspect of direct democracy (Lindberg, Coppedge, & Gerring *et al.*, 2014, p.160). No matter the form of civil society participation, as argued by Dahl (1971; 1998), the sustainability of democracy in a regime is partly dependent on whether effective public participation exists and whether indeed the rights of the citizens are embedded in the legislation.

1.4.3. Freedom of Media

The third component, also distinguished in Dahl's (1971) 'polyarchy' approach, covers the assumption that citizens' should be able to access "alternative sources of information". If a state is truly democratic, it is expected to ensure (through legislative framework), the freedom of media together with media pluralism (Schmitter & Karl, 1991; Lindberg, Coppedge, & Gerring *et al.*, 2014, p.160-161).

Hollyer, Rosendorff and Raymond (2011) also refer to Dahl's (1971) polyarchy theory when discussing the aspect of media freedom, thus, emphasizing its importance in connection to other attribute: contested elections. Furthermore, one of the essential principles of the contested elections is that voters must hold the opportunity to cast their vote based on informed decisions. Therefore citizens' accessibility to free information is essential (Hollyer, Rosendorff & Raymond, 2011, p.1192; Dahl, 1971). According to Bermeo (2016), if a state hampers citizens' access to the media and limits the number of information sources, it can be perceived as a strategy of 'strategic election manipulation', which in itself, is one of the most common forms of democratic backsliding (p.13).

1.4.4. National Democratic Governance

The national democratic governance component distinguishes how a state governs its political institutions and activities. Like the conceptualization of democracy itself, also how to define national democratic governance, is a debated issue among scholars as no agreed upon definition exist on the topic (Kaufmann, Kraay & Massimo, 2010, p.3).

According to Levitz and Pop-Eleches (2010), the core of the governmental activities should reflect of those competitive and open political processes. Furthermore, democratic governance covers those political activities, where both rights as well as liberties of citizens,

are taken into account. Another essential element is political representation. Those elected officials (e.g. politicians) are expected and required to represent the will of the people, and therefore they are held accountable for their actions (p.462). In this particular context, democratic governance will refer to state institutions' ability to sustain political pluralism, ensure democratic representation, foster accountability of the political actors, and their effectiveness and ability to promote regulatory quality (Konrad-Adenauer-Stiftung, 2011, p.14; Schmitter & Karl, 1991, p.80; World Bank, 2017, para1).

In addition, how rule of law is enforced within a region is another important factor in the evaluation of national democratic governance. This refers to how the agents “have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence” (Kaufmann, Kraay & Massimo, 2010, p.4).

An analysis of these aforementioned components indicates how well a government is able to implement and sustain democratic practices. Also, how decisions are made within state institutions indicates the status of democratic governance. Most commonly, the state institutions rely on majority rule. Moreover, “any governing body that makes decisions by combining the votes of more than half of those eligible and present is said to be democratic, whether that majority emerges within an electorate, a parliament, a committee, a city council, or a party caucus” (Schmitter & Karl, 1991, p.78).

1.4.5. Constitutional, Legislative, and Judicial Framework (Separation of Powers)

The constitutional, legislative and judicial elements are combined here together as one component of democracy. This component covers those judiciary elements and institutions in a state that are expected to enforce those democratic values and rule of law. This component also gives importance to effective checks and balances. After all, for example “the courts, according to Scheppele (2003, p.233), can force politicians to honor commitments made to implement human rights and freedoms, thus serving as an important check and balance to post communist governments that might adopt different policies” (Richardson, 2006, p.134, citing Scheppele, 2003, p.233).

In order the judiciary framework to follow its original goals set by its creators, judiciary bodies need to function independently, away from political influences of executives

(Morlino, 2004, p.15; Coppedge, Gerring & Altman *et al.*, 2011, p.256). In a liberal democratic state, the highest legislative bodies are expected to hold the right of judicial reviewing power. Moreover, they are expected to evaluate whether legislative elements, as well as government's actions, correspond to those requirements set in constitutional provisions. The legislative bodies are also guarding the implementation of legal conditions, which are upheld by other institutional bodies (Coppedge, Gerring & Altman *et al.*, 2011, p.256).

The autonomy of judiciary institutions, as mentioned above, is essential for liberal democracies, reflecting the separation of powers. After all, a liberal democracy cannot efficiently take place if both economic and political powers become too concentrated within a state. Therefore, ensuring economic and political pluralism is essential in order to ensure effective checks and balances (Converse & Kapstein, 2008, p.128). To add, one of the methods of achieving the pluralism is by constraining the utilization of executive power (Lindberg, Coppedge, & Gerring *et al.*, 2014, p.160; Coppedge, Gerring & Altman *et al.*, 2011, p.256). It can be argued that autonomous judiciary institutions serve not only as an authoritative review power of state legislation, yet they also assist in keeping the checks and balances in order, reflecting the notion of executive rule of law. According to Coppedge, Gerring and Altman *et al.* (2011), the executive rule of law is defined as “the extent to which the executive (and persons and agencies under his/her control) follows the law, as defined by the constitution, treaties, statutes, and as interpreted by the judiciary” (p.256).

1.4.6. Level of Corruption

The sixth component employed in the analysis of democracy is the concept of corruption. This component is also widely employed by academic studies such as Lijphart (1968), Inglehart and Welzel (2005) *et al.*, when it comes to conceptualization of democracy, as well as breaking the concept into measurable elements (Morlino, 2004, p.13; Högström, 2014, p.406; Knutsen 2010, p.112). According to Rose-Ackerman (2005), corruption together with the incompetence of political decision-makers can manifest in a decreasing accountability (p.6). Also Sitter, Batory and Kostka *et al.* (2016) claim that the reversal of democratic practices and system, are often linked to elements such as weakening of democratic institutions, poor government performance and increasing corruption among many others (p.4). Therefore the inclusion of the corruption component is essential in order to make a coherent analysis of its link to democracy and democratic backsliding.

Chapter 2: Research Design and Data Collection

This chapter commences by introducing the research design of this study, which is followed by the motivation of the case selection. The third part of the chapter then distinguishes those elements and measures that will be used for the operationalization of democracy and democratic backsliding. The fourth part of the chapter introduces the data collection methods and sources that have been employed in this study. Lastly, the fifth part discusses those aspects covering the research validity.

2.1. Research Design

The research design of this study is an exploratory one, as the existing line of academic work of democratic backsliding is rather limited, and as the aim of this study is to distinguish which components could explain the occurrence of democratic backsliding in Poland and Hungary. The study, based on inductive theory-building approach, provides an in-depth analysis of each case country, which is then followed by a comparative analysis of the two country cases. As the comparison is made by analysing two of the most similar cases when it comes to democratic backsliding, the research utilizes the Most Similar System Design (MSSD).

This study is based on mixed methods, as it employs both qualitative and quantitative data. The justification of mixed methods is based on the complimentary relationship of the two data sources – one method assists in clarifying the other. The mixed methods approach also consist of data triangulation, which is employed in order to provide a well-rounded argumentation, as well as to draw a connection between the theoretical framework and empirical evidence of democratic backsliding. The qualitative data is utilized to obtain an in-depth understanding of the two country cases that will go beyond numerical scoring, and to have a further understanding of how the democratic backsliding has taken shape in both of these countries. The quantitative data, on the other hand, allows the measuring of the level of democracy within a state, based on those six selected components used in this study regarding the analysis of the level and quality of democracy within a state. The quantitative data method also facilitates the comparativeness of the data, collected from both country cases.

2.2. Case Selection

The two case countries, Hungary and Poland, were chosen for the analysis of this research as they both share similarities when it comes to historical perspectives (both countries were communist states), socio-economic past (transition from shared economy to liberal market economy), and as both of them have experienced parallel, and successful ‘triple transitions’ from authoritarian regimes to liberal western democracies. In addition, both of these countries joined the EU in 2004 after meeting the Copenhagen criteria. On the contrary of their successful journeys to liberal democracies, both Poland and Hungary have also experienced somewhat similar declining democratic tendencies after their accession to the EU in 2004 (see Agh, 2013, 2015; Varju & Chronowski, 2015; Iusmen, 2015; Sedelmeier, 2014 *et al.*).

2.3. Operationalization

As the existing academic work on democracy and democratic backsliding indicates, there are multiple ways that one can conceptualize, as well as measure the quality and level of democracy within a state. Therefore, in order to operationalize democracy, it is essential to summarize those elements that the existing academic literature underlines when it comes to conceptualization of democracy.

As mentioned in the conceptualization section, Dahl’s (1971; 1998) definition of democracy, based on polyarchy theory, underlines citizen liberties rights within society, while also emphasising the necessity of a state to uphold effective electoral processes. The eight components of institutional guarantees of democracy, introduced in polyarchy theory, consist of: citizens ability to vote, citizens ability to run for public office, political leaders ability to compete for votes, the necessity of having free and fair elections, citizens right to partake in politics by forming or joining political parties and organizations, citizens freedom to express their political views, accessibility to diversity of information, and that government’s policies reflect citizen preferences and votes (see Coppedge, 2012, p.21, citing Dahl, 1971). Yet, other scholars such as Fukuyama (2014), Morlino (2004), and Converse & Kapstein, (2008) *et al.*, also emphasise the necessity of inclusion of effective rule of law, and checks and balances in the definition of democracy. Therefore, polyarchy theory’s eight components, together with elements of efficient rule of law, and checks and balances, form the basis for democracy definition of this study. In order to study these elements, which are outlined in the

literature, the following six components will be measured according to data from Freedom House: electoral process; civil society participation; freedom of media; national democratic governance; constitutional, legislative, and judicial framework; and corruption.

The operationalization of these aforementioned six components is based on Freedom House's 'Nations in Transit' report series' evaluation of democracy, which provides a valuable way of turning the concept of democracy into measurable and comparable form. Furthermore, Freedom House defines the status of democracy in a state by measuring each of the seven elements of democracy: National Democratic Governance; Electoral Process; Civil Society; Local Democratic Governance; Independent Media; Corruption; Judicial Framework and Independence. These seven elements, which resemble those six components that have been configured to this study, are first evaluated and scored individually. Then, the overall democracy score of the regime is calculated based on all of those individual element scores. The democracy scoring system of Freedom House is based 0 to 7 scales, providing the possibility to data comparison between different country cases. Also, the scoring system enables the evaluation of the status of democracy within a particular state during different time points, as the score for each element of analysis, as well as the total score of state's democracy, can be compared from year to year (see Freedom House, 2015).

As this study focuses on evaluating the downward trend of democracy in Poland and Hungary throughout the time period of 2004-2016, Freedom House's evaluation system of democracy provides a useful tool in distinguishing those components that could be perceived as contributing to the loss in quality of democracy in these states. Therefore, democratic backsliding in Poland and Hungary is hypothesized to take place based on whether there is a loss in quality in the following components:

Electoral Process

The operationalization of electoral process is based on the analysis relating to presidential and parliamentary elections. Electoral process component is evaluated by looking into whether free, fair and contested elections take place in the regime (e.g. whether citizens are provided with full suffrage during elections). Also, the element of party pluralism and multiparty system is evaluated (e.g. party fractionalization, representation of small parties etc.), together with the citizens' participation in the political process (e.g. voters turnout during elections) (Freedom House, 2016, p.20).

Civil Society Participation

The assessment of the civil society participation is conducted by looking into the political, as well as legal environment that the civil society functions, and by evaluating possible development with both nongovernmental organizations (NGOs) and trade unions (e.g. how civil society is organized and the independency of civil society from the state). Evaluation of the status of civil liberties is also conducted, including the analysis of how freedom of speech, right of association and assembly are embedded in legislation, but also complied with. Lastly, the assessment of the status of civil society is analyzed based on how interest groups are included in the policy processes (see Freedom House, 2016, p.20).

Freedom of Media

Freedom of media is evaluated by looking into the status of press freedom within a regime (e.g. independence of media sources), and by whether journalists have experienced harassment, and whether a state has imposed restrictions regarding the media access (e.g. citizens access). Freedom of media is also assessed by looking into those possible limitations on editorial independence, and by evaluating the balance between private and public media (e.g. whether there has been an emergence of financially sustainable private media outlets) (see Freedom House, 2016, p.20).

National Democratic Governance

National democratic governance is analysed by considering both stability and democratic character of the government system, and by looking into whether both executive and legislative branches are independent, accountable and effective with their procedures and systems. This consists of evaluating whether effective checks and balances system is established and sustained, and whether citizens are able to access the public information (see Freedom House, 2016, p.20).

Constitutional, Legislative and Judicial Framework

The constitutional, legislative and judiciary component is evaluated by looking into how the executive rule of law is complied within a state, and by evaluating whether judicial institutions are independent, and hold a reviewing power over the executive. Also, judicial framework is examined by distinguishing those possible constitutional and legislative reforms (e.g. reforms in criminal code). In addition, the assessment is made of the status of

human rights, including equality and ethnic minority rights, and whether these rights are embedded in the legislative framework (e.g. constitution). Lastly, how judicial decisions are complied with indicates the functionality of this framework (see Freedom House, 2016, p.20).

Corruption

The evaluation of corruption is based on the analysis of the involvement of the state officials (e.g. top policymakers) in regime's economy, and by assessing the efficiency of those anti-corruption measures and mechanisms implemented by the state (e.g. laws on conflict of interest and financial disclosure etc.) (see Freedom House, 2016, p.20; Freedom House, 2015).

2.4. Data Collection Method and Sources

To begin with, it is important to note that the data collection focuses on state-level analysis, therefore excluding the local governance structure, such as those smaller units of analysis including local municipalities.

The data collection method is based on both primary and secondary data sources. The mixture of sources entails academic journals, official organizational reports and publication on both country cases of Poland and Hungary, discussing democratization and democratic backsliding in post-communist states. The data is collected from various watchdog, advocacy and analysis organizations, conducting research on the topic of democracy (such as Freedom House and the Economist Intelligence Unit). By utilizing qualitative data (e.g. academic journals such as Greskovits, 2015 *et al.*) and quantitative data (e.g. statistical data found from various indexes such as Freedom House, Bertelsmann Index and The Economist Intelligence Unit), an overall analysis of those possible components contributing to declining democratic practices can be drawn.

Besides building upon the previously established theoretical ideas of democracy and democratic backsliding provided by scholars such as Dahl (1971), Agh (2013), Greskovits, (2015) *et al.*, the empirical data is collected by analysing the information introduced in few of the most relevant and well-known indexes when it comes to analysis of democracy. As mentioned above, the main index utilized for the analysis of democratic backsliding in the

two country cases is the Nations in Transit Index from Freedom House. Other indexes are employed to triangulate and validate the data.

Each of the indexes utilized in this research study provide their own set of strengths and weaknesses in defining, analysing, and measuring components that are employed to measure the quality and status of democracy in a regime. In other words, all of these chosen indexes provide their own specified methods in measuring democracy and democratic processes, therefore the results of the level and quality of democracy within a state might differ across various sources. The following sub-categories will clarify the utilization of each index, indicating the motivation and purpose of the use of each particular data set, while distinguishing those possibilities and challenges of using them in the research.

2.4.1. Freedom House Index – Nations in Transit

As mentioned above, Freedom House's Nations in Transit Index is the primary index used in this particular study. According to Knutsen (2010), Freedom House's Democracy Indexes serve as one of the most utilized ones in the field of democracy and democratic backsliding (p.112). Although the organization has few different indexes, this study solely focuses on annual report series of 'Nations in Transit', which provides country and regional specific analyses of the status of democracy in a particular region or an area.

The Freedom House evaluation of democracy is based on a two-dimensional analysis of both civil rights and civil liberties (Knutsen, 2010, p.112). All in all, Freedom House Index – 'Nations in Transit' provides a well-defined evaluation of each state's level of democracy, based on the analysis of seven main elements. Furthermore, the level and quality of democracy is analysed by measuring electoral process, civil society, independent media, national democratic governance, local democratic governance, judicial framework and independence, and corruption (see Freedom House, 2015).

The measuring system of Freedom House is based on seven-point scale; one (1) representing the most democratic state (full democracy), while seven (7) represents the least democratic state (authoritarian regime). Moreover, the democracy scorings utilize a quarter-point scale. A small to moderate level scale change (whether positive or negative shift), results in change with +/- 0.25 points to the previous score, while a substantial change in that particular

element results in ± 0.50 score shift to the previous score. The data that is employed in the analysis of each element, is collected by using multiple data collection techniques and examining information on sources such as academic analysis reports, newspapers, information gathered from NGOs, expert analysis reports, think tanks among many others (Norwegian Centre for Research Data, 2017; Freedom House, 2015).

The Freedom House's conceptualization of democracy is a coherent one, reflecting upon those institutional and societal elements of democracy that are employed by many scholars in the field (for example, Greskovits (2015), Coppedge, Gerring & Altman (2011), and Ulfelder & Lustik (2007) *et al.*) The Democracy Index ensures continuous measuring efforts related to democracy (a comprehensive analysis is conducted yearly by the organization), and is widely utilized across various studies of democracy as the measuring of each indicator provides an opportunity for study replication. Furthermore, the democracy scoring scale that the Freedom House use is a clear one (see Norwegian Centre for Research Data, 2017).

2.4.2. Bertelsmann Index of Democratic Transition

The Bertelsmann Index of Democratic Transition, together with Freedom House's Democracy Index, is one of the most utilized indexes among scholars when it comes to measuring the quality as well as the level of democracy in a state. Scholars such as Greskovits (2015) *et al.*, apply the Bertelsmann Index (BTI) of Democratic Transition.

The analytical framework of BTI also provides a comprehensive analysis of the state of democracy around the world, while also providing an overview that, according to Bertelsmann-stiftung (2016) own country report, "goes beyond basic civil rights and free elections analysis". The BTI democracy scoring is measured in 0 to 10 points-scale, 0 being the least democratic and 10 being the most democratic, by measuring five criteria related to political transformations. These entail the aspects of stateness; political participation; rule of law; stability of democratic institutions; and political and social integration (Bertelsmann-stiftung, 2016).

The BTI also provides a separate analysis of economic transformation and transformation management including five criterion of analysis of each, however, this study solely focuses on those political transformation aspects due to the time frame of the research analysis.

Furthermore, as the organization's report clarifies, the analytical emphasis of this index is given to the democratic consolidation, looking into "[...] the quality of representation with regard to the party system and interest groups, and also measures social capital and the approval of democratic norms and procedures" (Bertelsmann-stiftung, 2016).

Although BTI provides a coherent set of democracy components for measuring, the latest country reports (2016) regarding case-study states of Hungary and Poland, provides only an analysis from 1 February 2013 to 31 January 2015, therefore excluding the most recent data. This is noted due to the fact that recent political events that have taken place in both case countries, yet especially in Poland, have impacted the whole political environment in Poland drastically in a relatively short-period of time (e.g. implementation of several constitutional changes, including newly implemented "rule of law framework") (Kelemen & Blauburger, 2017, p.318). Although a full report from 2016 is missing regarding Democratic Transition Index data, the data reports from previous years provide a leverage to contrast the BTI data to other data indexes, such as the one of Freedom House.

2.4.3. The Economist Intelligence Unit - Democracy Index

The Economist Intelligence Unit's (EIU) Democracy Index is also one of most utilized ones among democracy studies. This multidimensional index analyses the concept of democracy based on five core components: electoral process (e.g. free elections) and whether pluralism is present in the elections; how a state ensures civil liberties (e.g. ensuring flow of information / free media); how a state government governs and how functional those processes are (e.g. efficiency regarding checks and balances); the level of political participation (e.g. voter turnout); and how the political culture is within the regime (e.g. how citizens perceive democratic practices). Due to the focus of the paper being on institutional and procedural components of democracy, some democratic elements are employed more than others. As an example, this study will underline the importance of electoral process and focus on voter turnout in parliamentary elections, while excluding non-institutional elements, such as political culture, which is employed by the EIU when analysing citizens' perceptions over democratic practices.

The Economist Intelligence Unit's (EIU) Democracy Index measures those components of democracy by conducting expert assessments, public-opinion surveys, by using World Values Surveys together with Eurobarometer surveys, by employing Gallup poles among

other methods. In cases where some of the data is missing (e.g. survey results), the EIU will employ expert assessment or data from other similar countries, in order to ensure the coherent and reliable measuring of state and quality of democracy (The Economist Intelligence Unit, 2016, p.55). The democracy scoring is based on 0 to 10 point-scale, 0 being the least democratic (authoritarian regime) and 10 being the most democratic (full democracy). The overall average score of democracy is then created based on the score of all five components. The total score of a regime then indicates whether it can be perceived as a full democracy, flawed democracy, hybrid regime or authoritarian regime (The Economist Intelligence Unit, 2016).

The main obstacle of employing this Index is indeed the fact that some of its data is missing. However, this is also recognized and addressed by the Economist Intelligence Unit (EIU), by filling the existing data gaps with complementary methods as distinguished above. Despite the relative success of the Index among the scholars, it is also criticised by its methodology; the measuring is said to rely heavily on polling data. To add, “in an attempt to improve coverage and sophistication, EIU imputes a large quantity of missing data—a dubious procedure wherever data coverage is thin, as it seems to be for many of the EIU variables” (Coppedge, Gerring & Altman *et al.*, 2011, p.250).

2.4.4. Other Indexes

There are also other relevant data sets, which provide additional value to the aforementioned democracy indexes from Freedom House, Bertelsmann-Stiftung and the EIU.

Utilization of additional, specific indexes together with multidimensional indexes, such as the EIU or Freedom House and BTI, provides a more coherent analysis of particular components. These other indexes are utilized to discover particular components in greater details, for example, to gain a more in-depth evaluation of components, such as ‘corruption’, and to provide a better data triangulation. Therefore, the factual data for this study is also gathered through indexes such as Rule of Law Index; Control of Corruption Index (CCI) from the World Governance Indicators (WGI); and Press Freedom Index. The utilization of multiple data sets is based on the aim to triangulate the data and sources, in order to increase the content validity of the research.

2.5. Validity of the Study

The validity of this study is improved by introducing the data triangulation in order to distinguish those components that have led to loss in quality of democracy in Poland and Hungary. Moreover, both quantitative and qualitative data of this research is collected via multiple sources, such as academic journal articles, books, country reports, data indexes and journalistic articles, in order to evaluate the topic from various perspectives, and to gain coherent insights on each of the components employed here for the analysis of democratic backsliding.

By collecting, evaluating and contrasting data from, for example various democracy indexes, the content validity of the study findings will increase. The data triangulation is employed in order to investigate whether differentiating data exist on each component of democracy that is evaluated in this research. Most importantly, the data triangulation is employed to verify the data of the research – to ensure that the collected data proves the findings.

Chapter 3: Democratic Backsliding: an Empirical Overview

As already discussed in the theoretical framework section, the range of scholarly studies and theories discussing democratic backsliding is rather limited. The main reason for this is that democratic backsliding is a relatively new, contemporary phenomenon. A similar deficiency exists when it comes to empirical evidence on democratic backsliding. This is due to the fact that the phenomenon of declining democracy is not only challenging to operationalize, but also it is often interpreted as a process rather than an end result (see Greskovits, 2015, p.30, *et al.*), therefore ‘distinguishing’ where the process begins or ends casts a challenge to its analysis.

The trend of increasing nationalism, populism and anti-EU politics, as well as political leaders idealization of illiberalism and various economic challenges within Central and Eastern European countries, represent only a few of those possible elements that have increased international actors, such as EU’s, concerns over the status of democratic system within countries such as Poland and Hungary (see Sitter, Batory & Kostka et al., 2016, p.4).

According to Greskovits (2015), since 2008 global financial crisis and economic recession, the export markets in the Central and Eastern European states have suffered and austerity programs have been placed, which on the other hand have led to what he calls “a new round of social dislocation”. To add, new democracies are now demonstrating severe weaknesses in their democratic practices and systems overall (p.29). Both Poland and Hungary fall under this category when compared to western democracies. The trend of democratic backsliding is evident, and according to some scholars, due to the most recent economic crisis, the situation has intensified (see Agh, 2013; Greskovits, 2015 *et al.*)

As both theoretical and empirical data demonstrates, the trend of democratic backsliding can be observed by looking into a sequence of political, economic and social trends and events, yet cannot be assumed to occur based on only one particular event or action. In other words, the occurrence of democratic backsliding is a combination of various elements that can be perceived as challenging the democratic system within a state. The process of backsliding should be evaluated as an on-going process rather than a single event (Greskovits, 2015, p.30). The empirical evidence on Poland and Hungary supports this claim as both of these countries’ backsliding can be argued to occur as a sum of more than one element. The

empirical evidence, however, also indicates that some particular events might have led to further de-democratization (for example extreme nationalist party winning a majority), therefore causing a chain of events (e.g. several constitutional changes), which on the other hand, have enabled other anti-democratic practices to take place (see The Economist Intelligence Unit, 2016, p.5).

The Economist Intelligence Unit report (2016) claims, that a clear trend of “a deep disappointment with democracy” can be observed in Central and Eastern European states. This trend is visible when evaluating both country cases of Poland and Hungary, which have experienced democratic deterioration in different levels (p.5). As argued by Kelemen and Blauburger (2017) *et al.*, both Hungary and Poland represent the most severe cases when it comes to states experiencing democratic backsliding in Europe (p.317). The conclusion of deterioration of democratic practices can be drawn, according to the EIU report based on the following:

“[...] the former communist block has recorded the most dramatic regression of any region during the decade since we launched the Democracy Index. In 2016 the region featured the largest number of country regressions (19), with the remaining countries either stagnating (6) or improving only modestly (3). Not one state ranks as a full democracy, despite 11 being EU members. There was a notable weakening of electoral processes in several countries in the region in 2016, suggesting that even the formal trappings of democracy are being called into question” (The Economist Intelligence Unit, 2016, p.5).

The Democracy Index of the EIU (see Table 1.), indicates a downward shift of democracy scoring in multiple Central and Eastern European countries, such as in Romania, Slovakia, and Slovenia, yet the most drastic changes with democratic decline have been experienced in both Poland and Hungary, which is prevailed when comparing the democracy scoring in the year of 2006 and then again in 2016. The reductive scoring (negative trend) regarding Hungarian democratic status between 2006 and 2016 indicate a gradual deterioration of democratic practices, while in Poland’s case the democracy scoring indicates a different type of a progression (see Table 1.).

As seen in Table 1., Hungary's state of democracy has declined between 2006 and 2016. Moreover, from 2006 (score 7.53) to 2016 (score 6.72), the total democracy score for Hungary decreased with -0.81 points. Interestingly enough, in Poland's case, the democracy score has increased in some years, indicating a positive trend in obtaining democratic practices, while declined during some other years, indicating a negative trend. For example, the scoring for democracy in Poland for 2006 (score 7.30) was better than the scoring between 2011 and 2013 (score 7.12), indicating a decline in democratic practices while from 2013 (score 7.12) to 2014 (score 7.47) the scoring increased rapidly in comparison to previous years. However, the scoring also decreased drastically in the following years, as in 2016 the scoring was 6.83, demonstrating -0.64 point change in democracy scoring between 2014 and 2016. In total, the democracy score of Poland has declined between 2006 (score 7.30) and 2016 (score 6.83) with -0.47 score points.

Table 1: The EIU Democracy Index 2006-2016:

Democracy Index 2006-16

	2016	2015	2014	2013	2012	2011	2010	2008	2006
Estonia	7.85	7.85	7.74	7.61	7.61	7.61	7.68	7.68	7.74
Georgia	5.93	5.88	5.82	5.95	5.53	4.74	4.59	4.62	4.90
Hungary	6.72	6.84	6.90	6.96	6.96	7.04	7.21	7.44	7.53
Kazakhstan	3.06	3.06	3.17	3.06	2.95	3.24	3.30	3.45	3.62
Kyrgyz	4.93	5.33	5.24	4.69	4.69	4.34	4.31	4.05	4.08
Latvia	7.31	7.37	7.48	7.05	7.05	7.05	7.05	7.23	7.37
Lithuania	7.47	7.54	7.54	7.54	7.24	7.24	7.24	7.36	7.43
Macedonia	5.23	6.02	6.25	6.16	6.16	6.16	6.16	6.21	6.33
Moldova	6.01	6.35	6.32	6.32	6.32	6.32	6.33	6.50	6.50
Montenegro	5.72	6.01	5.94	5.94	6.05	6.15	6.27	6.43	6.57
Poland	6.83	7.09	7.47	7.12	7.12	7.12	7.05	7.30	7.30
Romania	6.62	6.68	6.68	6.54	6.54	6.54	6.60	7.06	7.06
Russia	3.24	3.31	3.39	3.59	3.74	3.92	4.26	4.48	5.02
Serbia	6.57	6.71	6.71	6.67	6.33	6.33	6.33	6.49	6.62
Slovakia	7.29	7.29	7.35	7.35	7.35	7.35	7.35	7.33	7.40
Slovenia	7.51	7.57	7.57	7.88	7.88	7.76	7.69	7.96	7.96
Tajikistan	1.89	1.95	2.37	2.51	2.51	2.51	2.51	2.45	2.45
Turkmenistan	1.83	1.83	1.83	1.72	1.72	1.72	1.72	1.72	1.83
Ukraine	5.70	5.70	5.42	5.84	5.91	5.94	6.30	6.94	6.94
Uzbekistan	1.95	1.95	2.45	1.72	1.72	1.74	1.74	1.74	1.85
average	5.43	5.55	5.58	5.53	5.51	5.50	5.55	5.67	5.76

Source: The Economist Intelligence Unit report (2016). Democracy Index 2016, Revenge of the “deplorables”. Retrieved on (April 9, 2017) from website: <http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy-Index-2016.pdf&mode=wp&campaignid=DemocracyIndex2016>

The EIU Index on Democracy in Eastern Europe in 2016 (see Table 2.) demonstrates how in regional ranking both Romania (score 6.62) and Hungary (6.72) represent the least democratic EU member states among the CEECs. They are followed by Croatia (score 6.75) and Poland (6.83), while Estonia (score 7.85), Czech Republic (score 7.82) and Slovenia (score 7.29) hold the highest democratic scores in the region. All of these states are defined as ‘flawed democracies’, indicating that despite of holding free and fair contested elections and respecting civil liberties, these countries usually encounter challenges with, for example media freedom, democratic governance and/or a low degree of political participation (The Economist Intelligence Unit, 2016, p.54).

Table 2: EIU Index on Democracy in Eastern Europe in 2016

Eastern Europe 2016

	Overall score	Overall rank	Regional rank	I Electoral process and pluralism	II Functioning of government	III Political participation	IV Political culture	V Civil liberties	Regime type
Estonia	7.85	=29	1	9.58	7.86	6.11	6.88	8.82	Flawed democracy
Czech Republic	7.82	31	2	9.58	7.14	6.67	6.88	8.82	Flawed democracy
Slovenia	7.51	37	3	9.58	7.14	6.67	5.63	8.53	Flawed democracy
Lithuania	7.47	38	4	9.58	5.71	6.11	6.25	9.71	Flawed democracy
Latvia	7.31	41	5	9.58	5.71	5.56	6.88	8.82	Flawed democracy
Slovakia	7.29	42	6	9.58	7.14	5.56	5.63	8.53	Flawed democracy
Bulgaria	7.01	47	7	9.17	6.07	7.22	4.38	8.24	Flawed democracy
Poland	6.83	52	8	9.17	5.71	6.67	4.38	8.24	Flawed democracy
Croatia	6.75	=54	9	9.17	6.07	5.56	5.00	7.94	Flawed democracy
Hungary	6.72	56	10	9.17	6.07	4.44	6.88	7.06	Flawed democracy
Romania	6.62	=61	11	9.17	5.71	5.00	5.00	8.24	Flawed democracy
Serbia	6.57	64	12	8.75	5.36	6.67	5.00	7.06	Flawed democracy
Moldova	6.01	76	13	7.92	4.29	6.11	4.38	7.35	Flawed democracy
Georgia	5.93	78	14	8.67	4.29	6.11	5.00	5.59	Hybrid regime
Albania	5.91	81	15	7.00	4.36	5.56	5.00	7.65	Hybrid regime
Montenegro	5.72	85	16	7.08	5.36	5.00	4.38	6.76	Hybrid regime
Ukraine	5.70	=86	17	5.83	3.93	6.67	5.00	7.06	Hybrid regime
Macedonia	5.23	95	18	6.92	3.21	6.11	3.75	6.18	Hybrid regime
Kyrgyz Republic	4.93	=98	19	7.42	2.93	5.56	3.75	5.00	Hybrid regime
Bosnia and Herzegovina	4.87	101	20	6.50	2.93	5.00	3.75	6.18	Hybrid regime
Armenia	3.88	120	21	4.33	2.86	4.44	1.88	5.88	Authoritarian
Belarus	3.54	127	22	1.33	3.57	3.89	6.25	2.65	Authoritarian
Russia	3.24	134	23	2.67	2.50	5.00	2.50	3.53	Authoritarian

Source: The Economist Intelligence Unit report (2016). Democracy Index 2016, Revenge of the “deplorables”. Retrieved on (April 9, 2017) from website: <http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy-Index-2016.pdf&mode=wp&campaignid=DemocracyIndex2016>

Chapter 4: An In-depth Analysis of Poland

4.1. Introduction

Poland's transformation to democracy took place during 'a third wave' of democratization, which occurred as an aftermath of the Cold War. During this time, democratic practices and norms were pushed forward around the world. The process of democratization, gained leverage in Latin America, Asia, Africa and Eastern Europe, being inspired by the Western democratic practices (Petrova, 2012; Serra, 2012; Sitter, Batory & Kostka et al., 2016, p.4).

In Poland, the year of 1989 marked a turning point for Poland's political as well as socio-economic environment. Moreover, right after the collapse of the Soviet Union in 1989, Poland started to shift from controlled market system to free market economy, while simultaneously implementing democratic practices and institutions. In 1989, the first 'Round Table Agreement' took place, involving both 'Solidarity Movement' and the local government representatives (Jakubowska & Kaniasty, 2014, p.400; Bertelsmann-stiftung, 2016, p.3). The process of political liberalization in Poland, therefore, followed the negotiations between the existing regime and its opposition, reflecting so-called "a pacted transition", similar to processes experienced in other East and Central European (CEE) states, such as in Hungary (Bernhard, 1996, p.311).

The roundtable discussions changed the direction of Polish politics, as the state held its first, official and free parliamentary elections on 4th of June, in 1989, for the first time since the Second World War (Jakubowska & Kaniasty, 2014, p.400). The first parliamentary elections were followed by the first presidential elections, held in 1990. The presidential elections resulted in the win of Lech Wałęsa, who became the second President of Poland, a successor of the leader of the Communist Party General Wojciech Jaruzelski, who was in power in Poland from 1989 until 1990 (Bertelsmann-stiftung, 2016, p.3). Although the shift towards democracy had officially started from the first elections as a result of 'the Round Table Agreement', the process towards democratization faced criticism. This was partly due to the fact that the first parliamentary elections were accused of being fraudulent, leading the ruling parliament to be called "the Contract Sejm [parliament]". Moreover, the voter turnout of the election was low during both rounds, and the electoral process was criticized for neglecting the public's opinion (Biskupski, Pula & Wróbel, 2010, p111). The parliamentary election

resulted in the win of Solidarity opposition, and the win of all parliamentary seats except one. This win was followed by the selection of Solidarity delegate of Tadeusz Mazowiecki, who became the Prime Minister of Poland. Furthermore, the Polish Senate at the time was comprised of many Communist Party members. According to Jakubowska and Kaniasty (2014), “This partition of power was the beginning of a formalized and institutionalized process of political transformation in Poland” (p.400).

According to Sztompka (1996), the multi-level change in Poland, “towards open, democratic, market society of the Western type” (p. 37), has not been achieved without challenges. Indeed, when communist rule ended in Poland in 1989, the state faced the challenge of experiencing simultaneous ‘triple transformation’ (Ekiert, 2012, para1). Furthermore, the centralized and state-owned economy shifted to privately owned market economy, while the state was simultaneously experiencing democratic transition. Politically, the shift from old regime to a new one took place via creation of democratic institutions and implementing democratic practices and systems. These democratization activities included establishments of free and fair regular elections (e.g. parliamentary and presidential elections), the Polish government ensuring autonomy of judiciary bodies, securing media freedom and pluralism of information sources, and by ensuring distribution of social benefits, pension and healthcare systems to citizens (Jakubowska & Kaniasty, 2014, p.400). The newly elected government – led by the Solidarity movement – adjusted the existing constitutional amendments, resulting in changed electoral laws, and withdrawal of the Communist Party from decision-making power. By hindering the decision-making power of the Communist PZPR party, the government ensured pluralism of political parties, therefore replacing the former single-party system. Lastly, the new government decided to change Poland’s official name from the Polish People’s Republic to the Republic of Poland (Bertelsmann-stiftung, 2016, p.3).

As already mentioned, during the 1990’s Poland had started its democratic transition and showed its interest in possibly joining the EU. In 1993, the EU responded to Poland’s interest in joining the EU by setting out a set of (structural) conditions, that the country should follow, in order to gain the EU membership. These conditions are embedded in ‘the Copenhagen Criteria’, which consists of a set of legally based requirements, which were created in order to ensure the respect of human rights; minority rights; and the rule of law. The aspect of corruption control was later on added in the criterion. According to Rose-Ackerman (2005), “Beginning with its 1997 reports, the [European] Commission stated that

both Hungary and Poland present the characteristics of a democracy with stable institutions that guarantee the rule of law, respect for human rights, and the protection of minorities” (Rose-Ackerman, 2005, p.43). This revision made by European Commission, was in 2003 followed by the opportunity to Poland to join the EU. Although the leading political parties supported the idea of Poland’s EU accession, the accession negotiations received resistance from the opposition. Criticism was received from parties such as the League of Polish Families and the Self-Defense of the Republic of Poland, which was demanding “[...] greater consideration of Poland’s national interests and small Polish farms”. However, despite the resistance of opposition, Poland signed the Accession Treaty with the EU on 16th of April 2003, which was followed by a national referendum in June 2003, leading to 76.9% eligible voters voting in favor of the state joining the EU. Poland officially joined the EU on 1st of May in 2004 (Bertelsmann-stiftung, 2016, p.4; Rose-Ackerman, 2005, p.41).

In 2005, one year after officially joining the EU, Poland held its very first parliamentary elections as a new EU member state. However, the elections took place as an aftermath of corruption scandal involving the social-democratic political party, Democratic Left Alliance. The corruption scandal agitated the political environment of Polish politics, causing arising cleavage between two parties: the Law and Justice Party (PiS) and Civic Platform party, which only deepened due to the parliamentary election results. The newly elected government was led by the PiS party, with the leading forces of two high-profile political actors: the President of Poland Lech Kaczyński, and his twin brother Jaroslaw Kaczyński who became Prime Minister in 2006. Furthermore, this leadership arrangement promoted anti-corruption and anti-communist policies, together with nationalist approach. Some of the promises entailed of ensuring more equal redistribution of income and bringing Poland’s national interest strongly forward in foreign affairs’ negotiations (Bertelsmann-stiftung, 2016, p.4). However, according to Ekiert (2012), “the post-2005 Kaczyński government in Poland supported the resurgence of populism and right-wing illiberal movements and organizations within Polish civil society” (p.68).

The coalition between PiS, Self-Defense of the Republic of Poland, and the League of Polish Families (LPR) collapsed in 2007 due to several internal conflicts (Bertelsmann-stiftung, 2016, p.4). As an aftermath of this broken coalition, the new parliamentary elections were called early, taking place in October 2007. The elections resulted in the Liberal-conservative Civic Platform (PO) receiving 41.5% of all of the votes, yet being unable to secure its

absolute majority in parliament. However, PO party was able to form a coalition with the Polish Peasant Party (PSL). Donald Tusk, the leader of PO party and the new prime minister of Poland, was the leader of this coalition. Prime Minister Tusk's politics was perceived as pro-European due to his more liberalist view on politics, especially when compared to the former Polish government (Bertelsmann-stiftung, 2016, p.4). Tusk, who had served as the prime minister of Poland a few years earlier, was re-elected to continue for the second term in 2011. Between 2007 and 2015, Poland's political relations with the EU were intensified, especially due to Tusk's approach on foreign politics. Moreover, during this time-period, the Polish state signaled the willingness, as well as the ability to increase its participation in the EU politics, by taking more responsibility. Resulted from this indication, Poland held in 2011, for the first time in its history, the rotated Presidency of the European Council. In December 2014, Prime Minister Tusk was elected as the President of the European Council (Matthes, 2016, p.288-289).

The latest parliamentary elections that took place in Poland in October 2015, resulted in the win of nationalist and conservative PiS, which won the majority of the seats in Sejm (with the result of a little less than 38% of the total votes) (Kelemen, 2017, p.227; Matthes, 2016, p.288-289; Sitter, Batory & Kostka *et al.*, 2016, p.3). With this win, Beata Szydło, who was the party leader at the time, became Prime Minister of Poland. Overall, "[...] PiS remained firmly under the grip of its ultra-conservative co-founder and former prime minister, Jarosław Kaczyński" (Kelemen, 2017, p.227). Furthermore, Kaczyński had expressed his admiration towards his Hungarian counterpart, Prime Minister Viktor Orbán's way of governing the Hungarian state, expressing his interest in following Orbán's footsteps. Kaczyński stated in 2011 how "Viktor Orbán gave us an example of how we can win. The day will come when we will succeed, and we will have Budapest in Warsaw" (Kelemen, 2017, p.227, quoting Buckley and Foy, 2016).

According to Matthes (2016), PiS-led government implemented several new laws in 2015, which would centralize Polish government's power, including public media sources and the Constitutional Tribunal. Moreover, shortly after the new ruling government of PiS came to power, several laws were implemented in order to launch "[...] attacks on the independence of Poland's high court (the Constitutional Tribunal) and its public media, closely following the 'script' Fidesz had deployed in Hungary" (p.288-289). These drastic constitutional

changes led to so-called “constitutional crisis”, which continues to this day to cast a challenge to the Polish democratic system (Kelemen, 2017, p.227-228).

In practice, the new laws are said to hinder the Constitutional Tribunal’s efficiency and its autonomy. These legislative reforms were set to cover everything between the number of judges present during the hearings the order in which the incoming cases should be handled. These constitutional changes have received criticism from not only ‘the target’ of Constitutional Tribunal itself, but also from the international community. In March 2016, the Council of Europe’s Venice Commission condemned the legislative adjustments as undermining democratic practices and norms, especially in regards to rule of law (Kelemen, 2017, p.227-228). In response to these changes, the European Commission decided to apply a new, rule-of-law mechanism to Poland, in order to address the increasing centralization of political powers, and threats towards autonomy of media and the Constitutional Tribunal (Matthes, 2016, p.288-289; Kelemen & Blauburger, 2017, p.318). Due to these aforementioned changes, the PiS-led government has been accused of utilizing similar fast track legislative reform approach as Orbán’s led government in Hungary (Kelemen & Blauburger, 2017, p.317-318).

The following parts of this case-study will offer an in-depth information on Poland, by looking into those individual components of democracy that have been selected for the analysis of democratic backsliding.

4.2. Electoral Process Developments

The electoral system in Poland has changed drastically since the Polish Round Table Agreements took place in 1989. After various amendments made in the state constitution concerning electoral procedures in 1991, the Sejm adopted a new electoral law (after pressure from the opposition), which would ensure party pluralism and therefore competitive elections (Prohnițchi, 2016, p.8). The new electoral law changed the party system from single-party to multi-party system, yet also shifted the electoral system by introducing ‘proportional representation system’. Furthermore, the proportional system gives leverage to small-size parties the opportunity to compensate for their representation. Furthermore, since 1991 electoral system change and the first free, “founding elections” in Poland, the state has held regular, parliamentary, presidential and local elections (Prohnițchi, 2016, p.8-9).

According to Bertelsmann-Stiftung country report on Poland (2016), Polish constitution and government ensure that no restraints exist when it comes to elections; all national and local-level election are free and fair and have been since the first elections took place in 1990. In addition, those elected political representatives are provided with the freedom to govern (Bertelsmann-stiftung, 2016, p.6). Also, Freedom House report ‘Nations in Transit – 2016’, explains how Polish electoral institutions are known to comply with the electoral regulations (Arak & Żakowiecki, 2016, p.6). According to Matthes, Markowski and Bönker (2016) report called ‘Sustainable Governance Indicators’, covering voting and registration rights, in 2011 implemented election code made the polish voting system more transparent due to combining various levels of election under one law (p.13).

Regarding the voting registration rights, almost all adult citizens in Poland have the automatic right to vote, as no pre-registration is needed. Furthermore, voting rights are given to almost all citizens, yet, “while there is no blanket disenfranchisement of convicts or individuals who have been declared incapacitated, existing provisions are not fully in line with the rulings of the European Court of Human Rights”. Since 2014, the Polish voting system has consisted of the option to vote via mail, which is provided to all Polish citizens with voting rights (Matthes, Markowski & Bönker, 2016, p13).

Although Poland has effective voting procedures, there have been some vote count issues within local elections. One of these voting issues occurred in November 2014 as a result of a technical failure. The unfortunate situation resulted in ‘moderately bias’ electoral outcome. Thus, expert commission evaluated the technological failure and was not able to trace any frauds connected to the voting procedure (Matthes, Markowski & Bönker, 2016, p13). Similar issues were avoided during 2015 parliamentary and presidential elections due to the enhanced internal controls of electoral commission (Arak & Żakowiecki, 2016, p.6). Besides rare vote-count issues, in some occasion Polish politicians have been reported of attempting to use referendums for their own advantages. For example, during the presidential elections in May 2015, presidential candidate Komorowski wanted to hold three different nation-wide referendums, one of them “[...] including the introduction of single-member electoral districts. Many interpreted the move as an abuse of the referendum mechanism aimed at attracting Kukiz’s protest voters in the second round”, however, the referendum ended failing with extremely low turnout; only 7.8% voted. In September 2015, the PiS party leader and

newly elected President of Poland, Andrzej Duda, tried to plea for referendums on issues that his party found important, yet failed to organize the referendum due to PO led Senate's opposition (Arak & Żakowiecki, 2016, p.6).

Another challenge involves the effectiveness of party pluralism and competition in Poland. Although Polish electoral system has, since 1991 implementation of electoral law, had fostered party pluralism and competition in the country (ProhniŹchi, 2016, p.8), according to Matthes (2016), political party competition in Poland has started to weaken due to decreasing numbers of political parties in parliament, especially when one analyses the time frame from 1990s to early 2000s (p.293).

When analyzing formal representation, the voter turnout in Poland has been low during the past few years. From 1989 until 2011, the Polish voter turnout was in average 50 percent and has not changed much since the year of 2011. This concerns both presidential and parliamentary level elections. According to Bertelsmann-Stiftung, "After an exceptional increase to 53% in 2007, it decreased again to 48% in 2011" (Bertelsmann-stiftung, 2016, p.10; 20). The negative trend (downward shift) of voter turnout can also be seen in the statistics of International Institute for Democracy and Electoral Assistance (International IDEA) regarding both parliamentary and presidential elections (see Table 3.), indicating a decrease in parliamentary voter turnout. After all, in 2007 the voter turnout for parliamentary elections was 53.9%, while in 2011 it decreased to 48.9%, yet in 2015 it increased to 50.9%. However, for presidential elections, the voter turnout has indicated a positive trend (upward), as the voter turnout has increased. Moreover, in 2005 the voter turnout was 51.0%, yet in 2010 and 2015 presidential elections, the voting turnout was 55.3% (International Institute for Democracy and Electoral Assistance – IDEA, 2017).

TABLE 3

International Institute for Democracy and Electoral Assistance (International IDEA) statistics on voter turnout in Poland; Presidential and Parliamentary Elections between 2005-2015:

PARLIAMENTARY											
Year	Voter Turnout	Total Vote	Registration	VAP Turnout	Voting age population	Population	Invalid votes	Freedom house	Freedom house- Political Rights	Freedom house- Civil liberties	Compulsory voting
2015	50.9%	15,595,335	30,629,150	49.4%	31,588,464	38,301,885	2.5%	1	1	1	No
2011	48.9%	15,050,027	30,762,931	48.5%	31,002,361	37,748,288	4.5%	1	1	1	No
2007	53.9%	16,495,045	30,615,471	54.2%	30,411,197	38,518,241	2.1%	1	1	1	No
2005	40.6%	12,263,640	30,229,031	40.9%	30,003,160	38,635,144	3.6%	1	1	1	No

Source: International Institute for Democracy and Electoral Assistance (International IDEA) (2017). Voter turnout in Poland; Presidential and Parliamentary Elections. Retrieved on (April 22, 2017) from website: <http://www.idea.int/data-tools/country-view/242/40>

PRESIDENTIAL											
Year	Voter Turnout	Total Vote	Registration	VAP Turnout	Voting age population	Population	Invalid votes	Freedom house	Freedom house- Political Rights	Freedom house- Civil liberties	Compulsory voting
2015	55.3%	16,993,169	30,709,281	53.8%	31,568,464	38,301,885	1.5%	1	1	1	No
2010	55.3%	17,054,690	30,833,924	54.5%	31,292,110	37,798,299	1.2%	1	1	1	No
2005	51.0%	15,439,684	30,279,209	51.5%	30,003,160	38,635,144	1.0%	1	1	1	No

Source: International Institute for Democracy and Electoral Assistance (International IDEA) (2017). Voter turnout in Poland; Presidential and Parliamentary Elections. Retrieved on (April 22, 2017) from website: <http://www.idea.int/data-tools/country-view/242/40>

Regarding to electoral rights set in electoral law, according to Matthes, Markowski and Bönker (2016), “every Polish citizen has the right to stand for election”. In addition, the registration practices and conditions of political candidates, as well as political parties, are liberal and embedded in fair registration procedure (p.12). However, specified age requirements are set for senators and presidential candidates, and parties or voters can recommend candidates for the Polish parliament Sejm. When it comes to citizens forming a political party in Poland: “A group of 1,000 individual citizens or more can form a so - called electoral committee by signing the proper documentation and submitting it to the National Electoral Commission”. Yet, those parties that represent ethnic minorities are held in favorable position due to their ability to collect fewer signatures for party formation than other parties (Matthes, Markowski & Bönker, 2016, p.12; Bertelsmann-stiftung, 2016, p.6). The gender quota, on the other hand, is based election code that ensures that both women and

men “[...] each must account for at least 35% of Sejm candidate lists”. However, the most recent parliamentary elections, held in 2015, manifested the lack of qualified women candidates (Matthes, Markowski & Bönker, 2016, p.12).

According to Matthes, Markowski & Bönker (2016), the party financing rules in Poland are embedded in regulations set by regulatory agreements. Financing related to political parties is based on the regulatory framework of Political Parties Act (since 2001), and those policies of political campaigns and their financing are fixed in the Election Code from 2011. In addition, all parties in Poland hold the right to access to both private and public media outlets, in order to promote their political campaigns. The Election Code also requires that both radio and TV stations ensure of scheduling of free candidate debates and broadcasting possibilities. However, in practice, the rule considering the access to the media has not been always applied. For example, “the public broadcasters were hesitant to give equal broadcast time to ‘second-order’ candidates in the campaign for the first round of the 2015 presidential elections” (p.12-13).

4.3. Civil Society Participation Developments

According to Matthes, Markowski and Bönker (2016), civil rights and political liberties can be perceived to be respected and largely protected by state institutions in Poland (p.12). This is due to the fact that civil rights and freedoms, such as freedom of expression can be found from the Polish Constitution (Article 54 of the 1997 Constitution). Moreover, these rules are followed in practice, as citizens are able to access different information as well as opinions (Bertelsmann-stiftung, 2016, p.7). As mentioned before, all Polish citizens have automatically registered rights to vote in elections, and also partake in elections as an electoral candidate if they wish to do so (Matthes, Markowski and Bönker, 2016, p.12).

Although the civil rights are largely ensured and secured by the Polish state, some loopholes do exist. The first challenge to the civil rights respect considers Polish court’s proceedings. The proceedings of various courts have been largely criticized for being too lengthy, therefore challenging the efforts of meeting fully the civil rights and liberties of the citizens. The proceedings, therefore, lack efficiency. Furthermore, “The European Court of Human Rights has criticized the Polish government several times for unduly lengthy court proceedings and excessive periods of pre-trial custody” (Matthes, Markowski & Bönker,

2016, p.16). The second challenge seems to revolve around the organization of demonstrations. The freedom of assembly and association is based on the Polish Constitution from 1997 (Constitutional Articles 11, 12 and 57) (Bertelsmann-stiftung, 2016, p.6). Yet, due to changes made to Law on Public Assembly by the Polish parliament in 2012, the organization of demonstrations or various demonstrations simultaneously has become more difficult. These aforementioned law changes have hindered citizens' capabilities to organize spontaneous gatherings, as those citizens that wish to organize a large gathering must respect the set time frame between the registration of the event and the event itself. In some cases, the municipality authorities have prohibited gatherings due to challenges over citizens' safety (Matthes, Markowski & Bönker, 2016, p.16).

Despite the most recent years' amendments on Law on Public Assembly making the spontaneous gatherings more challenging, in November 2015, grass-root movements did take place in order to confront the new governments' actions. The movement called the Committee for the Defense of Democracy (KOD) was initiated in response to questionable activities conducted by the PiS-led government, including various amendments made to the constitution. The KOD gained leverage as a group by organizing itself through social media (Facebook). The association was able to gather tens of thousands of people on the streets of Warsaw, including opposition politicians of Sejm. The association also led some mass protests in November and December 2015. However, KOD was quickly faced with counter movements, as the pro-governmental protests started to take place on the streets, gathering tens of thousands of people to support the ruling Polish government (Arak & Żakowiecki, 2016, p.6).

When it comes to interest associations, Poland holds a large number of interest associations, such as NGOs, trade unions and business associations. To be precise, "In 2013, there were 83,000 civil society organizations, of which 60-80% were active". To add, also trade unions are essential actors in the field of interest association as they are the largest ones. Thus, "[...] only 10% of employees were trade union members in 2014" (Bertelsmann-stiftung, 2016, p.10). According to Arak & Żakowiecki (2016), some drastic changes have been implemented regarding the labor relations in Poland during the past few years, yet especially in 2015. Moreover, "In July [2015], the Constitutional Tribunal ruled that provisions on trade unions that allow only employees to form and join unions are unconstitutional. This decision means that the roughly 1 million Poles employed through contracts will also be able to join

unions” (p.5). In addition to the aforementioned interest associations, there are also several other groups such as sports associations, religious groups or charity-based organizations. However, citizens’ support for these groups seems to be somewhat limited as “[...] only 32% of the population actively participates in civil society organizations (CBOS 05/2012)” (Bertelsmann-stiftung, 2016, p.10). Yet, one of the most powerful interest associations in Poland is the Catholic Church, as it plays a central role as an influencer in the secular Polish society (Matthes, Markowski & Bönker, 2016, p.28).

The NGOs in Poland hold independent function within the society, representing central watchdog organizations (Bertelsmann-stiftung, 2016, p.10). Furthermore, the NGOs are usually relatively small in size, and not largely supported by Polish citizens (such as the other aforementioned interest groups). To add, only a handful of environmental associations exist in Poland in comparison to other EU countries. The citizens seem to be unaware of how these organizations work and their collection of funding. Overall, many misconceptions revolve around NGOs’ functions and activities, as they are often mixed to charity institutions (Matthes, Markowski & Bönker, 2016, p.28; Arak & Żakowiecki, 2016, p.5). One of the current challenges faced by the local NGOs is their lack of policy proposal expertise, as this ability is only known by some of the local interest associations (Matthes, Markowski & Bönker, 2016, p.28).

4.4. Freedom of Media Developments

Poland holds one of the biggest media markets in all Europe. Consisting of various privately and publicly owned media outlets, it offers a wide spectrum of political views and perspectives. Thus, most of the outlets are privately owned, including radio and print media sources, while published magazines and local newspapers are often publicly owned. Television, on the other hand, is mixed. However, TVP that is publicly owned holds the largest share of the media market in its own field (Matthes, Markowski & Bönker, 2016, p.15)

Overall, the media market is relatively versified and transparent in Poland in comparison to other CEECs in Europe. Furthermore, more than 50% of the Polish media organizations have foreign owners (Matthes, Markowski & Bönker, 2016, p.15). In addition, the topic of media control is a largely discussed issue in Poland. The right wing parties have focused on

criticizing centralized media control that foreign owners have over the media market, claiming them of holding an excessive influence over Polish media. Others have criticized the nature of the media environment – media organizations have undergone some serious concentration (Arak & Żakowiecki, 2016, p.6; Matthes, Markowski & Bönker, 2016, p.15)

Media pluralism, together with competitive media market, seems to exist in Poland. However, the television related media organizations in the state, have been criticized for their ‘oligopolistic’ nature. According to Arak & Żakowiecki, (2016), the National Broadcasting Council’s report from 2014 clarifies how “[...] the regional press market is ‘practically a monopoly’ with the German-owned Polskapersse owning 21 out of 26 local newspapers” (Arak & Żakowiecki, 2016, p.6). However, Matthes’, Markowski’s & Bönker’s (2016) report claims that no “media moguls” exist in Poland regarding media ownership or control (p.15).

The parliamentary elections held in 2015 revealed how different media outlets took a stand for either one of the two competitors of PO and PiS. Both of these parties were supported by different media outlets: “Gazeta Wyborcza, the private TV channel TVN and the weekly magazine Polityka favored PO, while Gazeta Polska and Telewizja Republika sided with PiS” (Matthes, Markowski & Bönker, 2016, p.15). Moreover, during the parliamentary election campaigns in 2015, Poland’s publicly owned TV broadcaster TVP was accused of providing “[...] biased coverage of electoral committees”. In practice, this was seen on the airtime coverage of the political party campaigns; publicly owned media organizations “gave vastly more airtime to PO and PiS committees than the other parties in the campaign” (Arak & Żakowiecki, 2016, p.7).

According to the EIU report (2016), Poland’s recent media leadership shift has hindered the overall score and status of the media freedom in Poland (p.38). In 2015, the newly elected PiS-led government spared no time in implementing new media legislation that enabled the government to gain a centralized power over media outlets. The government “[...] immediately used this power to dismiss those running the state radio and TV stations” (Reporters Without Borders, 2016). Furthermore, the government initiated a chain of legislative and constitutional changes, such as the Penal Code, which impacted the media market and control negatively. These new laws changed the self-censorship regulations of media organizations, and increased their dependence on advertisers, therefore threatening the status of objective journalism. In some cases, the Penal Code provisions have been employed

to validate “legal actions against journalists” (Arak & Żakowiecki, 2016, p.8; Matthes, Markowski & Bönker, 2016, p.14-15).

According to Arak and Żakowiecki, (2016), by December 2015, the government had already taken legislative action against the public media, as the Sejm agreed upon an agreement, which “[...] terminated the mandates of all the current CEOs and executive boards of public media companies and temporarily transferred the power to appoint new ones from the National Broadcasting Council to the Minister of Treasury”. This decision received a strong criticism as it was accused of hindering the independence of the media. As a countermovement for these changes, more than thirty directors of major public TV channels resigned by the end of December in 2015. PiS politicians responded to criticism by pointing out how, before these changes took place, the public media existed as partisan and was controlled by political actors (p.8). However, by December 2016, the government had decided to withdraw the plans for media access restriction after encountering significant criticism from the public and the EU. These legislative changes and multiple propositions made of changing the media environment are claimed to jeopardize the freedom of media as well as media pluralism in Poland. Moreover, “alarmed to see a European Union member [Poland] flouting fundamental EU values, the European Commission launched a procedure in January 2016 that is designed to ensure respect for the rule of law” (Reporters Without Borders, 2016).

4.5. National Democratic Governance Developments

Polish government is argued to hold “a high degree of legal certainty”, referring to the Polish government ability to act predictably, based on those rules embedded in the law (Matthes, Markowski & Bönker, 2016, p.17). Moreover, Poland has been perceived as having an effective separation of powers, and holding efficient checks and balances in the political sphere. Furthermore, democratic state institutions are seen as efficient and effective, and the political decisions made by the actors of these institutions, are constructed on the basis of “legitimate procedures by the appropriate authorities” (Bertelsmann-stiftung, 2016, p.9). The institutional accountability structure is set as follows: local governments are held accountable to Sejm, while deputies have the delegated power to monitor, as well as supervise the executive entities (Bertelsmann-stiftung, 2016, p.7).

The Constitutional Tribunal functions as an essential institution for ensuring checks and balances in Poland. The Tribunal holds a role of ensuring independence of court rulings (Bertelsmann-stiftung, 2016, p.7). Another essential state owned institution is the ombuds office that functions as the Commissioner for citizen's rights, holding considerable investigative powers, such as "the right to view relevant files or to contact the prosecutor general". The ombuds office is solely accountable to the Sejm. Yet, "[...] the effectiveness of the ombuds office has suffered, as the institution has been assigned new tasks in the field of anti – discrimination policy, but lacks sufficient new funds to perform the tasks properly" (Matthes, Markowski & Bönker, 2016, p.26-27).

Before 2015 parliamentary elections, the Polish Constitutional Tribunal was perceived as one of the most efficient tribunals in the CEECs (Bertelsmann-stiftung, 2016, p.7). However, the most recent legislative and constitutional developments experienced since the 2015 parliamentary elections, have challenged the autonomy as well as efficiency of this particular institution. By the end of 2015, Sejm agreed upon amendments that influenced the functioning of the Tribunal, simultaneously hindering its effectiveness and legitimacy as democratic institution (Reporters Without Borders, 2016, para 4). Furthermore, the Tribunal has been criticized recently over lengthy court proceedings, causing further delays in handling-times of the cases. The effectiveness of procedures is therefore decreasing. To add, the lengthy time frame for pre-trial detention periods, and corruption investigations is also manifested in Polish judiciary systems (Bertelsmann-stiftung, 2016, p.8). In response to aforementioned legislative changes, "The European Commission triggered its Rule of Law Framework in January 2016, when the Polish government first sought to curb the independence of the Constitutional Tribunal (Reporters Without Borders, 2016, para 7).

Another dilemma revolves around the legislative framework in Poland. The legislative process is criticized for being incoherent, unsound, and incomprehensible. These aforementioned characteristics of the law can be explained by evaluating the law-making procedure. The law making usually follows the bottom up practice. However, the challenge exists as various members of the parliament try to constantly amend the existing laws, which destabilizes consistency and accountability of the law process (Matthes, Markowski & Bönker, 2016, p.17). In addition, another dilemma revolves around the ineffectiveness of law implementation, which results from somewhat politicized administration. Thus,

professionalism of administrative personnel has said to improve since government decided to underline the importance of efficient training procedures (Bertelsmann-stiftung, 2016, p.9).

The citizens' access to public information is embedded in the Constitution of the Republic of Poland, based on Article 61.1 and the Law on Access to Public Information. These laws ensure that the political parties have the access to public information concerning the government and variety of different public matters. However, "while the Sejm makes a fair amount of information publicly available, many ministries and other administrative bodies render such information difficult to find and work with, even online" (Matthes, Markowski & Bönker, 2016, p.15).

4.6. Constitutional, Legislative and Judicial Framework Developments

Regarding judicial framework, Polish courts can be perceived as entities that function independently from the executive, and are viewed as financially stable institutions. Besides lower level (local) courts, Polish judiciary system leans on both Constitutional Tribunal and Supreme Court. Both of their justices are elected based on varying guidelines: National Council of the Judiciary, which is a constitutional body, ensures the selection of Supreme Court, while the Constitutional Tribunal's 15 justices are elected based on Sejm's absolute majority voting. These justices are elected for a term of nine years. The President of Poland then appoints the president as well as vice-president of the Tribunal from these 15 justices, based on the merits of the applicants (Matthes, Markowski & Bönker, 2016, p.17-18).

However, in June 2015 several amendments were introduced by the PO-PSL coalition, attempting to implement a systematic reform to the Law on the Constitutional Tribunal. The judicial system was altered from "[...] an inquisitorial to an adversarial system in which the judge will now act as a neutral arbiter and the prosecutor's office is responsible for gathering evidence" (Arak & Żakowiecki, 2016, p.9). To add, the legislative adjustments made to the Law on the Constitutional Tribunal led to the creation of tighter deadlines for proposing candidates that would replace those existing Tribunal judges (Matthes, Markowski & Bönker, 2016, p.17-18). These constitutional changes cultivated to the replacement of some of the Tribunal's judges already before the Polish parliamentary elections even did take place. The coalition of PO-PSL, which had initiated the constitutional amendments, justified its legislative reforms as an act of trying to ensure the continuity of the Tribunal. However, these

changes were openly criticized by PiS party, which claimed that these efforts had been taken to prevent the future government from electing the new judges of the Constitutional Tribunal (Matthes, Markowski & Bönker, 2016, p.17-18; Arak & Żakowiecki, 2016, p.9).

Overall, the Constitutional Tribunal can be seen as holding a good reputation among citizens, but also with experts, especially in comparison to lower level Polish courts. As mentioned before, both lengthy proceeding times, as well as a lack of coherent legal aid system, are the most significant challenges of the judiciary system. These aspects have also received criticism from the European Court of Human Rights. The European Court of Human Rights launched in July 2015, “a pilot judgment against Poland demanding long-term efforts to improve the speed in which cases are handled within the judicial system”, which was introduced around the same time when Poland’s Criminal Code was implemented. The amended Criminal Code “[...] makes it easier to use fines and penalties for speeding up lawsuits, but has been criticized for the constraints it places on the independence of courts and judges” (Matthes, Markowski & Bönker, 2016, p.17). After the Polish Parliamentary elections in late 2015, the new ruling government decided to amend yet again the Law on Constitutional Court in order to invalidate the previous parliament's decisions regarding recently appointed judges, president and vice-president. These efforts were perceived as an attempt of PiS in limiting the current President of the Court, Andrzej Rzeplinski’s power, so that his possible intentions of “making it more difficult for government bills to pass scrutiny” would be challenged (The Economist Intelligence Unit, 2015, para 6).

In the beginning of December 2015, the Constitutional Court ruled that the PO-PSL government had breached the constitution by appointing two out of five judges, yet also pointing out that the rest were appointed on a legal basis. A few days later, the court ruled against PiS government, underlining how the PiS had illegally removed the previously selected appointees, including the president and vice-president, therefore PiS government decision was also breaching the constitution. The government responded to this ruling by announcing “[...] that it would not publish—or at least would delay publishing—the ruling in the official Journal of Laws, preventing it from coming into effect. This stand-off has given the government the chance to reiterate its arguments that Poland's institutional architecture is fundamentally dysfunctional, and thereby to re-open the question of wholesale constitutional reform” (The Economist Intelligence Unit, 2015, para 8).

As a reaction to PiS led governments to replace the Constitutional Court appointed judges, president and vice-president, and as a response to the ruling of the Constitutional Court condemning the changes, several large protests broke out in December 2015 as a protest against the new government. Furthermore, PiS was accused of trying to replace the previously selected and elected appointees with their own candidates. Furthermore, these changes have shed the light on the status of democratic institutions in Poland and raised questions about the status of liberal, institutional checks and balances since the new government had been formed. To add, “The PiS's readiness to set about institutional change will stir memories of its stint in office in 2005-07, pointing to risk of greater political instability ahead than we had previously expected” (The Economist Intelligence Unit, 2015, para 1).

In addition to the widely criticized amendments regarding the Court changes, yet another question has arisen about the PiS attempt to regulate the immunity-waiving procedure, which if implemented, would “[...] facilitate the prosecution of certain officials elected by the Sejm, most notably the chief of the Supreme Audit Office, the Ombudsman, and the Inspector General for Personal Data Protection”. This law would provide an opportunity for the Ministry of Justice in Poland, or on the basis of a citizen’s complaint, to trigger an immunity-waiving procedure. However, numerous critics have questioned this law suggestion, as it has been perceived as an attempt of PiS to frame and target Ombudsman Adam Bodnar, whose selection PiS has strongly criticized. By the end of December 2015, PiS initiated the process of implementation of a new law that would adjust the role of Minister of Justice. A new law on Prosecutor General would modify the role of Minister of Justice so that it would hold the power to control directly all public prosecutors and hold the power to overrule those decisions made by investigators, as well as to take over the cases. Furthermore, the National Prosecutors’ Council would serve as an advisory body, “[...] losing disciplinary powers over the Prosecutor General” (Arak & Żakowiecki, 2016, p.9).

4.7. Corruption Developments

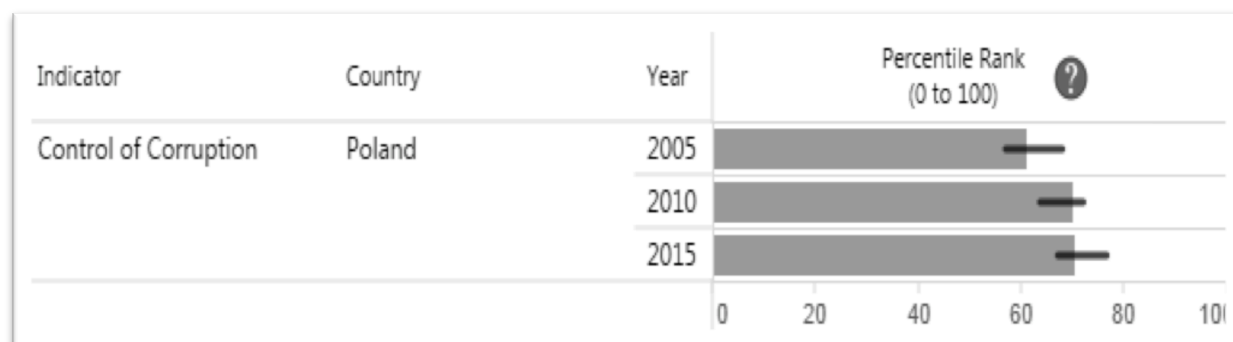
According to Freedom House’s ‘Nations in Transit’ report from 2016, both nepotism and corruption are present in Polish politics and public life. A poll on citizens perspective on corruption, conducted by Freedom House in September 2015, revealed how Polish citizens view the aspect of corruption and how it is perceived as existing among multiple professions,

including members of parliament, doctors, council members and local government officials to name a few (Arak & Żakowiecki, 2016, p.10).

Individuals or groups, who are accused of corruption, are prosecuted under the Polish laws. For example, the Polish State Tribunal can prosecute political actors who are exposed of misusing their position. One of the preventative measures, applied since 2001, regarding corruption in Sejm is that the members of the parliament (and their spouses) are required to indicate their personal incomes on the Polish parliament's website, and to update their received benefits on the public register of interests. In addition, both Senate's and Sejm's speakers are responsible for safeguarding the register of interests (Bertelsmann-stiftung, 2016, p.8).

The Central Anti-Corruption Bureau (CBA), together with the Supreme Audit Office and the Ombudsman are the most significant organizations in Poland when it comes to prevention and tackling of corruption. "The CBA, founded in July 2006, was initially politicized, but later became more professional. In 2011, the tasks of CBA were expanded to include coordination and investigative functions, and several corrupt public officials in administration and politics were identified and prosecuted" (Bertelsmann-stiftung, 2016, p.8). The current role of the CBA entails of supporting public education on the topic of corruption and expediting reporting of it. In 2013, the CBA's budget was increased to expand its institutional efforts in anti-corruption activities, which resulted in launching a new corruption limiting strategy (Bertelsmann-stiftung, 2016, p.8; Matthes, Markowski & Bönker, 2016, p.18). With this new strategy, the implementation of integrity mechanisms that is set from 2014 to 2019 is said to be a valuable way of limiting corruption. Moreover, this strategy increases the Ministry of the Interior's role in connection with anti-corruption related initiatives (Matthes, Markowski & Bönker, 2016, p.18). Furthermore, "the fact that public officeholders are prosecuted for corrupt practices shows that corruption has not been eradicated in Poland but it also shows that the instruments to detect and to punish these incidents are today much improved and well applied" (Bertelsmann-stiftung, 2016, p.8).

Table 4: World Governance Indicators (WGI): Control of corruption in Poland between 2004 and 2015:



"The Worldwide Governance Indicators are available at: www.govindicators.org

Note: The Worldwide Governance Indicators (WGI) are a research dataset summarizing the views on the quality of governance provided by a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. These data are gathered from a number of survey institutes, think tanks, non-governmental organizations, international organizations, and private sector firms. The WGI do not reflect the official views of the World Bank, its Executive Directors, or the countries they represent. The WGI are not used by the World Bank Group to allocate resources" (Worldwide Governance Indicators, 2017).

Source: **Worldwide Governance Indicators (WGI) (2017).** Control of Corruption in Poland 2005-2015. Retrieved on (April 27, 2017) from website: <http://info.worldbank.org/governance/wgi/index.aspx#reports>

According to the Worldwide Governance Indicators Statistics (2017) (see Table 4.), analyzing the control of corruption in Poland, the control of corruption in Poland has increased between 2005 and 2015. Moreover, statistics show that the level of control of corruption in Poland in 2005 was 61%, while by the year of 2010 it was 70% and in 2015, it was 71% (World Governance Indicators, 2017).

Despite the Polish state implementing efficient measures in order to control and prevent corruption cases, several political corruption scandals have surfaced in Poland especially in 2014-2015. One of the most mediatized corruption cases in 2015 considered the former head of the CBA - Mariusz Kamiński over him abusing his executive power, "[...] in connection with the so-called land scandal, a 2007 sting operation that led to the resignation of then deputy prime minister Andrzej Lepper". The Warsaw-Śródmieście Regional Court convicted Kamiński in March 2015, yet in November 2015 the President of Poland, Andrzej Duda, pardoned his three-year sentence. The pardoning of Kamiński was widely debated in Poland (Arak & Żakowiecki, 2016, p.10). Two other high-profile cases were revealed in 2015, one involving Minister of Justice, Cezary Grabarczyk, and another one relating to former Interior Minister, Krzysztof Janik. In 2015 April, Cezary Grabarczyk had to step down from his position as Minister of Justice as he was accused of receiving firearm license without actually

passing the exam in order to receive the permit. Krzysztof Janik, on the other hand, was accused of bribing as he was alleged “[...] of receiving PLN 140,000 (\$35,600) in bribes for helping a firm in dealings with the tax office in Katowice”. The last example is politically motivated corruption case that surfaced in Poland in 2014, relating to the privatization of state-owned chemicals company of Ciech, which was, later on, was taken under the scrutiny of CBA (Arak & Żakowiecki, 2016, p.10; Krajewski & Iglewski, 2016).

Despite the progress made with anti-corruption initiatives and cases handled by the CBA, one of the remaining challenges seems to revolve around the slow process times of the corruption investigations (Matthes, Markowski & Bönker, 2016, p.18; Bertelsmann-stiftung, 2016, p.8).

4.8. Regional Analysis of Poland

Based on the empirical data on Poland, it is evident that Poland has undergone multiple, vast constitutional and legislative reforms, initiated by the PO-PSL coalition before the 2015 parliamentary elections, and by PiS after these elections. These various legislative and constitutional reforms have drastically hindered the efficiency and independency of judiciary institutions in Poland. One of the most drastic legislative changes covering the role of the Constitutional Tribunal, as the institution has not only lost its autonomy, but also its procedural efficiency due to the aforementioned legislative changes. In practice, the loss of autonomy can be seen in the government’s decision of replacing the old executive personnel (e.g. judges) by appointing new employees and by the government intervening in the case management of the Constitutional Tribunal. These aforementioned changes, undermining the Tribunals and other judiciary institution’s independence and activities, have received strong criticism from the Council of Europe's Venice Commission and the European Commission. As the empirical data indicates, PiS-led government can be argued to follow very similar, fast track legislative reform-model as employed by the Fidesz-led government in Hungary.

Based on the empirical evidence of electoral legislation and procedures, it can be argued that all in all, Poland holds free, fair and regular elections, whether evaluating elections at local or national level. Moreover, the Polish electoral system, based on proportionality, complies with the democratic electoral rules as it for example, ensures that a true party competition exists during elections and that parties representing ethnic minorities are held in favorable position. Also, a full electoral suffrage is offered to all adult citizens, as they are automatically

registered to vote. To add, a new way of casting a vote has been implemented, in order to enhance the voting conditions (e.g. adoption of voting via post).

Despite relatively successful compliance of Polish state with the electoral law and procedures, there have been some challenges as well. Despite automatic vote registration and new methods of voting, a continuous dilemma seems to exist regarding low voters turnout: the turnout has remained low since Poland's accession to the EU in 2004. In addition, some issues regarding vote counting have been reported during local elections, yet these problems have been linked to technical difficulties and therefore disregarded as fraud attempts. There have been also some reported cases of individual politicians trying to employ referendums for their own advantage, yet the Polish government has been able to block these attempts in time. Also, the most recent parliamentary elections have signaled of a declining number of political parties, which could be seen to result partly from the lack of funding (Matthes, 2016, p.293). In addition, although the election code embeds the equal rights for all political parties to access information, and publicly owned media outlets in order to promote their political campaigns, the empirical evidence indicates that these rights are not always complied with in practice. There have been cases where public media outlets have favored one party over another in their broadcasting (see Matthes, Markowski & Bönker, 2016; Arak & Żakowiecki, 2016, p.6, *et al.*).

Overall, Poland holds a vast range of interest groups, associations and NGOs. These organizations and associations, besides their own functions, serve also as important watchdog organizations. The Polish state can be perceived as formally ensuring the citizens' rights, as these rights are legally embedded and set in the constitution. For example, citizens have the freedom to express their political views and to join a political party, or to access freely the information concerning the Polish state, which is embedded in Law on Access to Public Information. However, a setback regarding the state ensuring these citizens' rights can be traced back to those amendments made to the Law on Public Assembly in 2012, when the government decided to increase regulations regarding the organization of spontaneous or large gatherings, and therefore hinder the freedom of assembly (see for example, Matthes, Markowski & Bönker, 2016; Arak & Żakowiecki, 2016, *et al.*),

Poland holds one of the biggest media markets in the Europe, consisting of a mix of private and public owned media sources. Overall, the Polish media market can be perceived as

relatively versified. However, a downward trend of media freedom has been observed to take place in Poland since the PiS-led government came into power in 2015. The right wing parties have criticized the foreign ownership over private media sources, and lobbied for further centralized control of the state over media. In addition, before the 2015 parliamentary elections, several media outlets were criticized for biased behavior and favoritism towards particular political parties. All in all, those legislative amendments imposed to the Polish media law and the Penal Code since 2015, have not only increased the state's control of the media leadership, but also led to stricter self-censorship when it comes to media reporting, therefore threatening objective journalism (The Economist Intelligence Unit, 2016, p.38; Arak & Żakowiecki, 2016, p.8; Reporters Without Borders, 2016). The amendments adopted regarding local media law has also been questioned abroad and received major criticism from the European Commission, which has indicated concerns over concentration of management when it comes to media sources (see Matthes, Markowski & Bönker, 2016; Arak & Żakowiecki, 2016, *et al.*).

When it comes to the legislative matters and judiciary bodies, before 2015 parliamentary elections, the legislative bodies of Poland and especially the Constitutional Tribunal, were seen as one of the most efficient and renowned judiciary bodies in Europe (Bertelsmann-stiftung, 2016, p.7). The legislative institutions were viewed as providing a high degree of legal certainty. Also, the government was perceived as following the rules set in the legislation and that a true separation of power was seen to exist. Before 2015 parliamentary elections, the decision-making power was delegated between different democratic institutions: deputies held a delegated power to supervise the executive branches. Moreover, the judiciary institutions had the legislative justification to function independently, they were financially independent, and the justices were selected with majority voting. However, in June 2015, several legislative amendments were introduced by the PO-PSL coalition, which significantly reformed the Law on the Constitutional Tribunal regarding its function, autonomy and leadership. After the adoption of the reformed law, the Constitutional Tribunal employees were replaced with newly elected and appointed personnel. Since these constitutional and legislative amendments, the effectiveness and autonomy of the Tribunal have been hindered significantly. Furthermore, the government actions concerning amending the role of the institution have been intervened by the European Commission with its rule of law framework. After all, those amendments introduced to the Polish Criminal Code have been perceived to constrain the autonomy of courts and judges regarding the range of

activities. For example, through legally embedded powers, the government has modified the order in which the court cases are handled (see Arak & Żakowiecki, 2016; Matthes, Markowski and Bönker, 2016 *et al.*).

The new legislative framework concerning the Tribunal, but also other independent institutions, has been condemned as incoherent and perplexing, as laws are constantly modified and replaced with new ones. Therefore, a legislative instability can be argued to exist in Poland. In addition, citizens' input in the creation of those laws has been non-existent, as the parliament has not shown any interest in consulting the public when drafting new bills. Also, the lengthy court proceedings as well as weak and incoherent legal aid system, has been under scrutiny of the European Court of Human Rights, as they are perceived as elements that challenge both rights and liberties of citizens (see Arak & Żakowiecki, 2016; Matthes, Markowski and Bönker, 2016 *et al.*)

When it comes to the element of corruption, the empirical evidence from 2004 to 2016 shows how both nepotism and corruption have been inevitable part of Polish society and political life (see Arak & Żakowiecki, 2016, *et al.*). Yet, efficient anti-corruption measures have been implemented throughout the recent years, especially since the Poland joined the EU. For example, those individuals (e.g. public office holders) who are suspected regarding their involvement in corruption, are prosecuted under Polish law by the Polish State Tribunal. To add, multiple anti-corruption institutions exist in Poland: Central Anti-Corruption Bureau (CBA), the Supreme Audit Office and the Ombudsman are the most essential ones. In Spring 2014 the Polish government adopted a new anti-corruption strategy, which has been appraised as a valuable method for limiting corruption. Transparency measures are employed in Polish parliament, as the politicians and their partner's personal incomes are made publicly available on the parliament's website (see Bertelsmann-stiftung, 2016, p.8; Arak & Żakowiecki, 2016).

As argued in the Bertelsmann-Stiftung country report on Poland (2016), by implementing new anti-corruption strategies and effective measures in order to prevent and handle corruption related cases, Poland has adopted an efficient and well-applied system to tackle corruption (Bertelsmann-stiftung, 2016, p.8). The World Governance Indicators statistics on 'control of corruption' supports this claim as control over the corruption in Poland has increased between 2005 and 2015 (World Governance Indicators, 2017). However, since

2015, several corruption cases connected to either political actors or the government has been revealed (e.g. the corruption related case with Minister of Justice Cezary Grabarczyk, or the case with former Interior Minister Krzysztof Janik, or abuse of power case concerning the former head of the CBA - Mariusz Kamiński) (see Matthes, Markowski & Bönker, 2016, p.18).

4.9. Democratic Backsliding in Poland

The empirical data on Poland indicates that the country has experienced democratic backsliding, yet especially since 2015 parliamentary elections when the PiS-party came in power. The government's implementation of multiple legislative and constitutional reforms, have centralized the decision-making power of the ruling party and the government overall, and drastically hindered the efficiency and independency of judiciary in Poland. Also, these legislative changes have increased the government's power over the media leadership, and raised concerns over the status of objective media reporting and freedom of media overall. All in all, the rule of law in Poland has been weakened together with checks and balances, due to these aforementioned fast-track legislative and constitutional changes, which have increased the legislative instability in the regime.

Based on those multifaceted legislative and constitutional changes pushed forward by the PiS-led coalition since 2015, the de-democratization process in Poland can be perceived as party driven, when evaluated in the light of Serra's (2012) typology of democratic backsliding. In addition, the form in which the de-democratization has taken place could be perceived as based on 'executive aggrandizement' process, when contrasting the empirical evidence to Bermeo's (2016) theory of democratic backsliding. After all, the empirical data indicates that the democratic rollback in Poland has occurred through the political executives weakening those autonomous judiciary and media institutions. This 'weakening' of these institutional entities, has been based on sequences of legislative and constitutional reforms, which have enabled the government to take further control over the procedures and activities of these institutions.

As the aforementioned regional analysis built upon empirical evidence implies, out of six components – electoral process, civil society participation, freedom of media, national

democratic governance, constitutional legislative and judicial framework, and corruption – three components can be associated with the democratic backsliding in Poland. These three indicators are *freedom of media*, *national democratic governance* and *constitutional, legislative and judicial framework*.

On the basis of qualitative and quantitative empirical data collected from different indexes reveal that indeed democratic backsliding has taken place in Poland when evaluating the time frame from 2004 to 2016 (see Freedom House, 2017; Arak & Żakowiecki, 2016; The Economist Intelligence Unit, 2016, *et al*).

Freedom House’s overall democracy scoring (see table 5.) for Poland shows a score decline from 2004 (score 1.75) to 2016 (score 2.32), reflecting an overall loss in democratic stability within the country with +0.57 score point change (see Freedom House, 2017; Arak & Żakowiecki, 2016). Between 2015 (score 2.21) and 2016 (score 2.32), the overall democracy score shifted with + 0.11 points, signifying a loss in overall status of democracy in Poland (Arak & Żakowiecki, 2016, p.3). Despite of experiencing a loss in democratic stability between 2004 and 2016, Poland has kept its status as a consolidated democracy as indicated in Table 5. This observation is based on Freedom House’s Democracy scoring methodology in which consolidated democracies score from 1.00 to 2.99 (see Schenkkan, 2016, p.20).

TABLE 5 Freedom House (2016), ‘Nations in Transit Ratings and Average Scores’ Poland: Nations in Transit Ratings and Averaged Scores

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
National Democratic Governance	3.25	3.50	3.25	3.25	2.75	2.50	2.50	2.50	2.50	2.75
Electoral Process	2.00	2.00	2.00	1.75	1.50	1.25	1.25	1.25	1.50	1.50
Civil Society	1.50	1.25	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50
Independent Media	2.25	2.25	2.00	2.25	2.25	2.25	2.50	2.50	2.50	2.75
Local Democratic Governance	2.25	2.25	2.00	1.75	1.75	1.75	1.75	1.50	1.50	1.50
Judicial Framework and Independence	2.25	2.50	2.25	2.50	2.50	2.50	2.50	2.50	2.50	2.75
Corruption	3.00	3.00	2.75	3.25	3.25	3.25	3.25	3.50	3.50	3.50
Democracy Score	2.36	2.39	2.25	2.32	2.21	2.14	2.18	2.18	2.21	2.32

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. If consensus cannot be reached, Freedom House is responsible for the final ratings. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year. The opinions expressed in this report are those of the author(s).

Source: Arak, P., Żakowiecki, P. (2016). Freedom House Country Report. Countries in Transition: Poland. Retrieved on (March 27, 2017) from website: https://freedomhouse.org/sites/default/files/NIT2016_Poland_0.pdf

Freedom of media

Although Poland holds a relatively versified media market, consisting of both private and public owned media sources, the empirical evidence indicates a loss in media freedom, especially shortly before and after 2015. Before 2015 parliamentary elections, various media outlets were accused of favoritism towards certain political parties, while legislative amendments imposed on the Penal Code since 2015, have increased state's power over media leadership. To add, the stricter self-censorship regulations, imposed by the government have also threatened the status of objective journalism in Poland (The Economist Intelligence Unit, 2016, p.38; Arak & Żakowiecki, 2016, p.8; Reporters Without Borders, 2016). Based on the Freedom House scoring for media freedom in Poland (see Table 5.), the media freedom has declined between 2012 (score 2.25) and 2013 (score 2.50) with +0.25 score change, and yet again from 2015 (2.50) to 2016 (2.75) with +0.25, indicating negative trend/loss in media freedom in Poland.

National democratic governance

As the empirical evidence indicates, since 2015, Poland's national democratic governance has weakened noticeably. Firstly, the status of rule of law has been weakening, together with the separation of power due to fast-track legislative and constitutional changes implemented by the PiS-led government since 2015. These changes have increased concerns over the stability of Poland's legislative framework. Through these legislative amendments, the government has been able to gain more centralized power over some of the previously independent institutions, such as Constitutional Tribunal. Also, citizens input regarding these legislative changes have been completely neglected, reflecting the Polish governments lack of accountability to its citizens' preferences. As seen in the Freedom House national democratic governance score (see Table 5.), the score has changed for the first time since 2012, from 2.50 (2012-2015) to 2.75 (2016), showcasing +0.25 point change, therefore indicating a negative trend/loss in quality of national democratic governance. Although the overall national democratic governance score indicates improvement when comparing two-time points 2007 (score 3.25) and 2016 (score 2.75) with -0.50 score change (positive trend), the score change from 2015 to 2016 indicates a downward trend / loss in the quality of democratic governance.

The constitutional, legislative and judicial framework

Based on the empirical evidence, there has been a loss in quality regarding constitutional, legislative and judicial framework since 2015. As mentioned before, several legislative and constitutional reforms including the Law on the Constitutional Tribunal, have threatened independent judiciary institutions' executive powers and functions. Furthermore, these legislative changes that have been implemented in a short period of time, have challenged the existence of rule of law and undermined the efficiency of effective checks and balances in Poland (see Arak & Żakowiecki, 2016; Matthes, Markowski and Bönker, 2016 *et al.*). As seen in Table 5. of Freedom House index, the status of judicial framework and independence has deteriorated in Poland. Between 2010 and 2015 the score for this element was 2.50, while in 2016 the score was 2.75, indicating +0.25 score increase from 2015 to 2016, therefore reflecting a negative trend/loss in the stability of judicial framework.

In addition to the aforementioned components, also the level of **corruption** in Poland has stayed relatively high throughout the years since 2007 (see Table 5.). The total score of corruption in Poland has changed from 2007 (score 3.00) to 2016 (score 3.50) with +0.50 points, which would in theory indicate a loss in the control of corruption, based on Freedom House's scoring. However, in this particular case, corruption is not considered to be one of the deciding components influencing the democratic backsliding, based on the empirical evidence found from multiple other sources. For example, Worldwide Governance Index on control of corruption (2017) (see Table 4.), shows how the control of corruption in Poland has steadily increased between 2005 (61%) to 2015 (71%), indicating a positive trend when it comes to the Polish state preventing and addressing corruption in Poland (see World Governance Indicators, 2017).

A similar pattern of positive trend can be observed based on Transparency International Corruption's Perception Index (2017), which evaluates Poland's scoring on perceived level of public sector corruption, by employing scaled from 0 (most corrupted) to 100 (least corrupted). According to this scale, Poland has improved its corruption scoring gradually from 2012 (score 58) to 2016 (score 62), indicating +4 point change (positive trend) in the past four years (see Transparency International, 2017). This increase in both WGI scoring and Transparency International Corruption's Perception Index (positive trend) in control of corruption in Poland can be perceived as resulting from those various efforts of the Polish government in tackling the corruption within the state. These include, for example, the Polish

government's decision to expand the Central Anti-Corruption Bureau's role in 2011, as well as the adoption of the new anti-corruption strategy in 2014, which have been argued to serve as a valuable tool in limiting and addressing corruption in Poland (see Bertelsmann-stiftung, 2016, p.8, 23; Arak & Żakowiecki, 2016).

Chapter 5: An In-depth Analysis of Hungary

5.1. Introduction

The round table discussions that took place in June and September 1989, defined the direction of the electoral system in Hungary. Unlike in Poland, Hungarian round discussions lacked external constraints affecting the bargaining process, as “the unified opposition” supported electoral amendments. Furthermore, the relatively weak opposition in Hungary had a clear aim: to implement a new electoral system “[...] that would maximise its representation in the future legislature”. This goal was seen as important to obtain as the Hungarian parliamentary elections were approaching. Moreover, “[...] the communist regime’s attempts to destroy the opposition forced the latter to unite their forces and maintain a common front against the regime in promoting their individual preferences”. Therefore the move towards the new electoral system was seen as beneficial for the opposition, as it would be able to address those weak points, such as improving its legitimacy (Prohnițchi, 2016, p.8-9).

The negotiations took place between the Hungarian Socialist Workers’ Party (MSZMP), which supported the majoritarian single-member districts system (SMD), and the opposition that underlined the importance in adopting a proportional representation (PR) system. The agreement was made on a hybrid of the two, introducing a mix of majoritarian single-member districts system (SMD) and a multi-member list proportional representation system (PR), which represented a unique electoral system in CEECs. Moreover, the adaptation of this system assisted in building that institutional basis for the multi-level change in the country and later on, despite some loopholes, was proven to provide “a stable institutions equilibrium” (Prohnițchi, 2016, p.9).

According to Levitz and Pop-Eleches (2010), after the collapse of the Soviet Union in 1989, the possibility of Hungary to become an EU member state functioned as the main driver to the state to adopt democratic conditions and institutional reforms (p. 458). Moreover, after popular referendums were held in Hungary, the regime joined the North Atlantic Treaty Organization (NATO) in 1999 and the EU in 2004 (Kornai, 2015, p.43). By joining the EU in 2004 together with other member states such as Poland, Hungary committed to following the EU values and norms of rule-of-law and democratic principles, embedded in treaties such as

Treaty on the European Union (also known as TEU, 4 Article 2). Based on these Treaty Articles, new member states committed themselves to ensure and enhance both political and economic pluralism and competition. The EU would hold the power to sanction a member state in case of non-compliance with the common basis of the Article 7 of TEU. Kelemen (2017) points out how “recent episodes of ‘democratic backsliding’ in Hungary, Poland, Romania, Bulgaria, Slovenia and other EU member states have led many observers to conclude that these core democratic values were under threat” and that the EU might have to use its right to sanction in case of further infringement to the common democratic rules (Kelemen, 2017, p.212; Sedelmeier, 2014). However, critics have been point out how the EU’s sanctioning mechanism is rather weak and somewhat inefficient when it comes to punishing those countries that breach EU’s democratic principles (Levitz & Pop-Eleches, 2010, p. 458).

Since Hungary joined the EU in 2004, the state has faced several political and economic challenges, similarly experienced in other CEECs. Shortly after Hungary joined the EU in 2004, there were “[...] political turbulences in a number of new member states, namely food riots in Slovakia, populist nationalist government coalitions including extremist parties as junior partners in Slovakia and Poland, the specter of ungovernability in the Czech Republic, and massive violent demonstrations in Hungary, brought back with vengeance the concerns about backsliding” (Greskovits, 2015, p.29). In 2006, after the parliamentary elections vote results were revealed, the Hungarian Civic Union party (Fidesz) refused to recognize the victory of Gyurcsány government. As an aftermath of the election results, Fidesz decided to mobilize aggressive protest movements and initiate multiple campaigns against the new government, leading to various violent encounters. The havoc was seen to create a bigger gap between different actors and citizen groups (Agh, 2013, p.38; 39). According to Agh (2013), overall the year of 2006 can be perceived as “[...] an important negative turning point in Hungary”, due to the aforementioned political activities. In addition, since 2006, the right-wing party Jobbik has strengthened its status in Hungarian politics (Agh, 2013, p.38). The party increased its political position in 2014 by becoming the second largest party in national elections, as 20.2% of the voters supported the party. The party itself is known for its radical views on minorities living in Hungary, refugees and overall strong anti-EU rhetoric (Bertelsmann-stiftung, 2016, p.14).

TABLE 6 European Election Database – Parliamentary Elections Hungary 2010:

Filter variables: Measure, Votes %

Party Region	FIDESZ 1	MSZP 2	JOBBIK 3	LMP 4	MDF 5	CM 6	MUNKASPART 7	MSZDP 8	ÖP 9	MIÉP 10	Electorate	Votes	Valid votes	Invalid votes
HUNGARY	52.73	19.30	16.67	7.48	2.67	0.57	0.11	0.08	0.05	0.03	100.00	64.38	63.88	0.73

Source: European Election Database (2017). Dataset: Hungary: Parliamentary Election 2010. Retrieved on (April 22, 2017) from website: http://eed.nsd.uib.no/webview/index.jsp?study=http%3A%2F%2F129.177.90.166%3A80%2Fobj%2FStudy%2FHUPA2010_Display&mode=cube&v=2&cube=http%3A%2F%2F129.177.90.166%3A80%2Fobj%2Fcube%2FHUPA2010_Display_C1&top=yes

TABLE 7 European Election Database – Parliamentary Elections Hungary 2006:

Filter variables: Measure, Votes %

Party Region	MSZP 1	FIDESZ 2	SZDSZ 3	MDF 4	MIÉP-Jobbik 5	Others	Electorate	Votes	Valid votes	Invalid votes
HUNGARY	43.21	42.03	6.50	5.04	2.20	1.02	100.00	67.87	67.28	0.59

Source: European Election Database (2017). Dataset: Hungary: Parliamentary Election 2006. Retrieved on (April 22, 2017) from website: http://eed.nsd.uib.no/webview/index.jsp?study=http%3A%2F%2F129.177.90.166%3A80%2Fobj%2FStudy%2FHUPA2010_Display&mode=cube&v=2&cube=http%3A%2F%2F129.177.90.166%3A80%2Fobj%2Fcube%2FHUPA2010_Display_C1&top=yes

The year 2010, on the other hand, marked as one of the most crucial years in contemporary Hungarian politics, as it was a year when “Viktor Orbán swept to power in Hungary” (Kelemen, 2017, p.221), leading the Hungarian government to take actions that would be later on criticized of challenging liberal democracy status in the regime (Agh, 2013, p.41). During the 2010 parliamentary elections, Orbán’s party Fidesz won the majority of the parliamentary seats by gaining nearly 53% of the electoral votes (see Table 6.), and a two-third ‘super majority’ in Hungarian parliament (Kelemen, 2017, p.221).

The Fidesz-led government has initiated several rounds of constitutional amendments since its win in 2010. The newly implemented Cardinal Laws, based on the two-third-vote system, enabled these constitutional amendments (Kelemen, 2017, p.221-222; Sitter, Batory & Kostka et al., 2016, p.3). The series of legislative adjustment commenced with small-scale modifications to the existing legislations right after the win of parliamentary elections in 2010, however, these small changes were followed by complete reform of existing constitution only around one year later (Kelemen, 2017, p.221-222; Sitter, Batory & Kostka et al., 2016, p.4). Altogether, the Fidesz-led government introduced 350 legislative bills, agitating the democratic institutional framework of the state due to a high number of legislative changes (Iusmen, 2015, p.603). Furthermore, these amendments were not only

introduced in fast pace, but they were also drafted, adopted and implemented by the majority coalition without consultation of the government opposition (Kelemen, 2017, p.221-222; Sitter, Batory & Kostka et al., 2016, p.3).

As mentioned previously, the adoption of new laws proceeded in different rounds. In 2011 these changes included the adoption of a new Media Law; establishment of a new Data Protection Authority; adoption of a new law setting a new law regarding the retirement age of judges; and adjustment of state's relation to the Hungarian Central Bank. This was followed by the implementation of a completely reformed constitution in the beginning of 2012. The new constitution gave Fidesz-party more political decision-making power regarding different state institutions (Iusmen, 2015, p.603).

According to Bertelsmann-stiftung, (2016), most of the political parties in Hungary are devoted to follow democratic practices and support democratic institutions (p.14). However, in 2014, Hungarian Prime Minister Viktor Orbán expressed his interest in following in the footsteps of the Russian leader, Vladimir Putin. In addition, Orbán implied how the approach of 'illiberal democracy' could be employed in Hungary in the future (Kelemen, 2017, p.222-223; Bertelsmann-stiftung, 2016, p.14).

The following parts of this case-study will offer an in-depth information on Hungary, by looking into those individual components of democracy that have been selected for the analysis of democratic backsliding.

5.2. Electoral Process Developments

As mentioned previously, after the collapse of the Soviet Union in 1989 and on the basis of round table discussions, Hungary had chosen to implement a hybrid type of an electoral system, consisting of a mix of single-member district system (SMDs), and a multi-member list proportional representation system (PR) (ESCE, 2012, p.2; Prohnițchi, 2016, p.9). However, the electoral law was changed in December 2011, including implementation of somewhat similar, Mixed Member Majoritarian (MMM) system. The new system has "simplified the system in several respects: it removed the regional tier and replaced the two-round system in the SMDs with a single-round system", besides other adjustments such as

numbers of deputies. Moreover, the system is viewed to obtain a more majoritarian approach in comparison to the previous one (ESCE, 2012, p.11).

The Hungarian government has amended both election law, together with the shape and size of electoral districts several times since 2010 (Norwegian Helsinki Committee, 2012, p.7-8). In April 2013, the Hungarian Parliament adopted a Law on Election Procedures, amending it in total three times before parliamentary elections, while the Law on Elections of Members of Parliament were changed four times during the period of 2011 and 2013 (Bertelsmann-stiftung, 2016, p.2). One of the most significant changes implemented to the election law was the reduction of the size of allocated parliamentary seats in 2014, reducing the number of Assembly seats from 386 to 199 (Norwegian Helsinki Committee, 2012, p.7-8; Bertelsmann-Stiftung, 2016, p.2; ESCE, 2012, p.11, *et al.*). Moreover, the change in the number of seats automatically “increased the share of seats allocated in single-member constituencies from 46% to 53%”. This changed the way in which some constituencies deviated, as “out of the 106 new constituencies, the size of five constituencies deviates by more than 15% from the national average, undermining the equality of the vote” (Bertelsmann-stiftung, 2016, p.2). To add, newly adjusted Law on Elections of Members of Parliament made it also more difficult for candidates to run for elections as their number of endorsement increased, while the time for securing them became more limited (Norwegian Helsinki Committee, 2012, p.7-8).

During the 2014 parliamentary elections, the ruling government was accused of adjusting the legislative framework in their favor. The government simplifying the election laws, which ensured rights to vote for those who were considered as ethnic Hungarians, although they were living abroad. Also, obtaining Hungarian citizenship was made easier by the government, as it erased eligibility requirements for permanent residency (Norwegian Helsinki Committee, 2012, p.8; Bertelsmann-Stiftung, 2016, p.7). To add, new voters were able to utilize postal vote system, while the voters outside of the state were only able to cast a vote in person at one of the diplomatic facilities (e.g. embassies). These aforementioned election conditions were perceived as beneficial for Fidesz party as it would be able to gain more votes. Therefore, questions were raised over possible electoral manipulation (Bertelsmann-stiftung, 2016, p.7). The speculation revolved around whether indeed this was one of the convenient legislative adjustments implemented by Fidesz to secure not only votes, but also to increase the regional tensions (Norwegian Helsinki Committee, 2012, p.8).

These aforementioned law amendments have been perceived as Fidesz' attempt to gain more executive power over various state institutions (ESCE, 2012, p.11). For example, the new electoral system is claimed to be disproportional, being more favorable towards the strongest party – also in those cases where the vote share falls below the distinguished majority level. Therefore, the disproportionality system automatically favors Fidesz, which can be seen of holding a hegemony type of a status, representing the strongest party and challenged with relatively weak and fragmented opposition (Győri, 2015, p. 21). To add, as adjusted electoral system eliminated the opportunity for the second round of voting, it automatically did put Fidesz and the Christian Democratic People's Party (KDNP) coalition in more favorable position comparing to the opposition. By eliminating the second round, the opposition actors lost their opportunities “[...] to agree on a common most popular candidate after the first round”. Furthermore, the new electoral legislation “[...] facilitated the registration of candidates and parties that contributed to splitting the opposition vote” (Bertelsmann-stiftung, 2016, p.2).

By the end of 2015, the coalition of Fidesz-KDNP was holding 133 out of 199 parliamentary seats despite receiving only 45% of votes in 2014 elections, which was 8% less than during 2010 elections. The opposition, consisting of the Hungarian Socialist Party (MSZP); Together 2014 (E2014); the Democratic Coalition party (DK); the green liberal Dialogue for Hungary party (PM); the Hungarian Liberal Party (MLP); and the Jobbik party (Bertelsmann-stiftung, 2016, p.15), all share a common dilemma. The dilemma is how to overcome the ever-changing legal environment, the hegemonic alike status of the ruling party Fidesz, and how to address those limitations that exist inside the party composition. Therefore, the new legislative framework has been argued of increasing those obstacles for new parties in their road of trying to achieve political influence in Hungary (Győri, 2015, p. 21).

When it comes to role of political parties, according to Agh (2015), legally speaking political parties in Hungary are well regulated, and viewed as sound “[...] monopolistic actors in the political life”. Yet, their role in social dimension is significantly weaker in comparison to the formal dimension; political parties are relatively weak in the Hungarian society due to their inability to obtain stable funding and to gain citizens support. This is indicated in low party membership numbers (Agh, 2015, p.15), as between 1999 and 2008 the number of party members had declined by 28.6% (Bertelsmann-stiftung, 2016, p.15). Also, the number of political parties has decreased during the past years, yet especially after Hungary joined the

EU in 2004. This is in direct connection with the parties' inability to fund their activities. As some of them are not able to collect sufficient financing via membership fees, therefore having to rely on financial assistance provided by the state (Agh, 2015, p.15).

When it comes to voter turnout in Parliamentary elections, the number of voters has decreased in Hungary from 2002 (70,52%), compared to 2014 elections (61,84%). Therefore, within 12-years-time, the shift has been -8.68% in total when compared 2002 and 2014 data on voter turnout, despite an increase in voting age population (see Table 8.).

TABLE 8 International Institute for Democracy and Electoral Assistance (International IDEA) statistics on voter turnout in Hungary; Parliamentary Elections between 2002-2014:

PARLIAMENTARY											
Year	Voter Turnout	Total Vote	Registration	VAP Turnout	Voting age population	Population	Invalid votes	Freedom house	Freedom house- Political Rights	Freedom house- Civil liberties	Compulsory voting
2014	61.8%	5,096,524	8,241,488	63.4%	8,043,818	9,919,128	0.9%	1.5	1	2	No
2010	64.4%	5,172,222	8,034,394	63.7%	8,123,081	9,992,339		1	1	1	No
2006	67.6%	5,457,553	8,076,781	68.8%	7,928,311	10,076,581	0.6%	1	1	1	No
2002	70.5%	5,667,551	8,037,265	71.6%	7,920,946	10,174,853	0.6%	1.5	1	2	No

Source: International Institute for Democracy and Electoral Assistance (International IDEA) (2017). Voter turnout in Hungary: Parliamentary Elections. Retrieved on (April 22, 2017) from website: <http://www.idea.int/data-tools/country-view/126/40>

5.3. Civil Society Developments

Hungary holds an average array of interest groups that are based on particular social interests. Business-related interests are addressed through the Hungarian Chamber of Commerce and Industry, the National Association of Entrepreneurs, and the Hungarian Agrarian Chamber, among many others. To add, “these associations and the major trade unions cooperate with the government in the framework of a Permanent Consultation Forum” (Bertelsmann-stiftung, 2016, p.15).

The legislative amendments implemented in March 2013 by the Hungarian government, included the aspect of banning hate speech. This amendment exclusively covers the hateful speech against racial, ethnic and religious groups, while also including a prohibition of hateful language towards Hungarian state. According to Bertelsmann-Stiftung report on Hungary (2016), “The Venice Commission of legal scholars at the Council of Europe voiced concerns that the unclear terms of the amendment would enable authorities to widely apply the prohibition ‘to curtail criticism of the Hungarian institutions and officeholders,’ thereby unduly limiting the freedom of speech”. In addition, the legislative changes in the constitution entailed also modifications in the Criminal and Civil Codes, which led to increasing prison sentences for defamation cases and those cases where actor criticizes public figures (Bertelsmann-stiftung, 2016, p.8-9).

When it comes to analyzing freedom of expression and citizens rights, the opportunities for the public to express themselves in Hungary are controlled and somewhat inferred by the government. The Hungarian government has also been accused of hindering the civil society participation in Hungarian politics (Bertelsmann-stiftung, 2016, p.8; Kelemen, 2017, p.222-223). This relates to the previously mentioned media regulation framework. Different media outlets are required to offer a ‘balanced coverage’ of various political views, and if they do not comply with the regulation, are threatened to receive a heavy fine. Yet, the rule consists of a vaguely defined criterion of ‘balanced coverage’, therefore leaving a lot of room for the Council to interpret whether rules of appropriate coverage have been breached (Bertelsmann-stiftung, 2016, p.8). The Fidesz-led parliamentary supermajority has not only intervened to the media market by implementing major adjustments to the existing media regulations, but it has been also accused of promoting its own interest during the 2014 parliamentary elections. Furthermore, the party “manipulated advertising and campaigning rules to benefit itself, leading international election monitors to conclude that the 2014 elections were held under conditions that gave ‘an undue advantage’ to Fidesz” (Kelemen, 2017, p.222-223).

In addition to the aforementioned challenges to the civil society freedoms, according to Kornai (2015), the Hungarian government has been accused of harassing the civil society in multiple different ways. For example, civil society organizations are often neglected in the decision-making processes, as indicated in the following example: “Hungary’s new constitution, called the Fundamental (or Basic) Law, was drafted by a small group within Fidesz without any wide public discussion” (p.35). In addition, the Hungarian government

drafted new policies without consulting relevant organizations (e.g. trade unions), although their input could have been perceived as valuable and helpful, in order to increase both transparency and accountability of the political actors. In connection to this, there has been evident lack of public and political debates on essential social and political issues, which can be viewed as one of the criterions of liberal democratic state (Kornai, 2015, p.37; Norwegian Helsinki Committee, 2012, p.12).

As indicated in the aforementioned examples, the Hungarian government often times decides to neglect those critical voices coming from opposition parties or interest groups (Kornai, 2015, p.37). Overall, the Fidesz-led government has been criticized for its lack of willingness regarding creating consensual democracy (Norwegian Helsinki Committee, 2012, p.12). One of the most well known examples of the Hungarian governments' dismissal of the needs of civil society, and limiting the power of the civil society, is the case between the Hungarian government and the Norwegian government (Kornai, 2015, p.37; Kelemen, 2017, p.222-223). The dispute between the two governments surfaced over specific Hungarian based NGO's auditing rights. The Hungarian government claimed of holding these rights, while Norwegian government accused the Hungarian government of constant harassment towards international NGOs, and argued that the rights to audit these organization should always be the responsibility and right of the donor country (Györi, 2015, p. 73).

According to Györi, (2015), in 2014 the Hungarian government was accused of intimidating multiple NGOs' and associations' personnel, by threatening their jobs and applying hostile methods in order to gain control. For example, local authorities would purposefully implement impossible data request deadlines when the NGOs were supposed to collect evidence for a legal case, as demonstrated by the Ökotárs Foundation-case. In this particular case, the organization had only three days to meet the data-collection deadline, authorized by the National Investigation Bureau (p.72). As a response to these intimidating rhetoric employed by the Hungarian government, "many major NGOs have repeatedly and emphatically protested against the government's actions, and several high profile organisations have left the government's human rights roundtable, which serves as a forum of consultation with the civil sphere" (p.73).

5.4. Freedom of Media Developments

Between 2010 and 2011 the Hungarian government, led by Fidesz-party, implemented a series of controversial media regulation laws, some of them concerning functions of the Media Council (Kelemen, 2017, p.222-223; Sedelmeier, 2014, p.115-116). Furthermore, one of the amendments included reforming the rules of the Media Council employee appointment process. To add, the prime minister of Hungary chooses the president of the Media Council, and the members of the Council are selected for the term of nine years. The only way to change the existing configuration of the Council is via decision made by the parliamentary supermajority (Iusmen, 2015, p.603).

The new Media Law, which was adopted in 2011, received a sound criticism from the other EU Member States and the Commission. One of the elements, which were criticized, was the aforementioned biased member selection of the newly established Media Council. After all, the Media Council was argued of employing only members who were known to support Fidesz-party (Sedelmeier, 2014, p.115-116). Because of these media regulation changes, the government has been accused of limiting the freedom of expression due to increased media control, but also based on the fact that “now the Media Council can approve broadcasting agreements and exclude courts from an oversight role in such agreements” (Iusmen, 2015, p.603). These changes have been perceived of impacting the media outlets’ self-censorship capabilities, and to challenge to journalistic freedoms. Moreover, due to legislative changes, journalists have reported of feeling increased pressure in their work, as the new regulation enables the use of financial penalties in case their reporting is not in line with the content requirements (Kelemen, 2017, p.222-223). The EU Commission has criticized the role of the Media Council over breaching the EU media directive (Sedelmeier, 2014, p.115-116).

Since the implementation of new media regulation laws in March 2013, only state-controlled media outlets (TV and radio stations) have had the right to broadcast political advertisements and election campaigns (Bertelsmann-stiftung, 2016, p.7; Iusmen, 2015, p.603-604). During the parliamentary elections in 2014, the Fidesz party utilized campaigns that resembled remarkably those created for governmental institutions. Due to the similarities of these campaigns, Fidesz was criticized for trying to mislead the audience. To add, during the 2014 parliamentary elections, the public media broadcasters were seen to favor the dominant ruling

parties by providing them more broadcasting time than smaller opposition parties (Bertelsmann-stiftung, 2016, p.7).

In 2014, the Hungarian government presented “[...] a strongly progressive taxation of advertisements in media that set a tax rate of 50% for media outlets with revenues exceeding HUF 20 billion (\$90 million)”. This tax plan was said to target independent TV channel - RTL Klub, as it was the only independent media outlet that would fall under the category of the suggested revenue limit. The European Commission responded to this progressive tax rate plan by prohibiting it in 2015, while initiating an investigation, which would evaluate whether Hungarian government had breached the rules of state aid along with discriminating against particular companies (Bertelsmann-stiftung, 2016, p.9). Yet, another tax preparation on media took place in October 2014, when Fidesz-led government indicated its plans to impose a tax on Internet use, “charging users HUF 150 (62 cents) per gigabyte of data”. However, this plan was strongly opposed by the public. The plan received a strong resistance as the tax would not only increase the financial pressure for citizens, but also it would limit their access to information, and therefore breach their civil freedoms. Due to a large opposition from the public, the tax was never implemented (Bertelsmann-stiftung, 2016, p.9).

According to Bertelsmann-stiftung (2016) report on Hungary, most of the media sources in the state are somewhat connected to the political parties. Furthermore, obvious political involvement in public radio and TV, as an example, has increased concerns over bias reporting. As a result, “the audience for public TV decreased significantly – the average audience of the evening prime time news fell from 800,000 (2007) to 350,000 (2015)” (Bertelsmann-stiftung, 2016, p.8-9). However, the media control of the Hungarian government is primarily based on manipulation of “the electronic media market through the politically motivated distribution of broadcasting licenses and frequencies”, and the main method of execution of the centralized media control is by the government managing the financial pressure. In addition, “[...] other instruments include excessively strict libel laws intended to insulate politicians from criticism” (Gyóri, 2015, p. 62).

5.5. National Democratic Governance Developments

Several legislative and constitutional amendments implemented by the Fidesz-led government, especially since it entered to power in 2010, have challenged the existence of

constitutional checks and balances in Hungary (Kelemen, 2017, p.222-223). According to Bertelsmann-stiftung (2016) report on Hungary, although the separation of powers is officially embedded in the Hungarian constitutional framework, it is relatively weak in practice. The Fidesz-KDNP coalition has been able to, by introducing changes in Cardinal laws, adjust the power of the two-third parliamentary majority and to adopt completely new constitutional framework - the Fundamental Law (p.10). The new constitution was implemented in January 2012, and was widely criticized by the opposition over “the speed at which it was introduced, as well as its contents”. To add, the amendments were adopted without consulting the government opposition (Norwegian Helsinki Committee, 2012, p.5).

On the basis of the Fundamental Law, the government has been able to take executive control over several autonomous democratic institutions in Hungary, such as the National Media Board and the National Election Commission, and the ombudsman for data protection, by hindering or even fully abolishing their monitoring powers regarding the government’s activities (Kelemen, 2017, p.222-223). The trend of centralization and “a pyramid-like hierarchy” are evident in contemporary Hungarian politics, as issues are decided more and more at the executive level (Kornai, 2015, p.36).

The national democratic governance has been challenged since the Fidesz-KDNP coalition came into power (in 2010), as the ruling parties have hindered not only the power of parliamentary opposition but also the role of parliament “as checks on executive authority”. For example, the ruling parties have in some cases denied the access of opposition members (e.g. opposition deputies) to government documents (Bertelsmann-stiftung, 2016, p.10). The power centralization has also perceived of taking place, especially in the Hungarian government’s administration. Furthermore, health care, as well as educational facilities and systems, are no longer controlled via local governance (local municipalities) in Hungary, but through the government that makes decisions, for example, over distributions of school budgets and curricular activities (Kornai, 2015, p.36).

5.6. Constitutional, Legislative and Judicial Framework Developments

Substantial amendments have been imposed to the Hungarian legislative framework, since 2010 when the Orbán led Fidesz party came into power. Furthermore, the Fidesz majority has been accused of orchestrating the complete constitutional reform on the basis of a set of

Cardinal Laws. The two-third-majority rule, embedded in Cardinal Laws, have enabled the parliament to adopt law provision that the Hungarian Constitutional Court have ruled earlier as threatening the Hungarian constitution. The rule has therefore disabled essential institutional check system and challenged the existence of the Constitutional Court's executive power (Bertelsmann-stiftung, 2016, p.10).

The state authorities' actions have significantly challenged the judiciary independence in Hungary during the recent years. For example, those constitutional reform implemented in March 2013, have limited the Constitutional Court's autonomous status by abolishing its constitutional reviewing powers (Iusmen, 2015, p.603; Bertelsmann-stiftung, 2016, p.11; Norwegian Helsinki Committee, 2012, p.7). Furthermore, the government has not only intervened to the Court's mandates and institutional activities but also curbed its efficiency and accountability significantly (Iusmen, 2015, p.603). The government has replaced the Constitutional Court's executive personnel, such as judges, by appointing new ones that are said to have close ties to the Hungarian government (Bertelsmann-stiftung, 2016, p.11; Iusmen, 2015, p.603-604; Norwegian Helsinki Committee, 2012, p.7). These aforementioned adjustments in the constitution and legislation overall, have been criticized over breaching those established liberal democratic rules, that are common in various European democracies (Bertelsmann-stiftung, 2016, p.10).

The ruling coalition has not only replaced personnel in the Constitutional Court but also utilized a similar type of an approach to other legal institutions as well. In 2012, the Fidesz-led government decided to introduce a new retirement age for executive-judiciary personnel, by reducing the retirement age from 72 to 60, leading to the early retirement of 274 prosecutors and judges as of January 2012 (Bertelsmann-stiftung, 2016, p.11; 12; Norwegian Helsinki Committee, 2012, p.7). This reform was criticized by the European Court of Justice, which then ruled this action being discrimination on certain judges on the basis of their age (Bertelsmann-stiftung, 2016, p.11; 12; Kornai, 2015, p.36). Moreover, the Hungarian government has changed various executives and political leaders of multiple watchdog, whistleblower or supervisory institutions in the past few years, including the Hungarian National Bank (MNB), the Public Prosecutor's Office, the State Audit Office and the Monetary Council, to name a few. These institutions' executive positions have been filled with supporters of the ruling government. For example, in 2013, the Hungarian government made the selection of a new ombudsperson (Bertelsmann-stiftung, 2016, p.10).

Since the implementation of the Fundamental Law in 2011, the government has replaced several organizational administrations across various judiciary bodies. The executive administration has been changed within the National Judicial Council (OBT), the National Office for the Judiciary (OBH) and Kúria, which is the successor institution of Hungarian Supreme Court. As an example, the executive powers of these institutions (resulting from new constitutional amendments implied in March 2013) have been adjusted by the ruling governmental coalition, by downgrading some of their powers while reinforcing others. However, these adjusted powers have been implemented by dismissing the necessary limitations to checks and balances (Bertelsmann-stiftung, 2016, p.11).

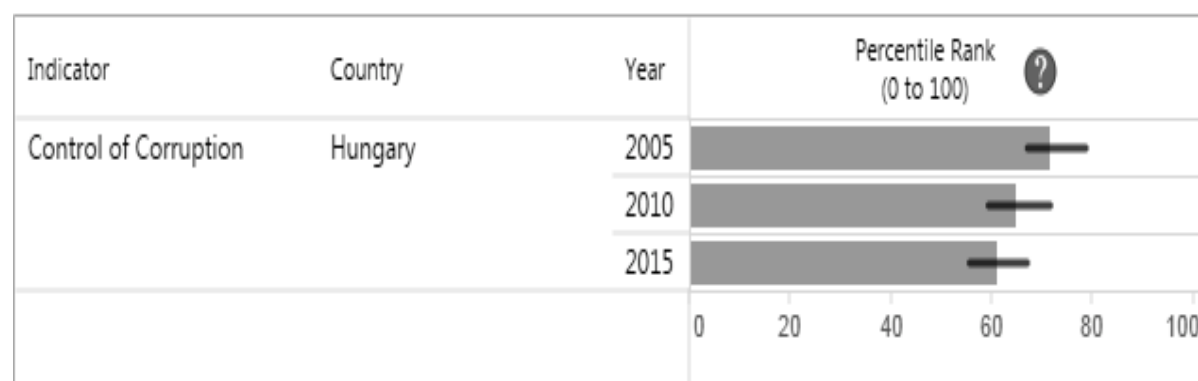
Overall, the Fidesz-led government have been accused of trying to gain control over the courts in Hungary, “[...] having dismissed the president of the Supreme Court before his mandate expired, created a new institution (the National Judicial Office) and endowed it with vast powers, and lowered the judicial retirement age from 70 to 62, forcing hundreds of judges out of the courts (a measure that was subsequently overturned by the European Court of Justice) (Kornai, 2015, p.36). The European Commission has also criticized the Hungarian legislative processes for lacking transparency and having short transition periods regarding their implementation. Legislative preparation for implementation has been often times ‘rushed’, sometimes neglecting the usage of impact (Bertelsmann-stiftung, 2016, p.14).

5.7. Corruption Developments

According to Freedom House country report (2016) ‘Nations in Transit’ concerning Hungary, the level of corruption cases in the state has increased incrementally since Hungary joined the EU in 2004. According to Freedom House Democracy Index scoring from 2016, “corruption rating declined from 3.75 to 4.00 [between 2015 and 2016] due to several scandals—including nontransparent procurement cases of high value—that show a quantitative rather than qualitative change in corruption” (Hegedüs, 2016, p.3). The corruption score of Hungary has overall steadily declined in Hungary when evaluating the data between 2007 (score 3.00) and 2016 (4.00). This shift is partly due to those radical legislative amendments adopted by the Hungarian government regarding the corruption structures since 2010 (Hegedüs, 2016, p.9). In addition, “following a radical change in corruption patterns after 2010, the year 2015 showed a quantitative rather than qualitative increase” (Hegedüs, 2016, p.9).

Several corruption scandals surfaced especially during the year of 2015. This was seen in “both nontransparent and politically biased behavior of public bodies, as well as an increase in corruption linked to Russia”. One of the examples of this is the so-called “brokerage scandal”, in which the Hungarian Ministry of Foreign Affairs and Trade, together with state-owned businesses, decided to invest public funds to a privately owned investment company. The company was also claimed to have connections in the Hungarian government. Very shortly after the case surfaced to the public, the investment decided to file for bankruptcy (Hegedüs, 2016, p.9).

Table 9: World Governance Indicators (WGI): Control of corruption in Hungary between 2004 and 2015:



"The Worldwide Governance Indicators are available at: www.govindicators.org

Note: The Worldwide Governance Indicators (WGI) are a research dataset summarizing the views on the quality of governance provided by a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. These data are gathered from a number of survey institutes, think tanks, non-governmental organizations, international organizations, and private sector firms. The WGI do not reflect the official views of the World Bank, its Executive Directors, or the countries they represent. The WGI are not used by the World Bank Group to allocate resources"

Source: Worldwide Governance Indicators (WGI) (2017). Control of Corruption in Hungary 2005-2015. Retrieved on (April 27, 2017) from website: <http://info.worldbank.org/governance/wgi/index.aspx#reports>

According to the Worldwide Governance Indicators (WGI) report, the control of corruption related activities has declined significantly since 2005 (see Table 9.). According to the data considering control of corruption, the number has decreased from 72% in 2005 to 65% in 2010, all the way to 61% in 2015 (Worldwide Governance Indicators, 2017).

Those political officials, who are caught to engage in corruptive activities, are often times “prosecuted under established laws, but occasionally slip through political, legal or procedural loopholes”. Several cases have indicated the use of such loopholes of the system: “In 2013, parliament amended the Law on the Operation and Financial Management of

Political Parties to restrict the scope of donations parties are allowed to accept. Yet the law does not define maximum limits for private donations to political parties and does not regulate campaigning by party-affiliated CSOs”. The governing party Fidesz utilized this loophole in order to set up an advertising campaign, which was organized by one of the NGO’s called Civil Unity Forum. The purpose of the campaign was to shame the competitor, the executives of the Socialist Party (Bertelsmann-stiftung, 2016, p.12). In addition, “a 2014 report by the Group of States Against Corruption (GRECO) at the Council of Europe noted that the [Hungarian] government had not implemented six of its 15 recommendations from the previous evaluation round”. Moreover, the state did not follow through with “a transparent accounting of political parties, and had failed to ensure independent auditing and efficient monitoring of party accounts” (Bertelsmann-stiftung, 2016, p.12).

5.8. Regional Analysis of Hungary

As the empirical data on Hungary indicates, after the EU accession in 2004, there have been two time-periods when the Hungarian political environment has changed the most: since the parliamentary elections in 2006 and 2010. Since the parliamentary elections in 2006, the ruling party took the lead of decision-making, as the opposition was viewed as weak and fragmented. The centralization of the power in the hands of the ruling party has been argued to challenge the democratic stability in Hungary. In addition, the two parliamentary elections held in 2006 and 2010 did not only shift the direction of Hungarian politics towards more national interests, but also during both elections, revealing of the electoral results led to violent demonstrations. These events have been argued to increase the gap between different actors and social groups in Hungary (see Agh, 2013, p.38; Greskovits 2015; Kelemen, 2017 et al.).

The super-majority win of Fidesz during the 2010 parliamentary elections, started a chain of legislative and constitutional changes in Hungary. Moreover, shortly after the win, the Fidesz-led coalition implemented a new set of Cardinal Laws, which provided a legal footing to the coalition to move forward with a series of legislative changes that would eventually lead to a total reformation of the Hungarian Constitution in January 2012. As the empirical data indicates, these legislative and constitutional amendments were introduced, first, in high speed, second, without the reviewing of the Constitutional Court, and third, without consultation of the political opposition or civil society entities, such as trade unions (see

Kelemen, 2017, p.221-222; Sitter, Batory & Kostka et al., 2016, p.3). To add, since 2011, the government has adopted a new Media Law, Data Protection Authority, changed the retirement age of judiciary institutions personnel, including judges and overall, adjusted government's relation to the Central Bank. Due to these multilateral legislative and constitutional changes implemented by the ruling government, the government has ensured that the new legal framework has justified its power centralization activities. For example, these legal amendments have enabled it to gain further decision-making power over previously independent democratic state institutions. As the empirical evidence indicates, these reforms have not only challenged the accountability and transparency of government's actions but also raised questions over those motives behind these changes. In addition, Prime Minister Orbán has expressed his supportive views on illiberal democracy, a governing approach that Vladimir Putin's has been exercising in Russia. Based on these aforementioned elements, the politics in Hungary can be viewed to shift from democracy towards illiberal, authoritarian approach.

Also, the changes made to the electoral laws have received sound criticism from the opposition, the public and the EU. In April 2013, the Hungarian Parliament adopted a Law on Election Procedures and Law on Elections of Members of Parliament, which were changed four times during the period of 2011 and 2013 (see Bertelsmann-stiftung, 2016, p.2). The newly adopted electoral system replicates the old one, yet is a simplified version of the previous one, removing the two-round system and changing it to a single-round one. The new system lacks of the previous regional level, and through adjustment of number of deputies, represents more majoritarian approach comparing to the previous system (ESCE, 2012, p.11). These adjustments made to the electoral procedures and elections of members of parliament, have made it more difficult for candidates to run for elections as their number of endorsements have been increased, while the time in order to secure these endorsements have become more limited (Norwegian Helsinki Committee, 2012, p.7-8). The new laws have received large criticism as it was seen that the Fidesz party tried to gain more executive power (ESCE, 2012, p.11), especially as some of the amendments were adopted just before some of the elections took place. Moreover, the new electoral system can be perceived as disproportional as it is favorable towards the strongest party, also in those cases where the vote share falls below the distinguished majority level (Győri, 2015, p. 21). This disproportional of the electoral system therefore automatically favors the strongest party as the fragmented opposition has not been able to challenge Fidesz' majority.

In addition, in 2014 the Hungarian government was accused of adjusting the legislative framework by simplifying the election laws and adjusting the electoral rules so that more people would be able to vote (e.g. those considered as ethnic Hungarians, yet who were living abroad and easier process to gain Hungarian citizenship) (Norwegian Helsinki Committee, 2012, p.8; Bertelsmann-Stiftung, 2016, p.7). Although party competition exists and is embedded in the Hungarian constitution, the recent years' adjustments to the electoral law have strengthened the power of the majority, increasing its power in comparison to the earlier electoral law. To add, Hungarian political parties are well regulated yet unable to engage civil society, which can be seen in the small numbers of party members. Therefore the social role of political parties is seen as weaker than the formal role (Agh, 2015, p.15).

When it comes to Hungarian civil society, it is not well supported by the government. Since the 2010 elections especially, there has been a negative trend of Hungarian government initiated activities that can be perceived as limiting the freedoms of civil society. The government has introduced new legislation regarding hate speech and also has started to regulate the citizens' ability to express their opinions due to limiting the criticism towards public figures. Changes implemented in the Civil and Criminal Codes have led to increasing the length of prison sentences in those cases connected to those where criticism towards public figures have been exercised. It can be therefore argued that public is not able to express them freely as critical opinions are shut down and that the new legislation does not support the participation of civil society but in contrary hinders it (Bertelsmann-stiftung, 2016, p.8; Kelemen, 2017, p.222-223). To add, citizens' access to information is also limited due to the new media regulations that only permit public media outlets to broadcast political campaigns. This new media legislation have been said to provide Fidesz with a favorable position when it comes to parliamentary elections 2014, which it won as it was able to promote its political campaigns via a variety of sources.

The Fidesz-led government has been accused of neglecting the civil society involvement, as well as those opinions expressed by the opposition, when amending existing laws and introduces new ones. Moreover, opinions of trade unions and other actors are neglected, as the super-majority of the government has placed itself in a position where it can exist as hegemony. In addition, no public debates or discussions are facilitated or encouraged regarding socially or politically important matters by the government, although it is seen as

an important factor in modern democratic society. Also, the Hungarian government has been accused for trying to influence and intervene in NGOs' activities. Especially in 2014, there were several scandals connected to the Hungarian parliament trying to control various NGOs activities, for example by claiming the role of an auditor over NGOs' activities. These claims have led to increasing tension between the Hungarian government and its foreign counterparts, as seen in well-mediatised example being the Norwegian Civic Fund. Moreover, NGOs have accused the government of using multiple intimidating techniques towards organization's personnel. Many NGOs (both international and local) have expressed their increased concerns over the hostile political environment in which they function.

One of the major concerns for the state of democracy in Hungary relates to the status of media freedom. As empirical evidence indicates, the media freedom in Hungary has been drastically challenged during the most recent years, due to numerous media regulations adopted between 2010 and 2013. Some of these concerned the role of Media Council while others focusing on rules regarding appointment processes (see Kelemen, 2017, p.222-223; Sedelmeier, 2014, p.115-116 *et al.*). These legislative changes have been said to be politically motivated, as the new regulations have shifted the configuration regarding decision-making about the executive personnel of the Council as an example to the hands of Fidesz. The original personnel have been replaced by new employees, which are said to have ties to the ruling party Fidesz (see Sedelmeier, 2014, p.115-116 *et al.*).

The reviewing power concerning broadcasting agreements has been shifted from exclude courts and delegated to the Media Council. In addition, new self-censorship restrictions have been implied, limiting chances for objective reporting, freedom of media and ones ability for expression. These changes have been seen from the International and the EU institutional perspective as hindering the media pluralism as well as indeed those freedoms related to competition and self-expression. They have been argued of breaching the common norms and rules of the EU democracy and in this case, the EU's media Directive. Imposing limitations on which media sources are able to broadcast political campaigns and advertisement restricts competition and also limits the citizens access to objective media reporting due to politically biased behavior. An example of this can be traced back from Fidesz political campaigns during the 2014 elections, when the party's campaign material misleadingly resembled those utilized by the Hungarian state institutions. This campaign was accused of misleading the viewer to associate Fidesz with the state institutions. In addition, biased reporting is

especially evident in Radio and TV medias. Also the ruling government in 2014 brought forward two different tax plans, both which were linked to media. One concerned media advertisement tax, while the other plan consisted of imposing taxes on citizens over the use of Internet. The former one was criticized for its biased nature towards TV channel RTL, as it was the only media company, which would fall under the new tax law. In both cases, the European Commission and the Hungarian public condemned these plans, which led to withdrawal of both of them in 2015. Moreover, these plans were accused of breaching citizens' freedoms, as if implemented, they would limit the citizens' access to free and objective information.

As the empirical evidence of Hungary indicates, the national democratic governance status in Hungary has declined due to the adoption of various constitutional and legislative laws since 2010. Separation of power is embedded in the Hungarian Constitution, yet it is weak in practice as there have been as a shift from autonomous state institutions towards centralized pyramid type of a governing model. To add, adoption of several Cardinal Laws enable the two-third majority of the Hungarian government to adopt various reforms and eventually gave it a freedom to adopt a new constitutional framework, namely, the Fundamental Law. The fast-speed implementation of legislative reforms has received sound criticism from international and local actors, especially from the EU bodies and the opposition parties (see Kelemen, 2017, p.222-223, *et al.*, Norwegian Helsinki Committee, 2012, p.5). Based on the aforementioned legislative and constitutional amendments, the Hungarian super-majority coalition has endangered the effectiveness of checks and balances as it has increased its executive power regarding previously perceived independent institutions such as the National Election Commission. Overall, the executive power has been centralized to the ruling coalition and away from the local governance.

The stability of constitutional, legislative and judicial framework is also challenged in Hungary due to the aforementioned reasoning with the adopted legislative reforms introduced by the government. The threat to the Hungarian Constitution is imposed by numerous amendments adopted by the government, due to the two-third super majority. Law provisions have enabled changes to the Hungarian Constitutional Court, which have held a good reputation internationally. Those new regulations concerning the Court's activities have challenged the stability of essential institutional checks-system together with removing its executive power, since the amendment of the constitution in March 2013 (see Iusmen, 2015,

p.603; Bertelsmann-stiftung, 2016, p.11; Norwegian Helsinki Committee, 2012, p.7). The ruling government has intervened those activities of the Hungarian Constitutional Court by influencing its mandate and institutional activities, and by replacing its judges and other legislative personnel for those who are known to support Fidesz. Due to these changes, the Court has lost its original mandate as holding the reviewing power over constitutional amendments, which are solely orchestrated by the government (and majority coalition to be exact). Consultation power of the Court therefore no longer exists regarding the Hungarian Constitution (see Bertelsmann-stiftung, 2016, p.11; Iusmen, 2015, p.603-604; Norwegian Helsinki Committee, 2012, p.7 et al.).

In 2012, the retirement age regulations of judiciary bodies were changed, leading to early retirement of the judiciary personnel such as judges and prosecutors in the Court, and once again, the government motivation regarding the change was questioned – the government was accused over bias selection of appointees and the replacement have been seen yet another attempt of the government to obtain control over independent institutions. Once again, criticism surfaced on the issues, especially from the European Court of Justice, condemning the implementation of the new retirement age. Another indicator of the crisis regarding the situation of the Hungarian Constitution is that these reforms have made the freedom of assembly and organization of referendums more challenging – these amendments have been challenging the checking power considering the executive state actors. Furthermore, not only judiciary institutional powers have been shifted by the government but also organizational administrations' overall when it comes to state institutions, such as the National Judicial Council (OBT), the National Office for the Judiciary (OBH) and Kúria and their institutional powers have been amended by increasing some while limiting others (result of new constitutional amendments from 2013). All in all, these aforementioned amendments to the constitution and legislation have enabled the government to gain more executive decision-making power of different courts in Hungary and questions behind the reasoning of these fast-paced changes have been brought to light (see Kornai, 2015, p.36; Bertelsmann-stiftung, 2016, p.14 et al.).

The level of corruption, on the other hand, can be perceived to play an important role when it comes to democratic backsliding in Hungary due to the increasing numbers of corruption cases related to individual politicians and state officials. The level of corruption related activities is high and implemented measures from the state side to prevent or tackle these

cases are relatively weak. Several scandals and procurement cases have been brought forwards during 2015 and 2016. According to Hegedüs, writer of ‘Nations in Transit’ –report on Hungary (2016), the trend regarding corruption seems to be more quantitative in nature. In addition, based on the statistic information provided by the Worldwide Governance Indicators (WGI) (see Table 9.), analysis the control of corruption has declined significantly between 2005 and 2015 (Worldwide Governance Indicators, 2017), therefore supporting the argument of lack of Hungarian government efficiency of revealing, preventing or addressing corruption cases. Moreover, political officials accused of corruption “[...] occasionally slip through political, legal or procedural loopholes” (Bertelsmann-stiftung, 2016, p.12).

5.9. Democratic Backsliding in Hungary

The regional analysis of Hungary indicates that the democratic backsliding has occurred due to multi-level process, and that democratic loss has been experienced in many areas of the political sphere, throughout the institutional and structural spectrum. The democratic backsliding, based on those multifaceted legislative changes, could be perceived as party driven, on the basis of Fidesz-led coalition activities, when contrasting the empirical process to Serra’s (2012) typology. In addition, the Hungarian backsliding can be categorized to have followed the ‘executive aggrandizement’, based on Bermeo’s (2016) theory, as the democratic rollback in Hungary has occurred through political executives reducing checks on executive power one by one, and by implementing multiple institutional changes, while weakening the opposition power.

As the empirical evidence indicates, the political power in Hungary has undergone some significant centralization, especially after 2010 parliamentary elections that led to win of Fidesz-party. Several legislative and constitutional changes, pushed forward by the majority-coalition, have led to legislative instability, decreased the autonomous status of several judiciary institutions and threatened the independence of media and raised questions over the status of electoral processes and civil rights and freedoms. As Grekovits (2015), Serra (2012) and Bermeo (2016), *et al.* theories on democratic backsliding argues, the de-democratization usually indeed reflects the weakening of democratic institutions and practices, and entails state’s inability to provide effective checks and balances and the rule of law. All of the aforementioned aspects are visible in the Hungarian case of democratic backsliding. Furthermore, based on the aforementioned regional analysis build upon empirical evidence,

out of six components employed in this analysis of democratic backsliding – electoral process, civil society participation, freedom of media, national democratic governance, constitutional legislative and judicial framework and corruption – all six of them can be perceived as contributing to the democratic backsliding in Hungary.

TABLE 10 Freedom House (2016), 'Nations in Transit Ratings and Average Scores' Hungary 2007 - 2016
Nations in Transit Ratings and Averaged Scores

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
National Democratic Governance	2.25	2.25	2.50	2.50	3.00	3.50	3.50	3.75	3.75	4.00
Electoral Process	1.75	1.75	1.75	1.75	1.75	2.25	2.25	2.25	2.75	2.75
Civil Society	1.50	1.50	1.75	1.75	2.00	2.00	2.25	2.25	2.50	2.50
Independent Media	2.50	2.50	2.50	2.75	3.25	3.50	3.50	3.50	3.75	3.75
Local Democratic Governance	2.25	2.25	2.50	2.50	2.50	2.50	2.75	2.75	3.00	3.00
Judicial Framework and Independence	1.75	1.75	1.75	2.00	2.25	2.75	2.50	2.50	2.75	3.00
Corruption	3.00	3.00	3.25	3.50	3.50	3.50	3.50	3.75	3.75	4.00
Democracy Score	2.14	2.14	2.29	2.39	2.61	2.86	2.89	2.96	3.18	3.29

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. If consensus cannot be reached, Freedom House is responsible for the final ratings. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year. The opinions expressed in this report are those of the author(s).

Source: Hegedüs, D. (2016). *Freedom House Country Report. Countries in Transition: Hungary*. Retrieved on (March 27, 2017) from website: https://freedomhouse.org/sites/default/files/NIT2016_Hungary_0.pdf

The overall score of Freedom House's report from 2016, 'Nations in Transit' ratings (see Table 10.), showcases a change in Hungary's democracy status. The overall democracy score of Hungary in 2004 was 1.96, while in 2016 the score was 3.29, indicating a score change of +1.33 between 2004 and 2016 (score 1 being the best and 7 the worst) (see Freedom House, 2017; Hegedüs, 2016). Between 2015 and 2016 the score has changed with +0.11, indicating the loss in the overall democratic status in Hungary. Furthermore, the state's status has shifted from consolidated democracy to semi-consolidated democracy from 2014 onwards. This observation is based on Freedom House's Democracy-scoring methodology: consolidated democracies are the ones holding score from 1.00 to 2.99, while semi-consolidated democracies score from 3.00 - 3.99. According to Schenkkan (2016) Nations in Transit report, semi-consolidated democracies often face challenges in ensuring both civil liberties as well as defending of political rights.

Freedom of media

Freedom of media has declined significantly in Hungary since the Fidesz party won the super-majority during the parliamentary elections in 2010. As seen in Table 10., since 2010 the score for media independence has declined incrementally from 2.75 (2010) to 3.75 score (2016), reflecting a significant +1.00 point shift (negative trend) in the media freedom. Especially in 2015 and 2016, the media independence has been all time low since 2007 – with the score of 3.75. The score change can be explained by the legislative amendments implemented to the media law by the Fidesz-led government. The adjusted media laws and new regulations have been criticized for being politicized, and accused of including exclusive rhetoric towards the public media (e.g. only publicly coordinated media outlets are able to broadcast political campaigns and so on). The legislative adjustments have therefore hindered the press freedom, publics' access to multiple media sources and the state of objective journalism. To add, increasing centralization of power to the government over various media activities and organizations undermine the democratic rule of media competition.

National democratic governance

The status of Hungary has declined as the recent constitutional and legislative changes have not only undermined the rule of law and hindered the effectiveness of checks and balances in the state. In addition, the Fidesz-led government has been accused over decline the self-governance and autonomy of civil society interest groups, yet especially NGOs activities (e.g. Ökotárs Foundation scandal), as well as trying to gain more power over the media in Hungary as well as control more the judiciary and legislative administration and decision-making of independent legal institutions in Hungary. The democracy score data provided by Freedom House (see Table 10.), shows how the national democratic governance score of Hungary has decreased significantly over the years, since the country's accession to the EU in 2004. Moreover, from 2007 (score 2.25) to 2016 (score 4.00) the overall score of democratic governance has shifted +1.75 points, indicating a significant loss in quality in regards to democratic governance.

Constitutional, legislative and judicial framework

Constitutional, legislative and judicial framework situation in Hungary has worsened when compared year 2010 (score 2.00) and 2016 (score 3.00), as the score change of +1.00 point indicates (see Table 10.). The reasoning for this can be found from the constitutional and legislative amendments made especially on the Constitutional Court functioning – the

reviewing power changes, and the replacement of judges and other judicial officials have increased the ruling governments power over the functions of the judiciaries. To add, the ruling government has changed the retirement age regulations regarding of e.g. judges and replaced hundreds of previous personnel with new appointees. Due to the aforementioned legislative changes, the Fidesz-led government have not only gained more decision-making power of court procedures and administration, but it has also hindered the effectiveness of checks and balances, and the rule of law in Hungary.

Electoral Process

The quality of electoral process has declined in Hungary significantly between 2014 (score 2.25) and 2015 (2.75), as indicated in the Freedom House Democracy Index scoring in Table 10. Moreover, the score has declined with +0.50 points, reflecting significant loss in quality of electoral process in Hungary between 2014 and 2015/2016. The total score, from 2007 (1.75 score) to 2016 (2.75), results in +1.00 point shift, therefore indicating a significant loss of quality in electoral process. The negative trend can be traced back to several election law changes introduced by the Fidesz-led government since 2010. These legislative changes imposed on the election law have increased the party fractionalization in the government by increasing power of only some of the parties, while aggregating instability within the Hungarian politics (see Bertelsmann-stiftung, 2016, p.2).

Civil society participation

Civil society participation in Hungary has clearly worsened from 2007 to 2016, as the Freedom House those scores for civil society participation in Hungary indicates (see Table 10.). After all, the score between 2007 (score 1.50) and 2016 (2.50), indicates total score shift of +1.00 points, reflecting a negative trend / loss in quality when it comes to civil society participation. This negative trend can be seen associated with the Hungarian government's hostile actions towards some of the civil society organizations. In addition to this, although various civil society organizations and interest groups exist in Hungary, the analysis from 2004 to 2016 indicates that these groups' voices have not been taken into account when it comes to decision-making processes. Therefore, the Hungarian government has been perceived of neglecting opinions of the citizens. To add, civil freedoms and liberties have been restricted throughout the most recent years, including constraining, through regulatory framework, citizens' freedom of expression.

Corruption

Based on Freedom House's scoring on corruption from Nations in Transit report 2016 (see Table 10.), "corruption rating declined from 3.75 to 4.00 [between 2015 and 2016] due to several scandals—including nontransparent procurement cases of high value—that show a quantitative rather than qualitative change in corruption" (Hegedüs, 2016, p.3). When evaluating data from Freedom House, the score indicating the level of corruption has overall steadily declined in Hungary when evaluating the data between 2007 (score 3.00) and 2016 (score 4.00), indicating +1.00 score change (negative trend). This change reflects increased level of corruption-related cases and the lack of proper anti-corruption measures and initiatives from the government.

The statistics on control of corruption of the Worldwide Governance Indicators (WGI) (see Table 9.) indicates a similar trend, as the data of Hungary shows a significant decline in the government's corruption control efforts between 2005 and 2015. The control of corruption has declined from 2005 (72%) to 2015 (61%) (see Worldwide Governance Indicators, 2017). This negative trend can be explained by those radical legislative amendments adopted by the Hungarian government regarding the anti-corruption structures since 2010. The lack of the governments efforts in addressing corruption, and several scandals revolving around Hungarian political actors and institutions especially between 2015 and 2016, have influenced negatively to the corruption scoring (see Hegedüs, 2016, p.9 *et al.*). To add, Hungary has not applied with "a transparent accounting of political parties and had failed to ensure independent auditing and efficient monitoring of party accounts" (Bertelsmann-stiftung, 2016, p.12).

Chapter 6: Comparative Analysis of Country Cases

Through triangulation of both quantitative and qualitative empirical data, an association can be prevailed between increasing anti-liberal and/or national movements as experienced in Poland and in Hungary, and the declining democratic state. Furthermore, the empirical evidence of this argument can be found from both of the case studies. For example, the most drastic legislative and political changes, including complete constitutional reforms, has followed from the win of radical political parties of Fidesz in Hungary in 2010, and nationalist and conservative Law and Justice party PiS in Poland in 2015 parliamentary elections. The illiberal governance rhetoric of top political leaders has also raised concerns over the future of democracy in Poland and Hungary, and at times required the intervention of the EU.

As the overall democracy scores of Poland and Hungary indicate, based on Freedom House's 'Nations in Transit' ratings, Poland has been able to sustain its status as consolidated democracy from 2007 to 2016, while Hungary's status has shifted from consolidated democracy to semi-consolidated democracy since 2014 due to the state's inability to ensure political and civil rights and liberties (see methodology section of Schenkan, 2016, p.20). As the aforementioned regional analyses of both country cases reveal, several elements have challenged both countries democratic practices. As the in-depth analysis of each country case indicated, the process of democratic backsliding has not occurred based on one component only, but instead the de-democratization has appeared based on multiple, often times intertwined or overlapping components.

To what extent is 'democratic backsliding' — the so-called reversion toward authoritarianism based on non-democratic values and lack of respect for the rule of law and basic fundamental freedoms — in Poland and Hungary observable, and what components could explain this backsliding in these two countries?

Out of the two country cases, Hungary can be perceived as showcasing the more drastic example of democratic backsliding as all of the six components, that have been analyzed within this study, seem to indicate loss in quality of democracy in Hungary. The overall democracy score of Hungary (when analyzed through Freedom House Democracy Index measuring, see Table 10.) from 2004 was 1.96 points, while in 2016 the score was 3.29

points, indicating a shift of +1.33 within twelve-years of time, therefore reflecting a strong indication of democratic backsliding (see Freedom House, 2017; Hegedüs, 2016). The case of Poland, however, reflects more moderate version of democratic backsliding. Moreover, the democratic backsliding in Poland is not as easily observable as in Hungary, due to the fact that during some years Poland has experienced slight gain in quality when it comes to some of the democratic components (e.g. the electoral processes), while experiencing rapid losses in others (e.g. independence of media). However, the declining democratic situation is revealed through empirical data. For example, Freedom House's overall democracy score for Poland indicates a democratic decline from 2004 (score 1.75) to 2016 (score 2.32), reflecting an overall loss in the quality of democracy in Poland with +0.57 score point change within twelve-years time (see Freedom House, 2017; Arak & Żakowiecki, 2016).

Similar trend of democratic backsliding within the two countries is also demonstrated in the EIU's Democracy Index, measuring the level of democracy between 2006-2016, as seen in Table 1. In Hungary, the level as well as quality of state democracy has declined as illustrated in the democracy scores between 2006 and 2016. Moreover, the democracy score steadily declined from 2006 (score 7.53) to 2016 (score 6.72), indicating a shift with -0.81 points (negative trend). However, in Poland, the quality of democracy has increased in some years (e.g. from 2013 to 2014), yet decreased during other years (from 2014 to 2016), indicating similar pattern of democracy process as shown in Freedom House's data explained above. In total, the EIU Democracy Index score of Poland has declined from 2006 (score 7.30) to 2016 (score 6.83) with -0.47 points, indicating an overall loss in quality of state democracy in Poland.

The results of the in-depth country analyses indicate that both regions share three (3) out of six (6) components contributing to democratic backsliding (see Table 11.). These components are *freedom of media; national democratic governance; and constitutional, legislative and judiciary framework*. Furthermore, based on the empirical data, both countries political environments have undergone a set of significant legislative and constitutional reforms, which have led to centralization of the government's power in Poland and Hungary. On contrary, these aforementioned legislative changes, have not only hindered the autonomy of various democratic institutions (ranging from judiciaries to media organizations), but also neglected the opposition and civil society groups from the legislative consultation processes. Therefore, these radical legislative amendments, which were initiated by the PiS in Poland

since 2015 and Fidesz in Hungary since 2010, indicate both lack of transparency and lack of political leaders accountability to the public, which according to Dahl's (1971; 1998) polyarchy theory, are essential institutional guarantees for the sustainability of democratic state.

1. How do Poland and Hungary compare in democratic backsliding with other countries?

As the EIU Democracy Index (2016) indicates, a clear trend of democratic backsliding is observable in Europe, yet especially in the former communist countries. All in all, the CEECs have experienced “a deep disappointment with democracy” when it comes to the most recent years (The Economist Intelligence Unit, 2016, p.5; see also Table 1). To add, both Hungary and Poland represent the most severe cases when it comes to states experiencing democratic backsliding in Europe (Kelemen & Blauburger, 2017, p.317). Moreover, “In the top tier of East European countries, Hungary's and Poland's poor performance [referring to democracy] in recent years has attracted significant attention” (The Economist Intelligence Unit, 2016, p.38).

2. Is there a loss in quality in electoral process in Poland and Hungary in the period 2004-2016?

Based on the empirical data collected and analyzed of both country cases, no significant loss was found in the quality in the electoral process in Poland, while a significant loss in quality of electoral process was found in Hungary in the period 2004-2016.

The Polish government, on the basis of the Polish Constitution and election laws, have ensured that free, fair and contested elections take place in Poland, and that no restrictions are implemented on the electoral processes, parties or candidates participating in the elections. The proportionality system ensures that also smaller size parties are provided with the opportunity to compensate for their representation. To add, party pluralism and competition exists in Poland, and full suffrages are secured for the adults, as they are automatically registered to vote and hold the access to different information. Also, during the 2014 parliamentary elections, Poland implemented for the first time an opportunity to vote via postal system. When analyzing the electoral processes within the analytical time frame, no

moderate or significant fraudulent activities can be traced between 2004 and 2016 regarding the voting processes. Although certain challenges have been encountered when it comes to counting the votes, these challenges have been caused by technical error in the counting system instead of purposeful fraudulent activities.

There have been some reported attempts of Polish politicians trying to exploit the referendum system in order to promote their own individual preferences, especially in 2015. However, these attempts have been blocked by the opposition (see Arak & Żakowiecki, 2016, p.6). Another challenge of the electoral process in Poland, like in many other CEECs, relates to a low voter turnout. In Poland, the voter turnout has somewhat stagnated throughout the parliamentary elections organized within the time frame from 2004 to 2016 (see Table 3.). On the basis of the Polish Election Code, all electoral candidates are permitted to have an equal access to free broadcasting to promote their candidacy. Yet, this rule is said to at times fail in practice, as favoritism exist amongst some of the media outlets when it comes to electoral candidates (see Matthes, Markowski & Bönker, 2016, p.12-13).

By official notion, the Hungarian electoral system is also based on free, fair and contested elections, and viewed as supporting competition and party pluralism. To add, these aspects regulated in election laws and the Hungarian constitution. However, a clear loss in quality can be observed between 2004 and 2016, when it comes to democratic electoral process in Hungary due to several election law changes introduced by the Fidesz-led government since 2010. These legislative changes imposed on the election law have increased the party fractionalization in the government by increasing power of only some of the parties, while aggregating instability within the Hungarian politics. In Spring 2013, the Hungarian Parliament adopted a Law on Election Procedures, yet amending it three times before the 2014 parliamentary elections, while the Law on Elections of Members of Parliament was adjusted four times between 2011 and 2013. These law changes did not only lead to changes regarding the shape and size of the electoral districts, but also “increased the share of seats allocated in single-member constituencies from 46% to 53%”, therefore altering the way in which some constituencies deviated, and challenged the vote equality in noticeable way (Bertelsmann-stiftung, 2016, p.2).

In addition, amendments on the Law on Elections of Members of Parliament have made it more challenging for electoral candidates to run for parliament as their number of

endorsement increased, while the time for securing them became more limited (Norwegian Helsinki Committee, 2012, p.7-8). Although political parties are well regulated in Hungary, they lack of citizens support, which is manifested in low numbers of party membership and private funding (Agh, 2015, p.15). Also, the number of political parties has decreased during the past years, yet especially after Hungary joined the EU in 2004, which reflects their inability to fund their activities as some parties rely heavily on the state funding (Agh, 2015, p.15). Similarly to Poland, also Hungarian parliamentary elections have experienced loss in voter turnout, as voter turnout for parliamentary elections has gradually descended during each election (see Table 8.).

3. Is there a loss in quality in civil society participation in Poland and Hungary in the period 2004-2016?

Based on the empirical data collected and analyzed of both country cases, no loss in quality in civil society participation is indicated in Poland, however a loss is observable in Hungary regarding civil society participation in the period 2004-2016.

In Poland no loss exist in quality in civil society participation, as the state holds a large number of interest groups, NGOs and other associations, and as they are provided with the legally based freedom to functions in Poland without states inference. Moreover, NGOs, as an example, hold an important role as watchdog organizations (see Bertelsmann-stiftung, 2016, p.10). Furthermore, civil rights and activities are formally ensured in Poland as they are based on the Polish Constitution. These rights include that the citizens are able to access information, including the information covering the state related issues (e.g. the Law on Access to Public Information). Yet, amendments made by the government to the Law on Public Assembly in 2012 received criticism, as the changes imposed resulted in stricter regulatory framework of large or spontaneous public gatherings. Also, proceedings of various courts in Poland (whether local, or national-level) have been largely criticized for very lengthy court processes, which have been casting a noticeable challenge to the civil rights and liberties in Poland. Despite these aforementioned infringements of civil liberties considering lengthy court proceedings and more restricted freedom for assembly in Poland, civil as well as political rights have been perceived as largely respected and protected by the state in Poland (see Matthes, Markowski & Bönker, 2016, p.12; Arak & Żakowiecki, 2016, *et al.*).

In contrary to Poland, the loss in quality of civil society participation in Hungary has taken place due to the Hungarian government's hostile actions towards some of the civil society organizations. In addition to this, although various civil society organizations and interest groups exist in Hungary, the analysis from 2004 to 2016 indicates that these groups' voices have not been taken into account when it comes to decision-making processes. Therefore, the Hungarian government has been perceived of neglecting opinions of the citizens. Also, civil freedoms and liberties have been restricted throughout the most recent years, including constraining, through regulatory framework, citizens' freedom of expression. For example, in 2013 the Hungarian government implemented a law, which prohibits hateful language towards the Hungarian state. Also, those modifications made in the Criminal and Civil Codes, have led to increasing prison sentences for defamation cases and those cases where actor criticizes public figures, therefore restricting the civil freedoms. All in all, the Fidesz-led government has been accused of hindering the civil society participation in Hungarian politics, especially since 2010 (see Bertelsmann-stiftung, 2016, p.8-9; Kelemen, 2017, p.222-223).

4. Is there a loss in freedom of the media in Poland and Hungary in the period 2004-2016?

Based on the empirical data collected and analyzed of both country cases, a clear loss can be observed in the freedom of media in both countries in the period 2004-2016.

Although Poland is viewed to have a highly versified media market with the mixture of publicly and privately owned medias, the most recent years (2015-2016) legislative changes, implemented by the PiS-led government, have led to further governmental control over the media. This trend has been argued of jeopardizing the media pluralism in the country (see Arak & Żakowiecki, 2016, p.6; Matthes, Markowski & Bönker, 2016, p.15; Reporters Without Borders, 2016 *et al.*). Despite the fact that media pluralism and competitive media market exist in Poland, certain medias have been claimed to reflect 'oligopolistic' tendencies (e.g. television related media organizations). To add, during the 2015 parliamentary elections, some of the media outlets were accused for biased media reporting, as they were claimed to favor specific electoral candidates and parties over others (see Arak & Żakowiecki, 2016, p.6-7). In 2015, after winning the parliamentary elections, the newly elected PiS-led government spared no time in implementing new media legislation that centralized the

governments power over various media outlets (see Reporters Without Borders, 2016), therefore neglecting the autonomy of media organizations.

In Hungary, the loss in quality when it comes to freedom of media can be perceived of resulting from the implementation of various media regulations since 2010, by the Fidesz-led government. Some of these amendments to the media regulations have influenced the activities and functions of previously independent media institutions, as well as impacting the overall role of the Media Council (see Kelemen, 2017, p.222-223; Sedelmeier, 2014, p.115-116). Moreover, the Media Council member selection process have been claimed to be biased, due to the fact that the institution's personnel seems to consist of only members who have been known to support Fidesz party. Moreover, the European Commission has criticized the functions and activities of the Council, as they have been viewed of breaching the EU media directive (Sedelmeier, 2014, p.115-116).

The centralized media control, held by the Hungarian government, has become observable since the application of the new media regulation laws in Spring 2013; since the regulatory amendments, only state-controlled media outlets (such as TV and radio stations) hold the right to broadcast political advertisements and election campaigns (Bertelsmann-stiftung, 2016, p.7; Iusmen, 2015, p.603-604). During the Hungarian parliamentary elections in 2014, the Fidesz party released election campaigns that resembled remarkably those ones created for the Hungarian governmental institutions. The campaign material was condemned as misleading and the party was accused of creating similar campaigns in order to attract more voters.

In addition to the legislative changes implemented to the media law, and the role and function of the Media Council, the Hungarian government has been criticized for its taxation plans concerning media outlets. Furthermore, the government tried to gain a support for a progressive tax rate plan, which was criticized for solely targeting one of the biggest media outlets in Hungary, RTL Klub. Yet, the plan was never implemented due to the European Commission condemning it as infringing the EU media law, as the new tax would influence the media competition in the regime. Another tax preparation of the government covered the plan to impose a tax on Internet use in Hungary. However, this plan was never put into practice due to a large opposition from citizens and the EU (see Bertelsmann-stiftung, 2016, p.9).

5. Is there a loss in quality of national democratic governance in Poland and Hungary in the period 2004-2016?

Based on the empirical data collected and analyzed from both country cases, there is a loss in quality of national democratic governance in Hungary and Poland in the period 2004-2016.

As the empirical data on national democratic governance in Poland indicates, the country's political environment has experienced some challenges when it comes to this factor. Furthermore, Poland has experienced evitable loss in quality of national democratic governance due to government's inability to endure effective checks and balances regarding the democratic state institutions. One of these examples is the Polish Constitutional Tribunal, which was, before 2015 parliamentary elections, considered as one of the most efficient tribunals in the CEECs (Bertelsmann-stiftung, 2016, p.7). Since several amendments were implemented by the government in the legislative and constitutional framework, they have not only challenged the autonomy, effectiveness and the legitimacy of the Tribunal, but also other democratic state institutions (see Reporters Without Borders, 2016, para 4). Furthermore, the Tribunal has been recently criticized over lengthy court proceedings, which are causing further delays in handling-times of the cases, and impacting the overall effectiveness of the court procedures. To add, lengthy pre-trial detention periods and constant corruption investigations are also present in Polish judiciary systems (Bertelsmann-stiftung, 2016, p.8). The intervention of the European Commission with its Rule of Law Framework (which was initiated in January 2016), indicated the EU's fear over declining autonomy of the Constitutional Tribunal (Reporters Without Borders, 2016, para 7).

As demonstrated through various legislative changes, the stability of the national democratic governance has been constantly undermined and threatened by continuous legislative changes initiated by various members of the parliament. These constant changes have also lead to destabilization of consistency and accountability of the law processes in Poland, and have resulted in somewhat politicized administration. However, professionalism of administrative personnel have been claimed to improve since the Polish government decided to underline the importance of efficient training procedures (Matthes, Markowski & Bönker, 2016, p.17; Bertelsmann-stiftung, 2016, p.9).

Similarly to Poland, also Hungary has experienced comparable trend in loss of quality regarding national democratic governance between 2004 and 2016. Despite the state officially having the separation of powers (embedded in the Hungarian Constitution), the separation of powers is relatively weak in practice. For example, those legislative changes implemented by the Fidesz-led government since it came to power in 2010, have challenged the existence of ‘constitutional checks and balances’ in Hungary (see Kelemen, 2017, p.222-223; Bertelsmann-stiftung, 2016). One of the significant legislative changes, introduced by the Fidesz-KDNP coalition, have been the implementation of Cardinal laws. With these Cardinal laws, the two-third parliamentary majority has been able to adopt a fully reformed constitutional framework called the Fundamental Law. Both adoption of a new set of Cardinal Laws and the complete reform of the Hungarian constitution in 2012, especially without the government consulting the opposition or citizens, can be perceived as significant defining moments to the Hungarian political environment. After all, these aforementioned legislative changes have increased the decision-making power of the majority party Fidesz, while simultaneously undermining the opinion the fragmented and relatively weak opposition (see Norwegian Helsinki Committee, 2012, p.5).

Based on the Fundamental Law, the ruling government has been able to take executive control over various independent (democratic) institutions in Hungary, including the National Media Board and the National Election Commission, and the ombudsman for data protection. By gaining the executive control over these institutions, the government has fully eradicated their independent reviewing power regarding government’s activities (Kelemen, 2017, p.222-223), indicating increased centralization of decision-making power to the government. The similar centralization of the power has also been argued to take place in the government’s administration. The government has also indicated, with its radical legislative reforms, its willingness to govern public and social services such as health care and education, which have been previously delegated to the local municipalities (Kornai, 2015, p.36).

6. Is there a loss in quality of constitutional, legislative and judicial framework in Poland and Hungary in the period 2004-2016?

Based on the empirical data collected and analyzed of both country cases, there is a loss in quality of constitutional, legislative and judicial framework in both countries in the period 2004-2016.

Several legislative changes implemented by the PiS-led government during 2015-2016 to the Polish judiciary systems, have influenced the loss of quality of constitutional, legislative and judicial framework in Poland (see Matthes, Markowski & Bönker, 2016, p.17-18). The lengthy court proceeding times, as well as a lack of coherent legal aid system, have been perceived to cast the most significant challenges for the functionality of the Polish judiciary system. Although courts (whether local or national) are officially defined as independent and functioning separately from the government, the law adjustments concerning the functioning and activities of the courts, implemented between 2015-2016, have undermined the autonomy of these courts. To add, the ruling government has increased its influence over the decision-making of these judiciary institutions, therefore hindering their reviewing power over the government (see Arak & Żakowiecki, 2016, p.9).

Similar to Poland, Hungarian constitutional, judiciary and legal framework have experienced loss in quality between 2004 and 2016. Since the Fidesz won a super-majority in the parliamentary elections in 2010, several drastic legislative amendments have been introduced to the Hungarian Constitution and legislative framework. Moreover, the Fidesz majority have been accused of orchestrating the complete constitutional reform on the basis of a set of Cardinal Laws, as the two-third-majority rule have enabled the parliament to adopt a law provision that the Hungarian Constitutional Court have ruled earlier as threatening the Hungarian Constitution. The majority rule has therefore not only hindered essential institutional check system, but also challenged the existence of the Constitutional Court's executive reviewing power (see Bertelsmann-stiftung, 2016, p.10). All in all, based on drastic legal amendments implemented by the government within a relatively short period of time (especially between 2012 and 2013), and without the consultation of government opposition, it can be argued that the state executives have significantly challenged the judiciary independence in Hungary during the recent years (see Iusmen, 2015, p.603; Bertelsmann-stiftung, 2016, p.11; Norwegian Helsinki Committee, 2012, p.7). The European Commission has also criticized the Hungarian legislative processes for lacking transparency and having short transition periods regarding their implementation (Bertelsmann-stiftung, 2016, p.14).

7. *Is there a gain in the level of corruption in Poland and Hungary in the period 2004-2016?*

Based on the empirical data collected and analyzed of both country cases, there is a gain in the level of corruption in Hungary, yet not in Poland in the period 2004-2016.

When it comes to the element of corruption, the empirical evidence from 2004 to 2016 shows how both nepotism and corruption have been, and continues to be an inevitable part of Polish society and political life (see Arak & Żakowiecki, 2016, *et al*). Similar to the Hungarian case, several political corruption scandals have surfaced in Poland especially in 2014-2015. Yet, various efficient anti-corruption measures have been implemented during the most recent years in Poland. For example, those individuals (e.g. public office holders) who are suspected to involve in corruption, are prosecuted under Polish law Polish by the Polish State Tribunal. To add, multiple anti-corruption institutions exist in Poland: Central Anti-Corruption Bureau (CBA), the Supreme Audit Office and the Ombudsman are the most essential ones. In Spring 2014, the Polish government also adopted a new anti-corruption strategy, which has been appraised as a valuable method for limiting corruption (see Bertelsmann-stiftung, 2016, p.8; Arak & Żakowiecki, 2016). As argued in the Bertelsmann-Stiftung country report on Poland (2016), by implementing new anti-corruption strategies and effective measures taken in order to prevent as well as handle corruption related cases, Poland have been viewed of holding an efficient and well-applied system in order to tackle corruption (Bertelsmann-stiftung, 2016, p.8). As the World Governance Indicators statistics on ‘control of corruption’ indicate, control over the corruption in Poland has increased between 2005 and 2015 (World Governance Indicators, 2017), indicating an upward trend in Poland’s effort in tackling corruption.

In contrary to Poland, Hungary has experienced gain in the level of corruption in the period of 2004-2016. Especially since 2010, the corruption patterns have shifted radically, indicating increase in the number of corruption cases. Furthermore, several corruption scandals have surfaced especially during 2014-2015, some of them concerning high profile political actors, or actors having links to Hungarian government. Although these actors who are caught to engage in corruptive activities are usually prosecuted in one of the Hungarian courts, in some occasions these political officials are able to “[...] slip through political, legal or procedural loopholes” (Bertelsmann-stiftung, 2016, p.12). In contrary to Poland’s case, the ruling

government in Hungary has not adopted any new anti-corruption strategies or efforts in addressing the increasing number of corruption cases, but rather the efforts in addressing the corruption has stagnated. As indicated in the Worldwide Governance Indicators (WGI) report, the control of corruption related activities have declined considerably in Hungary between 2005 and 2015 (see Table 9.).

8. *What are the commonalities and differences between the two countries and what elements can explain democratic backsliding?*

As the empirical data indicates, various commonalities and differences can be distinguished between Hungary and Poland regarding their experiences with democratic backsliding. Both countries' political environments have, especially during the most recent years, shifted from liberal/democratic to illiberal/authoritarian ideology (see Greskovits, 2015, p.35), which have been reflected through the legislative and constitutional changes implemented by the local majority coalitions in these regimes.

When it comes to commonalities between the two case studies, an in-depth analysis of Poland and Hungary indicates that they share three out of six components of democratic backsliding. Furthermore, both Poland and Hungary have experienced loss in quality when it comes to *freedom of media; national democratic governance; and constitutional, legislative and judicial framework* (see Table 11.).

The loss of quality in all these aforementioned elements can be associated with several legislative and constitutional amendments implemented by the ruling majority coalitions in both Poland and Hungary. For example, the loss in quality of media freedom in Poland and Hungary is due to the new legislation providing more decision-making power to the ruling government over various media outlets and organizations, while simultaneously hindering these organizations independence, and challenging objective reporting. The similar pattern applies to both national democratic governance component, as well as the constitutional, legislative and judicial framework. As the empirical evidence indicates, in all three aforementioned components, those legislative and constitutional reforms have significantly shifted the balance of powers. Moreover, these amendments have enabled the local ruling coalition to enhance its executive power and to increase the party fragmentation, ensuring a weak opposition. Therefore based on these elements, the rule of law and effective checks and

balances have been challenged in both countries, which are elements that are perceived as essential ones for democracy from formal/procedural analysis perspective (see Fukuyama, 2014; Lipset, 1959, *et al.*).

The empirical evidence, and the time-frame of the declining democratic practices indicates that Hungary have experienced more gradual, yet more intense level of democratic backsliding in comparison to Poland, where the backsliding has followed relatively late when compared to Hungary. As mentioned before, those defining moments for the political shift in Hungary can be traced back to 2006 and 2010 parliamentary elections, while in Poland the de-democratic transition has become empirically observable around 2015. Furthermore, Poland seems to follow, to certain extent, a similar democratic backsliding pattern than Hungary.

The two countries have experienced similar patterns from authoritarian regime to democratic states, yet both of these country cases have also experienced similarities regarding their democratic backsliding. Furthermore, both Poland and Hungary have both experienced similar processes regarding democratic deterioration. As indicated in in-depth analysis of the two country cases, both Poland and Hungarian backsliding can be retrieved as party-driven when evaluating the process in Serra's (2012) democratic backsliding typology. The process of democratic backsliding, on the other hand, have occurred through the process of '*executive aggrandizement*', which is based on Bermeo's (2016) theory on different forms of processes regarding democratic backsliding. After all, in both states, the de-democratization has occurred by the ruling coalition weakening several democratic institutions step-by-step on the basis of adjusting the legislative and constitutional framework.

The differences between the two country cases, on the other hand, can be observed in three components: *the aspect of corruption, the electoral process* and *civil society participation*, are all components influencing the democratic backsliding in Hungary, yet not in Poland (see Table 11).

TABLE 11 Components contributing to democratic backsliding in Poland and Hungary 2004 – 2016:

Country	POLAND	HUNGARY
Variable 1	Electoral process	Electoral process
Variable 2	Civil society participation	Civil society participation
Variable 3	Freedom of media	Freedom of media
Variable 4	National democratic governance	National democratic governance
Variable 5	Constitutional, legislative and judicial framework	Constitutional, legislative and judicial framework
Variable 6	Corruption	Corruption

* Boxes in grey-colour indicating element contributing to democratic backsliding in a country

Source: Own graphic. Table is created based on Freedom House ‘Nations in Transit’ reports (e.g. from 2016) and the Economist Intelligence Unit Democracy reports (e.g. 2016) data on the scoring of democracy, collected from the beginning of 2004 until the end of 2016.

Furthermore, the level of corruption has increased in Hungary, while the state has been lacking of implementing efficient anti-corruption measures and strategies. Hungarian government and political leaders of state institutions and delegations have faced multiple corruption-related scandals especially during 2015 and 2016, and the lack of effectiveness of both initiatives and measures of the Hungarian government to apply anti-corruption measures seems to serve a base as one of the elements contributing to democratic backsliding in Hungary. The Polish government, on the other hand (although Poland also faced increasing number of corruption cases during the past few years), has successfully increased its efforts in applying multiple transparency and anti-corruption measures, strategies, and organizations, which have influenced its control of corruption score in a positive way.

The loss in quality in the electoral process, on the other hand, is yet another element that differs between Poland and Hungary when it comes to components contributing to their democratic backsliding. Poland has gained quality in its electoral process when compared year 2007 to 2016 (see Table 5.), while Hungary has loss quality in electoral process between 2007 to 2016 (see Table 10.) Hungary has lost quality in the electoral process based on legislative changes concerning the election law, introduced by the Fidesz-led government since 2010. These legislative changes have increased party-system fractionalization, therefore

increasing instability within the Hungarian politics, increasing the decision-making power of only some of the parties of the parliament.

The third differentiating element between Poland and Hungary, when it comes to democratic backsliding, is the factor of civil society participation. Poland has experienced gain in quality in civil society participation, while Hungary has loss quality regarding the same component. In Poland, the civil society participation in political arena is supported and civil and political rights are embedded in the legal framework, yet also applied in practice. In Hungary, however, the civil society has not been involved in the decision-making processes, but instead both civil and political rights of citizens have been restricted throughout the years between 2004 and 2016.

Chapter 7: Conclusion

No consensus exists among the scholars regarding how one should define or measure democracy, as several methods to approach it exist. Therefore, the analysis of contemporary phenomenon of democratic backsliding is rather a challenging one, as the evaluation of the components that are contributing to the overall loss of quality in democracy in a regime, in this case of Poland and Hungary, is directly dependable on the conceptualization and operationalization of democracy itself.

As the existing academic studies (both classic and contemporary ones) indicate and as noted throughout the study, there are several ways how one can theorize and therefore measure democracy. As indicated in the theoretical framework section of this study, most of the existing studies on democracy, which focus on formal/procedural approach of analysis, seem to emphasize the necessity to define and evaluate democracy on the basis of both citizen-state relationships. This consists of assessing whether civil liberties and rights are embedded in the legislative framework, whether political leaders are accountable to those that they represent, and whether efficient rule of law and checks and balances are implemented in a state. These are the elements that are in the center focus of the analysis of the quality and level of democracy within a regime, from formal/procedural study perspective. As indicated throughout this research, the theoretical approach of the analysis of democracy for this study is build upon indeed the procedural, macro-level analysis, employed by scholars such as Dahl (1971), Lipset (1959), Fukuyama (2014), *et al.* The operationalization, of these selected components, on the other hand, is based on Freedom House's 'Nations in Transit' assessment of democracy.

Furthermore, this study evaluates those six components of democracy that could contribute to reverse towards authoritarianism in Poland and Hungary from 2004 to 2016. Each and every one of these components are evaluated, by utilizing the triangulation of data, whether there is an indication of loss of quality in that particular component throughout the analytical period. All of these six components are evaluated regarding Poland and Hungary, which is followed by the comparative analysis of the two, distinguishing those similarities and differences between these most similar country cases.

Based on the empirical evidence of this research study, Poland and Hungary share three out of six components, when it comes to analyzing democratic backsliding. Both countries have experienced loss in quality when it comes to *freedom of media*, *national democratic governance* and *legislative, judicial and constitutional framework*. Poland has experienced loss in quality of democracy between 2004 and 2016 based on these aforementioned three elements, while Hungary has experienced loss in quality of democracy between 2004 and 2016 based on all six variables analyzed in this study: *freedom of media*; *civil society participation*, *national democratic governance*; *legislative, judicial and constitutional framework*, and *corruption*.

By contrasting the theoretical approach to the empirical data, the data findings indicate that democratic backsliding has been experienced rather in different speed and depth in Poland and Hungary, despite the countries sharing highly similar backgrounds (similar sociopolitical conditions), and having similar conditions with what they originally commenced their journey towards liberal democracy. Furthermore, in Hungary, the democratic backsliding process started to take place very shortly after the country accessed the EU in 2004, while in Poland, the process of democratic backsliding has become observable during the last few years. The similarities, however, are shared in the form in which the democratic backsliding has occurred. The in-depth analysis of both Poland and Hungary indicate that both of the countries' declining democracy has come to exist based on 'executive aggrandizement' process. This process, based on Bermeo's (2016) theory of different forms of democratic backsliding, entails the notion of a process where political executives, through multi-level legislative reforms, deteriorate those already established democratic practices and institutions, leading to multiple simultaneous institutional changes. Indeed, in Poland and Hungary, the loss in democracy overall, has occurred due to those significant constitutional and legislative reforms pushed forward by the ruling majority coalition (PiS-led coalition in Poland and Fidesz-led coalition in Hungary). Therefore, the de-democratization in these two countries can be perceived as party driven, when contrasting the empirical evidence to Serra's (2012) theoretical typology of democratic backsliding. These aforementioned legislative changes have impacted the freedom of media in both countries, hindered the judiciary and constitutional framework in these regimes, as well as breached the rule of law and effective checks and balances.

Due to the fact that this study focuses on highly abstract concepts of democracy and democratic backsliding, it is acknowledged that the study provides a rather surface-level evaluation of those components that can be perceived to contribute to democratic backsliding. In other words, other elements might also contribute to democratic backsliding, yet these are the most essential elements when analyzing democracy from the macro-level, procedural perspective, focusing on those institutional and structural elements. In addition, a further research analysis would be necessary in order to evaluate the extend of each of these individual components on these two countries when it comes to assessing their de-democratization process, as now the research results provided here are rather indicative rather than specified. In addition, throughout this study, it became clear that there is a room for further analysis regarding the possible impact of a regime's initial conditions and other factors, when it comes to analysis of occurrence of democratic backsliding, as this study only briefly touches upon Converse and Kapstein, (2008) theory on those factors that might create unfavorable prospects for the future of democracy in young democracies.

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