Hungary and Poland in Times of Political Transition. Selected Issues

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Contents

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Hungary and Poland in times of political transition – introduction

Poland and Hungary after the Second World War remained in the sphere of influence of the Union of Soviet Socialist Republics and couldn't make independent decisions about domestic and foreign policies. Political transitions that began at the turn of 1980s has shifted the image of Central and Eastern Europe (see more: Szczepaniak, Zyborowicz, 1995, p. 5). Countries of the region regained the possibility to make independent decisions, which resulted in development of democracy, market economy and triggered transitions within the societies. Nowadays it is already 28 years since the political transition has begun. Hence, there are many questions about the course of this process in both countries. The indicated circumstances encouraged to start the researches, which have focused on the following aspects:
– the manner of starting the political transition and the role of Hungarian and Polish societies in this process;
– adopted solutions within the model of political system in Poland and Hungary;
– the condition of civil society in both countries within historical and contemporary context.

As a result, the research was focused on two dimensions of a political system, i.e. the authors illustrated the condition of democracy as well as the condition of civil society in the countries concerned. The starting point was formed by comparative research into initiation of the political transition in Hungary and Poland, the adopted constitutional solutions as well as the manner in which the political system was functioning in the first years following the social and political adjustments. Further on, the researches on evolution of democracy in the both countries have been undertaken. What is important, from the perspective of contemporary times it is visible that Polish and Hungarian governments are formed by political parties which have introduced (and are still introducing) many significant changes within the political systems that faced e.g. unfavourable reactions from the part of several member states of the European Union. As a consequence, there appears a question about the causes that led to the current state of affairs. What is more, the possible paths for developing political systems of the both countries are frequently being analysed.

The first research field concerned the democratic political system. The second issue addressed by the research team concerned the problems of creating and developing civil society in Poland and Hungary. Research questions undertaken within the mentioned scope included a significant issue of the role of societies in Hungary and Poland

at initiating the political transition. Moreover, the research aimed at illustrating the condition of civil society in both countries within the period between 1989 and 2016.

The essence of democracy, defined by etymological reference to the rule of people, implies that correct functioning of a democratic state is not possible without active civil society that is aware of its rights. "Contemporary revival of discussions about the civil society is an attempt to counteract deficiencies of democracy. [...] Democracy without civil society does not function well because correct operation of this political system requires social capital, trust, willingness to cooperate and knowledge about public affairs. Indeed, the mentioned features are created by the civil society" (Rachwał, 2010, p. 52). Taking into account the mentioned circumstances, it seems that the researches into condition of democracy and civil society in Hungary and Poland are justified.

The articles that form this book have been divided into two parts. The first part refers to Hungary, while the other part concerns Poland.

The Hungarian part begins with the article of Andrea Schmidt entitled *The course of transition into a democratic system in Hungary*, in which the author presents the Hungarian path towards political transition and the first period of developing the political system. In the article summary, the author specifies that the shape of political transition was affected by the process of converting into democracy. Citizens' participation was considerably weaker than in Poland or Czechoslovakia, while the changes have been initiated and introduced by the political elite, which the author identified as a technocratic approach. Those considerations are continued by Zoltán Vörös, whose article entitled *Directions for development of political systems – decrease in legitimacy* presents changes that were made to the political system of Hungary after adoption of a new constitution and a new election law. In his opinion, democracy is not threatened directly by the introduced changes, but rather by the manner, in which the mentioned acts of law have been adopted. They were a "creation of a single political party and a single period," but most of all they were absent during the process of developing a consensus. According to the author, "if this attitude, respecting compromise on the higher level was over and the foundations of the democracy became the playgrounds of politicians, it would question the legitimacy of the institutions and the state."

On the other hand, Zoltán Bretter puts forward an even more developed thesis that the political system, which formed in Hungary as a consequence of changes introduced by the government of V. Orban, has features of an authoritarian system. By referring to concepts of N. Machiavelli, the author analyses political activity of V. Orban within the formal as well as contextual dimensions. At the same time, the author points to those decisions and their political consequences, which allow for referring to the system that develops in Hungary as an authoritarian system. Moreover, the article presents factors which allowed Orban achieving an undisputed victory in elections of 2010, which gave the then government legitimacy to introduce changes within politics.

Another article developed by Andrea Schmidt has been dedicated to the process of shaping the Hungarian party system after 1990 as well as the associated processes and shifts within political preferences in Hungary. The author addressed a very interesting issue, which refers to division between the left-wing and the right-wing parties that has a completely different nature from that observed in the states of Western Europe.

In Hungary, the primary division criteria refer to cultural and ideological issues, rather than economy. Moreover, the author describes other political dividing lines in Hungary, including e.g. the division between communism and anti-communism or the division between cities and villages. Analysis has also taken into consideration the factors that led to FIDESZ victory of 2010 and introduction of anti-liberal reforms by Orban's government that threatened Hungarian democracy. According to the author, an important test to appraise the process of changes within Hungarian political scene and the shifts within political preferences of Hungarians will be the results of elections that are scheduled to take place in 2018 in Hungary. Two subsequent chapters are dedicated to civil society in Hungary. In the first of them, László Kákai presents development of the civil society after 1989. Furthermore, the author indicated primary determinants of the course of this process and its directions. In the final part of the article, the author has positively appraised legal and economic regulations, which (according to the author) created favourable conditions for developing the non-profit sector. On the other hand though, the author notices weakness of those organisations (despite their great number and membership) within the scope of resources and their role in creating social capital. Furthermore, the author underlines their weak engagement into political decision-making processes within the local and national levels as well as into the process of articulating their interests.

Viktor Glied, in the second article dedicated to civil society in Hungary, describes reactions of the Hungarian society to controversial activities undertaken by the government of Victor Orban and identifies factors which are responsible for the current state of the society. In the first part, the author presents the newly developed movements that gather opponents and supporters of the reforms undertaken by the FIDESZ party. In the second part, he analyses methods for financing the activities of non-governmental organizations, the changes that occurred in the period concerned and their consequences that conditioned the status of those organizations. As the author indicated in the summary, the primary problem for each and every Hungarian government since the beginning of political transition has remained unchanged and refers to the role, which should be played by the civil society organizations. "Should they be considered a group of socially responsible organizations undertaking public duties, or should they be recognized as independent communities, counterbalancing the government? Or, alternatively, should they be transformed into a group loyal to the government and be evaluated based on this aspect?".

The second part of the book begins with considerations of Paweł Stachowiak who focuses on social and political transitions in Poland that took place between 1988 and 1989. As the mentioned author has emphasized, "the combination of internal and external circumstances made the political elite accept the necessity of thorough changes in political system. The most intense phase has started in the last days of August 1988, [...] and ended up a year later with formation of Tadeusz Mazowiecki's government." As Paweł Stachowiak has emphasized, the characteristic features of the Polish model of political transition include the main actors of the process, which comprised the government, the opposition and the Church. In this way, the author indicated e.g. the significant role of the Catholic Church within the process of social and political changes

of 1988–1989. Another two articles have been dedicated to the political system of the Republic of Poland. Aleksandra Bagieńska-Masiota has shown evolution of the Polish constitutional system between 1989 and 1997, thus from the moment of starting the essential stage of political transition to the moment of adopting the Polish Constitution. "From the perspective of the current circumstances it might be concluded that Polish Constitution fulfils its primary objective, it has contributed to reorganization of the legal system and it has strengthened the standards for protection of human rights." Marcin Rulka focused his article on changes within the Polish political system that have been taking place since 2015, that is since the moment when the Law and Justice party has won the parliamentary elections. The changes in political system introduced by J. Kaczyński have faced fierce protests of the opposition as well as international organizations such as the European Union or the Council of Europe. As Marcin Rulka has summarized his considerations, "by appraising the changes from the perspective of the political system, we may notice a certain reinforcement of entities from the executive branch [...]. However, it should be stated that democratic mechanisms in Poland, and at the same time the democracy itself, is not threatened." In another work, Marcin Rachwał referred to questions about model of democracy that applied in Poland in the period of political transition. Conclusions from the conducted researches emphasized that the political elite of the analysed state are not prone to delegate decision-making entitlements directly to the citizens. "After the year 1989 in Poland, the practical dimension in which direct (semi-direct) democracy forms were functioning has slightly modified the model of representative democracy." Marek Żyromski has analysed the process of political transition in Poland and Hungary from the perspective of a neofunctional elitist paradigm. The authors of this paradigm counted Poland and Hungary among the states, where a successful transformation from ideologically integrated into normatively integrated political elite has taken place. Yet it remains unclear why the both countries, which according to the creators of neofunctional paradigm were the leaders of social and political changes, are now starting to take leadership among the states of Central and Eastern Europe within the scope of populist tendencies? The attempt to refer to such a research problem has been made in the article entitled *The transition process in Poland and Hungary and the neofunctional elitist paradigm*. Considerations of Artur Lipiński concerned the division between right-wing and left-wing parties as the cause of social and political disparities in Poland after 1989. The indicated division is continuously applied both by the political elite and the citizens, although it creates arguments over e.g. topicality and analytical usefulness. Agnieszka Bejma has focused her research on analysis of development of the civil society in Poland after the Second World War. In this way, the problems of a society that functions within a non-democratic system and citizens' influence on initiating the process of political transition have been analysed. In the second part of the article, the author presents development of civil society in Poland after 1989. Beata Pająk-Patkowska and Jakub Jakubowski have made an attempt to define the role of social media in the process of developing the Polish civil society. This was possible thanks to the analysis of citizens' activities within that scope which was conducted after the parliamentary elections of November 2015 that allowed the Law and Justice party to govern inde-

pendently and led to initiation of a series of controversial activities of the government formulated by Beata Szydło. However, as the authors indicate, the quantitative increase in number of protests (which start on the Internet) is not yet accompanied with an increase in the quality of public debate on matters important for the society. It is still undecided (among the authors as well) whether the number of demonstrations that have recently taken place in Poland can be seen as a manifestation of the power of Polish civil society.

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The course of transition into
a democratic system in Hungary

European construction aroused popular aspirations, which were radically opposed to what is actually happening: aspirations for a continent that would resist antisocial policies while being open to the world, according to a democratic, social, ecological and solidarity-based logic... This was in particular what was hoped for in Eastern Europe, where the populations aspired to live better and more freely. Their hopes were profoundly disappointed, preparing the ground for xenophobic currents... Understanding what were the turns that history took, where things went wrong, understanding the present crisis is essential for the peoples to be able to re- appropriate their choices and thus their future (Catherine Samary).[1]

Political transformation in Central and Eastern Europe took place at the turn of 1990s. The year 1989 is called "*annus mirabilis*"[2] because of the rapid transformation and the speed of the collapse of socialist political system. It can be treated as a consequence of several events that affected different spheres such as politics, economy and society. It interrupted the events of the previous four decades. Following World War II, the socialist state system established in the Soviet sphere of influence and based on communist party dictatorship, came to a long lasting and deepening crisis of the late 1970s. In Hungary, the so-called 'soft dictatorship' led by János Kádár has very quickly lost both its internal as well as external support. As a result of collaboration between the reformist supporters of the old regime and the moderate and radical democratic opposition, the parliamentary democracy**,** a state founded on the rule of law that followed the western patterns, was established within a short time. Institutions of the new political system were established and the new political power verified and consolidated its legitimacy by means of free elections. All these changes took place in Hungary peacefully and without a single shot being fired. The transformation into a market economy proceeding in parallel to the establishment of a democratic state and further social and cultural changes could take place within the new political framework. Institutions of the new political system have so far been capable of managing conflicts arising from this large-scale transformation. The final proof of the transformation was the EU accession. Fifteen years after the Hungarian Republic has smoothly joined other

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[1] http://www.internationalviewpoint.org/spip.php?article1925.
[2] http://www.europarl.europa.eu/sides/getDoc.do?language=en&type=IM-PRESS&reference=20091030FCS63488.

European democratic states in 2004 it had become a member state (together with some other former socialist countries) of the European Union. The country had the chance to enter in the 21st century of its history under radically changed and much more favourable conditions than it had before.

The aim of this paper is to examine the actors and the reasons why these changes have actually taken place. It is our intention to examine the role of the state and the citizen's participation. We used several reports and statistical data such as analysis received from experts and actors of the events spanning between the mid-1980s to the early 2000s. We also have to distinguish the different spheres of transformation as (unlike in other socialist countries) in Hungary the economic crisis played much more important role. The initiators of the transformation included reformative communists and the reform wing of the Hungarian state. It is also our intention to explain why the citizens were in a subordinated position, when and on what fields they were involved in the events that finally resulted in the peaceful transformation in Hungary.

Top-down or bottom-up? The historical perspective

When we examine the issue of the economic and political transformation, we need to keep in mind the historical heritage. When analysing the historical past and the position of Europe it is obvious that Europe was not homogeneous. The continent could be divided into more or less developed regions, the core and the periphery as well as the region of Central and Eastern Europe located on the baulk of the two regions, which created the so-called semi-periphery. Examining the consequences of this division it is also important to explore the reasons for these dynamic changes. The European continent of the 18th century can be characterized as a triple-divided construction (Wallerstein, 1983).

1. A more developed epicentre – a central core or plateau, the developed countries with the appearance of capitalism, the free market, global division of labour, including the existence of independent political units (i.e. the states). There is no political centre, which would resemble global empires.
2. A periphery – a synonym for the dependent developing countries. The main reason for the position of developed countries is the economic power.
3. A semi-periphery – states that are located between the core and the periphery. They catch influence from the core area, but there are characteristic features that made them similar to the periphery, too.

This historic heritage remained in Europe as a dual structure. The difference can be caught in the following issues: nation state versus global governance, representation of the local or global interests, federalism or strong nation state. The questions of the role of religion and the national language are also remarkable. Although there were several attempts among the nobility to gain power, these struggles either failed or managed to survive only for a limited period of time. The royal predominance showed a determining role in the Central and Eastern European region thanks to the fact that the state-establishing and state-building forces belated approximately five centuries in relation

to the Western European monarchies. The feudal hierarchy was also much weaker and not so integrated. Therefore, the horizontal and regional level played much less role. That resulted in strengthening of the central power (Schmidt, 2010, p. 31). The 18th century in the European periphery was the age of modernization. However, as in the Western Europe, the main initiatives came from the strengthening bourgeoisie. In the least developed monarchies, the rulers themselves had to substitute this lacking social class. The reforms were decided on at the highest level and the "subjects" had to obey. Since the 19th century, the emperors of Central and Eastern Europe had to focus on strengthening the centralized nation states, even though the monarchies were ethnically mixed. To fight against the separatist movements from the ethnic groups a well-functioning centralized royal power and institutions are required. This instable internal position did not favour local initiatives coming from the local level. Again, a strong government and a centralized power were required. The revival of the nation state after transition was very often accompanied by strong centralisation efforts, which resulted in total absence or a weakness of the decentralised institutional system and autonomies of the regions (Schmidt, 2015, p. 8).

Regarding the historical past, we can agree on the fact that state assistance or state initiatives always played a determining role in the region while the role of citizens remained limited. This was a typical element of modernisation within the Central and Eastern part of Europe where, due to lack of adequate partners from the weak bourgeois, the Habsburgs had to play important role in reform making. The modernisation that took place in the middle of 19th century related to those reforms that were created from above by the Habsburg emperors without participation of the Hungarian political elite.

The question of democracy was a crucial issue in the twentieth century. Some of the most significant debates on the meaning of democracy and civil society took place in the countries of Eastern-Central Europe in the second half of the twentieth century. It was generally accepted during the age of socialism that the assertion of civil society by dissident intellectuals acting against the totalitarian state is a significant aspect of European political modernity that had a transformative impact in the region and led to eventual collapse of the Soviet domination. However, in Hungary there existed different standpoints regarding such questions like freedom and autonomy, which were neglected during the age of socialism. Among the two interlocutors was István Bibó, who emphasised the freedom and autonomy of certain groups against the central power. The other interlocutor, István Hajnal, highlighted historic and sociological viewpoints and social structures. The third partner in this debate was Jenő Szűcs, the Hungarian historian who discussed the inner division of Europe in his famous work: the sketch on the three historian regions of Europe (Szűcs, 1981).[3] Szűcs also shares the view that the "bottom-up" organization was brought along by Feudalism and it is strongly connected with the fragmentation of sovereignty and the contractual nature of a feudal lord-vassal relationship. Society in the transitional region did not have the same

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[3] Bibó wrote about this division in his work „A kelet-európai kisállamok nyomorúsága" in 1946 while Hajnal dealt with this question in the interwar period in his works.

experience as the feudal fragmentation. This region was rather characterised by strong central royal power. Feudal system was much weaker in this region, yet it remained for much longer than in the West. The centralised royal power remained until the last years 19th century. This rigid system could hamper the modernisation and the transformation with the increase of influence of the bourgeois.

The Hungarian citizens had limited experience about democracy and self-governance in the 20th century. As the process of modernization took part with the predominance of the state or government, the interwar period can be also characterized by the lack of democratic elements. Góralczyk claims that the second half of the 19th century, that is the birth of the Habsburg Monarchy, was also a good experience with regard to perception of a living in greately integrated system. Following his arguments we can accept the thesis that the Hungarians had several, yet limited, stages of democratic political frames. These frames took place in the following periods:

1. The Habsburg Monarchy between 1867 and 1918 based on the principles of compromise.
2. The first democratic government after 1945. Unfortunately, the first years after the end of the Second World War seemed to be a period of democracy, however limited. It is impossible not to take into account that the presence of the Soviet communist "advisors" determined the political orientation and the position of the Communist Party. Nevertheless, at least the first elections of 1945 proved to be rather democratic.
3. The revolution of 1956 and the war of independence was also an experiment on the democratic changes. Unfortunately, these events lasted only for two weeks and this time was not good for democratization of Hungary.[4]

The role of the state can be examined in various ways. The revival of nation states after transition was very often accompanied by strong centralisation efforts, which resulted in the total absence or a weakness of the decentralised institutional system and autonomies of the regions. The general judgment of 1989, or the transition process itself, differs according to the judges. It can be described as the 'annus mirabilis' because a great political and economic transformation proceeded without violence (Kornai, 2005). On the other hand, there is a belief that pace of the change was so rapid that it covered all spheres and can be called a revolution. According to rather sceptical Jürgen Habermas, it can be described as a "repairing revolution", rather than a regenerative revolution.

Kornai's definition can be also disputable when compared with two types of perception, which are also well known in the region. One of them relates to Habermas who writes about "repairing revolution" instead of regenerative revolution.[5] However,

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[4] Góralczyk, Bogdan: *Magyar törésvonalak* (Węgierski pakiet) The author examines the historical background of the Hungariarians' perception related to democracy and governments. Being the member of the staff of the Polish Embassy in Budapest he experienced how effectively the Hungarian governments were functioning.

[5] Nachholende Revolution. It refers to the fact that the reason of these revolutions was the return to democratic state and the norms of the developed capitalist Western European region. According to Habermas's theory, bureaucratic Socialism could not be identified as an alternative version of organ-

there is a different phenomenon, which is frequently used to characterise this region. With the assistance of the state, the government is determinative because the initiatives usually come from the above. The answer is "refolution", a word composed of two other words – reform and revolution. This word can be attributed to Ash and at first referred to the role of citizens as participants in the process of the transition. Ash states that the initiators of the reforms were rather the Communists in late Socialism and the ideas about the "inhabitants", the role of the newly organised or reorganised civil society was not so decisive. As it is visible, the state, or the "upper level", inherited an enormously great role from the previous centuries.[6]

The sequence of events that led to the transformation

There can be several reasons for the collapse of socialism: why it happened, were there any external reasons or was it a consequence of several political and economic coincidences? The whole region followed the same scenario as the Soviet view of communism was the prescribed model everywhere in the Soviet bloc and only a limited level of divergence was accepted. This standpoint, however, underwent a remarkable change after events of 1956 in Poland and the collapse of the revolution and war of independence in Hungary. Regarding Hungary, this changes mostly the economic perspectives towards to a more relaxed economic policy which included incentives for workers and freedom for middle management in agriculture and industry. Thanks to the high level of consumption, Hungarian society became one of the most individualist societies.[7] As Lengyel remarks (Lengyel, 2006, p. 105), the Hungarian politicians with Kadar on the top focused on eliminating social conflicts at any price. The impression of the events of 1956 was too close to them so they tried to minimalize the potential conflicts.

In 1968, as a consequence of the collapse of the reforms in Prague (when Czechoslovakia seemed to be heading towards the dismantling of single-party rule), the Brezh-

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ized Capitalism. It is rather a backward formation of Capitalism. This is why the revolutions of 1989 can be referred to as the "repairing revolutions". This definition implies that this type of revolution does not teach a lesson or have any importance for the developed Western world (Schmidt, 2014).

[6] It also has got a Hungarian version: "reforradalom" that is also composed of two words. There is another description, the so-called "velvet revolution" which also refers to the fact that the events took place mostly without violence. As Ash remarks, the symbol of the new type of revolution is the "round table" instead of guillotine that represents the possibility of agreement instead of terrorism (T. G. Ash, *The Magic Lantern. The Revolution of '89 witnessed in Warsaw, Budapest, Berlin, and Prague*, New York 1990).

[7] We have to emphasize again that the events of 1956 gave such an impression to the ruling communist elite with János Kádár on the top that all their efforts concentrated on the problem of avoiding violent events and mass demonstrations. If its price was the financing of consumption that the government and the party focused on, the problem how to maintain it despite inability to obtain financing from domestic sources would appear. According to Berend (Berend, 1998), Kádár had to accept two types of obstacles to survive. Both came from outside: the presence of the Red Army in Hungary and the obedience to the Soviet politicians. If these requirements were fulfilled, no threat could reach Hungary.

nev doctrine described precise limits of divergence within the socialist world, focusing mostly on the political independence and neglecting the economic frames.

The oil crisis of 1973 and the energy crisis that took place at the turn of 1970s affected Hungary as well. The 13th congress of the HSWP (Hungarian Socialist Workers Party) put the economic reforms on its agenda in 1985 that – according to Lengyel – intensified the collapse of the Kádárist regime (Lengyel, 2006, p. 110). Before the beginning of 1980s it became obvious that the Soviet Union was not able to support the satellite states with relatively cheap products, in particular cheap raw materials and energy. The socialist countries, such as Hungary, gradually had to realize that they needed to find alternative resources to finance their needs. In Hungary, Kadar insisted on maintaining standards of living among the inhabitants in order to avoid any social conflict and to maintain the general trust towards his regime. However, the problem required a solution. In 1981, Hungary chose membership in the IMF and foreign loans from the World Bank. The money Hungary got has helped to avoid bankruptcy, but at the beginning of the 1980s it became inevitable to open Hungarian economy to the world market and to implement several reforms to promote free entrepreneurship. In the middle of 1980s, the first foreign investors appeared in Hungary. It was also remarkable that in the late 1980s a new generation of reform-economists assisted the programme by helping to work out of the HSWP.

Apart from the economic problems, the moral questions also became significant in the second half of the 1980s. The national question, the fate of the Hungarians living outside the political borders but within the historical ones, became an issue that unified the government and some alternative oppositional groups. The refusal of Ceaucesu's policy that focused on destroying some of the Hungarian villages in order to reorganise the settlements in Romanian villages, provoked a nation-level protest in summer 1988.

Role of government in the transition

Analysis of the governments from Central and Eastern Europe, the late 1980s can be treated as the age of so-called "governments in transition" (Sárközy, 2012, p. 46). As Sárközy remarks, these governments had to face either double challenge, namely the principles of market economy and legal state, or even quadruple challenge which means, according to Sárközy, the two other elements: adaptation to the capitalist world economy and the European integration. As it turned out from the practice, it was much easier to build up the frames of totalitarian regimes than to destroy them having no adequate information about the scenarios and the consequences. It was also a problematic issue that the different social subsystems were not equally developed. In Hungary, as a consequence of the necessities to reform, the economic institutions were in a much more developed position than, for instance, the cultural institutions or the health care system. The administration had a bit better position than the two latter ones.

It was also challenging that the entire transformation seemed to proceed too quickly in the minds of the citizens. The whole process required well-prepared experts. How-

ever, there was a shortage of adequate personnel[8] and this rapid change could cause mental shock for the elder generation. The nostalgia towards the Kádár regime was recognizable even decades after the transformation. The actors of the political and economic transformation had to struggle with two different challenges. The conservative communists insisted on a limited change, however the citizens were more enthusiastic regarding the reforms, but they focused mainly on the higher level of consumption.

The political reforms in Hungary were subordinated to the economic crisis which the government had to face. The late 1980s were was a time of frequent struggles against the economic crisis, yet the government and the state party did not recognize the fragility of the system. As Sárközy remarks (Sárközy, 2012, p. 135), despite the economic reforms that were undertaken already in the first years of the 1980s, the political reforms and especially the changes related to the political system were carried out only at end of 1986. The author also remarks that neither the government nor the party was aware of the actual threats and were working on a three-year reform programme. As the first decisions were to be made in 1987, it was obvious that the experts wanted to extend the procedure until 1989/1990 as it was already known that the next parliamentary elections would be held in 1990. The first draft of the programme was not public. However, as Sárközy notes, experts even from the Western European scientific circles had the chance to get acquainted with it. It was composed in the programme that "within the improvement of the democratic principles in socialism it is our intention to focus on autonomous sphere for the citizens and to make them control our decisions." In that time, the socialist one-party system was a particular reality, yet this so-called "preconception" already focused on the possibility of limiting the central power, i.e. on the reduction of the role of the state party and the mentioned possibility of extension of the rights and inclusion of the citizens in decision making activities through reorganization of self-governments.

The reforms were carried out mostly from the above and faced incomprehension of the citizens. The government focused on rapid, smooth and quick transformation while the population was focused on a totally different question. According to Sárközy, they wanted to reach the Austrian standards of living and combine them with the Hungarian labour efficiency. They were looking forward the Scandinavian type of social policy, which was unreachable in the Central Europe during the late 1980s. Hungary was one of those socialist countries that found itself in the debt trap and was the threatened by bankruptcy.[9]

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[8] It was a very complex problem on how to find and how to train experts. The new economic and legal frames required such professions, which previously simply had not existed. Previously, there was no need for auditors, and lawyers had entirely different tasks. It was rather difficult for the universities and the professors to teach the new generation.

[9] The question about the standard of living always determined the public opinion regarding the actual political decisions. In line with the collapse of socialism, people gradually lost their social security. Dozens of factories were closed and the threat of unemployment became a reality. As a reaction to these consequences, nationalism increased and, since the European Union did not bring the desired wellbeing, masses of people became disappointed with Europe. After 2010, the government utilized this general mood by implementing the new frames of foreign policy: opening to the East.

The international actors also played determining role in the transformation of the Central and Eastern European region, including Hungary. The last years of 1980s and the beginning of 1990s could be treated as the age of great expectations. Politicians and citizens hoped that the entire region would be supported by a new Marshall plan and the ruined socialist economy could be saved by foreign sources. However, these expectations failed and in 1989 there was an international initiative to assist and financially help the Central and Eastern European transitional economies by establishing a special bank for reconstruction and development of the region. Unfortunately, the amount of money displsed of this aid was only a fraction of the original sum of the Marshall aid. The Marshall Aid beneficiaries, as the last socialist prime minister Miklós Németh argues, did not feel any moral responsibility of helping the less developed Eastern neighbours in order to minimalize the differences between the two groups of states (Németh, 2014, p. 345). According to Németh's statement, these Central and Eastern European countries were even in a worse position than the West-European ones because their apart from the ruined economies, their civil society was also terminated (Schmidt, 2015, p. 72).

The acceptance of this reform concept varied. The conservative communists, who usually tried to share the political programme of the Soviet communists, have hardly shared Gorbachev's views relating to the reforms of the mid-1980s and immediately expressed their mistrust towards the concept and the authors. According to their opinion, this programme seemed to be a heretic composition. In 1987, Kádár's supporters gradually began to lose their position due to changes in composition of the government, while the oppositional groups organized their first important meeting in Lakitelek. The organisers belonged to more nationalist representatives of oppositional groups that later crystallized as the Hungarian Democratic Forum (MDF), a party that after the first free election in 1990 became the strongest member of the coalition. In the same year, the liberal opposition also expressed its view by publishing a famous yet criticized programme called "Social contract" (Társadalmi Szerződés). Democratic opposition demonstrated a moral attitude being open to a large public, resting on the rejection of "goulash socialism" that was not really supported by the Hungarian publicity.

Regarding the activity of democratic opposition, the publication of "samizdat" in 1986 seemed to be a turning point. The publication of „Social contract", the symbol of liberal opposition of 1987, was a sign of political courage, but the political objectives were unclear (Bretter, 2014). Comparing the content of the Preconception with the Social Contract, Sárközy remarks that while the Social Contract declared in the first lines that "Kádár should go," the Preconception gave a more detailed programme (Sárközy, 2012, p. 138). However, the Social contract later became the symbol of birth of the liberal opposition movement. In November 1988, the Alliance of Free Democrats was established and turned out to be one of the main driving forces of the regime change. The escalation of the economic, political and social crisis from the mid-1980s generated a "revival" of organizational life in Hungary. At the beginning of the 1980s, new types of social self-organising bodies emerged from peace movements to eco movements. The Civil Code (enacted in 1990) abolished the former restriction

that a foundation could only be set up with the approval of the relevant government authority (Kákai, 2014, p. 84).

In 1987, a new government and relatively young prime minister Grósz Károly was elected. He gradually swept away the "old and Kádárist generation" and his activity was supported by the Hungarian media. The new passport design that was introduced in 1987 was valid all over the world. As more citizens had the opportunity to visit the Western European countries, they became comparing and voicing criticism towards their domestic standards of living.

Hungary's position versus Western Europe according to Hungarian people's opinion in percentage (It was better in Hungary then in Western Europe)

		1981	1986	1988
1.	Right to work	98	87	42
2.	Protection of the workers' interest	96	93	80
3.	Level of the medical health care	90	66	47
4.	The well- balanced life of families	86	73	36
5.	The resale value of the currency	66	41	6
6.	Possibility to get/buy flat	63	39	16
7.	Material elements of well-being	46	29	10
8.	Large selection of goods	44	34	18
9.	Well-dressed people	42	33	28
10.	Possibilities of travelling abroad	29	27	33
11.	Amount of free time	58	46	27
12.	Equal opportunities	78	69	38

Source: I. Romsics, Magyarország története a XX. században, p. 521.

Despite general support, the Grósz government survived only one year. The last socialist government was established in the end of 1988 with Németh Miklós as the Prime Minister. Despite the original aim, their task finally concentrated on smooth transformation and the constant negotiation with the oppositional groups, the new parties. The act on legal and economic frames of the new parties, the modifications to the constitution that survived until 2011, the new constitution, the establishment or re-establishment of political institutions, (e.g. the Constitutional Court, the State Audit Office or the Hungarian Stock Exchange) were the subjects which government had to face. As the problems were relatively new for the parliament, there were some contradictions among the new acts such as the method of party financing that finally became involved with the political corruption because of the lack of transparency. The new acts also focused on different types of ownership that allowed privatization and destroyed the barriers for the foreign investors. Implementation of self-governments was also among the decisions of the last socialist parliament, similarly as the acts focusing on human rights. On 23 October 1989, the form of the state has also changed together with declaration of the Republic of Hungary. The parliament acquired new functions as the decision on appointing the president, the Prime Minister, the president of the Constitutional Court, the State Audit Office and the Hungarian National Bank. For instance, the parliament became responsible for the election of the attorney general.

The members of parliament were also responsible for accepting the act on the frequent functioning of the legislative institution, at the same time breaking with the tradition of the socialist practice. In the past decades, the legislative and the decision-making power were concentrated in the hands of the state party. Therefore, the other political institutions had only symbolical meaning. One of the most important elements of the amendment of the constitution was the act on the post of the Hungarian president. The presidential powers were based previously on the act of 1946, when Hungary became a republic. This modified constitution still emphasized the principles of democratic socialism, but did not mention the exclusive rights of the working class and created the possibility to create a multiparty political system. It also specified the principle of popular sovereignty declaring that power concentrates in the hands of the people. The amended constitution also dealt with the varieties of ownership and introduced private ownership and the right of entrepreneurship. The act on election to the parliament was also adopted in 1989.

New actors on the path to transformation

The Central Committee of the HSWP focused on expanding the economic reforms into the political sphere already in 1984, and Imre Pozsgay, the new first secretary of the National Front, also shared this vision. During 1980s, the civil society also began to create its own small circles. The first well-known organisation, the Danube Circle, was founded in 1984 and hosted a lively discussion about environmental issues as well as current political and economic issues (Glied, 2014). As Glied remarks, in the second half of the 1980s the green movements became an important platform of expressions of social discontent with the communist regime and the case of the Gabcikovo-Nagymaros Dam was an excellent subject for them. The first organised meeting of the representatives of the nationalist and liberal oppositional groups of 1985 that took place in Monor had a symbolical meaning as well. In Hungarian everyday language they were called 'civil movements' (Körösényi, 2009, p. 256).

Examining the Hungarian oppositional movements it is remarkable that the churches in Hungary played relatively limited role in contrast with the Catholic Church in Poland and the Lutheran church in East Germany. As Szabó remarks (Szabó, 2008), the reason can be found in the fragmented structure of the churches in Hungary. Neither the Catholic nor the protestant churches had the chance to get such an influence in the mental transformation.[10] The Hungarian opposition groups were also not homogeneous, however some of them felt responsible for the national issue. Paying attention to the Hungarian ethnic minority groups living outside Hungarian borders, it was rather challenging in contrast with the more cosmopolitan Kadar regime. During the late 1980s, there were at least two different paths for the oppositional groups. While the national approaches were still quite strong, a new liberal approach and the responsibility

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[10] The Catholic church had dominance in Transdanubia while the Protestants (in particular the Calvinist church) was strong in the Great Plain (Alföld) region.

for the nature have appeared. Moreover, the green movement was reaching its followers as well. As Szabó remarks, during the late 1980s it seemed real that the green parties would have a dominant role in political transformation, at least in Hungary where the main actors belonged either to the nationalist or the liberal groups and the greens remained in a marginal position. These groups represented a dualistic structure: followed the challenges of globalization and remained faithful to the national values. As the church could not play a determining role, the feeling of being a part of the opposition remained in the focus of the intellectuals living in Budapest or bigger cities, which were at the same time the scholarly centres. Wider perspective for the oppositional behaviour appeared just a couple months before the first free elections. Some representatives of the reformative communists in Hungary gradually got involved within these groups. According to Szabó's opinion, they were much more sympathetic towards the national view as the liberal approach sometimes seemed to be too radical for them.

Conclusion

It is still a contentious issue what exactly happened at the turn of 1990s. It is evident that there are at least three fields where essential and pure changes were taking place:
– In international context: the collapse of Warsaw Pact and COMECON;
– In political and social sphere: transition from the totalitarian one-party system to the multiparty system based on free elections and competition between political parties;
– In economic sphere: instead of the state-owned economy, the dominance of private ownership and emergence of foreign capital.

The democratic transformation in Hungary can be explained with several factors. The political transformation itself, as Körösényi remarks, can be taken into consideration as a unique explanatory factor, being a distinctive period of the recent political past (Körösényi, 2009, p. 10). He explains how great influence the transformation had in the next decades of democratic development of Hungary. Most important are the lack of revolution, the passivity of the masses and the elitist nature of the political transition. As the masses were considerably less active than in the followers of Solidarity in Poland and the Civil Forum in Czechoslovakia, the opposition to the communist regime was not supported *en masse.* Society remained passive, the political driving force of the systemic changes was primarily provided by the small parties recruited from dissident intellectual groups and the veteran politicians of the parties that had existed before 1948. Systemic change was at least as much a consequence of the internal disintegration of the communist regime and the Communist Party (Hungarian Socialist Workers Party) as the pressure exerted by the opposition. Similar explanation is added by Ivan Berend regarding the factors that led to the transformation. According to his opinion (Berend, 1998), the transformation was a genuine consequence of the collapsing socialist economy. However, the general distrust towards socialism within the society and the reformist party members themselves also accelerated the transformation.

The second remarkable element is the lack of dramatic events. Democratic transition based on negotiation. In the summer of 1989, the Hungarian Socialist Workers Party and the oppositional groups participated at the so-called Round Table discussion based on the Polish example. Hungarian society usually blamed the existing governments because of the lack of drastic changes at the turn of the 1990s. The first freely elected Hungarian Prime Minister's bon mot: "you should have carried out a revolution" clearly describes how marginal role the citizens acted.[11]

Apart from the smooth transformation, the first cleavages among the oppositional groups and parties appeared already in the campaign before the first free elections. The political and organizational fragmentation of the anti-communist opposition was intensified by ideological discrepancies. The most important question in the campaign was not merely an issue of whether the HSWP or the renamed version, the Hungarian Socialist Party could be defeated, but whether the ideologically leftist and liberal parties such as the Free Democrats (SzDSz) and Young Democrats (FIDESZ), or the national and conservative parties (MDF – Hungarian Democratic Forum, FKGP – Independent Smallholders' Party, or KDNP – Christian Democrats) will obtain the majority of the parliamentary seats.

Examining effectiveness of the transformation from the perspective of the Hungarian citizens, it was difficult to evaluate its success even after more than two decades. There is a quite huge group among conservative politicians and supporters, who have controversial feelings related to the success. There existed and perhaps still exists a belief that Hungary should have chosen the (non-existing) third way or at least combined the principles of socialism and capitalism in order to smoothen the shock of capitalist transformation. As a social consequence, the previously existing principles like social equality and job security have disappeared and people had to realize that they were also responsible for their well-being. Citizens expected transformation based on social welfare, which seemed to be an illusion. It was evident that transformation implies expenses, but it was not clear who will pay the bill. Unlike in the East Germany, where the expenses of the German unification were paid by the West Germany, in Hungary the state and its inhabitants had to cover all the costs. Parallel to these troubles Hungary also had to face the cruelty of capitalism and the appearance of foreign investors, whose intention sometimes concentrated only to seek investment possibilities in order to sell their products (Sárközy, 2012, p. 176; Gal-Schmidt, 2017).

Summarizing the analysis about the process of transformation, it can be said that it was a result of activities of the technocrats, rather than a success of the oppositional groups (Sárközy, 2012, p. 175; Berend, 1998). Gorbachev's role was remarkable similarly as the economic troubles and the failure of the Soviet Union to win the arms race with the USA. However, the key moment in the process of the Hungarian transformation was the debt trap and the economic troubles. As the HSWP could not guarantee to maintain the previously existing standards of living, it began to carry out reforms that gradually melted the state's party and socialist systems. The final stage of

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[11] As a prime minister, he was convinced that comprehensive changes in various fields can be reached only in a violent way. Negotiations among participants definitely resulted in some compromise between the both partners.

this self-demolishing process was transition into the bourgeois democracy (Sárközy, 2012, p. 177).

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Abstract

Socialist countries experienced the transition at the same time. As there is no reason to speak about a homogeneous socialist bloc, the path to transformation was different in terms of the priorities and the actors. In Hungary, the determining role in economic and political transformation was played by the oppositional groups. It was based on the fact that Hungary was in relatively bad economic conditions and the government wanted to avoid bankruptcy. The success of the Hungarian transformation is based on the fact that the government and the opposition groups managed to conclude a compromise and avoided violent measures. This paper deals with the first steps towards the transformation and the threats related to the democratic principles, which the Hungarian state had to face.

Key words: Transformation, democracy, political institutions

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Directions for development of political systems – decrease in legitimacy

Introduction

The Stanford Encyclopaedia of Philosophy gives a broad description of the term legitimacy by explaining that "political legitimacy is a virtue of political institutions and their decisions about laws, policies and candidates for political offices, which are made within them" (*Political legitimacy...*). But how should we define 'legitimacy' and how can it be decreased due to different decisions, laws or institutions? The normative concept "refers to some benchmark of acceptability or justification of political power or authority" (*Political legitimacy...*), well defined by John Rawls. While Max Weber emphasized importance of the belief, Rawls's works were connected to justice. Silje A. Langvatn, analysed his views on political legitimacy claiming that "Rawls says that legitimacy has an essential connection to justice, [...] but he also says that «legitimacy is a weaker idea than justice and imposes weaker constraints on what can be done». [...] He says that legitimacy allows a certain 'leeway' with regard to justice, and he connects it to a threshold of sufficient justice. [...] He specifies that legitimacy requires both sufficient procedural justice and sufficient outcome justice. Now, if we focus solely on these 4 characterizations we get the impression that 'legitimate' for Rawls simply means 'sufficiently just'. This may in turn lead us to think that when Rawls turns to legitimacy he is lowering his normative ambitions. But this would ignore the fact that Rawls also emphasizes 4 further characteristics of legitimacy: Rawls says that political legitimacy is institutional. [...] He emphasizes that legitimacy connects to the pedigree of those who have political authority or hold political office. [...] Similarly, he says that legitimacy is connected to how a law or institution 'came about, whether it was madein accordance with established rules and traditions'. [...] He differentiates between different levels of legitimacy; between the legitimacy of political institutions and the legitimacy of decisions and laws enacted pursuant to them, and also between accepting a constitution as legitimate and accepting as legitimate a particular statute or decision enacted in accordance with the constitution. [...] Finally, Rawls says that higher law, as outlined in the constitution, can confer legitimacy on ordinary statutes and decisions.When we bring these characterizations together, we see that for Rawls raising questionsof political legitimacy is not only to ask whether the outcome of the political processis sufficiently just. A full examination of political legitimacy must also ask whetherthe agent who made the decision is authorized to make the decision, and whether thedecision has been made in accordance with established and recognized

procedures thatare themselves appropriately authorized and sufficiently just" (Lang-vatn, 2016, p. 134).

Let's see, whether the new constitution or the electoral law of Hungary, enacted after 2010, were created in accordance with the recognized procedures and the processes were sufficiently just.

After the 6th elections in the third Hungarian Republic of 2010, the dominant role was played by the Alliance of Young Democrats (Fidesz) which collected 68.13% of the mandates in the Parliament, gaining 263 seats out of the 386. This landslide victory made it possible for the second-time Prime Minister Viktor Orbán to amend the constitution and overwrite all the laws, which were attached to 2/3 regulation. Among the regulations they had changed, the paper is going to focus on two, overwhelmingly important issues: a new constitution and a new electoral system.

Both legal materials were attached to the *two third rule*, both were changed during the period 2010–2014, and both are criticized because of a quick and one-sided legal process.

The new Constitution: a Fundamental Law

Hungary had its first (written) constitution only under the communist system, it was adopted on 20 August 1949. The lack of a written, pre-socialist constitution meant that with the "collapse of the communist system there was no way back to pre-war settlements (unlike e. g. in Latvia, where the mid-war constitution has come in force again)" (Schanda, 2011, p. 153) and Hungary became the only CEE country that didn't adopt an entirely new Constitution after the system has changed, as Latvia also presented the new document in 1993 (Dani, 2013, p. 5). At this point, we have to mention two important developments. Firstly, the Constitution adopted after the roundtable discussions between the governing communist party and the opposition forces was actually a new document. The Parliament adopted a comprehensive amendment to the 1949 Constitution on the 23 October 1989. Secondly, this revised document was a temporary one – at least the plan assumed keeping the 1949 Constitution in force until the adoption of a new one.

> In order to facilitate a peaceful political transition to a constitutional state, establish a multi-party system, parliamentary democracy and a social market economy, the Parliament of the Republic of Hungary hereby establishes the following text as the Constitution of the Republic of Hungary, until the country's new Constitution is adopted.

The Preamble of the Constitution (Act XX of 1949 revised by Act XXXI of 1989)

The Constitution was temporary for good reasons: the revised act was adopted by the Parliament of the previous system, by those politicians who were elected in 1985 under the previous system through one-party elections. The initial plan was to adopt a revision before the new multi-party elections of 1990, providing a smooth and peaceful way to democracy, and then the democratically elected body will have the chance

to create a new document, helping to depart from the socialist structures. Thus, "the principles of popular [sovereignty], democracy, rule of law, separation of powers were implemented and a number of new authorities were set up (Constitutional Court, State Audit Office, the Ombudsman, local self-governments etc) and a comprehensive chapter on fundamental rights was incorporated to the [revised] Constitution" (Schanda, 2011, p. 154).

> *Article 2.*
>
> (1) The Republic of Hungary is an independent, democratic constitutional state.
> (2) In the Republic of Hungary, supreme power is vested in the people, who exercise their sovereign rights directly and through elected representatives.
> (3) No activity of any social organization, governmental body or individual citizen may be directed at the forcible acquisition or exercise of public power, nor at the exclusive possession of such power. Everyone has the right and obligation to resist such activities in such ways as permitted by law.
>
> *Chapter I. – General Provisions* (Act XX of 1949 revised by Act XXXI of 1989)

However, the plan for creating a new document after the first democratic elections has failed. Compromise about such a new Constitution was never possible after the systemic change. It was not about the lack of enough votes. There were coalitions which disposed of the needed power to create a new document and it was about some kind of a "moral respect of the Constitution" (Ibid.) resulting in keeping the temporary document due to lack of political consensus.

That status, or moral respect has changed with the elections of 2010. The landslide victory of Fidesz allowed the party to change literally all of the acts. While this situation did end up in restructuring the institutions and legal background, Fidesz decided to adopt a new Constitution as well.

There were no adequate legal or institutional reasons forcing the Parliament to adopt a new one, except for the one we have already mentioned. The previous one was only temporary. After the process has started, it was then concluded without any debates. *The Venice Commission* which was monitoring the situation in May 2011 (after the Parliament approved the Act of 18 April 2011) and drew attention to lack of discussions between the governing party and the opponent forces, but "according to the information provided to the Venice Commission during its visit [...], there will be co-operation between the majority coalition and the opposition in the preparation of the implementing legislation" (Venice, 2011, p. 4). On the other hand, that co-operation has never actually existed. The lack of dialogue is more obvious, when we understand that "the final draft was made by a small group of experts. Sensitive changes to the draft came up even in the last days before the final vote" (Schanda, 2011, p. 155).

While the lack of consensus questioned its legitimacy, the long way from 1989/1990 and the Roundtable Discussions came to an end in April 2011 with the adoption of "the first structured constitution of Hungary which was passed by a democratically elected parliament" (Ibid.). The Constitution entered into force on 1 January 2012.

   The new Constitution referred to as the Fundamental Law of Hungary intended to be the basis of the state legal order, a law with the strength of a "granite" – as it was indicated by the officials from the government. The Act was widely promoted, even separate tables were created to inform citizens about the new document: "Starting on Thursday, 1 September 2011, every municipal council in Hungary must set up a table to display the country's newly enacted constitution. The table must be covered with glass, and the constitution on the table must be opened on page 28 (though citizens may browse the document freely, turning it to any of its pages). Another requirement consisted in placing a chair next to the table. The whole installation was supposed to be placed in a room. It supposed to be guarded by an employee responsible exclusively for that task. Decoration (there was a space for creativity) and a ribbon in the Hungarian national colours also were required" (*The Constitution's...*).

   While Fidesz was proud of the new Act, the opponent forces, civil and international organizations started to criticise the Constitution, mentioning the way of its adoption and the sometimes ideologically overloaded texts (Dani, 2013, p. 6) as well as alarming chapters and sections. We already mentioned the way the whole process was managed by Fidesz, thus Dani recognized the new Act as a 'Partisan Constitution', departing from European methods of pluralism (Ibid.)

   A bunch of alarming sections were collected by the *Venice Commission*:

– One of the problems is the too extensive use of cardinal laws (that require a qualified majority of two thirds of the MPs) that can tie the hands of the upcoming governments, or even block the changes which the country would need in the future. "The Venice Commission considers that parliaments should be able to act in a flexible manner in order to adapt to new framework conditions and face new challenges within society. Functionality of a democratic system is rooted in its permanent ability to change. The more policy issues are transferred beyond the powers of simple majority, the less significance will future elections have and the more possibilities does a two-third majority have of cementing its political preferences and the country's legal order" (Venice Commission, 2011, p. 6).

– Marginal, yet notable part of the Fundamental Law is the "concept of «historical constitution», used both in the Preamble and in Article R, dealing specifically with interpretation of the Constitution, brings with it a certain vagueness into constitutional interpretation. There is no clear definition what the «achievements of the historical constitution» [...] are" (Ibid., p. 7). More even more interesting, as far as the currently discussed problem is concnerned, the legislators implemented the following section in the Preamble:

> We do not recognise the communist constitution of 1949, since it was the basis for tyrannical rule; therefore we proclaim it to be invalid.

> *The Preamble of the Fundamental Law*

   Since that Constitution (even in a revised way) provided stable background for the democratisation process, invalidating this Act could lead to paradox situations: "*Ex tunc* of the former Constitution could result in that all acts of state enacted under the former Constitution would lose their legal basis and will thus be invalid

themselves. [...] Even Constitutional institutions like the Parliament would lose their legitimacy and have to be seen as legally inexistent. This would lead to a legal paradox since an illegitimate or even non-existent Parliament cannot enact a new Constitution" (Ibid., p. 8).

–   Finally, a notable and alarming section concerns the poor composition of the subjects of the Fundamental Law, considering the relations with our neighbours and the debates originating from the past. In that sense, which is positive, the "legislator pays proper attention to the principle of friendly relations with the neighbours and avoids inclusion of extra-territorial elements and formulations that may give rise to resentment among neighbouring states. In this respect, the Preamble seems to be based on a distinction between the Hungarian nation and (other) nationalities living in Hungary. The Hungarian nation, in turn, also includes Hungarians living in other states" (Ibid., p. 9). But, as the Venice Commission noticed, thanks to a problematic composition, nationalities living with us might not be a part of our political nation. "The Preamble [...] continues by stating that «the nationalities living with us form a part of the political community and remain a constituent part of the State». While this statement may be seen as an effort towards inclusiveness, it is also to be noted that the Preamble has been written in the name of «we the members of the Hungarian nation», intimating that members of the «nationalities living with us» are not part of the people responsible for enactment of the Constitution. The Constitution should be seen as the result of the democratic will-formation of the country's citizens as a whole, not only of the dominant ethnic group. Therefore, the language used could or should have been more inclusive (such as, for example «We, the citizens of Hungary…»)" (Ibid.).

Several sections were and still are considered ideologically overloaded, suggesting the conservative vision of the society. Here, we can mention the Christianity, as a central motive within the Preamble, as well as the marriage and the family.

> We are proud that our king Saint Stephen has built the Hungarian State on solid grounds and made our country a part of Christian Europe one thousand years ago.
> We recognise the role of Christianity in preserving nationhood. We value various religious traditions of our country.
>
> *The Preamble of the Fundamental Law*

> Hungary shall protect the institution of marriage as the union of a man and a woman established by voluntary decision, and the family as the basis of the nation's survival.
>
> *Article L, Foundation of the Fundamental Law*

These moral issues are still being discussed, questioning the need to declare the marriage as a union of a man and a woman, excluding same-sex couples. On the other hand, the Fundamental Law is not a radical change of recent regulations. Also, the *Venice Commission* mentioned just the uncommon way of declaring those values – yet at the same time concluded that Constitutions in most cases lack the al-

lowance of same-sex marriage (Ibid., p. 9). Still, the *Venice Commisison* suggests to"avoid defining or establishing all values,for which there are different justifiable concepts in the society. Such values, as well as their legislative implications, should be left to ethical debates within the society and the ordinary democratic procedures, respecting at the same time the country's human rights and other international commitments" (Ibid.).

On the basis of these articles and the criticque, the Fundamental Law is considered as a democratic Constitution, contaning democratic values and standards, which are required by the European norms (and may lack newly emerged generational and moral issues, still debated within societies, like e.g. the same-sex marriage). The only thing which we can here to criticize is the way, in which it has been drafted and adopted. As the Venice Commission highlighted in the Conclusion of ist report, the whole process was characterized by the "lack of transparency, shortcomings in the dialogue between the majority and the opposition, the insufficient opportunities for an adequate public debate and a very tight timeframe" (Ibid., p. 29).

The Act lacked the strength of a granite – maybe that is why the Constitutional Tables are not there any more. In five years the Parliament had changed it six times and tried to accept a seventh amendment as well, following a failed referendum.

A new electoral system[1]

During the Roundtable Discussions, the parties and organizations agreed to create a mixed electoral system based on the system adopted in Germany. A mixed electoral system, using majoritarian and proportional elements intends to create stability for the winner party in order to achieve a stable Parliament, while gaining the much needed legitimacy. Germany (Bundesrepublik Deutschland or the West Germany) adopted this mixed category to reach legitimacy for the political institutions after the failures of the Weimar Republic as well as to create the well-needed stability, limiting the number of parties as well. Hungary, triggered by the same needs, created a mixed system as well: 386 MPs were elected to the Parliament for six consecutive elections: in 1990, 1994, 1998, 2002, 2006, 2010.

Because of the mixed system, 176 MPs were elected in single-member constituencies with a two-round voting system, a maximum of 152 MPs were elected through 20 territorial lists (19 counties and Budapest) with proportional closed-list voting and a minimum of 58 mandates were allocated through a national list. The votes which didn't guarantee a mandate were transferred on the compensation list, which was supposed to favour smaller parties. The Hungarian system was successful in reaching stability, while at the same timeit allowed smaller parties being represented in the Parliament: there were no need of interim elections, all of the Parliaments fulfilled their 4 year terms (more thorough explanation of the system: Batory, 2010).

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[1] The chapter is based on Vörös, 2015.

Figure 1. The Hungarian election system, 1990–2010
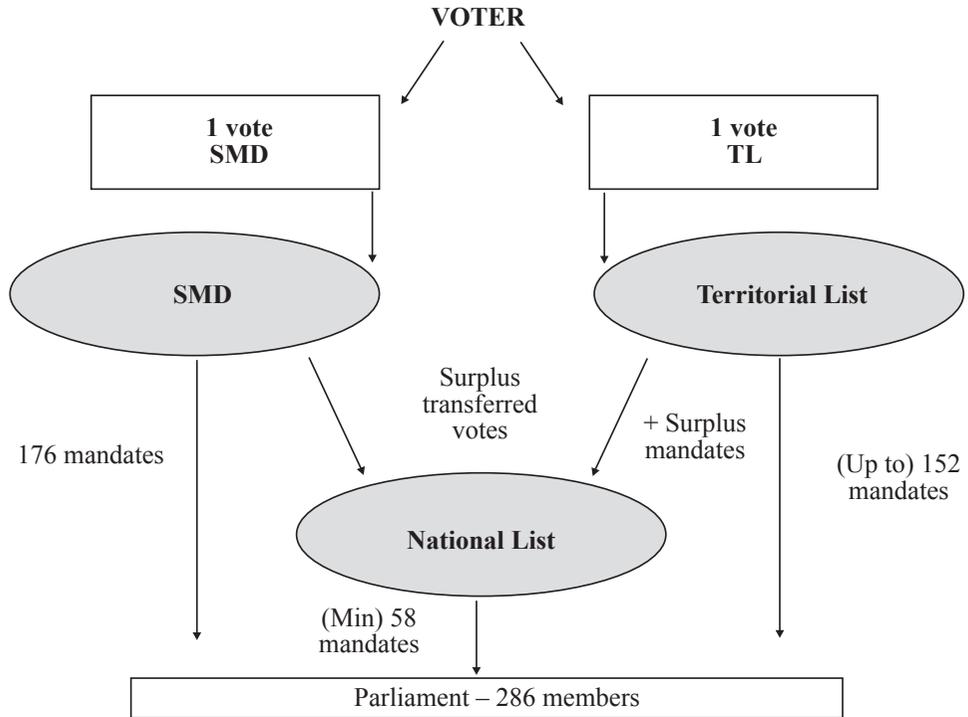
The system was complicated, but stable (and considered as a powerful tool for Hungarian economic and political development), with more or less problematic issues. First of all, though the system was mixed, it was closer to a majoritarian model It was creating two poles, two blocks in the Hungarian political life – around Fidesz on the right, and around the Hungarian Socialist Party (HSP) on the left. The trend and the direction became obvious after the 2002 elections. That was a minor issue, but still an alarming process for legitimacy, with the smaller parties losing the possibility the reach Parliamentary status.

The other major problem consisted in that the political elite failed to respond to the above. In order to understand why the Constitutional Court decided to cease the single-mandateconstituencies in 2010, we have to analyze these districts and understand the hardly cooperative attitude within the Hungarian political life.

The electoral law accepted in 1989 (the "XXXIV Act"), presenting the methods for creating the single-mandateconstituencies, is an outcome of multi-party discussions, which date back to the socialist era. The idea insisted in creating somehow equal constituencies (176 of them), comprising about 60 thousand citizens. Later on, in 1997, a new act on the electoral law specified that the constituencies should be created in a way to distribute citizens at possibly equal numbers, focusing on their equal rights (Techet, 2013). However, there was a blocking dimension as well: all of the

constituencies were to be created within the counties, limiting the chances for an equal system. Huge differences showed up thanks to mobility, migration and the decreasing population. Thus, the Constitutional Court in its decision of 2005 (22/2005)obliged the parliament to discontinue the disproportionalities and create equal constituencies. To render the differences, let's look at the two following examples:

– Veszprém county, 6th constituency: 27,073 citizens eligible to vote,
– Pest county, 4th constituency, 67,092 eligible voters.

The question was who should adopt a new constituency system. After the protests of and riots (see more: *Hungary prepares*...) on the streets of Budapes offall 2006, the HSP government lost its legitimacy and didn't do anything with the problematic constituencies. Thus, since the elections of 2010 were an ongoing violation of the Constitution (equal right to vote), the Constitutional Court disallowed the constituencies (193/2010) forcing the contemporary Fidesz government to handle the situation. That need gave Fideszsome time to reshape the system.

There was another, somehow parallel process as well: discussion about a smaller (thus cheaper) parliament, stating that 386 MP are more than enough for a country like Hungary with less than 10 million citizens. It was not a brand new problem, but Fidesz used this argument to underlie the importance of a new electoral system even more.

The process of drafting and adopting the new system was very similar to the method which served Fideszto create the Fundamental Law (closed and lacking any consensuses).

The new electoral law (Act XXXVI./2013) was presented in 2013, after the legislators have been developing it for two years. In order to satisfy the both previous needs, the new system was created for a smaller parliament (i.e. for 199 MPs). Expcept for several changes, the structure of a mixed system was maintained.

Figure 2. The Hungarian election system, 2014–
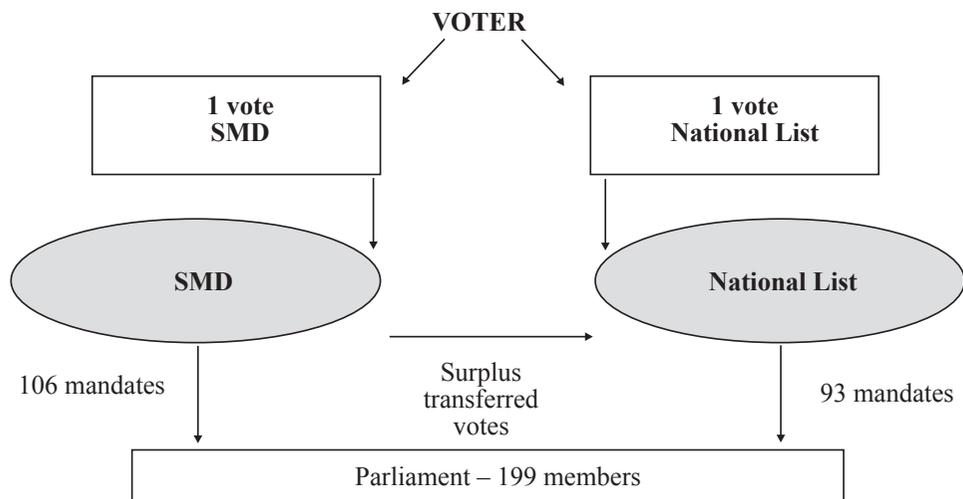
Source: Edited by the current author.

The voters still had two votes, but themiddle,territorial level was abolished. They could cast one vote on a single-mandate constitutency and another one for the National List, being the compensation list at the same time. Out of the 199 mandates, 106 are allocated in single member districts (SMD), which is a turn towards a more majoritarian system.[2] However, besides the changewithin the proportion of SMD mandates, changed concerned the voting method as well: while previously there was a two-round system, where the winner needed the absolute majority of votes in the first round (and relative majority in the second), the new system introduced the well-known first-past-the-post system, where a relative majority is needed for mandate in the first and the only round.

The new system introduced the so-called winner compensation. Prior to the change, the built-in compensation was created for smaller parties andthose, who failed to achieve a mandate. Those votes which were not converted into a mandate were transferred to the National List, but (which is very important) in the SMD the winner needed to gather all of the cast votes. That again had changed. Currently, the winner needs to obtain a minimum amount of votes, which makes him or her eligible for the mandate.

> In our example, the winner (A) receives 10,000 votes, while the runner-up (B) has 5,000 votes. In this case, A has the mandate and 4,999 further compensation votes transferred to the National List.
> In another example, showing a possible consequence of this rule, party A receives 20,000 votes, while party B receives 9,999 votes. Here, the mandate is allocated for party A which also receives 10,000 compensation votes. The party B, on the other hand,disposes only of 9,999 compensation votes.

According to the analysis of the Political Capital, this new method brought six extra mandates for Fidesz in the elections of 2014 (Political Capital, 2014). Furthermore, another 93 mandates were allocated through the National List (due to the second votes and the compensation votes) with the help of the D'Hondt system. Thus, the new electoral system is still a mixed system, yet even more majoritarian than the previous one as it is over-compensating the more popular party (more thorough explanation of the system: Vörös, 2015).

Since the number of constituencies had also changed, the legislators had to redraw the borders of the districts[3] – considering that the county-borders within the SMDs have to exist. Less yetlarger districts were created and of course the process (since it lacked discussions or clear principles, e.g. in the case of administrative cities for the counties) was severely criticised. Fidesz was accused of gerrymandering the districts, manipulating within the SMDs to help their own candidates. While we have to admit that district creation can be followed by criticism, the lack of adequate principles is a proof of the manipulations. "Concurrently to the enactment of a new Hungarian electoral law, a brand new and politically manipulated constituency map came into

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[2] 53% of parliamentary mandates will be decided in individual districts as opposed to 46% in the past.

[3] Because of the already mentioned Constitutional Court decision, the revision of electoral boundaries could no longer be postponed.

force and clearly benefits Fidesz. In a relatively tight race, the district borders become a significant problem. In the event of an opposition leads by 1% to 4%, the system can introduce a correct to favor the right. However, in the case of a wider margin, the relevance is lower" (Political Capital, 2014). It is also worth to mention, that the Act about the SMDs is a cardinal law, requireing a qualified majority of two thirds of the MPs – which can be problematic in the future, provided that there will be no government backed by more than two thirds of the seats. The basic rule is that the disctricts should be created in a somehow equal way and if a district differs from the average by more than 20%, the parliament has to redraw the borders. In the case of Tolna County, that moment can come at any time (given the trends of migration and the decreasing population) creating a situation, where two out of the three constituencies will be smaller than the average by more than 20%, while merging the districts would create a situation, where the SMDs are bigger than the average by more than 20%. As some experts noted: this example isa clear evidence of a missing a principle during creation of the SMD system (Vörös, 2015, p. 47).

The method for candidate-registration had changed as well. Previously, a candidate had to collect the so-called "knocking cards" from the eligible voters, 750 each, and as Figure 3 shows, sometimes it was problematic to collectthem in a legal way.

Figure 3. Mailboxes – all the "knocking cards" were stolen

Source: index.hu.

Currently, a candidate must collect only 500 signatures on a single sheet and provide personal information and signature of the eligible voter. Since a voter can support several parties at the same time, thecandidates have again proved to be creative. When

the deadline for the candidates has passed, there were reports about smaller parties copying the signatures uponreceiving information about the voters from unknown parties. According to the act, photocopying of the signature or faking the signature is illegal. Nevertheless, it still demonstrates an alarming and questionablee element of the new structure. Eventually, the signature sheets were not abolished. Legal-aid offices and organization called for a thorough investigation, but the head of the Hungarian National Authority for Data Protection and Freedom of Information simply answered thatit does not have the capacity to check the validity of all the signatures and since the main goal of the act is to hold the elections, they cannot start a long-lasting process which would endanger it. When the press asked about the possible time frames (how much time would it take to check the sheets), the answer was that they have not done any calculations on the matter (*Hihetetlenindokkalvédi…*).

The small parties (it is unknown whether all of them were helped in this curious way) were encouraged by other regulations as well: "new regulations also encourage small parties to enter the fray by offering generous campaign funding for single candidates and party lists. With as few as 27 individual candidates a small party may receive HUF 176 million in campaign financing and if it manages to run a national campaign (fielding 106 individual candidates) the total may run up to HUF 703 million. This encourages the emergence of so-called 'sham parties'" (Political Capital, 2014). The stories about these small parties are alarming: fictitious invoices, fuel consumption at levels enought to travel from the Earth to the Moon and back (twice),[4] a party leader who is unfamiliar with the other candidates (didn't even remember the name of the candidate who was the second on the National List)[5] and missing money: around HUF 3 billion is still missing[6] and the Treasury doesn't even know how to get that money back.[7]

The possible aim of these regulations consisted in obstructingthe already fragmented opposition. At least it was successful in the 15th SMD of Budapest: the candidate of Együtt 2014 ("Together 2014") received 197 votes, while the leftist candidate (backed by the actually existing political party "Together") lost against the Fidesz candidate just by 56 votes. Clearly, the name of this sham party was misleading, possibly helping the Fidesz to gain one mandate more.

According to Political Capital, there exists regulation on a manipulating campaign/advertisement: "The Fourth and Fifth Amendment to the Fundamental Law created a situation where a campaign for political parties is practically restricted to the public media. Commercial media outlets may only broadcast political ads for free, which resulted in that none of the commercial media outlets with a national coverage chose

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[4] *Elképesztőhanták: a Holdon is járhattak a kamupártok*, nol.hu, 02.04.2015, http://nol.hu/belfold/magyar-kamupart-a-holdon-1525757.

[5] *Ezkellett a kétharmadhoz*, Political Capital, 15.04.2014, http://www.valasztasirendszer.hu/?p=1942758.

[6] "Individual candidates have to pay back the state support if they fail to win at least 2% of votes" (Political Capital, 2014).

[7] *Hárommilliárd forint eltűnt a becsületesemberekközött*, origo.hu, 27.09.2014, http://origo.hu/itthon/20140927-harom-milliard-forint-eltunt-a-becsuletes-emberek-kozott.html.

to undertake broadcasting political advertisements up to the respective deadline. This, when combined with the fact that the public (state) media is government-leaning, resulted in an uneven media representation that unduly favoured the governing Fidesz party and its candidates [...]. At the same time, government advertisements were aired on one of the commercial television channels, the campaign spot in question being composed of the same types of slogan and visual elements as an advertisement of the governing coalition, but the National Election Committee ruled that advertisements did not qualify as a political campaign spot" (Political Capital, 2014).

The last, internationally criticized element, refers tolegal distinction between those citizens working and living abroad but having a permanent residence in Hungary and those living abroad without permanent residence in Hungary (the size of this group increased thanks to the dual citizenship, introducing a foreign policy tool towards Hungarian nationalities living outside of the borders). The latter may vote via mail, while those staying abroad have to vote in person at a diplomatic body. The main problem here is not about the right to vote, but about the different and unsafety mode, in which voters can cast their votes. The database about these citizens is valid for 10 years (rasing questions about frauds), voting by mail arises security concerns and the fact that the different background of equal citizens creates different rights is not democratic. Of course, there are groups which claim that this differentiation intends to help the Fidesz, in reality though it has very little effect on the electoral outcome.[8]

Is it a system that was created to benefit theFidesz? Based on the above points, there is a clear suspicion of manipulation, but the electoral system itself is a democratic, free and secret institution – with a more majoritarian outcome. Hence, the new system does support a party: the party which is more popular (as well as the largest parties). Right now it is Fidesz, but in the future the system will supposedly help to create a two-pole or a two-block system, with two sides equally eligible for victory. If that will be the case, a close outcome can favorFidesz with the recent regulations and disctricts.

Conclusion

The government adopted a new constitution and a new electoral system without the support of any other political party. They were products of one political party, adopted over a single term. Thus, their legitimacy is questionable – not because they lacked the political power to do so, but because there was no consensus and departure from the European standards or the "idea of a 'pluralist constitution'" (Dani, 2013, p. 6).

On one hand, the two-parliament model offered a solution for this legitimacy as it is a well-known procedure in the long history of constitutions: in order to adopt a new constitution (that can be used in the case of an electoral system as well), two consecutive parliaments have to vote n it, offering an adequate level of consensus. In this scenario, it is guaranteed that two separately elected groups of MPs decide about the

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[8] Surveys conducted in neighboring countries clearly show that most ethnic Hungarians have little interest in Hungarian domestic politics, although the vast majority of those wishing to have a say support Fidesz (Political Capital, 2014).

document and give legitimacy to the constitution (Barna, 2012, p. 8). Again, the actual regulations allowed Fidesz to adopt new acts, but their critics are mostly focusing on the relatively closed process of their creation, which lacked any consensus.

Dániel Barna, in his paper about stable constitutions, writes about the need to develop a stable and most importantly, an enduring text (Ibid., p. 33). The number of amendments (6 in five years) are proving its variability, while the critics from opponent forces are questioning its stability.

The situation of the electoral system is also remarkable – while it does help the popular party (right now it is the Fidesz) to reach majority in the parliament, all of its elements are legal and (besides the lack of consensus) the act was adopted in a lawful way. However, those mentioned units (registration, advertisement, etc.) are questioning the legitimacy of the elections and the picture of a just state, providing clear and unfair advantage for Fidesz. As for future recommendations, the legislators must change the alarming elements, like the registration of candidates and regulations on small, sham parties. The way, in which those who live outside the borders can vote also needs to be regulated in an equal and fair way. Unless the legislators decide to adjust those problematic parts, the elections continue to lack the legitimacy they need.

Reurning back to the legitimacy issues, we may ask a question whether they have decreased or not? According to the already cited normative concept, legitimacy refers to some benchmark of acceptability or justification of political power or authority. That benchmark was there in the Hungarian political sytem: the political life was non-cooperative due to the systemic change within the country. Yet, there definitely was a consensus regarding the constitutional process and the electoral system: coming from the sensitive nature. None of the coalitions (that had the power) in the past dared to change them because of the missing compromise about the directions. If we turn back to John Rawls and his four characteristics of legitimacy, and to the point where he emphasized how the law was created, the processes of the creation of these acts were not made in accordance with the established traditions of the third Republic originating from the period between 1989 and 1990.

What is more alarming, if this attitude (respecting compromise on the higher level) was not present and the foundations of the democracy became the playgrounds of politicans, it would be justified to question the legitimacy of the institutions and the state.

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Abstract

The paper intends to present the adoption of two new and fundamental Acts in Hungary after the landslide victory of Fidesz[9] in 2010. The legislators developed a new Constitution and reshaped the electoral system – even though the drafting processes were closed to opponent forces or citizens. We are going to demonstrate that this method lacks legitimacy and can threaten the democratic institutions, while the new electoral system is a diversion from values, which were laid down by the Roundtable Discussions of 1989: creating an electoral system in order to achieve stability and legitimacy. We are going to analyse these Acts through criticism in order to understand the consequences of this one-sided legislation.

Key words: Hungary, legitimacy, electoral system, electoral law, Constitution, Fundamental Law, CEE

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[9] Fidesz has a coalition with KDNP (Christian Democrats People's Party), but since KDNP has no measurable support among citizens and run together with on the elections, we are going to reflect ont he government as Fidesz government from now on.

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The name of the game:
The Regime of National Collaboration

The name of the game (I was an impossible case)
Does it mean anything to you? (But I think I can see in your face)
(That it means a lot)
What's the name of the game?

<div align="right">ABBA</div>

"In the spring of 2010 the Hungarian nation once again collected its remaining strengths and in the voting booth accomplished a successful revolution. The Hungarian people achieved this victory with the overthrow of the old regime and the establishment of a new one, the regime of national cooperation. The Hungarian nation with this historic act obliged the newly elected parliament and government to work without any hesitation or compromise for the establishment of the regime of national cooperation."

<div align="right">THE PROCLAMATION OF NATIONAL COOPERATION
14 May 2010[1]</div>

Introduction

Half a year after the elections of 2010 János Kornai's (professor of economics at Harvard and Central European University) statement is unequivocal: "in the period between 1989–1990 and the summer of 2010, Hungary was a democracy. It is no longer one now – its political formation today is an autocracy" (Kornai, 2011).[2]

Iván Szelényi and Tamás Csillag (Szelényi is a former professor of political science at Yale), even though they attempt to "conceptualize", yet they are a little bit confused: "the bottom line of this paper: Putin's United Russia and Orbán's Fidesz are rather close to each other and it is reasonable to describe them as post-communistneo-conservatism/ traditionalism and managed illiberal democracies" (Csillag, Szelényi, 2015).

The most original (and maybe too ingenious for academia to digest[3]) interpretation is that of Bálint Magyar (liberal politician, MP and Minister of Education and Culture),

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[1] Translated by Eva S. Balogh, http://hungarianspectrum.org/2010/05/18/the-proclamation-of-national-cooperation/.

[2] See a more detailed account of the authoritarian regime in Hungary: J. Kornai (2015), *Hungary's U-Turn*, "Capitalism and Society", vol. 10, no. 1 (March).

[3] Obviously this is not the place for a detailed critique of the „Mafia State's" concept explanatory merits. It seems it combines three elements: the expression of itself – and this can be misleading as

who presents the actual Hungarian regime as an autocracy of an "independent subtype of autocratic regime:" "This model of the Mafia State attempts to capture the system in its entirety and its nature is fundamentally different from other autocracies. The principal feature of its actions is an overriding focus on the joint operation of concentration of political power and expansion of wealth of the adopted political family" (Magyar, 2014).[4]

Jan-Werner Müller (Princeton University) considers that Viktor Orbán's regime might be termed as populism, where "anti-capitalism, cultural nationalism, and authoritarian politics become inextricably linked" (Müller, 2016).

Cas Mudde follows suit, but locates Viktor Orbán's political family in the camp of radical right ideology: "Orbán has transformed Fidesz into a party that seems increasingly driven by a combination of nativism, authoritarianism and populism – the hallmarks of radical right ideology" (Mudde, 2015).

Pippa Norris (McGuire Lecturer in Comparative Politics at the John F. Kennedy School of Government, Harvard University) and Roland Inglehart (Institute for Social Research, Ann Arbor), combine populism and authoritarianism: "populists also characteristically display authoritarian leanings, favouring the personal power exerted by strong and charismatic leadership which is thought to reflect the will of the people. Populists also favour direct forms of majoritarian democracy for the expression of the voice of the people, through opinion polls, referenda and plebiscites, rather than the institutional checks and balances and the protection of minority rights built into processes of representative democracy" (Norris, Inglehart, 2016).

Bogdan Góralczyk (Warsaw University), apparently a connoisseur of the Hungarian case, leaves it to us: "so we may classify the system as an illiberal democracy (Daniel A. Bell, Fareed Zakaria), a nation state, a corporate postmodern state, and compare it to the autocracies in post-Soviet countries, or even to a 'mafia state', following in the footsteps of a group of liberals headed by former Minister of Education Bálint Magyar…" (Góralczyk, 2014).

As we can see, there are a wide range of proposals for the characterization of Viktor Orbán's regime, but all the above – albeit different – approaches have something in common: they all incorporate a certain understanding of authoritarianism. Therefore I

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takes our thoughts to a specific phenomenon [Mosca Gaetano (2014), *What is Mafia: Cosa è la Mafia*, M&J Publishing House, that of Mafia in South Italy (and US)]; authoritarianism and corruption of a very special kind. These latter two elements might be discussed under the concept of "state capture" as well. An excellent, empirically tested study: Fazekas Mihály and Tóth István János (2016), *From Corruption to State Capture: A New Analytical Framework with Empirical Applications from Hungary*, "Political Research Quarterly", vol. 69, no. 2, s. 320–334, doi: 10.1177/1065912916639137.

[4] Bálint Magyar (Miklós Mitkovits coauthoring) makes a comparison between the Hungarian and Polish autocracies: "Orbán's regime, which we can define as a Mafia state, is built on the twin motivations of power centralization and family accumulation of wealth, the subject of its power is the adopted political family freed of the limitations posed by formal institutions. Kaczyński's regime is better described as a conservative-autocratic experiment driven by ambitions of power and ideological inclinations. The active subject of the Polish experiment in autocracy is the ruling right-wing party, the PiS. While the Hungarian regime essentially operates with ideologies, the Polish one is more ideology driven"; http://www.kod.ngo/parallel-system-narratives-polish-hungarian-regime-formations-compared-part-i/, Accessed: 30.01.2017.

am going to take a step back and try to analyse the phenomenon of *authoritarian rule* in order to get an analytic tool for the description of that *regime*.

Throughout this essay I make a sharp distinction between "regime" and "system". Regime is defined as a primarily political notion, as *ruling*. If one party rules – within undemocratic or seemingly democratic circumstances (some elections, however fake, are held) – then we may speak about a regime: like fascist, Nazi, communist regime; or democracy, when the "people rule". The "system" refers to governance: a set of inter-related policies which would be recognizable by one common ground they constitute: market economy or state-centred policies; "statism" may refer to a *system* of govern-ance that can operate within democratic or autocratic regimes (Bretter, 2014).

Thus, my primary concern is the concept, or much more importantly, the practice of ruling within democratic circumstances. How far autocratic rule can be perceived within the institutional framework of democracy? How can we translate the intuition of Alexis de Tocqueville about the "tyranny of majority"? We see in front of our eyes many so-called autocracies – Russia, Turkey and China, to name just a few in the neighbourhood. Yet, at theoretical level we encounter numerous hardships, when we try to define what precisely means autocratic rule that would be quintessential for an autocracy and at least strange for a democracy.

In my understanding, "the name of the game" is *authoritarian rule*, and not mere populism, as it is frequently attributed to the Orbán-regime.

Theoretical considerations

For a start let us take the most famous modern attempt for a systematic treatment of authoritarianism and totalitarianism and the differences among them. Juan Linz's typol-ogy dates back to 1964 (Linz, 1964), the heydays of authoritarianism-research, when it was urgent to understand the collapse of Europe that recently sank in the ocean of fascism and Nazism. Linz, as one of the first, students relied upon the work of Hannah Arendt (*The Origins of Totalitarianism*) and Carl J. Friedrich and Zbigniew Brzezinski (*Totalitarian Dictatorship and Autocracy*). His findings are worth to be rediscovered because of the common characteristics of that period and the contemporary times.

Before we turn to Linz's work, let's take a fresh look to a less known source, the aforementioned Friedrich-Brzezinski description.

The starting point of the Friedrich-Brzezinski approach is quite obvious and practi-cal. We may readily accept that there are many historical forms of autocracy, as this is the most natural form of government: it simply works. Various types of autocra-cies include ancient despotism of Persia or Egypt (along with deification of the ruler), most of the Greek city states before the Delian Alliance, the Roman emperors (equally deified), tyrannising city states of Renaissance Italy, absolutisms in Europe and tsarist Russia as well as the Nazi and Communist totalitarianisms. At this point, Friedrich and Brzezinski make an important qualification. Totalitarianism, though it is a form of autocracy, it demonstrates a different type of rule which was made possible only by the technological advancement of the 20th century. "Totalitarian dictatorship may, in

a preliminary characterization, be called an autocracy based upon modern technology and mass legitimation". For autocracy, the definition runs as follows: "in all autocratic regimes, the distinguishing feature is that the ruler is not accountable to anyone else for what he does. He is the *autos* who himself wields power; that is to say, makes the decisions and reaps the results" (Friedrich, Brzezinski, 1956, p. 4).

Of course, the keyword here is "accountability". It might be objected that when the slightest presence of formal accountability is present, we cannot talk about autocracy even if rule of law (subordination of ruler to laws) is eroded, even if elections are rigged and the lines of separation of powers continuously blurred. Institutional arrangements still provide an obstacle to the ruler's will. The façade of any ordinary parliamentary democracy is a sufficient counter-argument for any autocracy that doesn't want being called as such. But the mere existence of formal democracy and the institutions of liberal democracy are not enough to wash away the charge of autocracy. If this is the case, we have to look for a more practical account.

Besides the definition of autocracy, Friedrich and Brzezinski draw our attention to its two characteristic features.

There is much empirical evidence that in autocracy exists a widespread consensus on the broad goals of order and peace and these are substantiated by common belief-systems and a widely shared culture. An *autocracy rests on popular basis* without which cannot function properly. This tends to grow because more and more people become accustomed to it and will find their way through. Slowly a *habit* is taking contours, it is becoming a part of everyday behaviour. It rests on the existential fear of losing life as in the previous times, or upon a milder and modern appearance: the fear of losing the job and thus falling into the utmost abyss of existential uncertainty. A *habit* that outlasts even the generative circumstances. Autocracy presents itself as a *regime* without an alternative. As such, it is an *exclusive* organizing principle of everyday life: "this is it, one has to like it" (according to a Hungarian saying). Acquiescence is the legitimating power of autocracy. Contrary to our immediate reflexes, autocracy doesn't create the much desired stability for ordinary citizens, but it is continuously creating uncertainty and thus requiring *loyalty* in exchange for survival (in this respect the Kádár regime performed perhaps the best in the former communist camp; even tacit loyalty was accepted as an expression of it. "Who is not against us, is with us" was the magnanimous offer).

We will add a small refinement to this notion of habit in an autocracy.

A softening autocracy is a better place for living, it is more cheerfully accepted than a hardening one, which create more resignation. Loosening tight control evokes pleasure, imposing restrictions causes sadness. Gaining more freedoms, even the small and personal ones, is a series of individual successes. By contrast, losing freedoms, but gaining personal care from the one in charge is completely different, yet the effect are the same. Creation of the habit of acceptance.

The above-described *habit* is at the core of what we call popular support in an autocracy. Friedrich and Brzezinski attach a second characteristic: that support for autocracy has to be demonstrated frequently, as its effect will strengthen autocracy, which exhibits increasing support. Hitler's *Volksbefragung* (popular questioning) comes in-

stantly to mind, but autocratic regimes in the past have often been engaged in such consultative practices, from Harun al-Rashid's legendary wanderings through the taverns of Baghdad[5] to Frederick the Great's extended solicitation of popular responses to his proposed code of laws, which were repeated by Napoleon Bonaparte. Probably the best example here is the case of Napoleon III and his reliance upon the ideology of popular sovereignty.[6] In all these instances, the ruler retains full and complete power to decide over what is accepted or rejected; without further ado, he's got the last word.

While Carl J. Friedrich and Zbigniew Brzezinski are interested primarily in how the autocracy works, Juan Linz's interest lays within the taxonomy of different regimes, but the overall approach[7] resembles its source and thus serves well our purposes.

He summarizes his definition of authoritarianism by presenting it as "political systems with limited, not responsible, political pluralism, without elaborate and guiding ideology, but with distinctive mentalities, without extensive nor intensive political mobilization, except at some points in their development, and in which a leader or occasionally a small group exercises power within formally ill-defined, yet actually quite predictable limits" (Linz, 2000, p. 159; Linz, 1964, p. 255).

We have already tried to talk about the special "mentality" of autocracy using perhaps a better concept of a habit.[8]

The other part of the definition stresses "limited, not responsible" pluralism. What this means exactly, and why is it so important for our purposes?

It captures exactly the extra-institutional aspect of authoritarian government, the constant drive to exclude some groups of the society from being part of any political

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[5] There are many beloved Hungarian tales having their hero Mathias Rex, the Renaissance king of Hungary, wandering through the country, chatting with wise people, sensing their mood, finding out their complaints against the rich or those who oppress them. Of course Mathias Rex, the benefactor, is a typical autocratic ruler and the best example of the enduring tradition of autocratic rule in Hungary.

[6] See later in this paper.

[7] „Our concept focuses on the way of exercising power, organizing power, linking with the societies, on the nature of the belief systems sustaining it, and on the role of citizens in the political process without, however, paying attention to the substantive content of policies, the goals pursued, the raison d'être of such regimes. It does not tell us much about the institutions, groups, and social strata forming part of the limited pluralism or about those excluded"; Linz Juan J. (2000), *Totalitarian and authoritarian regimes*, Lynne Rienner Publishers, Boulder, Colorado.

[8] We won't give a precise definition of the concept of habit, instead we will point to the source from where it was taken from. Alexis de Tocqueville uses extensively this word in its Latin form, *moers*. Habit is an interplay of structural, institutionalized behavior, everyday routines and psychological determinants of the behavior, the perception of the environment and acting accordingly. As Tocqueville suggests, a combination of the *manners* ("habits of the heart") and ideas (shared notions and opinions: *political culture*): "I have previously remarked that the manners of the people may be considered as one of the great general causes to which the maintenance of a democratic republic in the United States is attributable. I here use the word customs with the meaning which the ancients attached to the word mores; for I apply it not only to manners properly so called – that is, to what might be termed the habits of the heart – but to the various notions and opinions current among men and to the mass of those ideas which constitute their character of mind. I comprise under this term, therefore, the whole moral and intellectual condition of a people"; A. de Tocqueville (1876), *Democracy in America*, Translated by H. Reeve, 6th ed., Join Allyn, Boston.

process and to co-opt at will different individuals and groups who would serve the authority. Obstructing (not only legally limiting!) the political capacity of different groups in society and denying them any possibility to take on political responsibility (so they are all "traitors" and morally nil) are the dynamics of authoritarian rule.

Thus, the political process, i.e. authoritarian rule, is the common denominator of autocracy and dictatorship. When taken authoritarianism to its extreme consequences we find as its logical endpoint the dictatorship, which, however, already is a *sui generis* form of a government.

There can be a substantial difference between autocracy and dictatorship, though the interplay is permanent. The limited pluralism of the Kádár regime with its outspoken interdictions on political activity belong clearly to dictatorship, but on the other hand, the more sophisticated constraints consisted within an electoral system, the attack on different civic organizations or constant political efforts to narrow down the field of survival of political parties is part of the autocratic rule and exhibited by the Orbán-regime. Even if the cultural policy of the 1970s–1980s Hungary, overseen by the communist leader György Aczél (the PPP triad of Propagated, Permitted, Prohibited) might be a very mild form of control over the cultural industry, it is still a principle of personal rule. In contrast, even if the Hungarian Academy of Arts was created with all the support of the Orbán government and perhaps with direct involvement of the prime minister and even if it is protected by the basic law,[9] it remains a tool for institutional rule. Thus, personal rule relies exclusively on license, while institutional rule is mediated through a network of institutions that are meant to establish, stabilize and extend (or more importantly) *impersonalize* the rule of a person. Authoritarian rule a is part of autocracy and dictatorship and it is the essence of both, but dictatorship is an autocracy with other means.

The vagueness of the last part of Linz's definition gives me the opportunity to stress an important point in my paper. Linz speaks about the power exercised within "ill-defined limits". I would suggest that even if the limits of power are well defined (chiefly by the constitution as well as other legal norms), we might speak about authoritarianism where power is exercised with the aim of extending itself beyond limits. Therefore, it might be rewarding to distinguish between *power* and *rule*.

The Hidden Bible

On 18 February 2015, an intellectual atomic bomb landed on the playground of Hungarian intelligentsia and actually nothing has happened. Gábor G. Fodor, the director of the "Századvég" trust (a government financed think tank) and also a chief advisor of Viktor Orbán, gave an interview in a liberal weekly and disclosed some outspoken principles of Viktor Orbán's political activity and hidden sources that inform it.

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[9] „Hungary shall protect the scientific and artistic freedom of the Hungarian Academy of Sciences and the Hungarian Academy of Arts"; *The Fundamental Law of Hungary* (25 April 2011), Article 10. par. 3, http://www.kormany.hu/download/e/02/00000/The%20New%20Fundamental%20 Law%20of%20Hungary.pdf, Accesed: 30/1/2017.

The title is already telling everything: "I defend the truth of the power." The Machiavellian foundations are unmistakable: "governing is the art of *ruling* the moment." This implies that "government shouldn't rely on any explicit ideology, however it always has the opportunity to explain any of its actions, *ex post facto*. It is ideological thinking that would require from a politician a philosophical consistency. In contradistinction trust in a politician is generated not by ideas, but by its attitude towards the ordinary citizen: if a politician stands by the citizen in its everyday conflicts, it develops trust. For some, politics is the realm of institutions, regulated mechanisms and impersonal machineries. Everything ought to be official and statutory. In my opinion, the politics doesn't work like this. Politics is the lore of man. It tells us how to guide people. *If I am the ruler, I have to achieve that people want the same what I want.*"

At this point in the interview Fodor discloses that perhaps the best account of Viktor Orbán's political intentions is described by Tilo Schabert, a German professor of political science, in his book *Boston politics* (Schabert, 1989).

Boston politics is a study of a Machiavellian inspiration on the art of ruling, more precisely an in-depth case study of the political life in Boston, between 1968 and 1984, when Kevin White, the then mayor, held a relentless rule within democratic circumstances in the city.

Without attempting to illustrate a critical description of Tilo Schabert[10] I will pat formal his findings as a presentation of a certain kind of concept about politics (i.e. the Machiavellian concept).

1. One needs to create (and recreate) chaos, within which the promise of order gets meaningful. Ever new fights have to be fought, new conflicts have to be generated because that is the atmosphere of creation. "Political creation is the ultimate meaning of politics."
2. The main contradiction of modern politics is that while power is carefully constrained and limited, the government always is urged to accumulate more of it. Therefore, government tends to bypass institutions and resort to loyal, faithful persons or those who can be manipulated to get through its will. Paradoxically, this will result in a proliferation of institutions, but again, majority of these have nothing to do with real power.
3. Government is not what we see with naked eyes in front of us, but works like a Renaissance Court. There is a group of people that constitutes the real government and only the autocrat knows precisely who is part of the group, and who has fallen in disgrace, what are the assignments and often willingly conflicting responsibilities of each of them. Within the court no alternative power centre can be developed and only those limited power centres are tolerated which have reached an agreement with each other.
4. The Court's business is to create a network of individuals who are willing to serve the leader and can be placed in different positions to loosen up the official mission of that institution. Politics always needed people and allegiance, political entrepreneurs who would like to gain something by serving the powerful. And real politics doesn't need light but rather the concealment.

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[10] I did it, in Hungarian: Z. Bretter (2015), *Félreolvasó kör*, "Magyar Narancs" no. 13 (03.26).

5. Nonetheless, accumulation of power is not tyranny, but a creative act. According to Schabert, a good government permeates everything and keeps moving constantly through new combinations, new games and new rearrangements.

Profiling

1. Politics at its best (or worst)

During the systemic change that took place between 1988 and 1989, liberals and conservatives alike were concerned mainly with rules, norms, institutions and neutral state, even when dealing with the issue of poverty or Roma ethnic minority. Politicians were busy setting up the legal and institutional framework for the rule of law (Supreme Court – constitutional court), for the market economy (privatization), liberal democracy (constitutional changes, free elections), pluralism (self government, civic and political freedoms, freedom of speech), thus people rightly felt that they are left alone. While accepting liberty as something natural, the everyday outcome of the regime change felt disturbing. Unemployment plummeted and the nostalgia for "goulash communism" (as the Hungarian version of the real socialism was called) developed even in the generations that wouldn't see János Kádár (the "father of Hungarian Everyman") alive.[11] People longed for care (of the state) and everyday security. And they felt (rightly) that institutional and legal guarantees are too impersonal to provide all these.

Could the political elite done otherwise? Possibly not, but by 2010 at the latest, they had to accept the final verdict of the electorate that was as clear as possible: the regime change has failed. Though Viktor Orbán himself was parting the political elite, he was probably the only politician who drew the most beneficial conclusions for his future political activities[12]. He has to be a personal leader, taking care of people by himself. De-institutionalizing politics and (in the meantime) personalizing leadership is what future success will require.

The regime change wasn't doomed to failure from its start, but after the first 8 years of transitional period there were only erratic experiments to make adjustments to the path of transition.

From 1998 to 2002, the first Orbán government has taken office. By the end of the term it seemed that the Fidesz will have no problems winning the upcoming elections. Yet, the party lost them.

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[11] Widespread acceptance of János Kádár went hand in hand with the refusal of communism. When the democratic opposition, in 1988, demanded that Kádár should leave, large part of the public wanted his rule to continue. Behind the so called negotiated „refolution" (revolution+reform, as Timothy Garton Ash has termed it) neither the revolution nor the reform was accepted and both remained the business of the intelligentsia. Systemic change in Hungary didn't carry substantial legitimacy, and later developments just confirmed this thesis. For a more systematic treatment of postcommunist transformation and detailed description of economic transition see: A. Schmidt (2014), *The economic transformation in Hungary – detour or impasse?*, „Politeja", no. 28, pp. 115–138.

[12] In 2004 at a confidential party gathering Viktor Orbán summed it up: "Regime change has failed, János Kádár has won. We have to shape our politics accordingly."

This was a real turning point in the thinking of Viktor Orbán. Asking the question how could this happen, within few months of analysis Orbán came up with three reasons and congruent solutions.[13]

1. **Economy**. The overall plan for economic development and subsidizing small and medium-sized enterprises (SMEs – for which the government offered the so called Széchenyi plan) was not enough to gain substantial electoral support. Therefore, a handful of *faithful* capitalists were needed (this was ater termed "national bourgeoisie"). They have to be indebted to a person who is the guarantor of their fortune, but none of them should feel hundred percent sure that the next day he will be one of the chosen ones. In this way, the groundwork for a future oligarchy was laid down. On the other hand, the mechanisms of market economy are too distant to generate *loyal* companies of any sort. State ownership or state control of the market are better sources to subtract necessary gratefulness.

2. **Public administration**. To make sure that a large group of civil servants will follow political directions indicated by the government, one has to rule over public administration. Thus, centralization, the complete reworking of public administration, education of a new generation of public servants, a thorough change in distribution of public funds and exclusion of neutral competition mechanisms are needed.[14]

3. **Media**. If one of the causes for defeat was that the media overwhelmingly biased towards the left-liberal pole, then different methods should be used to subdue it. Ownership should be granted to friendly entrepreneurs in media, left-liberal intellectuals pushed to the side-line, loyal intellectuals magnanimously rewarded altogether and state sponsored production in cultural industry should serve the government purposes.

Of course, these three factors don't cover the whole field of ruling, but they are good indicators of the direction, in which Viktor Orbán wanted to proceed after the defeat in 2002.

2. Revolution

"Today it is realistically conceivable that in the coming fifteen-twenty years the Hungarian politics should be determined not by the dualistic field of force bringing with

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[13] When I present these points I confess that I rely partly on some information not available to the public, partly I suppose, there is a link between later developments and those conclusions that were drawn after the lost elections. My claim is simply this: there is a subtle connection between that defeat and the character of present day rule of Viktor Orbán.

[14] Max Weber holds that bureaucracies are organized according to rational principles. Offices are ranked in a hierarchical order and their operations are characterized by impersonal rules. Incumbents are governed by methodical allocation of areas of jurisdiction and delimited spheres of duty. Appointments are made according to specialized qualifications rather than ascriptive criteria. In our case the need for bureaucratic coordination is retained but the Orbán-government stripped the Weberian conception of most of its characteristics: *impersonality*, methodical allocation, delimited spheres of duty, and appointments according to qualification. And this is exactly what the *rule* is all about. János Kornai, finds the bureaucratic coordination (versus market coordination) the most essential feature of the Orbán-government: J. Kornai (2015), *Hungary's U-Turn*, "Capitalism and Society", vol. 10, no. 1 (March). Kornai used to describe socialist economy along similar lines. See: J. Kornai (1984), *Bureaucratic and Market Coordination*, "Osteuropa Wirtschaft", vol. 29, no. 4, pp. 316–319. After the 2010 takeover, in public policy and its research, "good governance" was replaced by "good government".

it a never-conclusive and divisive value debates, which quite unnecessarily generate social problems. Instead, a great governing party comes in place, a central field of force, which will be able to articulate the national issues and to stand for these policies as a natural course of things to be taken for granted without the constantly ongoing wrangling." (Viktor Orbán's speech at a Fidesz picnic in September 2009 in Kötcse).

This is probably the most important sentence on the part of a would-be ruler. It encompassed the whole manifesto of the new system, but in the nutshell it displayed the elements of an illiberal democracy as well.

If we disentangle this program, we see that the exclusion of valuable debates means (a) that doing politics is reserved solely for the decision-maker; (b) anyone who starts a "valuable debate" should find herself/himself excluded from the "central field of force"; (c) debates should be conducted and concluded "within" the central and dominating system of values (the unified language of the right, the extreme and the moderate alike[15] which would constitute the dominant culture); (d) policies are formulated by one and the same authority because social problems begin when alternative proposals clash in the public. These goals have to be pursued by a single great governing party that dominates the political field in an authoritative way, uses political power to (a) eliminate any opposition and, in the meantime, it is (b) entitled to give a peremptory definition to the public good ("articulate the national issues").

There can be no clearer[16] formulation of political intentions like this.

In 2010, the Fidesz-Christian Democrat party coalition got 2.7 million votes of the total number of 5.1 million votes cast (8 million eligible to vote) and got a two-third majority in the parliament. One third of the Hungarian eligible voters enabled the Regime of National Collaboration (RNC) to come to life. These elections were called by Viktor Orbán as the "revolution at the voting booths."

The resulting RNC was not only a propagandistic battle cry, but a name for the "new system" of the "central force field". Obviously, propaganda had a message to carry for friends and enemies. Unlike Kádár's all-inclusive proposal ("who isn't against us, is with us"), Orbán's slogan might very well been an all divisive one: "who is with us, is with us." This warring attitude is that of a *ruler*, who will reserve any ultimate (and not only ultimate) decision for himself.[17]

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[15]   This reminds us not so much of George Orwell's New Speak, but more closely of Victor Klemperer's *LTI – Lingua tertii imperii*, the language of the Third Reich, that was constructed by politics with its main objective, racial domination: V. Klemperer (2000), *The language of the Third Reich: LTI-Lingua Tertii Imperii: A philologist notebook*, Translated by M. Brady, Athlone Press, London. „For Klemperer, proof of the LTI's empire over the mind lay in the everyday conversation of ordinary Germans. Official clichés and catchwords, unconsciously adopted, possessed subtle power to shape or distort their perception of reality…"; J. W. Young, (2005), *Victor Klemperer on Totalitarian Language*, "German Studies Review", vol. 28, no. 1 (February), pp. 45–64. Of course I don't say that the language of RNC is identical to that of a totalitarian system, but it demonstrates, in extreme circumstances, the power of politics upon the perception of reality of "ordinary people".

[16]   „Clear" is the most frequently used word by the politicians of RNC. „Our standpoint is clear and unequivocal" – doesn't beg any questions, doesn't need any further clarification.

[17]   One of the intellectual sources of Viktor Orbán is Carl Schmitt. There is no need for the state of exception to fulfill Schmitt's suggestion, that definition of the sovereign is he who decides on the state of exception. Authoritarian rule acts as if *any* situation would be a state of emergency. The core

3. Spiritual journey

It has all started with a reinterpretation of the meaning of 1968. Following Nicolas Sarkozy's campaign speech, as he was running for presidency in France in May, Viktor Orbán delivered his lecture on 21 July 2007. The intended direction of the two speeches was similar: announcing the turning point in European intellectual history. According to both politicians, 1968 was a counter-revolution that "«shook the very foundations of traditional politics»." The leaders of this counterrevolution declared that in order to achieve complete individual freedom the individual must be freed of all ties. According to them, one must free oneself of the ties that bind the individual to nation, family, language and sexual orientation."[18] Since John Donne's (or rather Aristotle's) saying that "no man is an island" this is not a too sophisticated tenet of the conservative ideology, Orbán's rendering is also an indictment of left-liberal political culture as sheer communism. Remotely, this resembles the critique of the conservatives against John Rawls's idea about a just society. For example, Michael Sandel coined the term "unencumbered self" referring to individual who is liberated of community ties (Sandel, 1982).

However, as the counter-revolution, perceived as a creative force behind culture, is by now defunct, the new era of traditionalist politics will regain its leading role in shaping the future of Europe.

4. Illiberal nation, illiberal state

The new system, the illiberal state, was formally proclaimed on 26 July 2014, at Băile Tuşnad (Tusnádfürdő, Romania), at the 25th summer camp held there every year. The term emerged during the speech given by Viktor Orbán and was simply the opposition of liberalism, meaning at the same time the "illiberal nation" and "illiberal state".[19]

Usually, the declaration of Viktor Orbán is interpreted along the lines set forth by the famous article of Fareed Zakaria and expanded in a book form (Zakaria, 1997; Zakaria, 2003).

Zakaria finds that different forms of illiberal democracies have two common denominators: on vertical plane they *concentrate power* and on horizontal plain they are engaged in *permanent centralization*, in the same time meeting the minimal criteria of formal democracy. Zakaria fails to observe that one might have an illiberal democracy

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of the political theology of Carl Schmitt is that the sovereign would decide about who is friend and who enemy is. In Schmitt's view, there can be no functioning legal order without a sovereign authority. According to Schmitt, liberal constitutionalists typically hold that all legitimate particular acts of state must apply general legal norms, so that people are subject only to the determinate and predictable demands of the law, not to the potentially arbitrary authority of persons. This view overlooks, Schmitt argues, that general legal norms often fail to provide determinate guidance without considerable interpretation and *interstitial legislation*. C. Schmitt (2005), *Political Theology. Four Chapters on the Concept of Sovereignty*, Translated by G. Schwab, University of Chicago Press, Chicago.

[18] http://hungarianspectrum.org/2007/07/21/heatwaive-and-p/, Accessed: 26.01.2017.

[19] http://budapestbeacon.com/public-policy/full-text-of-viktor-orbans-speech-at-baile-tusnad-tusnadfurdo-of-26-july-2014, Accessed: 26.01.2017.

without an open process of concentration of power that will achieve institutional goals. There can be another definition that will take into account that instead of concentration of power one can have *extension of power* – and that is what I call 'ruling'.

Hence, I will look to a different account of illiberalism which seems to serve better my purposes.

I recount here Pierre Rosanvallon's analysis of the features of Bonapartism as the essence of illiberalism (Rosanvallon, 2002), adding my comments and referring back to Viktor Orbán and some of his political actions.

1. *Instead of institutionalized representation (and thus limited power), the representation is rather "embodied" in a person who is in charge to represent the whole.*
   Institutional representation has many uncertainties so there is always a need for a firm ground, in which I trust to represent me well. During most of the Kádár era, Hungarian people were accustomed with this type of representation and was content with it for a long period of time. Democratic change brought with it unknown, self-designed politicians, parties emerging from nowhere quarrelling with each other, being incapable of arriving at any consensus, fighting ideological debates that nobody is interested in. Viktor Orbán's answer to these popular feelings of uncertainty: we'll exclude the "never conclusive and divisive value-debates" and for the sake of certainty we'll leave you with a "great governing party" with its ready-to-apply answers to questions that really concern you.

2. *Any definition of the "public" that overrides the definition given by official institutions is outright illegitimate.*
   The national institutions contain everything that can be counted as national interest. Every attempt to give an alternative definition of "public interest" should be considered an infringement of national institutions and should be regarded as a lie, distortion of the reality or in some cases a severe treason (for example raising the issue of the situation of the rule of law in Hungary on European forums). Pluralism is thus "limited and not responsible"[20] (as Juan Linz proposed it in his definition of authoritarianism). Recall Orbán Viktor's definition of "central field of force": "(d) policies are formulated by one and the same authority because social problems begin when alternative proposals clash in public."
   Every institution that incorporates a piece of anything that can be called "public good" should feature in its name the word "national". Like the "National Tobacco Shops" that represent the government's continuous care for our health and therefore only the designated shops can sell tobacco.

3. *There is no need for intermediate powers.*
   These would intrude into the personal business of the leader and his people. Civil society, civil groups, watchdog organizations for assessing the level of corruption

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[20] Viktor Glied describes it very persuasively: "The government continued to act without a compromise and repelled discontent forces according to the "divide and rule" principle. Therefore democratic movements had to face the dilemma most of the non-governmental organizations face when entering the political arena: without actual success the enthusiasm of the members vanishes, the movement freezes and diminishes." V. Glied (2014), *From the green movement into party*, „Politeja", vol. 2, no. 28, pp. 31–61.

(recently the Transparency International got into focus) and the state of individual liberties (recently the Helsinki Watch) are useless formations (the perfect civil society group is that of folk dancers, which is devoid of any political aspiration[21]). "National consultations" would drive policy-making and will generate understanding between the leader and those who are led. Intermediate power can be any autonomy (that of self-government as well) or branch of government according to the classical thesis of division of powers. These powers should the diminished either by limiting their autonomy or ruling them with loyal people.

5. Political correctness

"We shouldered unworthy attacks and accusations and abandoned the dogma of political correctness. As I see it, the Hungarian people are by nature politically incorrect, or have not yet lost their common sense" – said Viktor Orbán, addressing his party comrades.

Politically incorrect means that we won't speak any longer the liberal language of individual, and even less that of civil rights, but we'll replace it with the natural language of rude power. We won't be the hostages of the liberal illusion of some checks on power, instead we'll break free in the wilderness of political action. The Rawlsian veil of ignorance[22] – that would hide real circumstances, allowing people to deliberate about fair principles of their coexistence, being able to abstract from their immediate interests – has been teared apart. Reality, in its extreme sharpness, should be contemplated even in a threat of being hurt. Reality thus refers to the mythical common sense of the people, translated as the "reality" by the only authorized interpreter, the leader. I call this usage of the "common sense of the Hungarian people" mythical because on other instances Orbán expressed his views on the genetic origins of the Hungarian people, drawing conclusions for the government that fits this people.

Hungarians are half Asians[23] who cannot form a community by themselves alone: they prefer selfish liberty. If Hungarians need to live in a community, they

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[21] For an overview of the Hungarian civil society, number and type of organizations, their revenues in the past decades after the systemic change, see: L. Kákai (2014), *Hungarian nonprofit sector twenty years after: the situation of the third sector and impact of the economic crisis*, „Politeja", no. 28, pp. 83–113.

[22] John Rawls, and his theory of justice can be regarded as the ultimate formulation of the liberal theory of the welfare state; J. Rawls (1971), *A theory of justice*, Belknap Press of Harvard University Press, Cambridge, Mass.

[23] Interestingly enough, the "half-Asian" identity of the Hungarians is a recurrent idea in Hungarian literature and political thinking, acknowledged by a part of the Western public opinion as well. One of the leading politicians of the 19th Century, who framed in large part this reform period, István Széchenyi, expressed very similar views: the vocation of the Hungarians is to represent at the Western borders the characteristics of its Asian origins hitherto not fruitfully exploited. Endre Ady, one of the greatest Hungarian poets loved his own "half-Asian" people of "wonderful and useless fighters," though he sharply criticized this heritage. And most importantly, Margaret MacMillan writing on the Paris peace treaty in 1919 sums up the general attitude of the peacemakers as follows: "…the peacemakers were suspicious of Hungary. With its great landed magnates, its cowed peasantry and its history (the Magyars had stormed out of central Asia in the ninth century), there was something not quite European about Hungary"; M. MacMillan (2002), *Paris 1919: six months that changed the world*, Random House, New York.

should rather chose a strong leader who is able to enforce the necessary rules of coexistence.

Wrapped in this national characterology, the surfacing of the notion of political correctness in so many speeches of Viktor Orbán, doesn't have anything to do with its original meaning, or what purposes was initially meant to serve or with the fierce debates around it in its primary setting, the intellectual life in the US.[24] On the other hand, in a more deeper sense, the fight against political correctness (and by the same token multiculturalism), is a struggle for a stable middle class electorate that will keep in power the currently governing party on a long run (remember, Viktor Orbán expressively designed its Regime of National Collaboration to be in power for the next 20 years). The same is (and was) true within the US as well. Without even knowing the name of Donald Trump, as early as in 1994, Richard Rorty already observed that the fight against political correctness and multiculturalism by the religious fundamentalist Right is intended to bind together an electorate. "There is, indeed, a battle for America's future going on […] it is the struggle for the mind of an electorate which is largely co-extensive with the white, suburban middle class" and is terrified by the processes of globalization.[25]

The Hungarian version of that fight takes the form of a recurring prophecy about the end of the "world of political correctness" and rather serves the creation of a national myth. The half-Asian Hungarians with their unexploited talents, these "wonderful and useless" fighters, lovers of selfish freedom, who once stormed out from central Asia and settled at European borders, have retained something "not quite" European in their character.

This myth is offered in small pieces to be swallowed by the public and is not expanded systematically, however it is an important binder for the inner coherence of Orbán's worldview.

The myth of Unity[26] is recalled through the unity of culture, which cannot be disrupted by any other culture and trough the cultural unity of the Greater Hungary (in this case the Hungarian citizenship offered to Hungarians abroad was simply an enactment of that myth). Easily, this all might be a part of the answer why there is a permanent nationalistic fight against Europe, the fierce anti-immigrant stance that rests on the supposition and projection of a homogeneous Hungarian culture, and why Viktor Orbán is convinced that for Magyars only the authoritarian rule is perfectly fitted.

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[24] A very good overview including a list of Donald Trump's utterances against PC: M. Weigel (2016), *Political correctness: how the right invented a phantom enemy*, "The Guardian", no. November 30.

[25] For a thorough analysis of the cultural aspects of the rising of the radical right and role of middle class, see: P. Norris (2005), *Radical right – voters and parties in the electoral market*, Cambridge University Press, Cambridge.

[26] Myths are treated with „stubborn distrust" in the history of ideas, however one of the most remarkable attempts is that of Raoul Girardet; R. Girardet (1986), *Mythes et mythologies politiques*, Seuil, Paris. He distinguishes four main types: Conspiracy, Savior, Golden Age, and Unity. It seems that it would be highly rewarding exploring these (and other) political myths in their reference to Hungarian politics.

For this last assumption, of course there are hard historical evidences as well. Autocracies of different kind and depth followed suit in Hungarian history and the effort to break with this bleak tradition failed miserably after 1989 (another example of historical determination so dear for Orbán, even if he was an integral part of it).

Conclusion

Tilo Schabert, a conservative-romantic admirer of Niccoló Machiavelli, wants to take us back to the Renaissance era where the source of any power was solely the self-assertive individual. Self-assertive in this context means the capable of ruling – *virtú* in the wording of Machiavelli. In this period, the Court was the place for a merciless game, where strong individuals were fighting for power, the meek were despised and the weak eradicated. This period is prior to the formation of a representative rule, constitutional monarchy, the rule of law that later evolved into the tradition of liberal democracy. If anyone wants to follow this Renaissance path, I assume that sooner or later has to face the revenge of modernity. It is doubtful whether a full-fledged autocracy could be built on the ruins of liberal democracy. That would mean going back even further in time. However paradoxically it may sound, in fact going back in time and reinstalling the ancient notion of politics and direct democracy[27] under modern circumstances (i.e. large societies where political communication among politician and voter seemed to be possible[28] only through the channels of representative institutions and political action) was constrained by the rule of law and separation of powers.

Authoritarian populism is exactly that kind of experiment, in which the constraints of rule of law, separation of powers and institutions of representative government are bypassed by political rule.

Populism gives a broad area of manoeuvring and constitutes a specific perspective of space. In a narrow sense, it means that populism and any ideology to be discards, enables the interlacing of left and right[29] so as the political message to be bended across an ever-changing audience. Authoritarianism, on the other hand, will give specific perspective of time because it is very compelling to act according to the needs of

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[27] An excellent account of the meaning of politics in the Athenian democracy is given by Moses Finley: Finley, Moses I. (1962), „Athenian Demagogues" *Past & Present*. no. 21 (April): 3–24.

[28] Direct communication, targeted political persuasion and manipulation at individual level is made possible by modern technology and that might show the return of the political in its ancient sense. For a somewhat shocking presentation of the influence of modern technology over politics, see: Hanness Grassegger and Mikael Krogerus, "The Data That Turned the World Upside Down", Motherboard, 28 January 2017, http://motherboard.vice.com/read/big-data-cambridge-analytica-brexit-trump, Accessed: 31/1/2017.

[29] „To speak bluntly but not hyperbolically, Europe's right-wing populism smacks of a softened form of midcentury Fascism: intense nationalism wedded with a populist economic program. The moniker National Socialism thus remains a useful analytical tool for viewing European populism, not to equate contemporary populist parties with the German Nazi party, but to illuminate the significance of this very European melding of left and right"; Joseph Larsen, "Viktor Orban and the rise of the populist right...right?", 3 December 2014, https://www.opendemocracy.net/can-europe-make-it/joseph-larsen/viktor-orban-and-rise-of-populist-rightright, Accessed: 31/1/2017.

a situation, as Machiavelli requires from his prince. Acting immediately, without being constrained to postpone acting until its institutional review will issue the license. Acting now is the only gratification for he/she who acts (Putin and Erdoğan have changed their attitude from warring to friendship within few days).

This is the new vision that Viktor Orbán and (by the same token) Donald Trump are proposing.

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Challenges of democracy,
party reshaping and party preferences

"Democracy…. is a charming form of government, full of variety and disorder; and dispensing a sort of equality to equals and unequals alike"

(Plato)

At the turn of the millennium Hungarian political transformation seemed to be evaluated as a smooth and calm transition from a soft dictatorship[1] to democracy (Szelényi, 2004).[2] However, the events following elections of 2006 and the consequences of the 2008 crisis have rewritten the optimistic theories. In spring 2006, for the first time in the Hungarian post-socialist history, the ruling coalition managed to repeat the victory and remained in power. It was a great disappointment to the right-wing parties, yet this victory became ambiguous. A couple of months later in September 2006, three weeks before the municipal elections, the streets of Budapest were resembling a battlefield, as frequent demonstrations disturbed the everyday life. This paper deals with the experience of transformation within the first fifteen years and the changes and cleavages of the party structure in Hungary. It is also our intention to examine the effects of the internal (the year 2006) and economic (the year 2008) crises as well as the increasing role of the FIDESZ and radical parties. By giving a historical analysis, our aim is to explain the reasons of the cleavages in the party structure, the changes of the citizens' party preference and the party programmes and orientation. Our work is based on some statistical data and reports about the level of democracy in Hungary. However, additional information is provided by the views and works of Hungarian experts. We would like to focus on Hungary and answer the question about how the change between the

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[1] But the Kádár regime, especially in its last ten years, was a benign one-party system, which Hungarians call a "soft dictatorship". The great majority of people wouldn't have had any reason to complain about their limited freedom since in the first place their demands were modest. Most people were satisfied with their lot because they noticed a steady and annual growth in their living standards, which continued almost to the very end. It's no wonder that with the exception of a very small group of "dissidents", actually a handful of people, there was no serious opposition to the regime; http://hungarianspectrum.org/tag/dictatorship/.

[2] Szelényi in his essay distinguished three different types of transformation; the outer-directed capitalism that was the characteristic model of the majority of the socialist countries that became the members of the European Union in 2004 and 2007, the top-down directed capitalism, that was a characteristic version of the post-Soviet states and the third one, the Chinese model, which was referred to as "building capitalism from below" (Schmidt, 2014).

first fifteen years of experience on democratic transformation can be explained based on the events of the 2010s.

Democracy's teething pains

In fall 2004, the newly elected prime minister Ferenc Gyurcsány was identified as the Hungarian Tony Blair (Körössényi, 2009) who seemed to be capable of renewing the left wing. After his miraculous victory in spring 2006, with his speech in Balatonőszöd in 2006, his prestige vanished into the air and he was eventually unable to regain it.[3] Two years later the coalition broke up while he was still supported by his party. The oppositional parties were quite active and the economic crisis also determined the popularity of the government. In March 2008, the "Social Referendum" that was forced by the Fidesz weakened the government's position as well. The proposals focused on stopping the reforms that could introduce doctor visit fees paid per visitation and medical fees paid per number of days spent in hospital as well as tuition fees in higher education.[4] Thanks to active communication from the opposition parties, with Fidesz playing the role of a leader, and scarce information from the government's side, all three were supported by majority of voters. The coalitional government suffered a heavy defeat. The reforms were suspended on 1 April 2008, as Gyurcsányhas promised before final result of the referendum was published. The Minister of Health was dismissed and the coalitional government was suspended as SzDSz (the Liberal Democrats) quit from the coalition. For the first time in the history of post-socialist Hungary the MSZP (the Hungarian Socialist Party) formed the minority government on 1 May 2008. Despite the fact that the liberal party was not in the government, but supported this state of affairs from the outside, demolished later the position of the party. Gyurcsány himself still enjoyed support among the voters of the Socialist Party, however he had to realize that the Hungarian voters withdrew confidence from him. In spring 2008, citizens expected the early elections, rather than survival of the government. The referendum on revoking some medical and tuition fees was held in spring 2008. In the meantime, Hungarian citizens decided on the abolishment of tuition fees in higher education. With the majority of votes "for", they have opposed the government's programme.

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[3] In Balatonőszöd, at the informal meeting of the Socialist fraction of the Hungarian parliament, he criticised the actual situation of Hungary and ensured to do everything (including lying) in order to win again in the elections. As an enthusiastic speaker, he used rude words and when his speech was finally delivered in public, the oppostion emphasized two elements: lying and the rude words. It later resulted in a so-called spontaneous mass demonstration in front of the building of the Hungarian Television featuring masses of violent participants. The footage, photos and films inmediately appeared in the world media demonstrationg ineffectiveness of the Hungarian police. The Fidesz quickly became the main actor in the process to demolish the governmet's prestige whose prime minister – as he himself declared – proved to be a liar. In accordance with the attacks from the opposition a totally new attitude was born. People occupied streets and the nature of commnication has changed.

[4] Each visit at the doctor costs less than 1 Euro, while student's fee was roughly 7 Euros per month. Every Hungarian patient and student would have had to pay this symbolic sum.

Referendum of 2008

82.42		84.08		82.22	
17.58		15.92		17.78	
medical fee		doctor's visit		tuition fee in higher education	

☐ yes   ☐ no
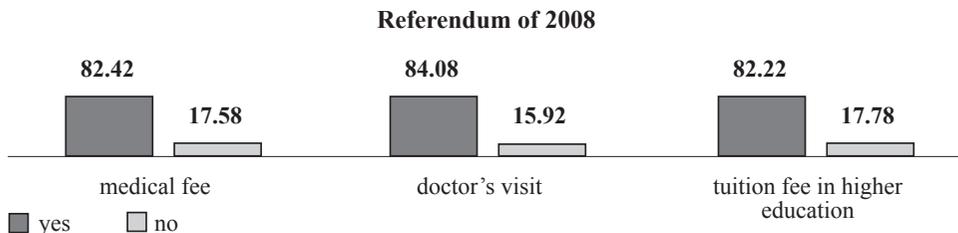
Source: http://www.valasztas.hu/nepszav08/hu/08/8_0.html (The frequency was less than 51%!).

The minority government had to face the next challenge in fall 2008, when the global economic crisis affected Hungarian economy. The first reaction was not pessimistic, however the first results from the beginning of 2009 put an end to the optimistic scenarios. Although the government tried to show its competence in overcoming the crisis and gained the support of society, the efforts ended in a failure.

In order to struggle with the crisis of 2009, Gyurcsány wished to have an expert as the head of the government. He resigned from the post of a prime minister, but remained the president of the Hungarian Socialist Party. The next few months were similar to a comedy in the Hungarian internal policy. Several candidates' names became known as potential candidates to be the Prime Minister. However, the original plan, that is the "government of experts," seemed to be a mistake because of the parties failed to find an adequate person to that position. After Gyurcsány's abdication, approximately a dozen candidates' names were published, however none of them wanted to be a candidate for this position. Finally, the Hungarian Socialist Party proposed Gordon Bajnai as a candidate for the post of the prime minister. He was not a member of the Hungarian Socialist Party, yet had an experience as a formal member of the first Gyurcsány's government. Hence, his personality was acceptable for this position. Due to poor experiences from the earlier election, Bajnai's government got the support from Free Democrats (SzDSz) even though several party politicians firmly disagreed with it.

The Bajnai government was appointed in April 2009 and declared itself a "government of experts." In practice, however, it was functioning as a Socialist government with the external support of the Free Democrats. The government actually did not consist of any member related to the Socialist Party, but thanks to the oppositional propaganda in public opinion, the government was identified with the Socialist Party. Despite the fact that the new government was appointed in a different method[5] and was repeatedly criticized, they became popular in a short time. The international markets also expressed their confidence towards the new government but majority of the citizens wished an early election, rather than the government's continuation. Although the

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[5] The vote for the Bajnai cabinet was carried out with a motion of no confidence. This institution was originally establishedin order to fortify the government majority. However, in 2009 the socialists and the liberals gave the institution a different function; it became an instrument for the parliamentary majority to disempower the head of the state and the parliamentary opposition, which would potentially be able to unsettle their scenario of electing a prime minister.

Bajnai cabinet strengthened the political institutions, political stability did not follow.

The elections to the European Parliament (EP) of 2009 served as a good indicator regarding the party preference and the general satisfaction with the activity of the Bajnai government. The elections were held in June 2009 and turned out to be the decisive victory for the Young Democrats (Fidesz).

The original number of seats in the European Parliament that was offered to the Hungarian representatives was reduced from 24 to 22 and the Fidesz alone managed to win more than 50 percent of the seats (reaching 14 mandates), the governing Socialist Party got only 4 mandates, while the radical right-wing party (the Jobbik) 3 mandates. The governing party of 1990, the Hungarian Democratic Forum won a single seat. With this result, the Hungarian votes joined the European tendency related the decrease of the support for the governing parties. As Körössényi remarks, it is common that when the EP elections are held in the mid-term period, there is a tendency that governing parties loose support and radical parties force ahead in EP elections. All together, less than one-fifth of citizens voted for the Socialist Party and the Free Democrats, which was a clear warning for the governing parties. The other recognizable element of the EP elections was the increase in popularity of the radical Jobbik.

Party preference in 2009
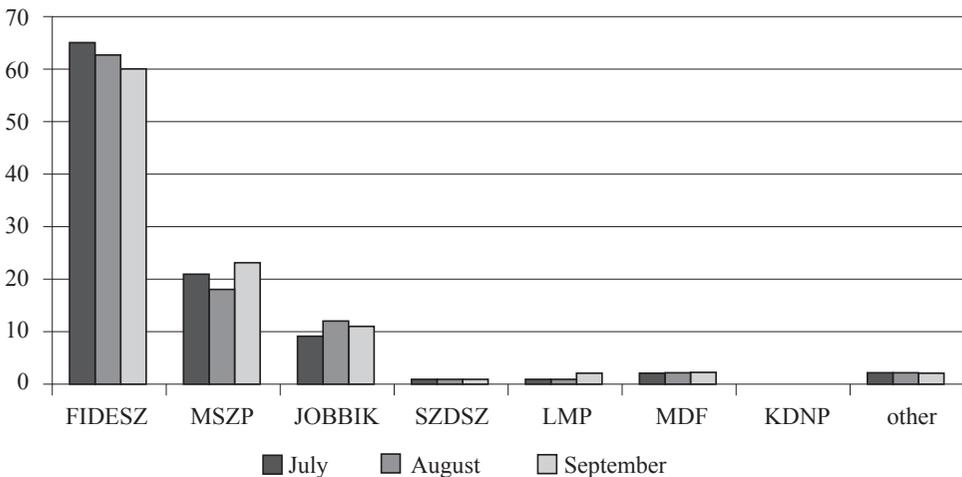
Source: Körössényi, 2009 (edited by the author).

The cleavages in the Hungarian party system

Between 1990 and 2010, Hungary had been functioning as liberal democratic state (as understood by the principles and practices of the modern model of western democracy characterized by competition between political parties, participation of the civil society and the respect for civil rights) (Bozóki). The political stability in Hungary at the transformation has benefited from the fact that major issues of eco-

nomic transformation became a matter of partisan controversy only to a limited extent (Enyedi, 2006, p. 7). According to Enyedi, there were several aspects that could strengthen the stability of the party system in Hungary as the same parties managed to surpass the threshold for parliamentary representation in public opinion polls between 1990 and 1998. The Opposition Roundtable gained real importance through the national roundtable talks and held a considerably advantageous position over other parties, which were founded after the spring of 1989. The new parties were organized around one major cleavage line that divided them into two major camps. They were the following:

– A socially conservative, religious, somewhat nationalist and anti-communist camp;
– A secular, morally permissive and generally less nationalist camp.

Using the Western typology based on the left-right scale, the cleavages within the parties in Hungary had different meaning. Since the first elections, there was neither a coalition based on the cooperation between left-wing and right-wing parties, nor a coalitional government, which was eventually formed after the elections of 1994 that included parties from the left and the centre-left. The most important characteristics of the Hungarian political spectrum is that – contrary to the most Western European countries – the content of the left and the right is primarily defined by ideological and cultural dimensions, and only secondarily by economic and distributive dimension (Körösényi, 2009, p. 170). According to Körösényi, while the ideological and cultural dimension of the parties' position has been rapidly formed, the picture in the economic and distributive dimension has remained more obscure and confused. In Western Europe, the left or right character of a party is primarily based on its standpoints on economic matters. In Hungary, however, this categorization is not indicative of economic position.

Applying the Hungarian division, the first cleavage can be found as an ideological and cultural axis that is created by the progressive and traditionalist dichotomy (or liberal-authoritarian dichotomy), while the other axis can be seen as the dichotomy based on the state's role in revenue collection and social politics: egalitarian, revenue redistributive anti-state versus free market positions (Körösényi, 2009, p. 171). The top-left, ideologically progressive and economically right position in Europe is typically held by the liberal field, but in Hungary it is constituted by parties such as the SzDSz and the MSzP as well as the FIDESZ of 1990s. In Western European countries, the 'left' typically encompasses the cultural and economic left, and 'right' encompasses the cultural and economic right. In Hungary, however, the content of the left-right scale is not given by economic distribution, but primarily by the cultural and ideological axis. As Körösényi remarks, in the past two decades all governments have been homogeneous regarding their ideological and cultural positions – leftist or rightist – and heterogeneous regarding their economic positions. In other words, the parties did not choose coalition partners based on the similarity of their economic ideas, but rather on the basis of their ideological and cultural closeness.

In spite of the Western patterns, the Hungarian politics is divided alongside three cleavages. They are detectable at the levels of elites and society (the voters them-

selves), the organizational level as well as in the field of political culture and ideology. The two larger cleavages are based on the level of religion and nomenclature, while the third one is connected with the traditional city and countryside (industrial and agricultural) dichotomy. From this perspective, the religious and secular dichotomy became a truly important dividing line in Hungary. Christian religion, ethics and politics are represented predominantly by the Christian Democratic Party. The Antall and Orbán government cultivated a friendly relationship with the churches, while the Socialist Party and the SzDSz were rather distant.[6] As it turned out in various polls, by 2010 the liberal camp voters became the most secular voter group. The dichotomy between Communist and anti-Communist is an important cleavage in Hungarian politics as well. At the same time we have to remark that former party membership refers to only less than 15% of the voters and their number is declining. Although this cleavage can determine the left-right opposition, the MSzP members were not automatically becoming members of the Hungarian Socialist Workers Party before 1989. As Körösényi remarks (Körösényi, 2009, p. 179), in 2002 as many as 87% of the MSZP voters were not members of the state party before. On the other hand, roughly one-third of the ministers and deputies of the three Orbán governments were members of the state party earlier.[7] As in Hungary the law on lustration was denied several times, it is still questionable who collaborated with the secret service of the previous regime.

The city and countryside cleavage was not exclusively a typical Hungarian issue as it was recognizable in almost every Eastern and Central European state. At the beginning of the 1990s, the FKGP (the Independent Smallholders Party) represented predominantly the rural voters, while liberal parties had the largest urban voter base. By 2002, the FIDESZ managed to welcome a great number of voters from the countryside that gradually shaped its social base loosing plenty of urban voters. In 2002, however, the FKGP failed to remain after the erosion of its supporters.

By the end of 1990s, the Hungarian radical parties appeared as potential candidates in the voting lists. The MIÉP was formulated in 1993 and since the first months of its existence it was sharply criticising the Socialist Party and the Free Democrats of betraying national values and representing foreign, Jewish interests. MIÉP also focused on the national issue, but from a very specific perspective. In their argumentation, everything was subordinated to the national interest, including the social matters as well as relationship with neighbouring countries. This relationship and the foreign political integration was treated as a betrayal of the nation (Körössényi, 2009, p. 199) The party had ambivalent relationship with FIDESZ and by the early 2000s it lost the majority of its voters. The potential supporters chose JOBBIK, the more youthful and professional radical party. As the MIÉP blamed the left-wing parties for being the servants of Jewish interest, the JOBBIK focused on prejudices against Roma minority, which was able to gain popularity for the party among traditionally less extreme right-wing voters.

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[6] Although cultivation of good connection with the churces predominantly focused on the historical churches, since 2012 the list of acknowledged churches became shortened.

[7] http://nepszava.hu/cikk/496741-kisert-a-partallami-mult-a-fideszben.

**Party preference among young generation (18–29 years old), certain voters in 2015[8]
[in %]**

Party	Value
DK	1
Other	2
LMP	5
Együtt-PM	9
MSZP	13
FIDESZ-KDNP	33
JOBBIK	37
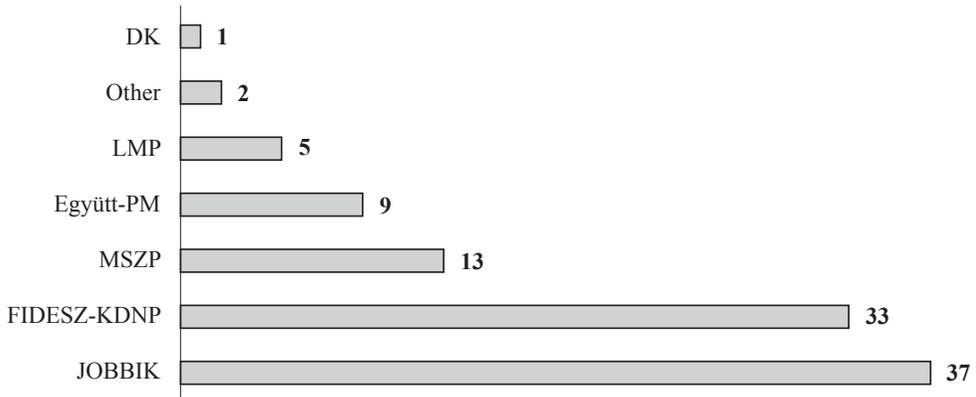
Source: https://jobbik.hu/hireink/iranytu-intezet-jobbik-fiatalok-vezeto-ereje.

As it is generally observed, voters were not loyal to their parties and some parties were gradually changing their identity (Enyedi, p. 9). In the first elections, an average voter was in difficult situation as he/she wanted to ideologically distinguish between the Free Democrats (SzDSz) and the Young Democrats (FIDESZ) or the Christian Democrats (KDNP) and the Hungarian Forum (MDF). The formal state party, the Hungarian Socialist Workers Party (MSZMP) announced the party's break with Marxism and Leninism at the congress held in October 1989 and established a new party under the name of Hungarian Socialist Party (MSZP). Meanwhile, the orthodox communist party remained under the name MSZMP, yet it has never surpassed the threshold at any election. Paradoxically, the new Socialist Party managed to get rid of the remains of innervation of the previous regime as they composed their new programme that focused on economic reforms, democracy, European integration and the party's assistance in political stability and responsibility for social matters.

In the first free elections of 1990, some of the previously existing parties also managed to nominate candidates for members of the parliament. Following the year 1947, Hungarian voters had the possibility to select from more candidates for the first time. It was rather difficult to estimate the result. The elections featured those parties that were suspended in the late 1940s such as Independent Smallholders' Party (FKGP), a moderately nationalist and religious agrarian centre party, the Social Democratic Party (MSZDP) and the Christian Democratic Party (KDNP) that emphasized its moral commitment to protect the poor. They all had historical roots and focused on following the traditional mass party model. The following parties were active participants of the Roundtable Discussions: the Free Democrats (SzDSz), the Young Democrats (FIDESZ) and the Hungarian Democratic Forum (MDF). These three parties were

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[8] Actuallythe Iránytű Intézet was the only public opinion research institute that managed to get such wide support of JOBBIK among young generation. The institute has strong connection with JOBBIK and these data are also serving the professional political campaign of the party to increase the number of potential voters.

more successful in mobilizing the voters at the first free elections than the historical parties. While the MDF was rather a nationalistic organization, it was more tolerant towards Realpolitik and wanted to cooperate with the representatives of the reformers from the communist party.[9] The so-called völkish-national orientation of the MDF focused on the rejection of both the cosmopolitan capitalism as well as the international communism and the search for "third way" along the principles of participatory democracy. The network of dissenters, reform communists and sympathisers that rallied around SzDSz tended to despise the völkish ideology and rejected its anti-Semitic and authoritarian tendencies. The third popular new party, the FIDESZ, was established thanks to a network of university students and young professionals. At first, they became famous for their activity in protests. From the beginning they focused on demanding task to be distinguished from the Free Democrats and in 1990, during the first free elections, in the election campaign they emphasized appeals of their generation.

Anti-Communist factor

Radical change	Moderate centre	Gradual change
Liberals (SzDSz, Fidesz) Agrarians (FKGP)	MSzP MDF[10] KDNP	Orthodox communists (MSZMP),

Pro-market factor

Pro-market	Social protectionist
Fidesz, SzDSz MDF, FKGP, MSzP	MSzMP KDNP

Source: Edited by the author basing on Körösényi's arguments.

In the 2010s a dramatic change happened to the Hungarian party structure. Upon the transformation, Fidesz became the strongest party from those, which played an influential role in the political transformation. From the three members of the 1990 coalitional government, only the KDNP (Christian Democratic Party) has remained. However, the party itself managed to appear in the parliament thanks to the alliance with Fidesz. The left-wing parties fell apart into smaller units and before the millennium the extremist parties appeared as a third group in the Hungarian party structure. The second Orbán government that was elected in 2010 resulted in the gradual collapse of the principles of democracy and, as Bozóki says, the democratic principles were in a deep crisis. The elections of April 2010 resulted in the victory of Fidesz, that managed to obtain 53% of the votes giving 263 of 386 seats. The governing coalition managed to repeat the victory during the self-government elections. As Bozóki writes, the Hungarian government, led by Orbán Viktor, has succeeded in

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[9] They relied on a group of intellectuals under the guardianship of the reformist Politburo-member, Imre Pozsgay and shared their views based on the historical nép-nemzeti (völkisch-national) orientaton (See: Körösényi, 2009).

[10] The Democratic Forum was closer to the radical side similarly as the Christian Democrats. However, they both were less radical than the liberal parties.

destroying the components of a consensus-based liberal democracy in the name of majoritarian democracy.

What were the outcomes of this effort? The government decided to change functions of several institutions, e.g. to rewrite the constitution in 2011, to open the so-called "illiberal democracy" and to eliminate independent institutions. These attempts were criticized several times by the European Union, too. Their arguments focused on the 'unorthodox' methods of economic policy (that chose to rely expenses of the crisis on sectorial extra taxes imposed on certain sectors and companies instead of the population). The government has imposed crisis taxes on banks, energy, telecoms and retail companies, alarming foreign investors. It has raided private pension funds.[11] The new constitution (new basic law, re-organisation of several central state agencies, the new media law and the reorganisation of the public media) also threatened the democratic principles.

The anti-liberal and anti-democratic turn did not emerge out of the blue: it was a direct response to the hectic and incoherent reforms implemented between 2006 and 2010 as well as the corruption and the economic crisis (Bozóki).

Already in winter 2010, several signs proved the troubles of democracy in Hungary. The increasing centralization of power and the elimination of the independence of media together served as an alarming signal. Leading newspapers, such as The Economist, criticized Hungarian government and the president because of attempts such as a "statement of national cooperation" to be placed in public buildings claiming that only now has Hungary regained its self-determination, though it has already been a democracy for two decades.

Party nominees have been elected to all five seats on a powerful new media council. This supervisory board got an unparalleled mandate to impose large fines on print, online and broadcast media for such vague transgressions as offending "human dignity". As a reaction to this decision, magazines and newspapers have published blank front pages in protest, and international bodies such as the Organisation for Security and Co-operation in Europe have called for rethink.

The new Constitution, and the first political transition since 1989, was adopted and then amended five times since it came into force in 2012. The approach of adopting the new Constitution enjoyed widespread public support, however none of the opposition parties in the parliament voted in favour of the text provided by the governing coalition.

These modifications established a more centralised political system with diminished democratic checks and balances. Although Act CXXXI of 2010 on law-making stipulates that the widest possible scope of opinions are presented during negotiation procedures (general and direct), changes to laws were often adopted in a very short period of time as private member bills, which precluded thorough consultations with the opposition and civil society.

The constitution was amended several times. The increased range of laws that require a supermajority to pass in this new constitutional framework will likely damage the effectiveness of future governments that do not hold supermajorities. Should an opposition

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[11] It was said that the citizens would be compensated, however this 3000 billion HUF (a bit less than 30 Billion EURO) party disappeared from the Hungarian budget. 97% of the previous members left private funds however for those who remained no state guaranteed pension was offered.

party come to power in the future, it will also be constrained by Fidesz's appointments of officials to nominally independent institutions, in many cases for nine-year terms. This is most worrying in the judiciary, particularly in the Constitutional Court.

The effectiveness of functions of the government can be measured by standard of living within the population.

Over 25 years following the transition, consecutive governments failed to properly address issues such as the role of secret services under communism, the privatization of state assets and the need for an overhaul of public services like health and education. Although the Freedom House report of 2015 states the Fidesz government identified many of the areas that required reform, its initiatives to date have largely proven to be inadequate and had the effect of undermining democratic checks and balances. Meanwhile, as the report remarks, antiliberal, nationalistic, and religiously divisive rhetoric has raised tensions in an already polarized political environment.[12] As there were several signs that reflect the divergence of the government form the formal practice, the new orientation in foreign policy that was called as the "opening to the East" practically meant the closer ties with the Eurasian antidemocratic and authoritarian countries. Despite the intention intensify economic contacts and cooperation, the result is still far from the expectations.[13]

The only body to have kept Viktor Orban at bay until 2013 was the central bank (Hungarian National Bank) with its president, András Simor. Fidesz repeated the claim for his resignation and his salary cut several times. His power on decision-making was reduced couple of times. Through a new structure of the monetary council, Fidesz wanted to introduce own candidates for the old members. The new body had the right to interfere in the process of determining the interest rates.

Thinking about the popularity of FIDESZ we have to remark that the governing party was able to mobilize the supporters much more effectively than the rest of the parties. The same situation happened in 2002 after the lost elections when Orbán, as the resigning prime minister convinced his supporters to found the so-called Civic Circles (Polgári Körök). The main intention of the Fidesz was to keep together its supporters, however many people accused the party of dividing the nation by excluding left-wing voters (Mikecz). After 2006, as the radical right became stronger, the Civic Circles lost their significance. In 2006, however, during the demonstration that followed publication of the "Őszöd speech" by the Prime Minister Ferenc Gyurcsány, the politicians of the Fidesz also appeared at the radical rightist protest camp near the parliament building.

The other problematic field was the separation of powers. Speaking about the position of checks and balances it is doubtless that Hungary is a parliamentary republic. The National Assembly is the main legislative organ and has the power to pass laws and elect the President of the Republic for up to two five-year terms. The President plays mostly a ceremonial role, but has the control over the nomination and appointment of public officials and may refer legislation to the parliament or the Constitutional Court before signing it, a power that has been exercised by the incumbent.

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[12] Country report, 2015 Freedom House.
[13] http://www.portfolio.hu/gazdasag/ezert_lett_bukas_a_keleti_nyitas.211635.html.

The Constitutional Court has repeatedly demonstrated its independence by challenging decisions of the parliamentary majority. However, the new Constitution shifted certain powers from the Constitutional Court to the Parliament. The parliamentary majority has overridden some decisions made by the Constitutional Court by reintroducing annulled provisions as part of the Constitution and limiting review possibilities of the Constitutional Court. According to the Venice Commission of the Council of Europe, this amounts to an infringement of democratic checks and balances and the separation of powers.

Elected officials have the effective power to govern. However, the extensive reliance on Cardinal Laws, which require a two-thirds majority to amend, risk insulating the policy preferences of the current government from review by a future government, which may not enjoy a constitutional majority.

If we investigate this issue from the perspective of the civil society, the social support is a crucial question. The society can participate in political decision-making process through a range of access points; however, apart from elections and protests, opportunities for influencing the legislative process remain limited. The new constitution has curtailed the possibility of direct democracy by creating a high double threshold for a referendum. It also abolished the right of individual citizen to initiate constitutional review.

In general, there were different warnings regarding the level of democracy. According to the Freedom House report of 2015 on Hungary, the level of democratic progress in the state was in pending position.[14] It was visible that between 2010 and 2015 these data demonstrated decline of democratic principles.
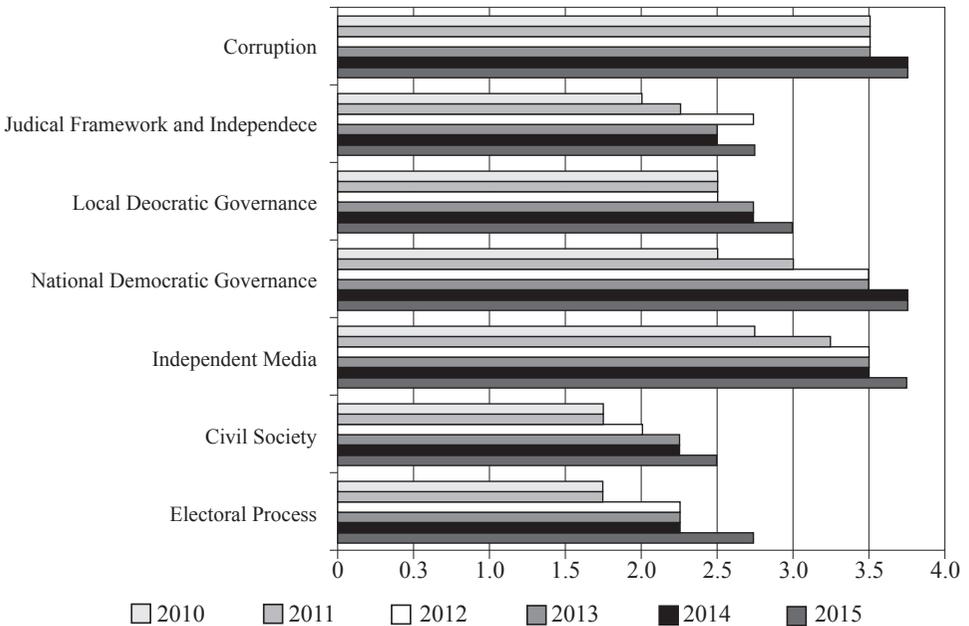

Source: Freedom House report.

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[14] The democracy scores and regime ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest.

   The participation of the civil society increased at the turn of 2015. In 2014, Fidesz and Christian Democratic Party managed to repeat the victory in the parliamentary elections. However, it was the result of implementing a new Act on Elections. This act guaranteed the majority of votes for the Fidesz by reshaping the districts and reducing the number of representatives from 386 to 199. The new Act on Election No. CCI-II/2011 consisted of several new elements. Instead of a two-round voting system it introduced the single-round system even though in the former instances the 50% turn-out was needed for the first round and 25% for the second round. In the new election system, the mandate was given to a candidate who managed to collect the greatest amount of votes. Throughout the rancorous campaign, opposition parties criticized recent changes in electoral legislation, including rules that facilitated the creation of *instant parties*, splitting the anti-government vote. Most of these grievances were echoed by critical assessments from international transparency watchdogs and the Organization for Security and Co-operation in Europe (OSCE) election-monitoring delegation, which also pointed to strong government influence over media and advertising outlets and grossly unequal financial resources. Election monitors also suggested that the dual system for foreign voters, under which ethnic Hungarians, who have been awarded citizenship, yet have never lived in the country, can register and vote easier than native Hungarian citizens living abroad, "undermine[s] the principle of equal suffrage". Hungarians living outside Hungary, but within the historical borders, had the right to vote (even by mail). On the other hand, Hungarians working abroad were forced either to come home for the elections or to visit the Hungarian embassies or consulates.

Participation at parliamentary elections


Source: http://www.valasztas.hu.
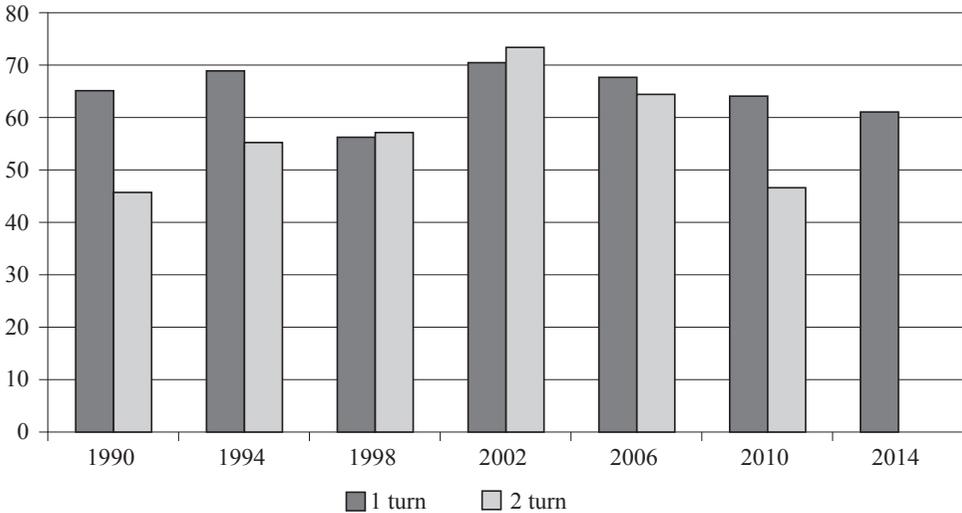
   According to the Freedom House report, the media and the legal changes gave an advantage to the incumbents. Critics of the government argued that Orban's guiding

philosophy was revealed in the speech of July 2014, in which he said he was constructing illiberal state. Regarding the position and the possibilities of the traditional left-wing parties, we must note that Fidesz easily won the EP elections as well as the elections to self-governments. The left/liberal parties remained weak and unable to capture the attention of voters.

The other problematic issue Hungary had to face is the question of corruption. As the previous left-wing governments were usually blamed for corruption, the Fidesz decided to fight against it. It sounded theoretically well, yet in practice this situation did not change much. As it was already mentioned, the contradictions around the party financing could support corruption. The poorly designed party and campaign financing regulations almost encouraged parties to seek funds from opaque sources.[15] Indeed, in elections of 2014 parties spent more than the costs of campaign reported.

Public procurement has been a problematic area for the entire democratic period, due to the legacy of the communist state's role as the predominant redistributor of resources. General transparency has been affected by the freedom of information law adopted in 2013, which reduced the scope of access to information on government decisions. Moreover, the lack of appropriate database on procurement presents an obstacle to the transparency of public spending. Opposition usually blames the government of preferring its own circles of entrepreneurs.

Party preference in January 2017
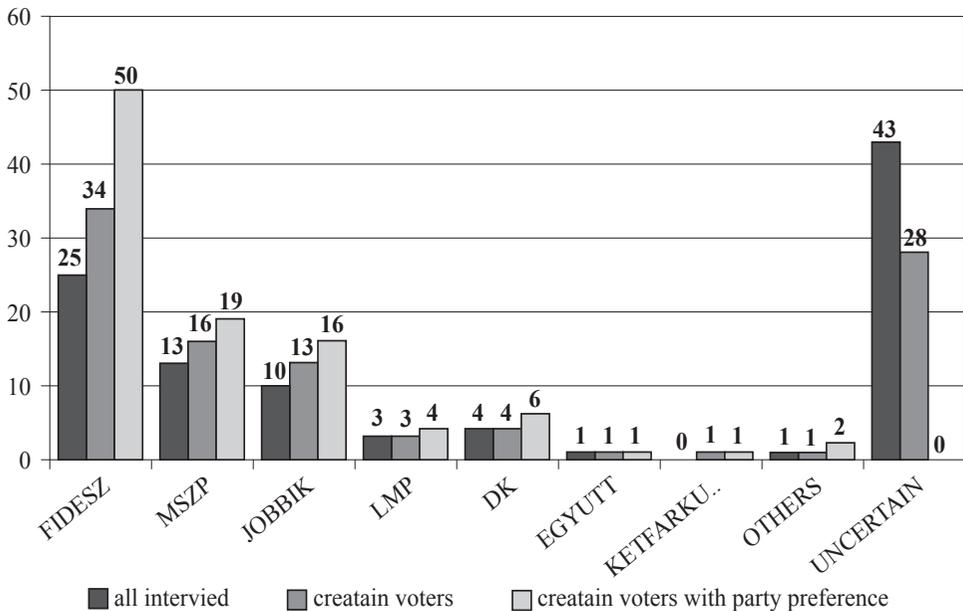
Source: https://www.vasarnapihirek.hu/friss/publicus-vh__partpreferencia___2017_januar.

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15 See: Transparency International Hungary, *Corruption Risk in Hungary*, 2011; *National Integrity Study*, Berlin, 2012, quotes: Kovacs, 2015.

Conclusion

In general, democratic transformation took part in Hungary at the same time as in other CEE countries. However, due to bad economic conditions in Hungary the transformation focused on economic reforms that later incorporated the political and social spheres.[16] In Hungary, the reformative communists and the opposition groups focused on peaceful solutions and the entire transformation process was smooth and proceeded without revolution or violence. This approach was reflected in the acts of law that were adopted at the turn of 1980s. Regarding the support of the transformation within the society, the citizens focused quite much on standard of their living. The past 25 years proved the transformation cannot be treated as a smooth development from authoritarian regime to democracy. It is generally assumed that at the turn of 2010s new threats emerged and the principles of democracy became questioned. There may be several reasons, including historical consequences of weakened democracy, the belated embourgeoisement, the differences in political culture. They all together can be the reason for current state of affairs. In 2018, there will be the next parliamentary elections in Hungary. It will be an adequate occasion for the voters to prove whether these contradictions appear in their party preference and whether they can determine the outcomes.

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[16] See: among others Berend Ivan (1999), Kornai (2005).

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Abstract

The Hungarian political system in the late 1980s can be characterized as the place of stability. Each government has exhausted its term of office and no early elections have been held. The parties represented in parliament have been present in the political system since 1990. The major politicians, political attitudes and fundamental norms of politics (including the entire system of political institutions) underwent only slight changes. However, in the early 2000s two important events changed the stability of the Hungarian political system. The aim of this chapter is to examine the challenges of democracy, the experience of the second and third decades of the post-Socialist Hungary and to give an overview of the Hungarian party structure.

Key words: Party structure, democracy, political institutions

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The main characteristics of Hungarian non-profit sector after the economic crises

System frameworks in brief

In every developed, democratic country of the world, non-governmental organisations (NGOs) are indispensable components of a democratic political system, playing an important and mediating role between the society and the political institutions. Their number, role and influence have been increasing since World War II. The attention directed at NGOs may primarily be attributed to more than two-decade-long crisis of the state as well as the crisis phenomena of representative democracy based on political parties (Kákai, 2013, p. 107).

In Europe, this crisis manifested itself in various forms. In the developed North, the traditional welfare policy was questioned; in a considerable part of the developing South, people became disillusioned with state-controlled development; in Central and Eastern Europe, state socialism collapsed.

The authors of international comparative research came to a conclusion that the non-profit sector is not uniform, since it represents various forms in each country, in line with the cultural, historical, political and economic circumstances (Salamon, Anheier, 1999, p. 34). The difficulties hiding here are well indicated in Nilda Bullain's experiment who placed various European non-profit organizations into an independence – institutionalization matrix on the basis of a survey examining European foundations and regulations.

Relying on the above aspects, Nilda Bullain described four models that are of varying characteristics (Bullain, 2005, p. 14–20) (Figure 1).

– Scandinavian or social democratic model (Sweden, Finland and Norway);
– Anglo-Saxon or liberal model (England, Ireland, Canada, Australia and the United States);
– Developing or Mediterranean model (Spain, Italy, Portugal and Greece);
– Continental or Corporatist model (Germany, France, Austria and the Benelux States).

In the early 1990s, it was impossible to assign the CEE countries to any of the above models, as they were somewhat a mix of the American and the Western European model (Lévai, Széman, 1993). According to the features of the above models, Central-Eastern European countries belong to the developing model. At the same time, provided that the borders are not drawn according to geography, but the post-socialist countries are examined as a major category, we can make a much subtle difference.

Owing to their political, economic and social situation and traditions, the post-socialist countries show considerable differences. In Central and Eastern Europe, development of the non-profit sector is basically connected to the revolutions of 1989. Except for a short period, civil society was practically destroyed in the communist era. It was only Hungary, Poland and the former Yugoslavia where limited pluralism was allowed at universities and in arts and culture. The renewed appearance of civil society was created by the Solidarity movement in Poland, by various small clubs and societies in Hungary and by the peace and green movements in Czechoslovakia (Kaldor, Vejvoda, 1997, p. 20–22).

Figure 1. The European models of the third sector by independence-institutionalization[1]

More independent

Scandinavian
Social democratic
model

Anglo-Saxon
Liberal model

*Less
institutionalized*

*More
institutionalized*

Developing
(Mediterranean, Central-
Eastern-European)

Continental-
Corporatist model

*Less
independent*
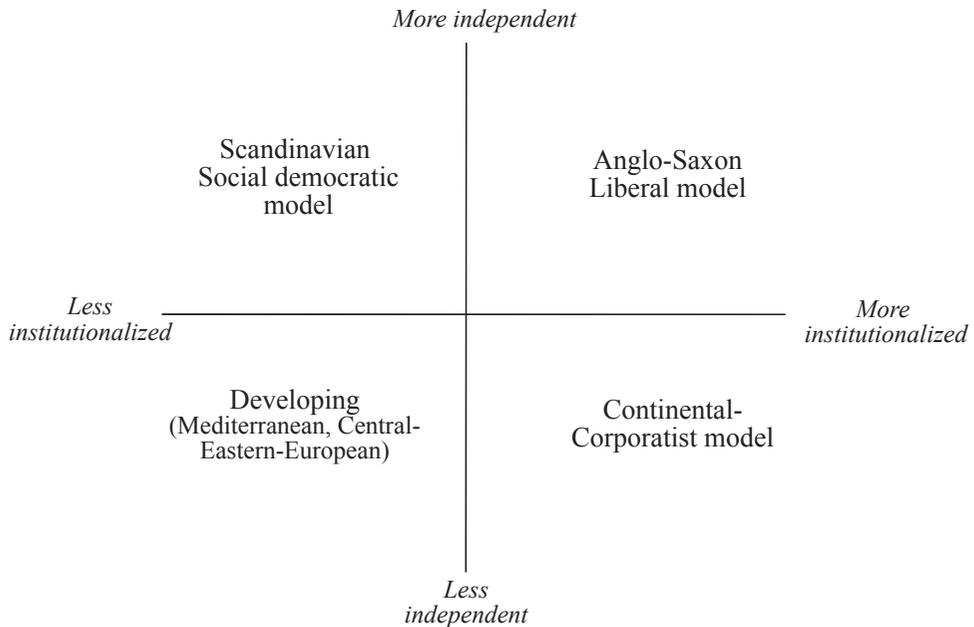
Source: Bullain 2005, p. 18.

All this is presented in the analysis of Roland Majlath (Majláth, 2009, p. 66) who complemented Nilda Bullain's survey with aspects specific for the CEE (Figure 2).

The civil sector in each country of the post-socialist region set out from a less institutionalized and less independent position during the transition times. However, the starting point of the three regions – Central Europe, Southern Europe and Euro-Asia[2]

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[1] The place taken on the ***independence axis*** shows the level of independence in a political, professional and financial sense, the level of the autonomy of the organizations and the diversification of their income structure. The place taken on the ***institutionalization axis*** depends on the scale of the given sector, the amount of its revenues, the number of its employees, the professionalization of the organizations and the level to which the sector is able to perform state-welfare functions.

[2] This category includes mainly the successor countries from the Caucasian region that were established subsequent to the collapse of the Soviet Union.

varied. The civil sectors in the Central Eastern European countries had initially an advantageous positions, and they made the largest step towards the social-democratic, the liberal or the corporative model.

Figure 2. The positions of post-socialist countries in the independence-institutionalization
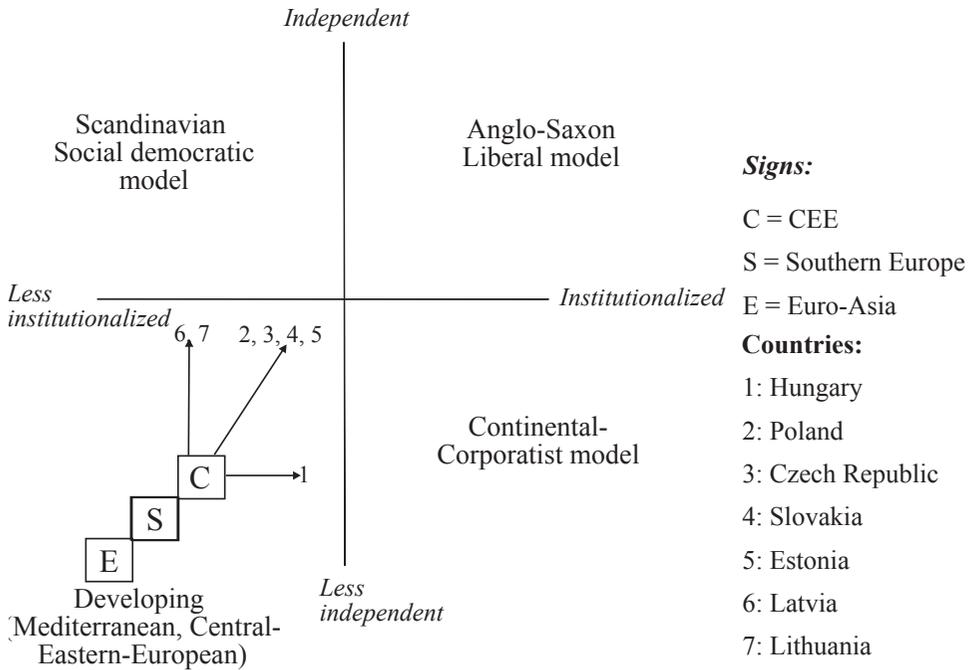
Source: Majláth, 2009, p. 66.

The states of Southern Europe compose a mixed group. They are, however, similar in being less mobile in the independence-institutionalization matrix, taking an intermediate position between the civic sectors of the countries in CEE and the Euro-Asian region.

Euro-Asian countries have the most static civic sectors: the region is somewhat odd even in the Mediterranean (developing) model since in many cases the justification of the civil organizations is queried by these states (Kákai, 2009, p. 40).

There were several factors, primarily from the mid-1980s, that retained the growth of the sector's scale. A decisive one was that the state preserved its monopoly in the fields of welfare services, education and health care. The excessive governmental control of the sector was well indicated by the fact that the registration of associations and foundations required the permission of a local authority.

Hence, the non-profit sectors of the CEE countries were deeply affected by the destructive and obstructive effects exerted by the Soviet-like regimes. Apparently, the civic sector is at extremely small scale in these countries (Romania, Bulgaria). It employs only 0.8 percent of the economically active population which is only one tenth of the Western European average. In state socialism, civic sector was in an „embryonic" state and al-

lowed only spare time activities. Since then, time has brought about considerable changes in several fields (education, social care, health care, etc.), but these changes remain in close connection with the reduction of governmental activity in these areas (Kákai, 2015, p. 40). The supports gained as personal donations make quite a high proportion of incomes in the non-profit sector, while governmental contribution amounts only to one third of the Western European average (Salamon, Sokolowski, List, 2003, p. 54).

Development in numbers

What can we say about Hungary on the basis of the above examples in a brief and a model-like way? Before I come to this point, I want to touch on a number of effects and tendencies which have significant implications for our subject and serve as a framework to understand the Hungarian process better.

Escalation of the economic (Schmidt, 2014, p. 115–138), political and social crisis from the mid-1980s generated a "revival" of organisational life in Hungary. At the beginning of the 1980s, new types of social self-organisation emerged from peace movements to eco movements, which were later followed by a "new wave" of student movements, self-directing college movement and the club movement within and beyond the universities as well as politically-oriented associations and forums (Kákai, 2013, p. 36). The beginning of political transformation was marked by reappearance of foundation as a legal entity in 1987, then it went on with the ratification of the Associations Act in 1989 and it was concluded with the amendment of the Civil Code (enacted in 1990) which abolished the former restriction preventing a foundation from being set up without approval of the relevant government authority (Kuti, 1998, p. 65; Bíró, 2002, p. 23). Following the Act of 1989, which guaranteed unrestrained setup of organisations and took advantage of historical opportunity and erosion of the political system, the number of organisations began to grow continuously. In 1982 there were 6,570 registered organisations, while in 1989 their number reached 8,514 (Harsányi, Kirshner, 1992). The internal structure of the sector has also changed: between 1987 and 1989 the number of art, city preservation and cultural organisations increased sevenfold, and the number of other, typically self-starting associations (environmental protection, humane, pensioner, economic/professional) increased tenfold (Huszár, 1997, p. 47).

We also need to highlight the counter process during which double transformation of the former state party power took place. By breaking up the former assets of the state party and building infrastructure of some of its satellite organisations, new associations and foundations were formed. This time within the legal framework of democratic laws. Their officials were "scattered" but they were able to carry on with their personal networking outside the party. Some of them truly worked to establish an independent civil society, while others retained their political connections (Kákai, 2014, p. 85).

After 40 years of state socialism, which resulted in the forced abolition of civil society and the erosion of social capital, the patterns and conventions of society's self-organisation and representation were not present in every area of society. Therefore,

there were no opportunities for various social groups to satisfy the different social needs. We have to say that the fast economic and constitutional changes could not be followed by development of the bourgeois society's civil culture. Most of the political élite and active civilians of the post-communistic countries were socialised in the old communist system. Their expectations concerning paternalism, stability and the welfare state are unbroken, they expect the maintenance of all of them under circumstances of market economy (Kákai, 2015, p. 79).

By the end of the 1990s, the borderlines of the civil sector in Hungary became sharp and clear. In addition to this fact, the strengthening of the organizations, the increase in their economic contribution and the stabilization of the social legitimacy of the interest groups brought about deep changes in the sector (Glied, 2014, p. 41).

Despite that it is difficult to classify the Hungarian non-profit organizations definitely into one of the above dimensions; as Nilda Bullain has worded it, "the sector takes mostly after itself" (Bullain, 2005, p. 19). Therefore, several elements of the models presented in Fig. 2 appear in operation of our domestic sector. These elements are the following:
– The tax allowances related to donations offered by Hungarian joint ventures are similar to regulations from the liberal model.
– The tax allowances on private persons' donations represent a Mediterranean and a social democratic component as well as the "1% law" which was taken over from the Mediterranean regulation.
– The corporative (continental model) has lent us the organizational form of public foundations, the normative support system, the public debate mechanisms and the formal control of public utility status (Bartal, 2005, p. 207).

The Hungarian non-profit regulation does not follow any of the European examples, which itself is not a problem – it is not obligatory to follow one of the trends. It is, however, a real problem that the prevailing decision makers had no concept and a long-term and system-based perspective when changing the regulations. We overtook a lot of components from foreign practices, however, this was not done along a clear concept. Thus, the precariousness, originating in often contradictory rules, became coded into the system. At the same time, the Civil Law passed in 2011, and the public administration and municipal reforms implemented in parallel, made considerable changes in this structure; primarily in the field of social services (health care, education and social policy). Furthermore, the public services and the government made the responsibilities strongly centralized. This might result in a different structure of the Hungarian non-profit sector.[3] Thus, after 2010 the Hungarian non-profit sector started showing the features of the developing (Mediterranean) model. All this is clearly indicated by the changes having taken place in the development path of the sector (Kuti, 2016, p. 287) (Figure 3).

After the transition, the number of the civil organisations multiplied rapidly, the sector kept expanding dynamically and continuously until 1997 (Figure 3.). This process was triggered mainly by the intensive spread of the foundations that had been very small

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[3] See the governmental behaviour performed during the latest period, like the actions of the Civil Union Forum openly supporting governmental policy or the steps made against Ökotars Foundation, responsible for the Norwegian Civil Fund in Hungary or the political "persecution" of the Hungarian and international organizations being somehow connected to György Soros.

in number in the previous era. In 1997, the "phase of extensive growth" had finished, and between 1998 and 2000 the number of operating organisations hardly changed (Kákai, Sebestény, 2012, p. 116). However, the studies done by the Central Statistical Office in 2000 marked a clear slowdown in the sector's development dynamics. It means that since 1997 the number of organisations hasn't actually changed. Moreover, the year 2000 was the first when the size of the sector didn't increase but actually decreased. Following the decline, or "flattening out," of the development tendency, again there has been a growth trend since 2003. This process was mostly the consequence of a rapid growth in the number of foundations. Then the "phase of extensive growth" ended, and between 1998 and 2000 the number of the operating organizations remained at a consistent level.

Figure 3. Development of the non-profit sector: according of number, revenues and employees, 1993–2013
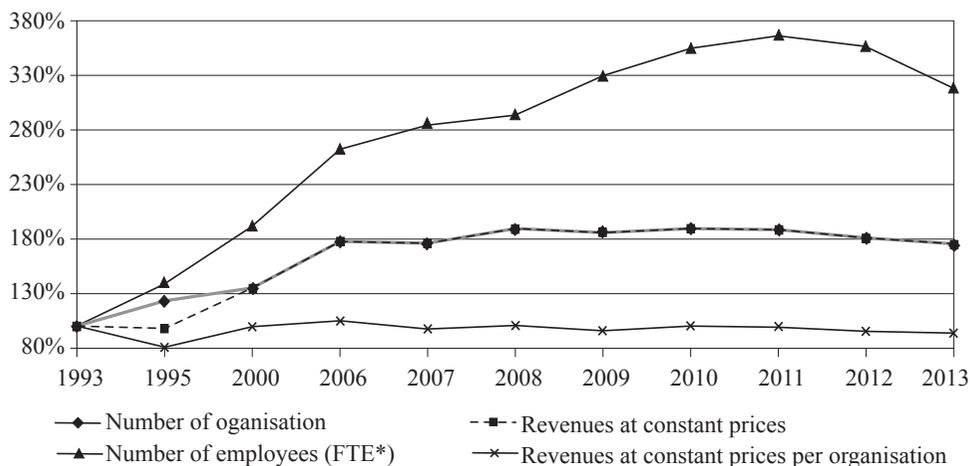
Source: Central Statistical Office, 1990–2015.

Afterwards, there was a slight increase within the corporate non-profit organizations. Foundations were hardly funded in this period of time. By the end of 2010, the number of organizations seemed to be stabilized again. The Hungarian non-profit sector appeared to have become "saturated" with 65 thousand organizations. Since the population of Hungary was – although permanently showing a diminishing tendency – around ten million, the values indicated in thousands can also be understood as the number of organizations per 10 thousand people, as indicators possible to be used in international comparisons. Hence, this indicator became four times as big, since it has grown from 16 to 65 in 20 years.

The situation changed after the year 2010. The number of organizations has been continuously decreasing since then. While in 2010 the Central Statistical Office registered 64,987 organizations, in 2015 their number was 62,152 (and it was decreasing year after year). Then, since the beginning of the economic crisis, this trend has become quite moderate (with the exception of employment). However, the year 2012 was the first time when all three curves moved downwards compared to the previous

year. Since then, decline in the number of organizations can be attributable to the effect of Act CLXXV of 2011 on the Freedom of Association, on the Non-profit Status and the Operation and Support of Civil Organizations ("Civil Act"), which launched a "cleansing" process within the sector.[4] The steady increase in the number of employees (except for the downturn of 2013 due to nationalization of the health care institutional system) seems to have ended. In 2015, we experienced a decrease by 2.5%. In contrast, revenues grew by 4.9% in real value. As the reasons for this tendency we can mention the alterations in legal environment, the governmental actions against the NGOs and the structural changes within the financial support system. The ratio of the total income of the non-profit organisation had increased slightly in terms of the GDP (namely by one third) during the twenty years, yet was still far below 5 percent (4.16) in 2013. A much more dynamic development took place in the field of employment: the labour market share of the sector grew to two almost three times as much. And since the total number of employed in the country did not practically change during this period, this extension was materialized in absolute terms.

The total income of the sector exceeded HUF 1,543 billion[5] (Figure 4), which means that it tripled from 118 billion in 1993 to 496 billion in 2000.

Figure 4. The revenues of non-profit organisations, 1993–2015
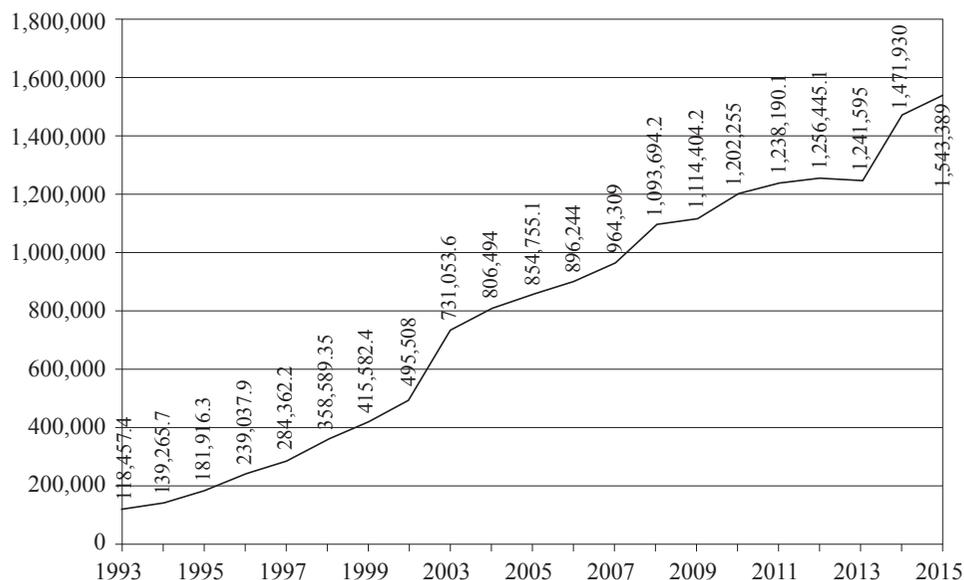
**Source:** Central Statistical Office, 2016.

However, after 2010 the linear tendency seen in the growth of the income has broken (Figure 5). There were several reasons for this. Connection of the reduction in the

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[4] The civil law states that failure to submit the mandatory annual financial statements entitled the court to initiate the termination or deletion of the said organization.

[5] App. € 5 billion.

state support of the NGOS with the general centralization efforts as well as the power-based centralization of the non-profit services was quite visible.[6] As a consequence, the income structure, which earlier had adapted to the Western European scheme, kept on deviating permanently. In 2002, the government set a target to raise the rate of governmental support within the gross income of the non-profit sector to 40 percent, which was the lower limit for the European countries. According to the data, this target was reached and the rate did not change due to the world economic crisis of 2008. In 2014, however, the income structure was weirdly similar to that of 1997.

Figure 5. Distribution of the revenues of non-profit organisation by source, 2007–2015

Legend:
- 2007 (n = 964,309)
- 2008 (n = 1,093,694.2)
- 2009 (n = 1,114,404.2)
- 2010 (n = 1,202,255)
- 2011 (n = 1,238,190.1)
- 2012 (n = 1,256,446.1)
- 2013 (n = 1,241,595.2)
- 2014 (n = 1,471,930.4)
- 2015 (n = 1,543,389)
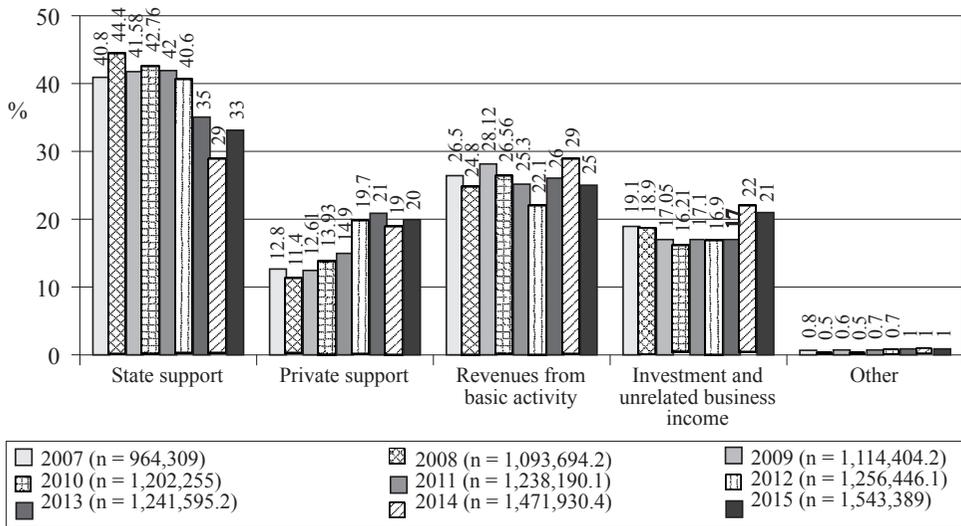
Source: Central Statistical Office, 2016.

It is worth examining the economic data in geographical frames, especially with respect to the multiplying effects of the economic crisis. We can get different pictures of the structure or development of the non-profit sector depending on whether we use the indicators of the number of organizations or of economic power.

Concerning the economic strength of the counties,[7] (compared to the national situation)there were no considerable changes between 2006 and 2010. Certain[8] counties

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[6] We can refer to the governmental centralization actions executed in health care in 2013 or the transformation of the public service providers into governmental/non-profit corporations that started in 2014, which considerably reduced the activities of the "classical" civil organizations in the field of human and public services.

[7] To measure the economic potential, we used the GDP data aggregated by counties. We categorized them as favourable, moderate and weak according to their deviation from the national average. The favourable category includes the counties possessing an indicator well above the national average, the moderate group includes those around the average and the group named weak contains the ones showing a performance considerably below the average.

[8] Bács-Kiskun, Baranya, Békés, Csongrád, Győr-Moson-Sopron, Hajdú-Bihar, Heves, Jász-Nagykun-Szolnok, Komárom-Esztergom, Nógrád, Pest, Tolna, Vas, Veszprém, Zala.

remained in the same categories (Figure 6). The only county making a negative shift was Fejér. Positive changes happened in Borsod-Abaúj-Zemplén, Szabolcs-Szatmár-Bereg and Somogy.

In the early 2000s, in the period of economic boom, the GDP per capita has increased. Between 2000 and 2008, in each of the three examined years (2000, 2006 and 2008), the value of the gross domestic product showed a growing tendency.

The essence of the process is that the regions exceeding the average in development (Middle-Hungary, Middle-Transdanubia and Western Transdanubia) had been developing faster than the average, while the regions below the average level of development (Southern Transdanubia and Southern Great Plains) had shown improvement. However, the pace of this considerably lagged behind the average.[9] The development of Northern Hungary and the Northern Great Plains had more or less met the national trends (Pitti, 2008, p. 55). This trend was changed, to the detriment of the developed regions, by the economic crisis.[10] All this suggests that the crisis finally acts in favour of decreasing the regional inequalities of development, which is in itself desirable, but unfortunately takes place through degradation of more developed regions, rather than through development of the less industrialized areas. The only relation where the further growth and sharpening of the differences is expected is the capital-countryside relation (Lőcsei, 2009).

By 2010 – basically as a result of the world economic crisis – the value of this indicator fell to a much lower level and then increased again in 2012.

Figure 6. Non-profit organisation economic potential of 2010

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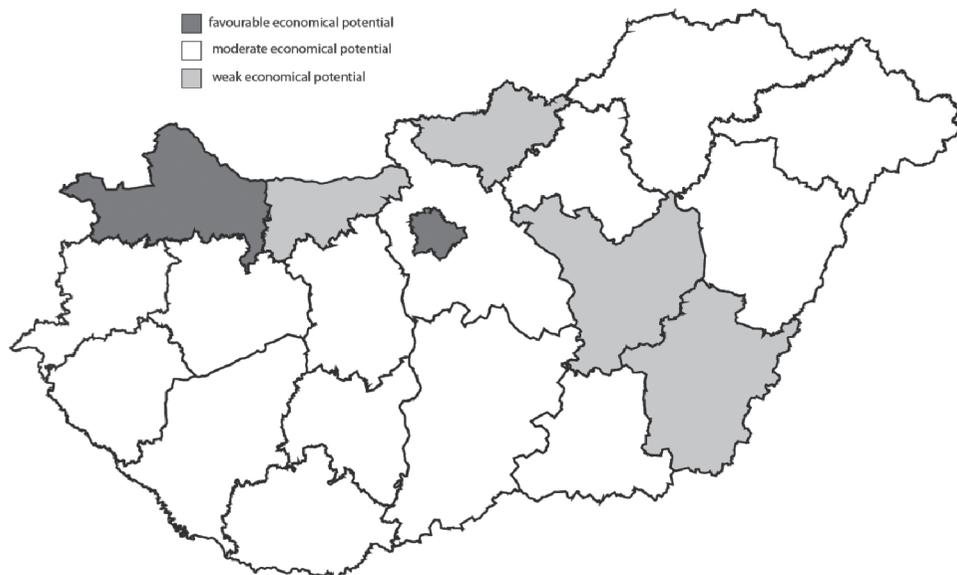
[9] Központi Statisztikai Hivatal, nyilvántartási szám: J/7503, *Magyarország, 2011*, p. 86.

[10] By 2010, despite the economic crisis, the gap between Middle-Hungary (as the most developed region) and Northern-Hungary, the least-developed region, deepened further as compared to 2007: the difference between the two regions in 2010 was 2.8 times as much (Központi Statisztikai Hivatal, nyilvántartási szám: J/7503, *Magyarország, 2011*, p. 86.)

The change was not sudden, but rather continuous. The economic situation of the non-profit organizations kept on worsening after 2011. While in 2010 there were "only" five counties with weak economic potentials, this number grew to nine by 2011 and, as shown in the next figure, in 2013 we found 14 of 19 counties facing this situation(Kákai, 2015, p. 626) (Figure 7).

Figure 7. Non-profit organisation economic potential of 2013
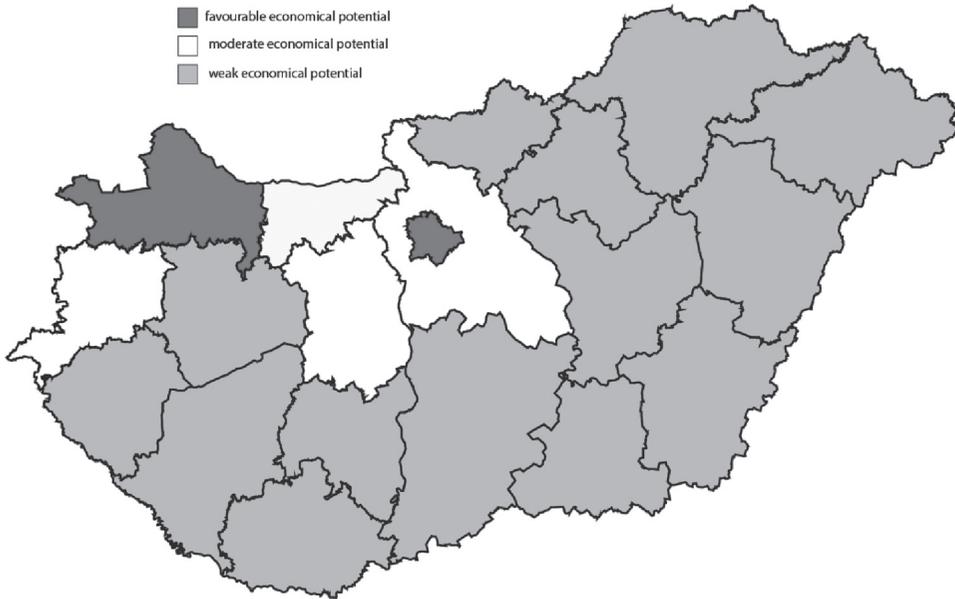
The results make us draw the conclusion that although the number of the organizations is affected by the economic development level of the certain region, this, however, does not mean that the organizations working in more developed areas get higher amounts of financial resources from the companies operating in their region.

Conclusions

To summarise, the legal and economic regulations have created a wide institutional framework and favourable (though not ideal) conditions for development of civil initiatives and non-profit service provision since 1989 (Kuti, 2008, p. 15). Due to all these reasons and circumstances, if I had to describe the Hungarian non-profit sector in a single sentence, I would say that its number and membership may be significant, yet it is particularly weak in terms of resources and its role to accumulate social capital and to get involved in national and local political decision support and articulation of interests. Summing up the developments and changes in the examined period of almost two decades we can undoubtedly state that the weight of the non-profit sector considerably increased both in absolute terms as well as within the national economy.

At the same time, owing to the heterogeneous composition of the sector, within the organizational heaps of very much differing nature, this process gained diverse emphasizes, and the shift experienced and measured by certain dimensions were not only of varying dynamics, but in some cases of opposing directions. Although we have no figures to prove our conclusion, the tendencies described above and other – not only empirical – information we possess about the sector's activity clearly demonstrate the fact that the weight of the non-profit sector has grown during the examined years.

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Abstract

In my paper, I review the situation of the Hungarian civil sector after the regime change. I present its structure, the systemic characteristic and the time-series changes. The study undertakes modelling of the Hungarian non-profit sector by surveying the previous attempts. I will concentrate on some inconsistencies within development of Hungarian non-governmental organisations.

Key words: Development of Hungarian non-profit sector, community structure of non-profit organisation, economic and territorial/regional connection, Hungary

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On the civil sector and it's political activity in Hungary after 2010

Introduction

From the point of view of the civil sector, the situation after the change of government in 2010 was determined by three factors: 1. Activities of the formalised or informal groups (and the loose network thereof) fighting against the radical reforms of the government, which are linked to the civil sector in a vast array of forms, including personnel and resource allocation; 2. The process of "colonising" the civil sector, with the new so-called "NGO act" (the Act no. CLXXV of 2011 on the freedom of association, the public benefit status as well as the operation and support of non-governmental organisations). With this, the government has narrowed the volume of national financial resources available to NGOs. It created a new funding distribution mechanism called National Cooperation Fund (NEA) and by amending the interpretation of public benefit, it reduced the number of applicants as well; 3. Dividing the civil sector into categories of friendly and adversary organisations of the system, i.e. into "good" and "bad" NGOs. The former referred to so-called consensual organisations, supporting the government and its politics without any preconditions, led by the Civil Union Forum (CUF), while the latter category referred to conflicting civilians, "financed from abroad, carrying out political activities." More than 90% of the entire Hungarian civil society is within the two poles. The paper examines these three points from 2010 to the early 2017.

New movements after 2010

In Hungary, complex crisis has already commenced in 2006 and it practically lasted until 2010. The election campaign in 2006 was all about promises. The then governing socialist/free democrat coalition communicated the temporary rise of living standards with success propaganda and successfully referred to the country's accession to the European Union in 2004, while the largest opposition party, the self-proclaimed conservative right-wing Fidesz used a depressive campaign. The socialists won the election, but some months later the secret speech of prime minister Ferenc Gyurcsány has leaked out, in which the former leader admitted that they permanently lied about the situation of the budget. The speech was disclosed on 17 September 2006 and it lead to street riots. The Fidesz started a powerful campaign to consider the prime minister

illegitimate and to reject all forms of cooperation with Mr. Gyurcsány or the coalition parties. A period of political crisis began and brought about a moral and ethical instability. The socialists could not escape their network of interests and cases of corruption and their politics could only focus on remaining in power. The corruption scandals and ambitious yet futile reform attempts were the main characteristics of the dead-end politics of the government. The overwhelming majority of voters wanted changes. Part of the votes could be considered protest votes, not primarily aimed to support Fidesz that participated in the twenty-year period after the political transition to democracy.

The far-right, national radical Jobbik (*Movement for a Better Hungary*) also gained support. Although it was established as a party in 2003, it could only present itself after 2006, as the crisis deepened. As hopelessness and poverty increased, many became attracted to the party voicing antidemocratic, anti-EU, anti-Semitic and racist sentiments, invoking the attitude of Hungary in the 1930s that was also supported by intellectual groups of lawyers. Jobbik introduced the issues of the Roma minority and the fight against global capital into national politics, although these used to be taboos and voiced social concerns, gaining support especially in the poorer regions of Eastern Hungary. A new party also appeared in the centre-left, within the liberal-green-anarchist field, introducing fresh air and young dynamism, which immediately resulted in a 5% national support. LMP (*Politics Can Be Different*) was a party organised on a civil society base (Pánovics, 2014, p. 233), registered in 2009, with followers including greens, anarchists, liberals, supporters of the alterglob movement, conservatives and new left sympathisers as well. The new force contributing to policy issues apparently came from almost "nothing" and gained ground swiftly, in not more than a year. The winner of the election in 2010 was the Fidesz and its allies, the Christian Democrats, having a two-third majority and the new leader party could practically begin to transform economic and social subsystems without an opposition.

A new era of Hungarian politics has begun, labelled by the new government as a revolutionary transformation and a new era ("revolution in the voting booth"). It soon became clear that the two-third majority in the parliament is not enough to conclude rapid reforms: the economy stalled and started to decline, the national debt has reached the levels from before the democratic transition, the emigration was gaining momentum, the interest rates of loans rose dramatically and caused tens of thousands of families to find themselves in a hopeless situation. The systematic reforms affected personal livelihoods, economic circles and intellectual groups and turned social groups, professions and generations against each other, causing further tensions between Hungary and the European Union.

The Fidesz started reforms in all social systems and began to completely restructure the country. The flat tax rate on income tax showed that the new government was favouring the richer middle classes. It cut the funding on education and social services and meanwhile increased the volume of budget spent on the Hungarian football and retroactive legislation, amended the constitution, destructed checks and balances, performed a total takeover of the state media, reformed the election system, took control of the arts and cinema sectors. All those steps have angered the citizens. To make matters worse, the government and its politicians was arrogant, surreal, cynical and

used sniffy communication, which for many was way beyond the acceptable levels. Nevertheless, the Civil Unity Forum supporting Fidesz could mobilise several hundred thousand supporters for its "Peace March for Hungary" rally on 23 October 2012. Between 2012–2014 Five Peace Marches were organized all together by the CUF. It was also proved that although the newly popular movements and informal groups – such as Szolidaritás (*Hungarian Solidarity Movement*), 4K (*Fourth Republic*) and Milla (*One Million for Press Freedom*) – could move masses of citizens, they have no political routine.

Szolidaritás, Milla, 4K, HaHa

The Szolidaritás

During the regime changes in Eastern Europe, civil society was constantly fighting for independence and social recognition as well as establishing an alternative political pole, as opposed to the single-party state. The role, legal status, legislation and gravity of the civil sector developed in different ways in each country. During the 1990s and the 2000s it constantly tried to find its role and place in society and identify its tasks and opportunities. Factor typically applicable to NGOs include weak representation in society and delayed networking, lack of human and financial capacity as well as the deficiency of efforts exercised to involve resources. For liberal and left-wing civil initiatives, the role of counterbalancing power obviously became important after 2010, while the government considered these types of activities illegitimate and attributed them to politics of opposition. The non-embedded civil sector became further polarised with the changes that have taken place after 2010. It has lost its room for manoeuvre and its independence became quite dubious.

Changes of 2010 and 2011 created new, previously unknown movements and groups, which could rapidly bring masses on the streets and then transform them into parties (or make them entirely diminish). The movements are based on several issues, and the buzzwords of the protests they organised are mixed with multiple levels of grievances and demands. These initiatives were created and fuelled by the divisive politics of Fidesz. At first, the communication of the government concerned the employees of law enforcement agencies, media professionals, disability pensioners, students and artists scapegoats that disagreed with the government's reforms (Vári, 2013, p. 242).

The Hungarian Solidarity Movement was created upon a single reason: to protect the privileged pension schemes of law enforcement employees. This led to creation of a general group of trade union leaders, organised according to the Polish example, to provide an initial impetus for anti-government protests. Shortly, several organisations protesting against the nationalisation of private pension funds and the punishment of homeless people have joined. Szolidaritás is elder than the other movements and its dynamics is provided by people coming from a classic civil background that raised

their voice for goals such as restoration of legality, progressive tax systems and social
security. The consistent agreement of the leaders was unquestionable. The only serious
political challenges affected the movement in early 2012. Regarding their ideological
framework, all movements voiced their aim of overcoming the fierce and ideological
war dividing the country, which would only be possible by strengthening social activ-
ity and participation. The fight against political passivity, the fear of the leaders being
blackmailed by their livelihoods and the fear of freezing due to failure, helped the
movement overcome its apolitical attitude and guided it towards party politics.

   After initial success, Szolidaritás and several hundred affiliated organisations an-
nounced the "D-Day" demonstrations on 29 September 2012. The protest of 50–60
thousand participants planned to last for three days have started at the Kossuth
Square of Budapest and ended with a sit-down strike in Clark Ádám Square via the
Chain Bridge. Few hundred participants also went to the Sándor Palace, the seat
of the President of Hungary. The group One Million for Democracy left Milla and
joined the trade unions. Milla did not want to participate in the events of Szolidar-
itás, partially because it considered the activity of the trade union group a competitor
and it thought that Szolidaritás and law enforcement trade union organisations had
connections with political parties, particularly with the MSZP (*Hungarian Socialist
Party*) and Jobbik. Since autumn 2011 to 23 October 2012, Szolidaritás and Milla
implicitly shared the organisations of street demonstrations and also held a joint op-
position demonstration on 2 January 2012 to protest against the ceremonial adoption
of the new constitution.

   After the events of autumn 2011, leaders of Szolidaritás have quit (or were ex-
empted) from the trade unions, on which the organisation was based. Szolidaritás in-
tended to supplement its institutional background by way of joining the NGOs, but it
turned out to be a demanding issue. The group committed the same mistakes as many
other movements: it failed to maintain the enthusiasm and commitment to a com-
mon goal among its members, lacking definite political successes. The government
proposed compromise solutions, but usually swept away the demands of Szolidaritás
being equipped with its two-third majority. One of the leaders leaked his plans to es-
tablish an own party in early 2012, but his fellow leaders rejected the idea and believed
in forming an oppositional round table. While the movement worked to establish its
organisational background, the original organisation has practically been dissolved.
He considered the civil efforts to be futile when there is no party in the background
that could compete at the elections. The apolitical, uncompromising stance of Szoli-
daritás provided the movement with symbolic credit, which has partially diminished
after the dissolution. The movement could not elaborate the important identity, and
failed to show cooperation between NGOs and the democratic opposition for the sake
of common good of the nation. On top of that, anti-establishment and anti-corruption
buzzwords and problems of poverty were more successfully communicated by the
Jobbik. Fidesz could remove the checks and balances aimed to restrict the power of
the government and change important elements of the political system without any real
opposition. The "stop and go" political games permanently applied by the government
made it impossible for the opposing organisations to adapt to the ever-changing central

communication and to increase or maintain the resistance of their members, which was ultimately heading to a fatigue.

In the late summer of 2012 the former prime minister Gordon Bajnai announced his idea of establishing a new political pole by inviting all of the democratic actors. Mr. Kónya and other leaders of the movement perceived Mr. Bajnai as an acceptable figure of the left and considered him as a professional, not a reformer of the new left. The movement has joined the Bajnai-organisation on 23 October 2012 and created the party named Együtt 2014 (*Together 2014*), which comprised the Milla as well. The initiative rapidly lost popular support because it also involved the discredited actors such as Ferenc Gyurcsány and the socialists. LMP failed to join this group and chose to run for election independently. The left-wing alliance has lost the 2014 elections and the efforts once again were the same as most cases since the transition to democracy: NGOs have lost some of their power and parties tried to develop on the capacities of civil organisations to gain political advantage, further compromising their reputation.

One Million for Press Freedom (Milla)

The Milla was the first movement that began to organise itself against the measures and reformative plans of the Fidesz government. Milla was originally founded on 21 December 2010 as a Facebook Group named One Million for Hungarian Press Freedom, a day after the first protest for the freedom of the press. The group created by a civil activist Péter Juhász rapidly gained supporters, stating the Fidesz started governing without a programme, displayed spontaneous ideas and provisions and the "National Cooperation System" created by the government was only a fake negotiation body, which did not generate true discussions and dialogue (Bretter, 2014, p. 158). On top of that, the group was angered by the sense of absurdity, the success propaganda of the government and the enormous discrepancy between reality and the governmental communication (Petőcz, 2013, pp. 268–269).

During the first half of 2011, Hungary held the Presidency of the Council of the European Union (the major body of the European Union) for the first time, while the government and the prime minister kept talking about the fight for freedom, explaining that Hungary will not allow the EU to interfere with internal politics. While the two-third majority started to transform the political system, the opposition contemplated the changes as a lame duck, being unable to actively influence the processes. The Socialist Party was healing its wounds, LMP could not overcome having put on a course by the two major parties and organise an independent political pole. Jobbik acted as constructive opposition, dealing with taboo subjects and defining the essence of politics. In this situation, the non-governmental sector became more active and protested against the amendment of the media law, claiming that it threatened balanced and politics-free information services in the country.

On 14 January 2011, the series of demonstrations arrived to the Kossuth Square in Budapest to protest against limitations of press freedom. This was the first demonstration in Hungarian history organised online. A general concept package was elaborated

for the national holiday on 15 March, which included the issue of increased emigration, the dangers of narrowing the rights of democratic institutions, increase in social differences and the invasion of social subsystems in politics. Many intellectuals and artists supported the protests, providing faces to the demands of Milla: dialogue, democracy, and putting an end to political fight and fear. The rap song "I don't like the system" was composed in autumn 2011 and rapidly spread on the Internet providing the tone for the protests. This song represented a new generation complaint of several dozen thousand young people having a university degree, yet remaining without a goal, sensing poverty, hopelessness and dissolution of democracy around themselves. Milla also had to ask "where to go" for itself, just as Szolidaritás did. The initial buzzword of the Milla-organisers was: no politics please! Nevertheless, when they found themselves in the centre of protests and increasingly had to deal with politics, they felt that the major civil potential should be converted into votes in the elections. This was a major issue in the history of Milla, as it was the only democratic proto-political force in the field separating the left and the centre.

After the protests of 15 March – having been joined by 40 thousand participants – they had to consider stepping forward to create a political group. Those who did not support this direction either left the movement, or went on to work in the Milla's NGO wing. They established their own media channel and gathered interests through gags and street protests. This division basically meant that the movement had to develop and represent two different programmes. One aimed to defeat the Fidesz, in cooperation with the parliamentary and non-parliamentary opposition, and another aimed to change the whole political system. Milla is a third attempt to create a new social movement, it was organised on the internet and conducted most of its discussions in the virtual space. It was identifying itself with pro-Europe, liberal, green and new left values. They rejected populism, the institutions established according to partisan logics as well as all forms of corruption. Meetings of the activists concluded that the Third Republic founded in 1990 fell into such a great crisis that cannot be resolved. The only solution was to create a new pole and announce the idea of the Fourth Republic. Milla has not only been a movement, but also a framework that provided a platform to people and groups accepting a democratic minimum. The movement was created for a single purpose (the fight against amendment of the media law) and later went on to enforce some kind of a watchdog function that draws attention to anomalies in the Hungarian political system, the economy and politics and discrepancies in understanding democracy, emphasising roles of society and opposition as well as the lack of political culture. Fourth Republic (4K) imagined grassroots reforms in a narrow, civil space, which is free from politics. It is clear that the power induced in civil roots and supported by discontent could not favour the Szolidaritás or Milla in public politics, for the facts listed herein.

Fourth Republic (4K) and the Student's Network (HaHa)

4K entered the political arena as a generation-based civil force, a group of young digital consumers. The organisation appeared on local street games and flash mobs in

the autumn of 2010, it was active in cooperation with students and those protesting against the new constitution. It decided to transform into party in 2011 and held its first congress in 2012. It mainly expected the membership of those who were tired of political fights, pointless debates and anger. They demanded real political participation, real democracy and the reconquering of public life. They intend to act against a bleak future for the youth, by directing attention to uncertainties and the problem of emigration. 4K believes that the crisis is the consequence of a global process, and the result of the rule of banks and vague political deals which the public disagreed with. This includes the activity of Gyurcsány and Orbán governments, which only provided temporary solutions, merely reacting to the actual problems. They also understand – what LMP, Szolidaritás, Milla and other organisations failed to realized – that the love for freedom and enthusiasm in Eastern Europe and Hungary usually manifests itself in resistance and protests, not in the hope to unite and reach common goals. In this environment, the sense of community is provided by acting against something or somebody, and dissension is the base of joint living, while paternalism and trust in the government is still defining most of the concepts of individual responsibility. However, politicians and the state are not able to solve certain problems and choices from an individual are required to get things right, if that is possible at all. There is no tradition of collective formations in Hungary, it is mostly the individual enforcement strategies that prevail. According to them, the community is only a tool, while wealth and power are the goals (Mikecz, 2013, p. 365). This leads to the conclusion that participation in public affairs is useless, the senses of *"I cannot change anything"* and *"someone else can try to change things, I am not willing to risk anything"* are going to define the thinking of an average citizen, with apathy and indifference becoming the prevailing view. This is what 4K intends to change and as a self-defined leftist patriot party it wishes to emphasise the importance of participation, demanding a tax reform, the restoration of economic and legal stability, and strengthening of workers' rights. The major challenges to 4K in the future are going to be the establishment of a real organisational structure and the mobilisation of its potential voters (Glied, 2014, p. 55).

The history of the alternative university representation organisation HaHa started well before 2011. The organisers already appeared among the Occupy movement and the Anonymous group in the mid-2000s. In 2011, they had several actions, occupying the office of Máté Kocsis, mayor of Budapest's 8th district, protesting in front of the Bankcenter office building and raising awareness on other similar media hack events. The group initially consisted of 20–30 members and pronounced clear messages that accomplices, individual consumers, corporations, bankers and politicians are all responsible for the situation. The protest of the university and high school were fuelled in autumn 2011, when the government announced plans to reform higher education by introducing an obligatory student agreement, a radical decrease in state-financed university seats and great reductions in the education budget. HaHa also profited from that the National Conference of Students' Representation Councils was not appropriately representing student's interests. HaHa chose a variety of methods for its protests. Its activists disrupted speeches of the state secretary responsible for the reform of higher education (who used to be an active member of the communist party before the

transition to democracy) and other ministry officials. They organised marches, student forums, talked at demonstrations organised by Milla, occupied university halls and auditoriums and held night vigils. They played a major role in the resignation of President Pál Schmitt, continuously organising campaigns, especially on the Internet (Gerő, 2013, pp. 322–323).

The organisation gained popularity during the winter of 2012/2013, when discontent reached a new peak. On 12 December 2012 a group of students entered the Kossuth Square of Budapest with a march of several thousand protesters and reached the steps of the Parliament building, only to meet a wall of policemen. On 11 February 2013, HaHa and high school activists held a demonstration in Budapest's Deák Square, marched to the Faculty of Humanities building of the Eötvös Loránd University and "occupied" the main building. The "first Hungarian occupation of a university" ended after 45 days, when the participants concluded an agreement with leaders of the university. According to the agreement, the students were free to organise forums in the previously occupied auditorium and the university declared to "support self-organisation of the students." Besides, the organisers negotiated with the government, which once more have taken the "stop and go" stance. After the initial protests, the government changed its original education policy reforms in many aspects. The stand-off was thus a resolve of the process, although no agreement was reached and issues affecting the Hungarian youth were postponed and ignored (Glied, 2014, p. 58).

After the end of 2013, the big wave of street politics have ended due to the government's inexorability, the weakness of opposition and the lack of support and organisation behind different civil initiatives. Szolidaritás, Milla and other initiatives merged into the left-wing alliance, lost their original identity and suffered defeat at the elections, thus they were unable to form new parties. Several other initiatives could be mentioned, for instance the Demokratikus Kerekasztal (Democratic Roundtable, DEKA and KARD), Tanítanék Mozgalom (Teachers' Movement) and Új Pólus (New Pole), but these groups have all proved to be ephemeral. All of them enter the news with much media frenzy around them, deliberately or occasionally supported by the left-wing and liberal press. Then, however, they rapidly disappeared without significant support from the public or lasting results. Sociologist Zsuzsa Ferge very accurately defines the reasons.[1] DEKA and KARD (sword) are the left-wing social movements advocating re-democratisation of Hungary, widening social dialogue and its actual implementation. It aimed at preparing the conditions for a country providing a better livelihood and increasing participation to involve more people in the democratic processes. The introduction to programme of the initiative explains that all former experiments aiming to adopt and internalise democracy in Hungary have failed. Naturally, the reasons were complex. However, one of the key reasons is lack of democratic, intelligent citizens taking part in public matters. Additional reasons include insufficient experience of civil organisations in confusing and interest-driven world of politics, existential uncertainty, the sense of being threatened and the lack of true vision. Because

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[1] http://docplayer.hu/46965-Gondolatok-a-deka-rol-1-ferge-zsuzsa-feljegyzese-az-egyesulet-kard-alakulo-ulesenek.html.

of the decreasing role of representative democracy, the quasi-failure of participatory democracy in Eastern Europe and the fading of traditional party system, the active citizens awaited a civil upheaval to find a way to renew politics. However, because of the lack of activity and attention, it is an extremely hard and almost futile task.

At this point the so-called "Norwegian Fund Case" should be mentioned, as the first phase of government attacks against NGOs were financed from abroad (among others) and it prepared the government's narrative that divided NGOs into "good" and "bad" civil organisations. This case is compatible with the claim of the government propaganda stating that the "political" activities of NGOs are always aimed against the system and the closed structure of politics shall be reserved to parties (Ágh, 2016, p. 25). Already in August 2013, the communications attack was launched against the NGOs that was partially financed from abroad. They have been called "false civil organisations" financed from abroad, intervening in politics and they were addressed in the government's communication as the servants of György (George) Soros[2] who is financed from the billionaire's "wallet" (Torma, 2016, pp. 268–269). On 26 July 2014, in his speech at the 25th Bálványos Summer Free University and Student Camp in Băile Tuşnad (Romania), the prime minister Viktor Orbán (explicitly mentioning the "disputes" related to the Norwegian Fund) referred to the Hungarian NGOs stating that they are "political activists paid by foreigners" who intend to "have influence on the state matters of Hungary at the moment, regarding specific questions."[3] The increasingly tense conflict has escalated during the summer and autumn of 2014 between the Hungarian government and the Norwegian Fund, the EEA Fund and consequently with the NGOs managing the three programmes of the fund. Investigations started against four foundations implementing the tenders and 58 NGOs. Representatives of the Hungarian government accused the civil organisations and their leaders of committing criminal acts, with the police and the tax authority investigating their cases. What is more, the tax authority suspended their VAT numbers and their offices were searched.

The Norwegian Fund halted its payments to Hungary because the Hungarian government unilaterally changed the domestic assistant body of the entire Norwegian Fund, and thus the diplomatic relations between Hungarian and Norway have deteriorated. In that time the Hungarian government started to investigate the organisations supported by the civil fund and Hungary received many instances of criticism and warnings from its international partners, including the Council of Europe and the United States. In the end, the Hungarian government concluded a deal with the Norwegian party (which was originally intended to be confidential), stipulating that Hungarian authorities will stop harassing the affected NGOs and comply with the agreements concluded earlier. In return, the Hungarian party requested the right to veto the organisation which was distributing the funds. The prosecutor's office ordered to investigate 7 of 58 examined organisations, uncovering minor deficiencies. The National Tax and Customs Administration closed its investigation on 20 October 2015. The investigation carried out against the organisations for more than a year was terminated without revealing any

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[2] Hungarian-American business magnate, investor, philanthropist, political activist and author.
[3] http://mandiner.hu/cikk/20140728_orban_viktor_a_munkaalapu_allam_korszaka_kovetkezik_beszed_tusvanyos_2014.

criminal acts. In the end, none of the organisations and initiatives appearing after the demonstrations of autumn/winter 2014 (Populus, Új Magyar Köztársaságot, Most Mi!) has remained active. The key reason was that the protests of teachers, students and parents did not intend to overstep the professional policy demands (also recommended by the Education Roundtable). The fate of protests against imposing the Internet tax proposed by the government was different due to several other factors, including the case of the so-called "US entry ban."

Századvég, the pro-government polling institute, conducted a survey in January 2015[4] and identified four key areas, in which the success of the government was doubtful from 2010 to 2014. The international reputation of Hungary improved according to a little more than half of the respondents only. The permanent disputes with the European Union surely played a major role in this. It should also be emphasised that Hungarian-American relations gradually worsened as the foreign policy orientation of the Hungarian government changed: together with the policy of the 'Opening to the East' and the improving ties with Russia.[5]

A similarly unfavourable action from the US point-of-view was when the NATO-member Hungary failed to condemn Russia for the annexation of Crimea and the military action in the eastern part of Ukraine (Pető, *A Krím-félsziget...*). During the spring of 2014 it was reiterated that after the fall of Communism, the competition of great powers for preserving and expanding their zones of influence has not ended. In order to enforce its geostrategic interests, both the United States and Russia used their tools of "soft and hard" political influence in the Central European countries, including Hungary. The case known as the *"entry ban scandal"* was an emblematic step, when the United States banned six unidentified Hungarian public servants from entering the country.

According to the result of the aforementioned Századvég survey, respondents did not find the reform of major state social systems successful. After the regime change, each government favoured expenditures on infrastructural developments and welfare measures from the central budget, and spent less on healthcare and education (which is required to build a knowledge-based society as well as the development of competitive and high added-value sectors). The Fidesz-cabinet also failed to rectify the state of healthcare and education.[6] More and more apparent and perceptible social-economic

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[4] http://szazadveg.hu/foundation/kutatas/piac-es-kozvelemeny-kutatas/tobben-tamogatjak-a-kormanyt-mint-tavaly-decemberben.

[5] A key element thereof was the cooperation agreement signed in January 2014 in Moscow, stipulating that Russia is going to build new nuclear power plant units in Paks and provide a 10 billion EUR credit for this purpose to Hungary. *Orbán-Putyin: Az oroszok bővítik Paksot* [Orbán-Putin: The Russians will expand Paks], HVG, http://hvg.hu/gazdasag/20140114_OrbanPutyin_megallapodtak_Paksrol, 15 January 2014.

[6] While in 2003 the budget spent 5.85% of the GDP on the healthcare system, in 2012 this figure was only 4.78%. The GDP in 2012 failed to reach the 2007 level and by the second half of 2015 it could only return to the economic performance before the global financial crisis, in: *Pénzkivonás az oktatásból és az egészségügyből: megint a szegényeken csattan* [Education and healthcare budget shrinks: the poor will be badly hit], http://tenytar.hu/elemzes/penzkivonas_az_oktatasbol_es_az_egeszsegugybol_megint_szegenyeken_csattan#.WERzWfnhC00.

problems culminated in the period following the repeated success of the Fidesz at the elections of 2014, and by the autumn the communication of the government clearly ran out of ideas. Without a competitive opposition, in October 2014 Fidesz also won the municipality elections, but then the party's popularity started to decline.

The political bombshell known as the "entry ban scandal" in the press exploded in October 2014, after the municipality elections. Shock waves of the scandal also reached the prime minister who had to comment on the matter. The US Embassy in Budapest did not provide details of the banned persons to the Hungarian government, so the press started to speculate about American sanctions and a major corruption scandal that could have been the reason for them. On 5th of November, it was disclosed that one of the banned persons was Ildikó Vida, the president of the National Tax and Customs Administration who was accused of intentional covering up of tax fraud and corruption in the authority and therefore being an accomplice. Due to political reasons, the theory of diplomatic pressure is also supported by the fact that a US official announced in August 2016 that the American authorities had no concrete evidence, but they gathered information from the media and the Internet, i.e. from public sources (*Új fordulat*...).

Based on the analyses of the pro-government Nézőpont Institute, the governing parties enjoyed support of 32% of the population before the entry ban scandal, which shrank to 29% in November. Meanwhile, the popularity of the Jobbik rose by 3% (*Csökkent*...). The series of protests that had taken place in the country and foreign cities populated by Hungarians in late October and early November 2014 surely played a major role. On 26 October 2014, tens of thousands protested against the internet tax and other policies of the government. Because of the scandals, the popularity of the Fidesz has decreased by 12% in merely a month, which is exceptional in the period after the regime change (*Medián: 16 százalékot*...). The MSZP was only able to benefit from the drop in the numbers of the governing party to a smaller extent, while the popularity of Jobbik has increased more significantly. However, none of the oppositional party earned a permanent increase. The migrant crisis severely hit Hungary in April 2015, and it stopped and reversed the rapid loss of popularity.

Politics against politics

The last series of street protests with a significant magnitude developed om response to the Internet tax. Opposition parties took efforts to join this, but after a brief period this initiative also died down, when the governmental campaign related to the migrant crisis started to dominate public discourse. The single initiative that could become a major counter-pole to the government's communication was Magyar Kétfarkú Kutya Párt (*Hungarian Two-tailed Dog Party, MKKP*). The community has been established in the city of Szeged in 2006 and initially it was rather a humorous initiative. At first, a group of friends had intended to use street campaigns, thought-provoking, cynical, symbolic messages to draw attention to anomalies of consumer society, the poor quality of the media and the flood of promises from politics and politicians. The

formation was not registered as a party, yet was soon joined by a team of young crea-
tives, who started to operate in Budapest and other major cities (university towns).
They declared to aim at making citizens think and to annoy politicians. They articu-
lated intentionally impossible promises to voters, such as infinite life, free beer and
a tax cut of 100%. They announced that these promises were no more impossible to
keep than those promised by politicians.

The formation appeared in public in 2009, a year before the elections, when it
organised a protests at the building of the National Statistics Bureau. The 200–300
participants clearly stated to be tired of political fights, hysteria in the political arena
and an unnecessary and hypocritical overuse of the patriotic themes. Leaders of the
initiative announced that no election programme was necessary, as the other parties did
not have plausible programmes either, or even if they did those were completely unreal
and intended to be forgotten after the elections. It is interesting to note that many im-
possible demands of MKKP turned into reality after 2010. Official government com-
munication entities and other government bodies committed errors that could have
been announced in the programme of MKKP or published on its fake news website
started after 2010, the Hírcsárda. The humorous party closely cooperates with the átlát-
szó.blog.hu portal that is a watchdog which monitors the state investments, the effects
of political decisions and the consequences thereof. The fact-finding and investigative
series of articles on the blog try to disentangle and systematize operations of economic
background organisations of the political elite.

In 2013, the MKKP initiated official proceedings to become an officially registered
party and requested the court for registration, announcing that it was planning to par-
ticipate in the parliamentary elections of 2014. The intention to participate in politics
did not change the image of the group. In a project of 2012 they made promises to
develop major Hungarian cities. They promised to construct an underground railway
connecting the eastern and western borders of the country and a stadium covering the
total area of the country. It was a reaction to the government's multi-billion stadium
reconstruction programme. On 27 April 2013, the activists of the party supported by
the 4K protested on the streets against the serious harm within the political class and
the billionaire oligarchs assisting them. They wanted to draw attention to the recent
occasions of the government providing major development orders to companies and
corporate empires without a proper tender and the fact of labelling the opposition poli-
ticians or NGOs as supporters of multinational corporations and local representatives
of foreign capitalists. Although the protest was ironic and cynical in its tone, it's fitted
into the series of movement organisations that started a year before and named the oli-
garchs, corrupted corporate networks, banks, credit institution and offshore companies
as responsible for the crisis within the representatives of the political elite.

During the anti-migrant campaign and the campaign on the relocation quota (2015–
2016) only the MKKP (which officially became a party in 2014) could provide an
alternative. Only this party could gather a significant amount of donations for their
anti-government campaigns and could mobilise a large number of volunteers. After
some uncertainty in late 2014, from the spring of 2015 the government could totally
dominate the political agenda and the media, and the opposition has been unable to

take the initiative. The surreal, complex and cynical messages of the humorous party fueled many indifferent, disillusioned and apolitical young citizens and influenced on the political life. Due the lack of true political alternatives, the part of the public that demanded a change of government as well as the oppositional forces lacking new ideas expected heterogeneous street protests to provide the much needed momentum. One of the peaks of the political activities related to the migrant crisis has clearly been the referendum against the relocation quota proposed by the EU (2 October 2016). In this regard, MKKP and the supporting NGOs (Hungarian Civil Liberties Union – TASZ, Hungarian Helsinki Committee) launched a campaign encouraging voters to cast invalid votes, thus practically mobilising the public. In the end, the referendum was invalid and because of the large share of invalid votes (6.27%) the media started to guess whether MKKP will stand for elections in 2018. However, as the 2018 elections are approaching, parties intending to find the most favourable form of cooperation clearly get more attention. Different pre-election concepts include the option of involving civil initiatives (Mikecz, *Tömegvonzás*...) and NGOs are able to react to certain issues more quickly and efficiently acting as parties. Such issues currently include the Budapest Olympics planned for 2024, regarding which the Momentum Movement has recently launched a referendum initiative.

After April 2016, the government launched new attacks against the civil organisations financed from abroad. They included large, Budapest-based NGOs as well as professionally organised, permanently operated civil organisations and their employees, sustained primarily through donations and funding/grant programmes. Such NGOs include the Hungarian Civil Liberties Union, Amnesty International, the Hungarian Helsinki Committee, etc. Financiers include the Open Society Foundation which is frequently accused of being the "outposts of György Soros." In late 2016, Viktor Orbán claimed that 2017 "was going to focus on displacing Soros and the powers which he symbolises."[7] This narrative is supported by the fact that these organisations actually receive funding from foreign donors, and their activities are not based on wide public participation, but rather on a narrow team of professionals. However, in order to sustain their professional credibility and independence, they avoid getting too close to political parties, even though they share some personnel and informal relations, especially with the left-wing parties (after their break with Ferenc Gyurcsány) and the politicians and hinterland of LMP.

János Lázár named the civilians "foreign mercenaries" and the vice-chairman of Fidesz, Szilárd Németh went even further by identifying in January 2017 that the government considers the organisations harmful. The Hungarian Civil Liberties Union, the Hungarian Helsinki Committee and Transparency International were listed as the organisations that "intend to influence politics without any legitimate form of participation." "The false civil organisations of the Soros Empire are sustained to push the agenda of global capital and political correctness over national governments. These organisations need to be pushed back by all means, and I think that they

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[7] http://www.kormany.hu/hu/a-miniszterelnok/beszedek-publikaciok-interjuk/orban-viktor-interjuja-a-888-hu-n, 15.12.2016.

need to be cleared away from here. I think that with the international circumstances, the time has come," stated Szilárd Németh (*Németh Szilárd megnevezte...*). These organisations are mostly known as civil rights advocacy groups, provide counselling services, protect interests, fight for transparency and against corruption as well as support investigative journalism. From the point of view of the government, *true civil organisations* provide service activities important and useful to the society and they express no criticism toward government policies, by refraining from any political activity. *False civil organisations* are financed from abroad, express political opinions and criticise the government as well as participate in organisation and implementation of certain anti-government political activities. The struggle continues in 2017, since government politicians refer to national security reports, while György Soros sent the following message in his speech in early 2017 in Davos: "The threats expressed by members of the government against the Hungarian civil society are opposed to the values of the EU and underlying commitment to the rule of law. Civil society is a necessary part of democracy and open disputes are necessary for politics" (*Soros beszélt...*).

"Civil" initiatives have also been created in the hinterland of the government, not only on the "opposition and democratic" side. CUF and other pro-government civil organisations were established in 2009 as the professional successors of "civil circles" operating in the 2000s. They fill the gap between the different right-wing ideologies, social groups and subcultures, and link the spheres of NGOs, culture and business, while expressing their "politics-free" attitude in their political activities. Instead of cooperating with true non-governmental organisations operating independently from politics, the government has established its own civil hinterland (GONGO – Government Organised NGO) and gave powers to public bodies that allocate funding and distribute activities, clearly distinguishing between activities that can be supported, ought to be supported and may not be supported. The government significantly cut the number of public foundations and created and reinforced funds and bodies operating within the state budget, such as the Art Fund, the National Cooperation Fund, the Hungarian Olympic Committee and the Hungarian Academy of Arts (Sárközy, 2014, p. 206).

The NGO Act and the National Cooperation Fund (NEA)

The situation of the civil sector has gravely changed after 2010, within the "system of national cooperation." Instead of public benefit, the principle of "public service – provisions of service" gained importance, and the decrease of local civil cooperation opportunities provided a new operative framework for the civil actors (Sebestény, 2016, p. 61). The forms, rules of the civil sector as well as the issues of withdrawing funds have always been important factors for the actors within that sphere. In 2010, about 65,000 organisations operated in Hungary. A little more than one-third (23,500) operated as foundations and 41,500 as collective non-profit organisations. 62% of the foundations are related to three fields of activity: education (32%), social welfare (16%)

and culture (14%).[8] The change of government in 2010 significantly transformed the regulations on to the sector. In that year, 18,000 (28%) organisations received income from grants. The grants available to the sector exceeded 121 billion HUF. Although the total amount of government funding increased by 6 billion HUF in 2011, almost 70% was paid to non-profit business associations and public foundations.

Regarding the classic civil organisation forms of foundations and associations, state funding from the central budget reduced after 2010 by 6 billion HUF. This form of income accounted for 31% of their total income, compared to 34% in 2010 (Kákai, 2013, p. 48). The decrease was primarily explained by cutting the funds available to the National Civil Fund in 2011, amounting to 2.5 and then 3.3 billion HUF compared to 6–7 billion HUF budgets available in the preceding year to the fund and its successor, the NEA. On 5 December 2011, the National Assembly adopted the Act CLXXV of 2011 on the freedom of association, the public benefit status and operation and support of non-governmental organisations (the NGO Act). Chapter 10 of the act includes provisions on the National Cooperation Fund. The direct objective of the new civil funding system is to provide clearer and more transparent criteria than the former National Civil Fund Program (Nemzeti Civil Alapprogram), at the same time easing the administrative burden on the applicant NGOs as well as organisations and bodies participating in its operation (Kákai, 2013, p. 55).

The NEA is directed by the Council which controls and coordinates workflow of the organisation. The Council carries out its duties based on the annual working plan approved by the minister. The body has nine members:

– three members are directly elected by the electors authorised to represent the organisations applying through the civil candidacy system, pursuant to the NGO Act;
– three members are appointed by the National Assembly via its relevant specialised committee;
– three members are appointed by the minister (acting in its own authority), based on the strategic partnership agreement concluded with NGOs in line with the act on social participation in preparation of legislation;
– the chair of the Council is manned by the minister from among the members of the Council.

The Council shall begin operation after the appointment of each member and the official receipt of their mandates. Members of the Council are appointed for the term of four years. According to legal regulations, the Council has a quorum if more than half of all members participate in voting. Each member of the Council has one vote. The Council adopts its decisions by approval of the majority of the members present. Meetings of the Council are open.[9]

The boards of the NEA decide on allocation of funds, prepare calls to tender, evaluate the received applications, supplement the missing information therein as well as conduct professional control of the implementation of supported objectives. Therefore, each board is also the forum for making specific, operative decisions, similarly as in

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[8] http://www.ksh.hu/docs/hun/xftp/stattukor/nonprofit/nonprofit10.pdf.
[9] http://civil.info.hu/web/nea/tanacs.

the case of the NCA. Each board consists of nine members, three members are delegated through the civil candidacy system, three are appointed by the minister for the specific policy, and three are appointed by the minister under his/her own authority.

As mentioned above, the most significant change was the adoption of the so-called NGO Act. Its enactment of 2012 was preceded by a one-year preparatory phase. The draft legislation was shaped during a four-month, intensive public debate. However, numerous contradictions and deficiencies had remained in the act, which had to be corrected through subsequent amendments. The three most important differences compared to the pre-2011 provisions include the organisation form, public benefit status and the central funding system (Sebestény, 2016, p. 66). "True" NGOs have not been thoroughly distinguished, thus civil organisation with a large amount of income and high number of employees are not differentiated from small civil initiatives, although the administrative burdens have not decreased. The aspect of public service has been preferred to the former term of public benefit. According to the new meaning, "public" means undertaking a government task in the fields of welfare, culture, education or healthcare, based on an agreement concluded with a body financed from the national budget. The new, single-phase public benefit qualification has become measurable in June 2014, after NGOs have been registered and the decisions were made by the courts. The new system is the quasi nationalisation of the civil sector. The number of organisations supported by the NEA has almost halved in 2013, but the amount of funding distributed among them was only slightly reduced. This means that a similar amount of funds is distributed among a smaller number of NGOs. Similar processes are being implemented at the level of the municipalities, where the self-government of the town/village or a body thereof concludes agreements with a narrow range of local NGOs, thus simultaneously decreasing and increasing the intensity of local partnerships.

Conclusion

The situation and the path of the civil sector after 2010 have been determined by two major factors. As shown earlier, some NGOs chose to pursue a political path and protested the government reforms, as well as the transformation of social subsystems, advocated by political parties. From time to time, new initiatives appear and disappear without a trace, while others give up their futile fights. But most entities in the sector chose to follow the traditional path and try to stay on their toes, cooperating with government bodies or business associations. However, with the reduced volume of funding, they cannot operate as efficiently as the "false civil organisations" supporting the government.

The traditional weakness of the Hungarian civil sector has not changed after 2010 either, but its polarisation further escalated, both in the financial and political sense. After the accession to the EU in 2004 a significantly larger finances were available to organisation with better financial conditions and larger capacities. Different form of participating in developments (soft participation) also developed, both at the national and the local levels. Participatory and deliberative decision-making mechanisms suffered

a continuous setback after the financial crisis in 2008, and after 2010 these were reduced to a government partnership form that is merely based on trust and loyalty (Schmidt, 2015, p. 130). Large organisations could retain their dominance, but if they received funding from abroad, they would became suspicious in the eyes of the government. The circumstances and opportunities of small organisations have not changed remarkably, they had received small volume grants from NCA before 2011 and from the NEA since 2012 in order to implement their projects. However, a newly created civil group could gain strength and openly support the policies of the government to establish its operative resources. It continues to exists as the so-called "pseudo civil power."

In summary, we face the same dilemmas which every Hungarian government has been facing since the transition to democracy: *"What shall we do with our civil sector, what goals for them shall we have?"*. Shall they be considered as a group of socially responsible organisations undertaking public duties, or shall they be recognised as independent communities, counterbalancing the government? Or should they be transformed into a group that is loyal to the government and be evaluated based on this aspect? Experts, researchers and civil actors agree that a new civil strategy could define the sector's future, however no such document is planned to be created in the early 2017.

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Abstract

General political, economic and moral crises began in Hungary in 2006 and lasted until 2010. It was four years of a permanent campaign against the socialist-liberal governmental coalition. The most powerful opposition party, the Fidesz-KDNP (Alliance of Young Democrats – Christian Democrats) won the elections in 2010 and started to rearrange the whole political and social system in Hungary. Between 2010 and 2012 a new constitution as well as hundreds of new and amended acts were adopted by the parliament within few years. The announcement of the Programme of National Cooperation (National Cooperation System) in May 2010 laid down the objectives that still define the directions of governance to date. The key elements included complete amendment of regulations and financing principles of the NGO sector as well as the entirely new foundations for the terms of cooperation between NGOs, the government and the municipalities. Due to the swift and radical changes, new initiatives and movements appeared on the streets and protests of varying intensity begun. However, in the first period of 2015, they dried out to a greater or lesser extent.

The study focuses on emergence of the new civil movements' first and second wave in light of the Hungarian political relations between the Szolidaritás, the Milla, the LMP, the HaHa (Students' Network), the Hungarian Two-tailed Dog Party (a humorous political party) and others, including the pro-Fidesz Civil Unity Forum, which supports the reforms. Furthermore, the text reviews the NGOs' financial opportunities and general changes in funding mechanism in relation to the civic sector.

Key words: Crisis, protest activity, civil sector, new movements, new cooperation, Hungary

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Polish transformations of 1988–1989.
Political authorities, opposition, the Church

Stefan Kisielewski, nicknamed "Kisiel", a prominent Polish musician, columnist and unusually sensible critic of the Communist reality, used to say that cyclical crises which afflict economy, society and politics of his beloved country are "not a crisis, but rather a result." In this way he has captured a certain principal property of the so-called "real socialism". The instability that was progressing towards a collapse was actually a real consequence of its inherent nature. Even those, who used to believe on certain stages of their life that fundamental norms and principles of the system are right, became eventually aware of the possibility to fix it by eradicating various "mistakes and deviations." A good example is provided by the circles of the so-called revisionists, who already in the 1960s tried to suggest a fundamental reform of the political system without the need to dismiss the principles typical of Marxism and Leninism. Prominent representatives of those circles: Leszek Kołakowski, Jacek Kuroń and Karol Modzelewski, at the end of the decade, particularly after the events of March 1968, have understood that the correct path is the comprehensive change of the system, not its reform (Gawin, 2015, pp. 280–310). The "result" became apparent in the last years of the 1980s, when the dysfunctional properties of the political, social and economic system gained the nature of a permanent crisis. It reached the deepest point in 1988 and 1989 and led to a political and social shift of revolutionary nature (Sztompka, 2007, pp. 283–285). The change was just a part of a larger process, which was simultaneously taking place in all countries of Central and Eastern Europe that remained dependent on the Soviet Union. It was conditioned mainly by the political transition within supra-regional or even global dimension: the internal crisis in the Soviet Union and the attempt to save the Soviet empire with the perestroika, which eventually turned out to have harmful consequences, as well as the actual end of the cold war that concluded the era of bipolar order of the world. One of the most significant elements of changes within the Soviet Union was the actual rejection of the so-called Brezhnev Doctrine (often referred to as the doctrine of "limited sovereignty") which justified the military intervention of the Warsaw Pact troops in the "rebellious" states of the Soviet Block (Paczkowski, 2002, p. 197). The possibility of such intervention has always been one of the primary factors that supported legitimacy of the Communist authorities in those states and the argument in favour of peacekeeping of the opposition. As shown by the example of Poland, the period often referred to as the "carnival of Solidarity" that took place between 1980 and 1981, was also a factor which ceased radicalization of the views and activities of the opposition and led to self-limitation that remained contrary

to typical nature of a revolution. For the countries which remained under the influence of the Soviet Union, particularly Poland, it meant a significant change. A true chance to extend autonomy from the Kremlin and the legitimacy of actions within the non-Communist circles and groups has become apparent for the first time. In practice, it consisted in making the introduction of the so-called Finlandization model more probable. For another time, the former political elite has faced the threat of losing political power. To make matters worse, everything seemed to be approved by Moscow. The attempts of Kremlin to establish relations with the representatives of Polish opposition, particularly visible in 1988, were frightening the leaders of the Polish United Workers' Party (abbreviated in Polish as the "PZPR") (*Zmierzch...*, 2013, p. 303). In those circumstances, the worsening economic situation of the country and increasing level of anxiety in the society, which could result in mass demonstration of dissatisfaction, were posing a particular threat. The combination of internal and external circumstances made the political elite accept the necessity of thorough changes in political system.

The most intense phase has started in the last days of August 1988, when the first official meeting between the head of the Ministry of Domestic Affairs Czesław Kiszczak and the leader of the National Executive Committee of the "Solidarity" Lech Wałęsa has taken place. The phase ended up a year later with formation of Tadeusz Mazowiecki's government. The events, which took place at that time in Poland, created a certain model of political transition, of which many elements (e.g. the Round Table) were later copied in other states of the former Soviet Bloc (Wojnicki, 2006, pp. 119–143). Some elements of the Polish model of political transition had a specific and unprecedented dimension as they were based on historical grounds. One of them seems to be the trinity mentioned in this work's title ("Political authorities, opposition, the Church") which played the role of key actors during the political and social changes that have been developing in Poland at least since August 1980. Of course, my task does not consists in providing a description of each of them, but rather in drawing a map that shows various conditions of the activities and may facilitate navigation around the complicated and dynamic reality of the great change.

1. The political authorities

In the second half of the 1980s, the Polish United Workers' Party, which apparatus played the role of a leader in the political reality of the People's Republic of Poland (abbreviated in Polish as the "PRL"), has undergone a crisis which was defined by A. Dudek as the "erosion within the party's backbone" (Dudek, 2004, p. 40). The crisis of 1980 and 1981 and the later experience of the martial law resulted in mass outflow of the party's members. About 1 million members have decided to step aside. They were mostly young, active and bright persons. Those losses were hard to compensate at least from two reasons: a large set of young people, as a consequence of the atmosphere of "solidary revolution", have rejected the possibility to be involved in the political structures from ideological reasons. Others, who displayed more pragmatic attitudes, were no longer perceiving political career as particularly attractive and

took the opportunity to go abroad or decided to start their career in the then fledgling private sector. This resulted in severe and dangerous ageing of the political elite. In 1981, the percentage of people below the age of 30 in the Polish United Workers' Party amounted to 15%, while in 1986 it was just below 7% (Kołomiejczyk, 1988, p. 297). In the middle years of the 1980s, about one-fourth of the party members was to reach the retirement age, and the sources for new staff were drying up. Hence, the domination of people from the generation of 1950s (the so-called "generation of the Union of Polish Youth") with their conservative attitude and dogmatism has been becoming increasingly pronounced among the officials of the Polish United Workers' Party.

As Wojciech Jaruzelski and his group of the "directorate" was gaining broader competency, the significance of Central Committee and Political Bureau of the PZPR became to decrease (Dudek, 2004, p. 47). At the same time, the process of co-optation to the political elite among people from the military and security apparatus was progressing. Apart from Jaruzelski himself and Cz. Kiszczak, the key part began to play the generals: T. Dziekan – the director of Human Resources Department in the Central Committee of the Polish United Workers' Party, B. Kołodziejczak – the director of the Secretary's Office of the Central Committee and M. Janiszewski – the director of the Office of the Council of Ministers. The officials were being delegated to work in the party apparatus as well as the public administration. As many as 11 of them were ministers and deputy ministers, while 13 of them held the posts of voivodes and deputy voivodes. The same phenomenon was also present in civil dimension of the judiciary where 108 military prosecutors and judges were working (Paczkowski, 2002a, p. 308). Jaruzelski was very efficient at removing from managerial positions the persons whom he did not trust. A good example is the case of M. Milewski who used to be a very influential figure and at the end of 1980s became more powerful a leader of the PRL than all of his predecessors.

Changes within the international situation, deteriorating economy and the already mentioned erosion of the political apparatus have brought in the last years of the decade a visibly worsened moods among the PZPR members, who began to display increasing pessimism and directed their trust towards other authorities. Researches of 1988 conducted by the Propaganda Department on a representative sample of the party members have shown visibly worsened moods. Almost 50% of the respondents claimed that the dominant feeling for them is: "discouragement, depression, helplessness, resignation," and only 1% voiced faith in improvement of the state of the economy (Dudek, 2004, p. 202). T. Kisielewski, who performed a thorough analysis of the letters and complaints received by the Central Committee of the Polish United Workers' Party, concluded: "The gradual collapse of the Communist system in Poland on the economic grounds had been deeply substantiated also within the Communist circles, including the governing authorities" (Kisielewski, 2011, p. 98). For the leaders of the Polish United Workers' Party, particularly shocking was the data which shown that the party members placed the highest trust in the Polish primate J. Glemp, who stayed ahead General W. Jaruzelski. However, this was not a surprise because already in 1986 as many as 66% of them declared to be religious persons (Czerwiński, 2001, p. 83). The First Secretary of the Party himself appraised the fact rather without illusion by telling

his fellows from the Central Committee: "Comrades, out party carries a great hump [...], a great hump of religiousness" (Dudek, 2004, p. 82). It is worth to notice that the pessimism which was cumulating in the PZPR was not related to concurrent negation of the principles of social justice and equality, which the party was announcing in its official narration. Between the years 1988–89, similarly as during the strikes of August 1980, a large part of the society did not contested the social and equality principles of the People's Republic of Poland, yet dismissed the authority of the governing apparatus which served as a tool for accomplishing them.

In such circumstances, the main objective of the Communist elite in the last years of the 1980s was to pass the phase of inevitable political shift as painlessly as possible and to avoid the threat of uncontrolled loss of political power. The general concept of action has been put forward already in the beginning of 1988 by influential advisors of General W. Jaruzelski – the so-called "team of the three" composed of J. Urban, S. Ciosek and General W. Pożoga. The concept consisted in a manoeuvre which was sometimes referred to as the "co-optation" or "drawing". It assumed limited liberalization of the political system and offering some of the opposition the possibility to operate legally. Its representatives were expected to assume the responsibility for the economy and take one-third of the seats in the facade senate created specifically for this purpose. Most likely, the primary intention was to break and disintegrate the opposition circles, rather than a substantial change of the political system towards pluralisation. Report of the "Three" left no doubts in this matter and suggested "absorbing the most familiar elements of the moderate opposition into the scope of our influence and institutions" (Ibid., p. 127). The scenario was being conducted from autumn 1988 until summer 1989, but underwent many corrections of which the most important seems to the agreement on legalizing the "Solidarity" which was concluded at the turn of 1989. Generally, the Communist elites were prone to introduce a very broad liberalization of the economy if this was the solution to avoid fundamental changes in politics. It was particularly visible in autumn 1988 in the political programme of the M. Rakowski's government. He was acting pursuant to the "plentiful table", which was supposed to replace the "round table". The so-called "Chinese variant", which actually was the offer to increase the citizens' quality of life at the expense of rejecting the plan to expand the scope of political freedoms, turned out to be unreal. However, it has launched the so-called "enfranchisement of the nomenclature" which was particularly significant for the then elite. The possibility to change the status, from a manager of state property to a private owner, was an attractive offer for many representatives of the political nomenclature (Staniszkis, 2001, pp. 198–199). It was one of the stimuli that accelerated evolution of those circles towards affirmation of deep political and social changes in Poland.

The course of sessions at the Round Table seems to confirm a thesis that political elites at that time were mature enough for the change, yet couldn't accept the definite loss of political power. In this context, the diagnosis of A. Dudek seems to be very apt: "the Jaruzelski crew did not want to resign from controlling the most important tools for exercising political power and decided to create room for the moderate part of the opposition. At the same time, the crew decided to move the actual centre for political

control from the Central Committee of the Polish United Workers' Party to the president's post, which Jaruzelski wanted to take" (Dudek, 2004, p. 272). In that time, the scenario was acknowledged by those leaders of the opposition who were signing the agreements developed at the Round Table, and negated by those who supported the radical termination of the political system.

2. The opposition

The number, diversity and extent of activities taken by the Polish opposition of 1980s can be perceived as a phenomenon against a background of other countries of the Soviet Bloc. It was historically conditioned by a greater scale of social resistance in Poland, which resulted in cyclical revolts, created peculiar "culture of the revolt" and did not allow for making the so-called processes of normalization more stable (as was the case in Hungary after 1956 and in Czechoslovakia after 1968). The outcome was the "Solidarity" of 1980–1981, the mass social movement which was developing the social consciousness within the society and creating strong foundations for the opposition during the period of martial law. However, it is worth noticing that the basic scheme of disparities within the opposition originated already between the years 1976–1981, when the most important oppositionist circles that continued their activities in the 1908s have been formed (Friszke, 1994).

The first years of the second half of 1980s calmed down the public feelings of revolting. There were not many indicators of any future changes in political reality. The enthusiastic times of 1980 and 1981 changed into apathy and withdrawal from public activity, the so-called internal migration. The phenomenon of searching for various strategies of adaptation has also augmented. The memories of heroic era of the revolutionary "Solidarity" have not been erased, but according to E. Wnuk-Lipiński it was externalizing "rather in the sphere of attitudes than the way of acting" (Wnuk-Lipiński, 2002, p. 13).

Such a state of affairs made it difficult to maintain the previous intensity of activities of the opposition. There were not many people ready to involve themselves into various activities and the problems of finding indispensable infrastructure became to increase. This is revealed by detailed reports prepared by special units of the Ministry of Domestic Affairs. They indicate that during a period of 6 months (from December 1985 to May 1986) the number of people who were involved in various forms of activities within the opposition has decreased from about 14 thousand to 10 thousand (Dudek, 2004, p. 66). More pragmatic policy of the authorities did not favour involvement in the activities of the opposition. According to the concept of the "Team of the Three" and the Analysis Group in the Ministry of Domestic Affairs, the forms of repression against individual persons began to be more flexible and diverse. The "veterans" and "professionals" were being severely punished, while proceedings against those whose connection with the opposition was only incidental have mitigated. Filing criminal accusations against members of the opposition, which were based on tax offences, became a general rule. What is more, the persons involved in activities against

the political system were encouraged to take up economic activities, yet only to harass those "swindlers" and "speculators" (Ibid., p. 65).

The situation has begun to change in 1987. The process of radicalisation of few social groups has been triggered by the changing political situation in the Soviet Union, increasingly intensive echoes of the Gorbachev perestroika and the economic crisis. This referred mostly to the young as well as the provenance of intellectual and workers' circles. The phenomenon resulted in waves of protests in universities and companies that took place in 1988. Although they were chaired by the veterans of opposition, who have started their activities in 1980, the true power lied within the young whose backbones were not broken by the trauma of martial law. They were often more radical and determined (Ibid., p. 143). Even Lech Wałęsa became aware of it when he faced resistance upon his suggestion to cease strike in the Gdańsk Shipyard in August 1988. At the end of 1980s, the shift towards radicalism was perceived as a threat and an imperative to search for an agreement both in the government as well as in the circles gathered around Lech Wałęsa which predominated the opposition at that time.

On the verge of political transition, the opposition was not a uniform formation, but it rather experienced numerous differences in relation to the tactics against the weakening government as well as the animosities, which have originated already a decade before. These divisions were being revived and maintained also by the governmental policy, which was taking advantage of the tools made available by the security apparatus. Undoubtedly, the most powerful and the most representative was the opposition that gathered around the moderate wing of the "Solidarity". It acknowledged the leadership of Lech Wałęsa and struggled for a compromise with the government. The most important role in the closest circle of the Union's leader was played by the persons who have started their activities in the Catholic laity as well as those whose genealogy referred to the so-called secular left (the former internal-party opposition) defined as the revisionists. In the 1970s, those two circles have tightened cooperation and created a union, which manifested itself in the book of A. Michnik entitled "The Church, the left-wing, the dialogue." Tadeusz Mazowiecki, Bronisław Geremek and Jacek Kuroń, all of whom came from those circles, were developing the strategy and tactics for the dominant part of the opposition despite many differences between them. The declaration of 63 people, which has been developed in May 1987 and specified the primary assumptions and objectives of the "Solidarity", adopted the following wording: "The Poles have the right to be independent, [...] to live in democracy, freedom, truth, respect for the law, autonomous formulation of the economic order. [...] Without the ideals like the freedom of conscience and beliefs, freedom to unite in professional unions, social or cultural organizations, freedom of speech, it is hard to talk about seamless operation of the state, the economy and the culture." The possibility to cooperate with all those who wanted "true social agreement" was being widely announced and all forms of violence for the sake of "the philosophy of working for the country" were being dismissed (*Polski rok*, 2009, pp. 18–20).

Those ideas formed the foundations for the process of developing a uniform centre, which would be the government's partner during future negotiations. Its basis was formed by the National Executive Committee of the "Solidarity" which was the first

transparent, yet still an illegal management board of the Union. The political body that represented circles of the moderate opposition has finally been formed on 18 December 1988 under the Civic Committee. It was created one day before the start of negotiation sessions at the Round Table, with the objective to be a participate. The official formula adopted by Lech Wałęsa assumed inviting authorities of the public, scientific and artistic circles. Hence, that was not a part of the worker's union, but rather a broad social initiative. The Committee's programme was following the direction set forth in the document of May 1987 cited above. However, the willingness of a far-reaching compromise with the authorities of the PRL was considerably more pronounced. Neither a prompt takeover of the political power, nor development of a multi-party system and free elections were assumed by the opposition to take place just after it wins the elections. The opposition was rather focusing on the need to create an authentic local self-governments, which would be elected in free elections. The former political authorities were supposed to keep its dominant position in the central administrative bodies, security apparatus and foreign affairs policy. The very poor condition of the economy was noted and there was willingness to cooperate with the aim of decreasing the crisis (Łuczak, 2010, p. 578). The concept of action developed by the most prominent circles of the political opposition had a rather conservative nature and did not diverge from the objectives, which were advocated by the government as part of the "co-optation variant."

The tactics adopted by the Central Committee, which rejected the radical attitude, have faced criticism of those opposition circles which have already before dismissed the concepts advocated by the circles focused around L. Wałęsa. They were quite diverse and included organizations that have been established before the "Solidarity" and declared pro-independence programme from the very beginning. The most important of them were the Leszek Moczulski's Confederation of Independent Poland and the critics of ideas about compromise within the Union. They included leaders of the movement from the 1980s who remained in conflict with Lech Wałęsa – e.g. A. Gwiazda, A. Walentynowicz, M. Jurczyk and K. Wyszkowski. In March 1987, they created the Working Group of the National Committee of the NSZZ "Solidarity" and maintained the uncompromising attitude dismissing all agreements with the government (Hall, 2011, p. 20). Also the "Fighting Solidarity", which was created already in 1982 by K. Morawiecki, viewed this path as the only possible solution. Those circles had no representatives in the Civic Committee. That state of affairs was also a result of conscious decision that was made within the group of closest advisors of Lech Wałęsa. The primary aim was to create a representation, which will be presenting a uniform stance before the authorities of the PRL and will not allow to get divided (Dudek, 2004, pp. 233–237). The "Wałęsa team" was eventually chosen at the expense of representativeness of the Committee's composition. It became a controversial subject already at the end of 1988, announcing the coming and significantly greater disparities. Thus, the opposition was entering the period of most important changes without a uniform concept of action. However, its great power was the increasing level of social dissatisfaction and assistance from the Catholic Church, which was stronger than even before or later.

3. The Church

The role, which the Catholic Church played in the process of political transition of 1988 and 1989, was the culmination of a tactic adopted by its representatives, particularly Cardinal Stefan Wyszyński, in relation to hostile policy of the Communist authorities. This tactic was a unique combination of perseverance with far-reaching realism and pragmatism. This allowed maintaining the social trust towards the Catholic Church as the only institution of that time which supported social resistance. At the same time, through a minimal modus vivendi with the representative of the state, it created a chance to proceed in a relatively unrestrained manner and guarded the Polish Church against repressions which could destroy its autonomy. In the last years of 1980s, that combination of pragmatism and perseverance gave the Church a position of an arbitrator, intermediary and warrantor in the path towards agreement between the authorities and the opposition.

In the final phase of the Communist system, the Polish Church was constantly confronted with the political authorities which perceived it as a competitor that hinders accomplishment of the ideological project and tries to limit the scope of its impact on the society. However, at the end of the 1980s, the state authorities had a considerably limited capabilities of influencing the Church. The awareness of its sustainability and permanence within the Polish society was visibly developing among the leaders of the PRL. General Jaruzelski spoke about it with Honecker and used his favourite hump metaphor: "We may half-jokingly say that it is a hump which cannot be removed with a surgery, a hump which we have to live with. I believe that from the medical point of view it is impossible" (*Polska 1986*, vol. 3, 2002, p. 52).

One of the factors that determined the social and political power of the Church in Poland of 1980s was the pontificate of Pope John Paul II. The Polish Pope was, which is obvious, very interested in the situation within Poland and much better attuned to it than his predecessors. It remains unclear whether the words and actions of the pope were the same as among some of the leaders of Polish clergy (Weigel, 2001, p. 584). Some differences could be observed at least on the verbal level: "although Primate Glemp seems to have already rejected it [the 'Solidarity'], the Pope still demonstrates his sentiment towards it and revives this topic. It is still hard to decide whether the difference is significant or whether it is just an artificial division of roles." That is how the analysts from the Ministry of Domestic Affairs perceived the matter in 1987 (Dudek, 2004, p. 81). The attempts undertaken by the Communist government in the first years of 1986 to establish diplomatic relations with Vatican did not have any chances to be successful. The struggles to seek relationship with the Vatican diplomacy over the heads of the Polish bishops, which was successful during the pontificate of pope Paul VI, were unrealistic during the papacy of his successor. Before any meeting could take place, the Polish Church and the Vatican demanded adoption of the act on relationship between the state and the Church, which restored its legal personality. Hence, the attempts to follow the paths of the 1970s turned out to be unsuccessful. The increasing internal crisis and diminished position of the international regime eventually forced to seek help among the leaders.

Although this state of affairs was accepted, this did not mean the Church was no longer an ideological opponent and operations against their representatives will be ceased. The government was rather trying to profile the role of Church, diminish it with a tool which General Jaruzelski himself called "the carrot and stick approach" to the position of a body that stabilizes political and social situation in the country (*Poufny…*, 1992). The government tried to win loyalty of the higher-ranked clergy by way of offering it legal regulation of the Church's position within the state and, at the same time, it intensified repressions against the unruly representatives of the lower-ranked clergy (*Metody…*, 2004). Here, it is worth noticing that the mentioned weakening of the Communist government was leading to a situation, when the policy had no chances to succeed and the use of the "stick" was quite problematic and unlikely to be effective. In this way, the activities of the government were more and more often limited to an appropriate use of the said "carrot". The increasing importance of the Church, which was noticed also among the representatives of the government, was creating circumstances that constituted the ultimate denial of practices which aimed at marginalizing it. It may be carefully concluded that since the moment of a decision to "draw" the opposition into the reforms, the process of institutionalizing role of the Church became to speed up to a larger than just religious extent.

This was noticeable already in the first half of 1988 during numerous contacts between the government and the episcopate, in the presence of S. Ciosek and the head of the Episcopate Press Office – priest A. Orszulik. They brought expectations that the Church will become a factor that modernizes the attitudes of the opposition representatives. What is more, the question "whether the Church will take the responsibility for the Solidarity" has actually been asked expressly (Raina, 1999, p. 199). During more and more frequent meetings between the representatives of the Church and the party, main subject matters concerned the pluralism of the Union, the shape of the law on associations and even elections to national councils, some aspects of the foreign policy as well as the social and economic situation.

The process of acknowledging the Church as indispensable participant of the transition process have been developing week by week. The already mentioned institutionalization of the role of the Church, which was developing in those circumstances, resulted in an offer of an agreement between the Church and the government on the future negotiations at the Round Table, which took place one day before the first meeting between Wałęsa and Kiszczak (Ibid, p. 210). It is worth noticing that the representatives of the Church responded to the institutional temptation in a rather sceptical manner. Although, as it was already mentioned, every discussion concerned a broad set of issues, the proposals for making the Church an institutionalized member of the transition processes were being dismissed by the Church itself. The visible reluctance of Church representatives towards manifestations of a dialogue with the authorities that would have a clear and public dimension, at concurrent involvement in confidential and informal contacts, may also be justified by a hierarchic and non-transparent institutional nature of the Church. This was perhaps the factor which facilitated relationship with the representatives of the Communist state (which, in fact, were far from being transparent). During a conversation with S. Ciosek, priest A. Orszulik suggested

that "we need to be careful at announcing good relations and dialogue with the Church to the party's officials because the message may penetrate to the society and rise distrust." Ciosek replied with full understanding: "the Church, just like us, has to consider its own base." This quite significant quote presents the specific spirit of the consensus between the Church and the government, which was based on unclear and informal relationship. Not without a reason, General Wojciech Jaruzelski appointed Czesław Kiszczak, not Mieczysław Rakowski, as the representative of the government during negotiations with the representatives of the opposition and the Church that took place in 1988. At the same time, he emphasized the trust among authorities gained by the Minister of Domestic Affairs (Codogni, 2009, p. 156). Although it seems paradoxical, people of the Church that have been shaped in the above institutional culture had less problems at reaching agreement with a leader of the security apparatus than the former editor of the "Polityka" magazine who was a liberal, full of ideological and anti-clerical prejudice person.

The Church was conducting a double game by attempting to make the most of the compromise offer of the authorities and at the same time supporting the moderate and pro-Catholic factions of the opposition. This sometimes led to disagreements between bishops and priests, who were acting in favour of the opposition. Among their leaders they were perceived as irresponsible. The tensions are particularly visible on example of the conflict between cardinal J. Glemp and priest J. Popiełuszka (Czaczkowska, 2004, p. 214–220).

The Church had to play the key role in the "manoeuvre of co-optation" which was planned by the government since the first years of 1988. It was expected that the Church will mitigate resistance and calm down anxiety of the opposition, which was greatly dependent on its support. Not without a reason, the works on legal regulation of the Church position within the country, which were ceased in 1983, has been restored in 1988 and contacts at the Joint Commission of government and episcopate have been intensified (*Komisja…*, 2011).

Hence, it is not a surprise that the key role during the preparatory stage, which commenced in autumn of 1988 and preceded the start of the Round Table sessions, was played by the officially authorized representatives of the Church. During the preparations, both sides perceived participation of the Church as a warranty for their primary objectives. "Solidarity" that did not trust the government perceived the delegates of the Church as witnesses who "keep an eye" on the acts of the government. The government perceived them as a force that was calming down the radicalism of the opposition and influencing adaptation to the scenario of "co-optation". It is worth noticing that involvement of the Church's representatives (including priest Alojzy Orszulik and bishop Tadeusz Gocłowski, less frequently archbishop Bronisław Dąbrowski) perhaps was greater and more pronounced on this stage of negotiations than later on during the Round Table sessions (Orszulik, 2006, passim). Of course, we cannot say that the role was only limited to witness and being an intermediary between the government and the opposition. An informal modus operandi has developed in those times and was applied also during the Round Table sessions. Z. Bujak was describing it in the following way: "In Magdalenka, we do not agree on anything in writing, everything is settled verbally.

If one party realizes that the other party fails to meet the provisions of an agreement, it refers to the observers from the Church and they make the final decision about who is right" (Gebert, 1990, p. 58). During the discussions, priest Orszulik referred to specific issues and social, economic and political problems for numerous times, e.g. to the reform of local self-governments, political pluralism or the external debt (Gocłowski, 1998, p. 125). At the same time, it is hard to talk about the political neutrality of the Church (which was desired by the authorities of the PRL) because its representatives were more and more often exhibiting their role of the patron of the opposition.

The informal and behind-the-scene activities of the Church representatives turned out to be particularly significant during sessions of the Round Table, namely during informal meetings in Magdalenka which eventually were the key to success. All reports (from the both sides) underline the determination of bishop Gocłowski and priests Orszulik and Dembowski who were constantly struggling to revive the fragile agreement. Of course, it is hard to define their impact on the final compromise. However, they confirm that the Church was at that time quite certain the agreement between government and the opposition is desirable in all respects. From the perspective of the Church, it was tightly related to the finalization of a process to stabilize the legal position of the Church in the country, which took the form of a package of legislative acts adopted by the Sejm on 17 May 1989. Undoubtedly, it was the factor that increased determination of the clergy to support agreement between the government and the opposition. On the other hand, the government in this way was paying its debt incurred in the last months (Borecki, 2008). In fact, the activity of Church representatives, which was visible during the Round Table sessions, as well as the authority the Church in the eyes of the both sides of the negotiation process, made the Church be an actual signatory of the round-table agreement (Dudek, 2003, p. 436).

The Church was equally active before the elections of 4 June 1989. The election campaign among candidates to the Civic Committee (i.e. the so-called "Wałęsa team") was actually based on the Church structures and fully dependent on them. Except for several considerable instances, the bishops and lower-ranked members of the clergy have given them absolute support and engaged into the campaign acting to the benefit of their election. On the eve of election campaign the opposition faced a difficult challenge as it did not have an organizational base for the campaign. There were a lot of funds, suites and other resources needed to produce electoral materials. In those matters, assistance of the Church turned out to be irreplaceable. Its involvement can be seen throughout all stages of the election campaign. Organization of local Civic Committees will be considerably more difficult without its participation. At least half of them have found their offices in the parishes and local Catholic Intelligentsia Clubs, which also provided the possibility to take advantage of the available infrastructure. The candidates were often presented at the altar during masses, and the altar announcements served as the source of electoral information (Koseła, 2003, pp. 177–221). The next stage consisted in selecting and supporting particular candidates. It was a rule that the clergy supported the candidates of the Civic Committee and displayed a great kindness for collecting signatures for the candidates supported by the "Solidarity".

However, the most important was the Church's support for the electoral canvassing of the Civic Committee. It was common that Church premises were being made available to host meetings with voters. The election campaign was also taking advantage of printing houses that belonged to the Church and the Catholic University of Lublin. In the critical phase of the election campaign, at the turn of June 1989, the representatives of the Church tried to mitigate bursting emotions by chairing meetings with the candidates and educating the faithful about rather complicated voting method. The Church was organizing transportation, boarding and accommodation for the traveling candidates and publicly praying for the victory of the opposition (Codogni, 2012, pp. 192–205).

Representatives of the Church were one of the most important architects of the events that took place between 1988 and 1989. However, it is hard to clearly distinguish the scope, in which their involvement resulted from the social wellness and how significant was the pragmatic analysis of their own needs and interests. Indeed, it is probable that the two motives were not considered by the Church as separate. Traditionally, its representatives perceived the interest of Church, nation and state as one. The increase in Church authority, which was mentioned above several times, that reached its culmination in the last years of the 1980s has made it a centre gathering the most important elements of political plans of the opposition and the government. The latter realized that without support from the higher-rank authorities of the Church it will not be possible to accomplish the planned manoeuvre: counteracting the outbreak of social dissatisfaction and uncontrolled loss of political power through a controlled liberalisation and admission of the opposition to the government. Support of the Church was indispensable for this plan to be successful. The government perceived it as beneficial, yet troublesome. In those circumstances, the Church achieved actually a great success because it managed to guarantee itself the rights which had been revoked in the first years of the People's Republic of Poland.

Various models of political transitions, which took place within the Soviet Bloc at the turn of the 1990s, often compare circumstances present in Poland and Hungary. Similar historical background of the both countries and societies was supposed to entail a similar way of development in the period of the revolutions of 1989 and later on (Wojnicki, 2006, p. 119). The analysis of concepts and activities of the three main players of the then transition forces a conclusion that the example of Poland was untypical to such a degree that it should be considered as specific. One of the key properties that decided on this specificity was the mentioned trinity: the political authorities, the opposition, the Church. The level of discrediting of the Communist elites in Polish society seems to be higher than in any other society from the Eastern bloc. The reason was the deeply historical conditions as well as the annoyance with the crisis that has been continuing already since the middle of 1970s. In none of the countries belonging to the so-called "people's democracies" the democratic opposition adopted such a diverse and mass-scale nature. Furthermore, there was no other country, where the opposition would have a similar capability of influencing the public feelings through, for instance, a highly developed behind-the-scene publishing network. However, the key element of the Polish model of political transition undoubtedly is the role of the

Catholic Church. We may identify two different roles. First of all, the role of a powerful institution which remained autonomous in relation to the state authorities and prevented from accomplishment of the totalitarian model of the state and society. Thanks to the peculiar "area of freedom", which it was forming, a certain area of autonomy within the scope of spiritual and intellectual life of Poles could be maintained. This fact should be perceived as the primary factor for popularizing the social resistance in Poland. Subsequently, we may talk about the key role played by the Church during the critical months of 1988 and 1989. It was based on the capital developed before and allowed triggering a unique synergy, which has led to accomplishment of nonconfrontational model of political transition, despite numerous differences between the both sides of the conflict.

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Abstract

Political transitions in Poland, which took place at the turn of 1990s, were quite distinctive in relation to other countries of the region. The transition proceeded within a system composed of the state, the society and the Catholic Church. The extent of discrediting the Communist elites in Polish society was higher than in any other society from the Eastern bloc. The reason was the deeply historical conditions as well as the annoyance with the crisis that has been continuing already since the middle 1970s. In none of the countries belonging to the so-called "people's democracies" the democratic opposition adopted such a diverse and mass-scale nature. Furthermore, there was no other country, where the opposition would have a similar capability of influencing the public feelings through, for instance, a highly developed behind-the-scene publishing network. However, the key element of the Polish model of political transition undoubtedly is the role of the Catholic Church. It was a powerful institution which remained autonomous in relation to the state authorities and prevented accomplishment of the totalitarian model of the state and society. It was forming the "area of freedom", which allowed maintaining a certain area of autonomy within the scope of spiritual and intellectual life of Poles. This was one of the primary factors for popularizing the social resistance in Poland. In this way, the Church has played the key role during the critical months of 1988 and 1989. Without its involvement, the accomplishment of non-confronted model of political transition (which has actually been realized in 1989 in Poland and inspired other states of the region) would not be possible.

Key words: Poland, transition of 1989, communist system, social resistance, Catholic Church, political transition

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Constitutional order of the Republic of Poland in the years 1989–1997 on the basis of the Constitutions and their amendments

1. Introduction

The timeframe covered by this work spans two dates which are very important to the history of Poland: the year 1989 when fundamental changes to Polish political system and the Constitution of the Polish People's Republic taken place; and the year 1997 when the Constitution of the Republic of Poland that comprehensively settled all aspects of political reality has been adopted by the parliament and then endorsed by the citizens in national referendum. The aim of this work was to illustrate the evolution of constitutional order that took place between the period of weak political stability characterized by numerous changes to the political system and the moment of adopting the act which comprehensively regulated all the issues affecting efficient operation of public authorities, protection of freedom and rights of individuals. The analysis of constitutional changes was supplemented with a description of political system that was present within the dates concerned.

Constitutions and their amendments constituted an institutional support (also on the legislative level and below) for political changes that have been present in Poland since 1989. At first, the changes referred mostly to a frequently-amended Constitution of the Polish People's Republic of 1952. Then, they included the act that prepared adoption of the Constitution, and (later on) the so-called Small Constitution of 1992. Eight years after the beginning of political transition, the Constitution was eventually adopted. Its text is a result of compromise between constitutional principles and the political position of the most important state authorities in Poland. It is the act of supreme legal power and forms the base for the whole legal system. Such a state of affairs results from the function, which constitution plays in relation to the state and the law. According to Andrzej Bałaban, its main objective is to "create a stable image of the state, while at the same time to define the goals and principles for its evolution, which progresses through legislation that develops the constitution and makes it more specific" (Bałaban, 1997, p. 9).

2. The April amendment

As a consequence of discussions between the opposition and the Communist authorities, which started at the turn of spring 1989 at the so-called "Round Table", which

sessions continued off the record and included meetings between the governing party and the representatives of "Solidarity" movement held in the town of Magdalenka, the four most important decisions in relation to the future shape of the political system were made. They included: legalization of the "Solidarity" movement, declaration of partially free elections to the Sejm and free elections to Senate, establishment of politically independent media and amendments to the Constitution of 1952.

Amendments to Constitution of 1952 introduced by the act of 7 April 1952[1] within the scope of Chapter 1 "The political system" consisted in revival of the bicameral parliament in the form of Sejm and Senate.

Chapter 3 changed its name from "The governing bodies of the state authority" into "The Sejm and Senate of the Polish People's Republic." Members of parliament were granted the legislative initiative which equalled competence of the Council of Ministers as well as the competence of a new constitutional body – the President. The Sejm was composed of 460 members who were elected for a period of 4 years. Members of Sejm were granted an immunity in criminal matters and the decision to held them liable needed to be made by two-thirds majority of votes in the presence of at least half of the total number of Sejm members. The Sejm was also granted competence in appointing committees to investigate particular case (committees of inquiry) and adopting resolutions (only during its sessions) on introducing the state of war (formerly, it was the responsibility of the State Council). What is more, the provisions of amended Constitution specified the problem of self-dissolution and dissolution of the chamber. Self-dissolution required two-thirds majority of votes in the presence of at least half of the total number of members. The competence to dissolve the Sejm was granted to the President who, however, needed to consider opinions of the Sejm and Senate Marshals.

The Senate was composed of 100 senators who were elected for the same term as the Sejm members and the chamber itself was responsible to confirm validity of their election. The Senate members were protected similarly as the Sejm members by the immunity in criminal matters. What is more, provisions concerning the office of presidency during sessions of the Senate and their transparency have also been specified (the Marshal and Deputy Marshal were selected from among the Senate members). Remaining issues relating to the agenda, the number and type of commissions were subjected to the statute being under development in that time.

Moreover, provisions specifying the legislative procedures conducted with participation of the president and the Senate have been introduced. A bill passed in the Sejm was forwarded to the Senate for consideration. The Senate could communicate suggested amendments or reject the bill within one month (except for annual budget acts, financial plans of the state and socio-economic acts, which needed to be considered within 7 days). On the other hand, the Sejm was able to reject amendments of the Senate by two-thirds majority of votes it the presence of at least half of the total number of members. The President was signing the acts and ordering their publication or could

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[1] Act of 7 April on amending the Constitution of the Polish People's Republic. Journal of Laws of 1989, No. 19, item 101.

take advantage of a preventive control over constitutionality before the Constitutional Tribunal. The Constitution allowed also for dismissing the bill directly by the President as well as voting on the presidential veto and dismissing it by two-thirds majority of votes in the presence of at least half of the Sejm members.

The Constitution was supplemented with chapter 3a entitled: "The President of the People's Republic of Poland" which included provisions on the president's position within the political system, manner of election and competencies (prerogatives). The Constitution made the President "the supreme representative of Poland within domestic and foreign affairs" who ensures that the Constitution is respected, upholds sovereignty and safety of the state, integrity and indivisibility of its territory as well as guarantees that international political and military alliances are being observed. The president was elected for a period of 6 years by the General Assembly through absolute majority of votes in the presence of at least half of the total number of the parliament members (Sejm and Senate together) with a possibility of one re-election. The president could be held liable under the constitution and the penal code in front of the State Tribunal. The exclusive competencies of the President include: calling elections to Sejm, Senate and national councils, sovereignty over the military forces, summoning and chairing sessions of the Council of Ministers to discuss matters of particular importance, granting honourable titles and orders of honour, the power of clemency, the right to impose martial law and/or state of emergency as well as rights within the scope of foreign policy (appointment and dismissal of the state representatives in foreign countries, acceptance of capability and dismissing letters for diplomats from other countries, ratification and termination of international agreements). Moreover, the president had the right to issue resolutions and executive orders. However, the resolutions and orders of higher importance required countersignature of the Prime Minister. Furthermore, the Chancellery of the President was awarded the status of a constitutional body, which played the role of the "executive body of the President."

Additionally, the title of Chapter 4 of the Constitution was changed from: "The Supreme Audit Office" into the following phrase: "The Constitutional Tribunal, the State Tribunal, the Supreme Audit Office, the Ombudsman" and improved the rank of Ombudsman within political system to the constitutional level, increased competency of the auditing bodies and granted Senate further entitlements with regard to those bodies (e.g. the President of the Supreme Audit Office was appointed and dismissed by Sejm after prior acceptance of the Senate). As far as competency of the Constitutional Tribunal is concerned, the existing provisions on verifying that bills and other normative acts of central authorities of the state conform with the Constitution have been supplemented with an entitlement to define common interpretation for enforceable laws. The Ombudsman, on the other hand, was protecting citizens' rights and freedoms defined in the Constitution and other acts of law. They were appointed by the Sejm after prior acceptance of the Senate for the period of four years.

Chapter 5 entitled: "The governing bodies of the state authority" introduced provisions on entitlements of the Senate and the President and modified the way of appointing government. Pursuant to the amendment, the exclusive entitlement to appoint and dismiss the government of the People's Republic of Poland or its individual members,

which was formerly attributed to the Sejm, was entrusted to the Prime Minister who needed to act in cooperation with the President.

Chapter 6 entitled: "Local state and administrative authorities" did not change. However, changes were introduced to the Chapter 7 entitled "Courts of Law and the Prosecutor's Office." The changes consisted in introducing the National Council of the Judiciary into legislation and granting the President specific competencies within the scope of appointing and dismissing the judiciary authorities. A clause specifying that judges are to be appointed by the President upon request of the National Council of the Judiciary was introduced (and also added to the Constitution of 1997).[2] Moreover, the Constitution guaranteed the tenure of judges, except for cases specified in the act. The right to appoint judges of the Supreme Court and dismiss the First President of the Supreme Court was granted to the Sejm, which acted upon application from the President. The Presidents of the Supreme Court were appointed and dismissed solely by the President, just like the General Prosecutor of the People's Republic of Poland.

Changes were also made to provisions of the Chapter 9 entitled "The principles of election law." The clause on four-point (general, equal, direct and secret) elections to the Sejm and national councils have been retained. On the other hand, the three-point (general, direct and secret) electoral law to the Senate was introduced. What is more, provisions of Article 100 of the Constitution of People's Republic of Poland have been amended. Initially, the provisions entrusted the rights to submit candidates for members of the Sejm and national councils to the political and social organizations associating citizens in cities and towns. After the change, the rights were given to political and social organizations as well as the voters.

The amendment did not make any changes neither to the Chapter 8 entitled "Basic rights and obligations of the citizens,"[3] nor the Chapter 10 entitled "The National Emblem, colours and the capital city of Polish People's Republic."

The final provisions of the amendment included a statement which determined the faith of one of the most important authorities: the Council of State. Its scope of competence, specified in the legal regulations, were supposed to be taken over by the president on the first day of his/her term of office (unless they are entrusted to other bodies). Before the president has started to fulfil his/her duties, the Council of State was supposed to exercise its competence according to respective regulations and provisions of the Constitution. The amendment specified only one competence for the Council of State that was scheduled to apply after 7 April 1989. It was the responsibility to summon the newly elected Sejm and Senate (within a month from the day of concluding the elections).

The mentioned amendments of the Constitution, although reflected political compromise reached at the Round Table, they did not allow introduction of a democratic system of governance. Provisions referring to the political system have changed to

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[2] Draft project for creating the National Council of the Judiciary was developed as a result of political agreement reached during sessions of the "Round Table" and assumed establishment of a new constitutional body composed of representatives of all three powers (legislative, executive and judiciary). The idea of the Council was modelled on the experience of western European states. Based on: http://www.krs.pl/pl/o-radzie/informacje-o-krs. Accessed on 21 December 2016.

[3] The changes were eventually included in the Constitution of 1997.

a small extent. Even though the second chamber of the General Assembly was introduced (i.e. the Senate), its entitlements were limited virtually to legislation, while entitlements of the Sejm have been considerably restricted to the benefit of the president, who has also taken over the entitlements of the then Council of State. In literature, the manner in which provisions on the position of the president within the political system were formulated in the amendment of April 1989, has been criticized and considered vague. As Garlicki writes, it was unclear whether "the provision (of Art. 32, par. 2) specifies only the objectives which the President should take into consideration when fulfilling duties specified in other provisions of the constitution, or whether it is a manifestation of the essential competence of the President. If we adopt the latter argumentation […], then the President will become a guardian of very powerful and unspecified authorizations" (Garlicki, 2002, p. 17). The manner of how the presidential entitlements were constructed has made it impossible for the Sejm to adopt resolutions independently, beginning with the entitlements in the legislative process, the process of dissolving the Sejm and the procedure for appointing the government.

As far as independence of the judiciary is concerned, the legislator has added provisions establishing the National Council of the Judiciary. However, there was no resolution which would specify its competence, operation and manner of appointing its members. In case of the elections to the Senate, it was decided to refrain from calling them equal in order to underline that each of the voters disposes of the same number of votes (the formal equality) of same weight and importance (the material equality). What is more, there was no direct dismissal of the previous system also within the symbolic layer: the amendment did not reintroduce the crowned eagle as the Polish national emblem.

No changes were introduced to provisions within the scope of: "The social and economic system" (Chapter 2), which petrified the socialist politics organized on socialized means of production and socialist relations of production; nor within the scope of "Local authorities and state administration bodies" (Chapter 6) by maintaining self-governments in the form of national councils which were subject to the central government;[4] or within the scope of "Basic rights and obligations of the citizens" (Chapter 8).

The literature compares the introduced system of governance with the French 5th Republic of 1958 which was characterized by floating concepts of uniformity and elements of presidentialism (Garlicki, 2003, p. 18; Raciborski, 2003, p. 80). On the other hand, the preponderance of presidential entitlements for the communist government was supposed to be the ultimate warranty to keep the existing system of governance, including the possibility to reject the Round Table settlements (Garlicki, 2003, p. 18; Dudek, 2004, p. 36). As A. Dudek reports, the hurried and undiscussed changes within the Constitution have evoked discontent among some of members to the Sejm due to instrumental treatment of the parliament (Dudek, 2004, pp. 18–19).

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[4] According to A. Dudek (Dudek, 2004, pp. 37–38), minor achievements of the Round Table within the economic sphere resulted from the fact that the negotiating teams were dominated by politicians, who had no idea about economy as well as from the lack of a wider programme for recovering economy within the government and the opposition.

The constitutional practice of the period, in which the April amendment applied, was quite significantly different from the "spirit" of provisions on the model of government. Wojciech Jaruzelski, the president appointed by the General Assembly and a communist general in the Polish Army, was not interrupting and even, as L. Garlicki writes, "he was faithfully supporting" (Garlicki, 2003, p. 18) the reformist government appointed by Tadeusz Mazowiecki, who was an oppositional activist that originated from the circles of secular Catholics operating under the "PAX" Association. Despite the mentioned changes of the Constitution, during his presidency the political system could be indeed described as parliamentary-cabinet system of government. Elements of a semi-presidential system have not appeared before 1991–1993 during the presidency of Lech Wałęsa and under the governance of the Small Constitution.

3. From the December amendment to the Small Constitution

The amendment of December 1989 has changed the former name of the constitution of the People's Republic of Poland into the Constitution of the Republic of Poland.[5] Consequently, it removed the passage: *People's Republic of Poland* and substituted it with the phrase 'the Republic of Poland'. What is more, the wording referring to the socialist society was changed into 'civic society'. As far as the symbolic plane is concerned, the national emblem of Poland was changed into an image of a white eagle with a crown on a red background. The contents of the Constitution have been made free of a long preamble, which referred directly to historical achievements of the USSR within the scope of developing a socialist state. Significant changes concerned provisions of Chapter 1, which was entitled "Basic principles for the political and economic system." Firstly, it was assumed that the Republic of Poland is a democratic and lawful state, which realizes the principles of social justice.[6] In place of the working people, the superior power was given to the Nation. The provisions referring to the leading role of the PZPR (Polish United Workers' Party) and its alliance with the United People's Party and the Democratic Party have been removed. Provisions on political pluralism within the scope of voluntariness and equality at associations within political parties have also been implemented. As far as the economic sphere is concerned, the freedom of conducting business activities regardless of its ownership and the principles of property protection (including personal property and the succession right) have been warranted. The Sejm's responsibility to adopt social and economic plans (which were the characteristic feature of management over the centrally planned economy) has been ceased.

Provisions of the Chapter 2 have been completely removed. Initially, it was entitled "Social and economic system" and referred e.g. to the fact that a basis of the social and economic system of People's Republic of Poland is its socialist system of economy

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[5] Act of 29 December 1989 amending the Constitution of the Polish People's Republic, Journal of Laws of 1989, No. 75, item 444.

[6] This provision has been adopted from the Constitution of 1997, which allowed taking over the achievements of the Constitutional Tribunal within the scope of interpretation and its elements.

that is founded on social means of production and social relations of production. What is more, the constitutional provision that manifested the Marksist formula of society ("from each according to his abilities, to each according to his work") has also been removed.

It was recognized that Sejm is the superior manifestation of the will of the Nation and it embodies its sovereign rights. Its general competence, which included adoption of acts of law, adoption of resolutions that specify primary directions for development of the state and supervision over other public bodies and state administration, has not been changed.

The provisions of Chapter 3 of the April amendment related to the office of Polish president have kept their force, similarly as provisions of the Chapter 4 that referred to the Constitutional Tribunal, the Tribunal of State, the Supreme Audit Office and the Ombudsman, the provisions of the Chapter 5: "The primary bodies of state administration" and Chapter 6: "Local state and administrative authorities" as well as the provisions of the Chapter 8 entitled: "Fundamental rights and obligations of citizens."

However, provisions specifying bodies that exercise judicial power in Poland have been amended. Former legislation entrusted judicial power to the Supreme Court, provincial courts, regional courts and special courts. Pursuant to the new regulations, the judiciary resorted under The Supreme Court, common courts and courts of limited jurisdiction. What is more, position of the prosecution within political system has also changed. Its main objective became protection of the rule of law (yet not the rule of people's law) as well as supervision over prosecution of crimes. The Minister of Justice, who at the same time was the General Prosecutor, became a supervisor of the prosecution.

Changes introduced to the constitution of 1952 through the December amendment have given the act new axiological base and, as Garlicki writes, have respectively been developed within judgements of the Constitutional Tribunal (Garlicki, 2003, p. 18). Undoubtedly, the changes have confirmed the direction settled at the Round Table. After some time there appeared claims that the change has only a symbolic nature and there was not enough effort at accomplishing fundamental reconstruction of the whole state apparatus (Dudek, 2004, p. 99). Those accusations can be regarded as partially true e.g. in the context of activities undertaken by the former communists who were governing until 1990 pursuant to settlements developed at the Round Table in the so-called ministries of power in government of Tadeusz Mazowiecki. Although the Constitution dismissed the former political system both in political as well as social and economic terms, it was not able to change the entirety of social-economic and political relations that originated in the People's Republic of Poland. In this way, the December amendment shall be considered as another stage of changing the political system.

In the subperiod concerned, the third amendment of Constitution of 1952 was made through an amendment of March 1990.[7] The former Chapter 5 of the Constitution which was entitled: "The primary bodies of state administration" has been changed

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[7] Act of 8 March 1990 amending the Constitution of the Republic of Poland, Journal of Laws of 1990, No. 16, item 94.

into "The Government and the administration" and introduced a new constitutional body: a voivode, which became a body of governmental administration and a representative of the government within a voivodeship. Moreover, the amendment has also introduced the institution of a local self-government in place of local organs of state authorities. This was postulated during the Round Table sessions by the Commission of the Self-government of the Civic Committee. Local self-government was based on communes, which had a legal personality and constituted a legal form of organization of public life that fulfils the needs of local society. Legislative body of a commune was to be its council, responsible for appointing the executive authorities of the commune.

The amendment has also updated provisions of Chapter 9 in relation to elections to the Sejm and Senate, respectively changing the title of this chapter.

The fourth amendment of the Constitution of 1952 has been made in September 1990.[8] The change referred mainly to provisions of Chapter 3a entitled: "The President of the Republic of Poland." The amendment established direct elections for the office of the President, whose term of office was set to 5 years with the possibility of one re-election. Every citizen of Poland, who is at least 35 years old and eligible to be elected to the Sejm, could be the President. What is more, the provisions and title of Chapter 9 were change into: "Principles of elections to the Sejm, Senate and the office of the President" and specified that presidential elections will be equal, direct and secret. At the same time, the article 2 of the amendment specified termination and expiration of term of office of the President, who was elected by the National Assembly on 19 July 1989 (i.e. Wojciech Jaruzelski), at the moment of appointing the new President elected in general elections. The new method for appointing the President was analysed in the literature and assessed as an attempt to implement one of important elements of a presidential system into the Polish politics in the form of a factor that reinforces position of the President (Kuciński, 2003, p. 231).

Through another amendment to the Constitution of 1952, the act of 19 April 1991, the Sejm has introduced first change into the Chapter 8: "Fundamental rights and obligations of citizens" and specified that the Republic of Poland reinforces and expands the rights and freedoms of citizens. Moreover, the provisions on the right to work has been removed, similarly as the following phrases that referred to the former political system: working people of cities and villages, socialist working discipline. Furthermore, the criterion of domicile (five-year residence in the Republic of Poland) has been introduced in relation to active election right to Sejm and Senate. Persons incapacited by a final judgement of a court due to a mental illness or underdevelopment as well as those persons who have been deprived of public or election rights by a final judgement of a court have been deprived of the election rights. The former provisions did not require finality of a judgement that determined lack of election rights.

On 23 April 1992, the Sejm has adopted the Constitutional Law on the procedure for preparing and enacting the Constitution of the Republic of Poland.[9] The act con-

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[8] Act of 27 September 1990 amending the Constitution of the Republic of Poland, Journal of Laws of 1990, No. 67, item 397.

[9] Constitutional Law of 23 April 1992 on the procedure for preparing and enacting the Constitution of the Republic of Poland, Journal of Laws of 1992, No. 67, item 336.

tained provisions that referred to adoption of a new constitution, the legislative initiative within the scope of submitting project of the constitution as well as the flow of work over the project and the role of a newly appointed body – the Constitutional Commission.

The new constitution was to be adopted through merger of the parliamentary chambers (i.e. the National Assembly), and then validated through a referendum by a majority of votes. The right to submit a project of the constitution was given to the Constitutional Commission, which was established pursuant to the said act as the group of 56 members of the National Assembly and the President of the Republic of Poland.

The Constitutional Commission was composed of 46 members selected from among the Sejm and 10 members selected from among the Senate. Its role consisted in identifying key political issues (present within projects of the constitution) before the Sejm and then debating them in this chamber. The Commission was also able to prepare its own project of the Constitution. However, its main objective consisted in submitting a statement validating project of the Constitution to the National Assembly.

In principle, the Sejm was supposed to adopt project of a new constitution after two reading sessions, unless the President voiced suggestions of changes within 60 days from the moment of submitting the Constitution. Adoption of the amendments and the Constitution in the second and third reading session was done with a majority of two-thirds of votes in the presence of at least half of the total number of members to the National Assembly.

According to the described mode, the Polish Constitution has been adopted with minor amendments (e.g. within the scope of constitutional initiative) in 1997. In anticipation of the results of works within entities and state bodies specified in the *Act on manner of preparing...* as well as to improve operation of the central authorities of the state, in 1992 the Sejm has adopted the Constitutional Law on mutual relations between legislative authority and executive authority of the Republic of Poland and local governments.[10] This specific act of law had a temporary nature and a greater legal power than an ordinary legislation due to reference to a certain subject, which is reserved for the constitution. Nature of the act referred to the Polish constitutional tradition.[11] The scope of the so-called Small Constitution was limited to establishment of three general principles and regulations on the Sejm, Senate, President, government and local self-government.

The tri-partition of power, which is typical of liberal democracies, has been adopted as a principle of the political system and based on the Sejm and Senate (as the legislative authority); the President and the Council of Ministers within the scope of executive power; and independent courts within the scope of the judiciary.

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[10] Constitutional Law of 17 October 1992 on mutual relations between legislative authority and executive authority of the Republic of Poland and local governments, Journal of Laws of 1992, No. 84, item 426. At the moment when the act has come into force, the Constitution of 22 July 1952 became wholly ineffective, except for provisions of chapters 1, 4, 7 (excluding Art. 60, par. 1), 8, 9 (excluding Art. 94), 10 and 11.

[11] See: Constitutional Act of 19 February 1947 on the political system and principles for operation of supreme authorities of the Republic of Poland, Journal of Laws of 1947, No. 18, item 71.

The Sejm was composed of 460 members who were appointed in general, equal, direct and proportional elections conducted in a secret voting; The Senate was composed of 100 senators who were elected in voivodeships for the same term as the Sejm (four years) and the elections were free, universal, direct and secret. The mandate of a member of Sejm or Senate was a free mandate (not dictated), guaranteed protection with material and formal immunity and excluded the possibility to combine specific political functions (e.g. function of a judge in the Constitutional Tribunal with the function of the Ombudsman).

The Small Constitution specified the system of bodies within the Sejm and the Senate: single-person bodies i.e. The Marshal and deputy Marshals as well as collegial bodies, i.e. presidium, commission. This act of law attributed the Sejm with the possibility to appoint a commission of inquiry to investigate a given case. Essentially, sessions of the both chambers were transparent and resolutions were generally adopted through majority of votes in the presence of at least half of the total number of the chamber's members.

The right of legislative initiative was attributed to members of the Sejm, the senators, the President and the Council of Ministers. What is more, the Council of Ministers was granted the right to submit (in reasonable circumstances, which did not apply to matters of particular importance e.g. the budget law or other acts that regulate functions of the state authorities) urgent projects of an act which allows for shortening process of developing acts of law by one-third. The legislative procedure proceeded according to the model adopted before: from the Sejm, through Senate which could file amendments, ending at signature of the President. The presidential prerogative of supervision over precautionary nature of acts (realized before the Constitutional Tribunal) was also a novelty.

The Sejm has been supervising the Council of Ministers during the process of adopting and executing the budget law. However, in case of failing to adopt the budget law, the Council of Ministers could conduct financial policy pursuant to a provisional budget.

A novelty within the scope of sources of law was the introduction of resolutions that had the force of an act of law. The Sejm was able to authorize the Council of Minister to issue those acts, which scope did not comprise the so-called constitutional matters (i.e. regulations on civil rights and freedoms).

As far as the constitutional status of the President is concerned, the provisions on appointment in universal, free, direct, secret and majority elections to a five-year term of office with the possibility of one re-election have been kept in force. To some extent, the entitlements of the president had a nature of classic prerogatives, i.e. the right of clemency, the right to award distinctions, honours and citizenship. They were also connected with exercising a general management over foreign affairs, including appointment and dismissal of diplomats as well as acceptance of accreditations from diplomats of foreign states in Poland. However, the constitution did not give the President an independent position within the scope of foreign policy. It expressly specified that relations with other states as well as relations with Polish diplomats abroad proceed through a minister applicable for the foreign affairs. What is more, the President was

also acting as a supreme body within the scope of domestic and foreign security of the state and influenced on the appointment of minister of foreign and domestic affairs (the so-called presidential ministers). In relation to matters of particular importance, the president could summon and chair the session of the Council of Ministers (the Cabinet Council). The President was able to issue resolutions and orders to realize acts of law and operate pursuant to the granted entitlements. His acts of law required, however, the countersignature of the Prime Minister. The president was constitutionally and criminally liable before the Tribunal of State.

The Council of Ministers has been created to conduct domestic and foreign policies in Poland and to direct the whole administration of the state.

The Small Constitution is expressly specifying the manner of appointing the government and assumes several alternatives of the process that involves participation of the Sejm, which gives a vote of confidence, and the President, who is entitled to dissolve the Sejm in the event of failing to appoint the government within a timeframe specified in the Small Constitution. Realization of political liability of the government was taking the form of a (constructive or unconstructive) vote of confidence before the Sejm, expressed in relation to the Council of Ministers or a particular minister.

In Chapter 5 of the Small Constitution, the Sejm has regulated political position of local self-governments and named it the basic form of organisation of the public life. The basic unit of a self-government was a commune, which had a legal personality. Municipal property (ownership and other proprietary rights) have been separated and attributed to a respective local self-government. Self-governments were supposed to take over the responsibility for some public objectives and tasks of the government administration and act on their own behalf. Elections to authorities of local self-governments had a universal and equal nature and they were conducted in a secret voting. The constitution granted residents of a commune the right to make decisions through a local referendum.

The Small Constitution, according to the initiators who represented the President and leading parliamentary parties, was supposed to allow overcoming the constitutional chaos that emerged after amendments to constitution introduced between 1989 and 1991. In practice, as Raciborski writes, it strengthened tensions between the president, the Sejm and reinforced the dual nature of the executive power and created new area of conflict. On the other hand though, it has efficiently regulated political conflict of May 1993, when a subsequent government did not receive the vote of confidence in the Sejm. In that time, the president took advantage of the constitutional capability to organize pre-term elections and dissolve the parliament (Raciborski, 2003, p. 86).

The doctrine accuses the adopted presidency model of a "lack of internal consistency," which eventually resulted in "stretchy" interpretation of the constitutional provisions on the President (Kuciński, 2003, p. 224). The thesis can be considered true only in the context of Lech Wałęsa's presidency (1990–1995), and not in the case of AleksanderKwaśniewski (1995–2005) who came from the post-communist political elite and whose presidency was also delimited by provisions of the Small Constitution. The presidency of Lech Wałęsa under the Small Constitution was also complicated by the fact that he was forced to cooperate with the coalition of SLD and PSL (the Demo-

cratic Left Alliance and the Polish People's Party), the parties which came from the communist regime, yet were unable to conduct conflict-free cooperation.

During the presidency of Lech Wałęsa, the source of conflict with the government were the regulations referring to his entitlements within the scope of appointing ministers upon the request of the Prime Minister (Art. 68 of the Small Constitution). The constitution specified that "Upon request of the Prime Minister, the President can make changes within offices of particular ministers," which Lech Wałęsa was interpreting also as a possibility to dismiss a given candidate. A dispute of constitutional nature referred also to presidential entitlements within the scope of appointing the Minister of Defence. Provisions of Article 61 of the Constitution specified that: "Application to appoint the Minister of Defence is submitted by the Prime Minister after consultation with the President," which Lech Wałęsa was considering as a possibility to apply for dismissal of the Minister. The constitutional crisis referred also to entitlements of the President within the scope of legislative procedure, as part of which Lech Wałęsa was delaying signature of duly submitted budget law and threatening of the Sejm dissolution.

In 1993, the first amendment to the Small Constitution was adopted by way of introducing provisions on the National Radio and Television Council.[12] The institution was appointed to safeguard freedom of speech, realize the citizens' right to be informed and social interest in the radio and television and was given the right to issue resolutions and acts of law. Members of the National Radio and Television Council were appointed by: Sejm, Senate and President, which was to be further specified in a respective act of law. Dismissing own representative from the function of the President of the National Radio and Television Council became the cause of another conflict over the constitutional body. In fact, however, the conflict was actually related to interpretation of the act. Art. 7, par. 2u on Radio and Television[13] specified that "President of the National Council is appointed by the Polish President from among members of the Council." Lech Wałęsa was understanding this provision as something, which gives him the possibility to dismiss the president and appoint another person from the Council to the said post.

According to Raciborski, the period of Lech Wałęsa's presidency can be described as a crisis of the presidency that was caused by the manner, in which Wałęsa was exercising the function. He was constantly stirring up a political conflict, creating tensions and working to decrease efficiency of the government and the whole parliament. According to that author, also the governing coalition did everything to marginalise the role of the President, even in the areas where his competence was quite clearly specified. It has led to an erosion within authority of the office of President and decrease in his popularity (Raciborski, 2003, p. 88).

The Small Constitution was not creating barriers against successful cooperation (consensual cooperation as well) between the President Aleksander Kwaśniewski and the Sejm. Kwaśniewski was the president for two terms of office and reached a high

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[12] Act of 15 October 1992 amending the Constitution of the Republic of Poland, Journal of Laws of 1993, No. 7, item 33.

[13] Act of 29 December 1992 on public service broadcasting, Journal of Laws of 1993, No. 7, item 34.

level of social acceptance for the functions, which his was responsible for. The source literature evaluates his presidency as a period, in which the office has blossomed and considers the period between 1995 and 1997 as a time of developing the semi-presidential form (model) of governance. Certainly, assessment of his achievements should take into account the successful period for Poland, which he contributed to, and which included e.g. adoption of the Constitution of the Third Republic of Poland, accession to NATO (1999) and the European Union (2004).

4. The Constitution of 1997

On 2 April 1997, the Sejm has adopted the Constitution of the Republic of Poland, which came into force on 17 October of the same year[14] and applies to this day within only minor amendments.[15] The act begins with a noble preamble (an introduction) which is different from the rest of the Constitution and defines the goals and purpose of the legislation.

As a result of a political compromise, text of the preamble (Gwiżdż, 1997, pp. 178–179) was eventually adopted. According to Skrzydło, "the intention of its authors was to unite the society, rather than dividing it because it refers to virtues and objectives, which are common for all citizens" (Skrzydło, 2000, pp. 12–13). The legislator indicated some universal values, which shall be respected by the governing authorities and those being governed. They include: truth, freedom, justice, good and beauty, reliability, efficiency, solidarity and human dignity. It is worth noticing that the preamble emphasizes the Christian inheritance of the Nation, fellowship with the compatriots living around the world, the tragic experiences of the Polish past as well as the importance of regaining independence and the capability to make sovereign decisions on the faith of Poland. What is more, the preamble specifies basic principles that organize life of a community within the state (objectives and directions for the state evolution). They include: democracy and respect for rights of citizens, social dialogue and help lines of the state in relation to an individual as well as cooperation of authorities.

Currently, most of representatives of the doctrine claim that the preamble is not normative in nature (Kuciński, 2003, p. 29; Skrzydło, 2000, p. 10), has political characteristics and, in practice, it plays a significant role in the process of interpreting provisions of the Constitution by the Constitutional Tribunal.

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[14] The Constitution of the Republic of Poland of 2 April 1997, Journal of Laws of 1997, No. 78, item 483.

[15] Until 13 January 2017, two substantive changes within the Constitution have been introduced: in 2006 and 2009. The first amendment (Journal of Laws of 2006, No. 200, item 1471) allowed, however in specific instances, extradition of a Polish citizen upon request of a foreign state or an international judiciary body pursuant to an international agreement or an act of law. Another amendment (Journal of Laws of 2009, No. 114, item 946) has tightened the criteria for applying for a mandate of a parliament member and closed the door to political carrier for persons who were sentenced by a final judgement to an imprisonment due to an intentional offence prosecuted by public indictment.

The literature emphasizes that the existence of a preface to constitution is a characteristic feature of "new" constitutions of the Central European states which entered the path of political transition and proclaim contexts that resemble the Polish regulation. None of the prefaces, as Gwiżdż wrote in 1997, includes references to religious values (Gwiżdż, 1997, p. 172) (particularly to the *invocatio Dei* which is contained in the Constitution of 1997).

The Constitution is composed of 13 chapters, which regulate the foundations of the economic and political system (1. The Republic of Poland; 10. Public finances; 11. Extraordinary circumstances; 12. Amendments to the Constitution); rights, freedoms and obligations of the citizens (1. The Republic of Poland; 2. Freedoms, rights and obligations of people and citizens; 3. The sources of law); organizations and competencies and the manner of appointing the most important state authorities (4. The Sejm and Senate; 5. The President of the Republic of Poland; 6. The Council of Ministers and administration; 7. Local self-governments; 8. Courts of law and Tribunals; 9. State inspection authorities).[16]

4.1. The Constitutional identity

The constitutional identity of Poland (Garlicki, 2003, p. 53) is based on at least seven principles for the political system which reflect the contemporary standards of democracy (expressed directly or indirectly). Within the internal layer of the political system, the principles constitute the foundation of political, social, economic and legal systems, they identify ideas, values and notions of the supreme importance which collectively allow for classifying a given political system to a specific category. Andrzej Bałaban claims that fundamental principles of the constitution are partially normative and partially doctrinaire rules that synthesize contents of the basic law (Bałaban, 1997, p. 11). The normative nature of the principles implies that their interpretation allows to specify rights and obligations for the government and the citizens. When considered from a longer perspective, determination of the actual meaning of the principles is made in the process of interpretation and application of the Constitution.

According to J. Kuciński, the principles define direction for other normative legislation related to the Polish political system; they clarify the process of (purpose-driven) interpretation of legal regulations on the political system; show public (central and local) authorities the directions for application of legal norms that regulate Polish political system; delimit the boundaries for taking advantage of entitlements and subjective rights attributable to the recipients of legal norms that regulate aspects of the Polish political system (Kuciński, 2003, p. 54).

According to J. Kuciński, we can identify the following principles of the fundamental nature: the sovereignty of the State, partition and balance of political pow-

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[16] The proposed division has a non-exclusive nature in terms of attribution to particular chapters of the Constitution. This means that e.g. provision on the civic rights, freedoms and obligations can also be found in Chapter 1 of the Constitution.

ers, democratic rule of law, implementation of the "mixed democracy", social market economy and civil society (Kuciński, 2003, pp. 53–54).[17]

Notwithstanding the thorough legal analysis of individual principles (which is actually available in the handbooks or constitutional law), I would like to draw attention to certain characteristic features of the above principles of the political system.

As far as the principles of the sovereignty of the State (which refers to the political concept of the Nation) and democratic state of law are concerned, their prior implementation to the Polish political system through the so-called December amendment of 1989 should be emphasized. It is important from the perspective of adopting the previous achievements of the Constitutional Tribunal within the scope of their interpretation. Particular role shall be attributed to the Tribunal in context of the second of those principles. In its work, the Constitutional Tribunal referred to the elements that comprise the notion of a rule of law in Poland, i.e. the right to be judged, the principles of formal lawfulness, the existence of state authorities that guarantee obedience of law and the principles of hierarchic construction of the system for sources of law. Furthermore, the Constitutional Tribunal has interpreted other principles and rules which are not directly articulated in the Constitution, such as the principle of citizens' trust in the state, the principle of nonretroactivity of the law, the principles of protecting the acquired rights and the principles of proportionality (Kuciński, 2003, p. 58).

The model introduced within the scope of economic system is far from a pure liberal model. This is indicated by provisions of Article 2, which mentions the principle of lawful and democratic state that realizes principles of social justice. Through reference to principles of social justice, the legislator introduced a political system, which aims at respecting and protecting rights of the economically weaker individuals and social groups. Another guidance on the economic system are specified in Article 20 of the Constitution, which introduces the social market economy that is based on economic freedom, private ownership and solidarity, dialogue and cooperation between social partners. The principle of social market economy is an obligation to combine freedom of conducting business activities and pluralism of the forms which it may take with the obligation to exercise social functions of the state (i.e. to provide the citizens social security in the form of a satisfying level of life, healthcare and the right to intellectual development" (Bałaban, 2003, p. 7). As far as the economic system is concerned, it is worth noticing the principle of private ownership domination, which is specified in Article 20 mentioned above. The provisions specifying principles of the economic system have been included also in chapter 10 dedicated to the public finances. They allow controlling and managing the economic system through the National Bank of Poland, the State Treasury and the Monetary Policy Council.

As far as the political system is concerned, the primary principle is the rule of law. Its essence consists in that "public authorities are able to operate only on the basis and within the framework of the law and do everything, which is not prohibited by the law" (Winczorek, 2000, p. 15). The concept of the rule of law has also been supplemented by

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[17]   Experts in the constitutional law tend to differently perceive particular principles and indicate various amounts of them. Garlicki points to existence of the following principles: sovereignty of the State, democratic state of law, civil society, partition of powers, social market economy and inherent human dignity (Garlicki, 2003, pp. 53–82).

referring to it as "democratic". This denotes adoption of material (i.e. enriched with democratic elements) concept of the state, which respects political pluralism, sovereignty of the State, independence of judges and respect to rights and freedoms of an individual.

Scholars do not agree on the actual characteristics of the principle. There are two points of view, while the first seems to be dominating due to its ease of practical implementation and judicial practice of the Constitutional Tribunal at interpreting the principle of equality. According to its assumptions, the principle of social justice can only constitute, as Garlicki writes, "a kind of an indication for interpreting provisions of the law. When analysing the available interpretations, those which meet the principles of social justice shall be chosen" (Garlicki, 2002, p. 66). As far as the second perspective is concerned, the same author claims that "all public bodies are obliged to actively pursuit the principle in practice. Hence, the legislator would have to adopt such normative acts, which are socially just, while authorities that apply the law would be obliged to use them within socially just decision-making processes" (Garlicki, 2002, p. 66).

Within the scope of the political system, the Constitution through Art. 4, par. 2 introduces the principle of democracy that is based on two, essentially balanced and institutionalized pillars: the representative (indirect) democracy and the direct democracy. In constitutional practice, and perhaps due to lack of political tradition, the model of representative democracy prevails, i.e. Sejm, Senate and President (a president selected in general elections).

The principle of tri-partition of powers (legislative, executive and judiciary) expressed in Article 10 assumes that they are mutually balanced. However, the balance shall not be understood as a warranty for balanced entitlements of the political powers, but rather as an assurance of constitutional stability between the opposing forces. The Constitution introduces a system of interactions between the parliament, the president and the government which prevent from supremacy of one of the political powers (i.e. the presidential veto, presidential right to terminate term of office of the Sejm, government's political liability before the Sejm and the right of the Constitutional Tribunal to repeal the applying normative acts). Additional warranties for the principle of equilibrium should be developed in provisions of ordinary acts of law.

4.2. Freedoms, rights and obligations of an individual

As far as the constitutional regulations on freedom, rights and obligations of citizens (or in wider terms: individuals) are concerned, the main attention should be paid to the manner of constructing the second chapter of the Constitution, which underlines supremacy of freedom over rights and obligations. The location of this chapter within the Constitution is also of significant importance because it was positioned before chapters referring to sources of law and regulations on the status of each of the political authorities. Hence, the legislator aimed at pointing unanimously to a servicing role of the state authorities in relation to an individual (Winczorek, 2000, p. 45; Kuciński, 2003, p. 51).

The Constitution distinguishes freedoms and rights into those attributable to everyone (by referring to them with the pronoun "every") and those attributable to citizens

(mainly the second and third-generation human rights). These features point to individual approach to rights and freedoms that origin within natural law and moderate legal positivism where it is accepted that the superior position is taken by the individual and the state plays a servicing role in relation to interests of the individuals. The adopted solutions refer primarily to the standards of international law and, to a lesser degree, to the Catholic concept of human rights (Bałaban, 2003, p. 3).

The Basic Law indicates three leading/guiding principles that determine the constitutional regulation of rights and freedoms by mentioning them in a separate subchapter that precedes the catalogue of freedoms and rights. They include: dignity, freedom and equality. Among them, the immanent, non-transferable and inviolable dignity prevails and its origin comes directly from the natural laws. However, the Constitution does not grant the legal and natural character neither to freedom nor equality, although both are granted to an individual (equality is granted to other subjects of law as well). The principle of freedom does not allow to force an individual to make something, to which he or she is not obliged by the law. On the other hand, the principle of equality is based on three primary elements: equality before the law, equality of treatment by the public authorities and prohibition of discriminating anyone due to any reason. Both the principle of freedom as well as the principle of equality are subject to an ongoing interpretation before the Constitutional Tribunal.

The Constitution classifies freedoms and rights of an individual in a subjective manner. In the first place it mentions personal freedoms and rights, then: political freedoms and rights, and concludes at freedoms and rights of the second and third generation, i.e. economic, social and cultural rights. The last part of the chapter specifies obligations of an individual. In the Constitution, freedoms and personal rights (generally constructed as human rights) include e.g. the right to live, the right of personal integrity, the right to a trial, the right of privacy protection and the freedoms of communication, travelling, conscience, religion and expression. Everybody and/or the citizens are beneficiaries of freedom and political rights – "everyone is provided with…". The freedom of an individual (i.e. a condition that disallows interference of public authorities which does not result from provisions of the Constitution or acts of law) has been specified in the Constitution: the freedom of association and participation in assemblies.

A civil right (which provides the possibility to request specific actions or services from other entities, including public authorities) is the right to access to public healthcare, the right to be informed about activities of public authorities and the election rights.

Freedoms and economic, social or cultural rights have been intended to operate as the principles of the national policy, rather than the specific rights of the individuals. Beneficiaries included the citizens and everybody else. The first have a right to be socially secured in case of being unable to work and to establish schools of any educational level. Furthermore, everyone was granted the ownership right and other proprietary and succession rights; the right of access to healthcare, education as well as freedom of artistic creativity and scientific researches. From among the responsibilities of an individual, it is worth paying attention to the citizens' responsibility to protect the motherland, be faithful to the state and care about the common weal.

Freedoms and rights of an individual do not constitute a dead letter of the law. To the contrary, provisions of the Constitution of 1952 are an institutional warranty for

their obedience. Firstly, the Constitution directly specifies the means for protecting the constitutional freedoms and rights, which include e.g. the constitutional complaint to the Constitutional Tribunal. Furthermore, infringement of non-constitutional freedoms and rights is also protected by: the right to appeal against judgements and decisions issued in the first instance and the possibility to seek support of the Ombudsman (which is a constitutional body as well)

Attention should also be paid to the manner of amending the Chapter 2, which has been provided in the Constitution. As far as the remaining chapters of the Constitution are concerned, resolutions adopted by the Sejm (through majority of two-thirds votes in the presence of at least half of the statutory number of Sejm members) and the Senate (adopted through absolute majority of votes in the presence of at least half of the statutory number of senators) have been reinforced by the possibility to request (by the above bodies) organization of the validating national referendum.

From among the constitutional provisions which safeguard the primary freedoms and rights of an individual againstarbitrary decisions of executive authorities and ensure inadmissibility of legislation developed by judicial authorities there is the constitutional regulation of the sources of law (Winczorek, 2000, p. 109). For the first time in the history of Polish constitutionalism, the legislator has regulated the issue of law sources by indicating a catalogue of normative acts that contain the rules for binding and required conduct and specify competence of public institutions. The Basic Law introduces a closed and hierarchical catalogue of normative acts which constitute the sources of common law, i.e. the Constitution, acts of law, ratified international agreements and local legal acts as well as an open catalogue of the common law sources of internal nature.[18] As far as the context of hierarchic construction of the system of law sources is concerned, the literature draws attention to the fact that Constitution of 1997 requires evaluating international law through the prism of the constitution. Thus, the sovereignty of state is a basic and dominant substantive and procedural value during relations with international society (Bałaban, 2003, p. 6).

4.3. The organizations, competence and the manner of appointing the most important state authorities[19]

This paragraph will present the manner of organization and competencies of: the Sejm and the Senate; the bipolar executive branch: the President of the Republic of

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[18]   However, it should be born in mind that hierarchic construction of the system of law sources refers not only to provisions that define freedoms and rights of an individual, but also to normative acts on the entirety of rules for the binding and required conduct, including the competence of public institutions. In this context, it low flexibility can be considered a disadvantage because all legal solutions require starting the legislative procedure.

[19]   It should be noticed that constitutional regulation of organization and competence of the most important state authorities is supplemented by a series of other regulations, which have the rank of an act of law or lower. Their description, however, extends beyond the scope of this work. The constitution is not using the word 'Parliament' to describe the Sejm and the Senate, nor the word 'government' to refer to the Council of Ministers. However, it is common to use theses notions within the doctrine.

Poland and the Council of Ministers as well as the judicial authorities, i.e. the Courts of Law and Tribunals. The current discussion will not address the constitutional state inspection authorities and provisions on the activities of local self-governments.

In Chapter 4, the Constitution specifies issues connected with the legislative authority, i.e. Sejm and Senate and refers to elections and terms of office, the legal status of members of the parliament, organization and operation of the parliamentary chambers and referendum (i.e. national referendum organized by the Sejm).

In reference to the traditions of Polish pre-war parliamentarianism, which were recovered by the December amendment of 1989, the Constitution has established a bicameral parliament composed of the upper chamber (Senate) and lower chamber (Sejm). During discussions, which preceded adoption of the Constitution, not all projects submitted to the Constitutional Commission assumed creation of two legislative chambers. Ultimately, however, apart from the argument that referred to historical traditions of bicameral parliament, it was pointed out that the Senate can be a chamber that verifies lawfulness/correctness of draft normative acts prepared by the Sejm by way of considering the matter once more.

The Constitution assumes that both members of the Sejm (460) as well as senators (100) are the representatives of the Nation selected in general and direct elections, and their mandate has an equally direct nature. On the other hand, distribution of political forces in the chambers reflects political preferences and orientations of the eligible voters.

The Constitution indicates three primary areas of competence for the chambers within the scope of legislation, supervision (only Sejm) and creation. Such a wide scope of competence indicates that the parliament has a supreme position over other state authorities. However, the equality of the both chambers was not maintained to the benefit of the lower chamber.

The first one from mentioned competence (functions) is realized in the constitutionally defined legislative procedure, which assumes cooperation between the both chambers and the President that leads to adoption of acts of law. As far as supervisory competence is concerned (directed mainly towards the Council of Ministers in a manner and circumstances stipulated in the Constitution and acts of law), attention should be paid to the constitutional procedure for considering reports of the Council of Ministers on the performance of budget law, the right to submit interpellations and inquiries to members of the government as well as operation of the Sejm committees of inquiry. As a result of accomplishing the above entitlements, members of the government or the government *in gremio* can be held politically or even constitutionally liable before the Tribunal of State.

As far as creative entitlements of the parliament are concerned, the main role is played by the lower chamber which appoints the Council of Ministers through the vote of confidence, appoints judges to the Constitutional Tribunal as well as members and deputy presidents of the Tribunal of State. Some entitlements are realized by the chamber upon request of the President: appointment of the President of the Central Bank; or upon consent of the upper chamber during appointment of the President of Supreme Audit Office, the Ombudsman and the Ombudsman for Children.

As far as the mode of work in the both chambers is concerned, the Constitution assumes the principles of four-year terms of office with the possibility to terminate it through a resolution of the chamber adopted by qualified majority of two-thirds of votes of the total number of the chamber members or upon a decision of the President, which is made after failing to adopt the budget law or failing to submit it for signature of the President within four months from the moment of starting works.

The parliament, contrary to what was seen in 1989, is operating in an on-going basis, which allows conducting on-going parliamentary debates (not in sessions). Works of the both chambers are characterized by external transparency. During the first terms of office, the public television was providing live coverage of sessions of the both chambers. Currently, the coverage is not available, and in 2016 there also was a project on limiting journalists' participation and access to works being conducted in the chambers.

What is more, the Constitution refers also to the legal status of members of parliament by specifying rights and obligations arising from the fact of exercising the mandate. In the first place we should underline that a mandate, which is given to the parliament members, is free. This means that members of Sejm and Senate are not bound by instructions from voters or political parties. The Constitution protects members of parliament with a construction made of incompatibility of the mandate (*incompabilitas*) and a material or formal immunity as well as a privilege of inviolability. Those deviations from the principles of equality in relation to law result in limitation or exclusion of judicial accountability of the representative.

Chapter 5 is dedicated to the role of the Polish President in the political system. The president is one of the members of a two-stage executive authority and performs functions, which are traditionally reserved for the head of the state. However, its position in relation to the Council of Ministers, which conducted the domestic and foreign policies, was secondary and therefore limited as compared with the former regulations of the Small Constitution.

The President is an entity which cannot be held politically liable (i.e. *sensustricte,* before the parliament). He is only liable before voters (the Nation) during elections for the second term of office. To be valid, majority of official acts adopted by the President requires countersignature of the Prime Minister or respective ministers, who then take over the political responsibility for initiatives of the President. The presidential acts, which are not covered by the constitutional requirement of countersignature, include e.g. official acts that are traditionally executed by the head of the state and concern grating citizenship, the right of clemency, awarding distinctions and honours, organization of national referendum, acts appointing judges upon application of the National Council of the Judiciary and judges for the managerial positions within the judiciary (e.g. President of the Supreme Administrative Court, the First President of the Supreme Court, the President of the Constitutional Tribunal). In comparison with the Small Constitution, their number has been expanded and, in practice, the discretion authority of the President has diminished.

As far as criminal liability (even for offences unrelated to the political function) and constitutional liability (for the so-called constitutional transgression, i.e. an act which is not a crime, yet a culpable infringement of the constitution or an act of law

committed by a person in relation to his or her political position) are concerned, the President can be held liable before the Tribunal of State. Indictment requires a resolution of the National Assembly adopted by majority of at least two-thirds of votes cast by the statutory number of members of the Assembly upon a request submitted by at least 140 members of the Sejm and Senate. Indictment of the President would result in suspending the head of the state (it has never happened yet, though) at exercising his duties (the office would be taken by the Marshall of the Sejm), and conviction would lead to termination of the presidency and application of penalties specified in the act on the Tribunal of State. More about the constitutional liability before the State Tribunal.

The science of law specifies the following functions of the President within a system of state authorities and pursuant to the Constitution. They include the function of supreme representative of state during domestic and foreign relations; the function of a warrantor of continuity of public authority; the function of a guardian of the Constitution; and the function of a guardian of sovereignty and security of the state as well as independence and indivisibility of its territory. In order to realize the mentioned functions, the Constitution equips the President with a series of specific entitlements that allow to exercise actual power. Due to the fact that the President is elected in general elections by absolute majority of votes, its legitimacy to be a political arbitrator capable of balancing the authorities is strong. In relation to the Sejm, the President is entitled to shorten its term of office. Moreover, in relation to the government, the President is capable of rejecting its resignation during the first session of a newly elected Sejm. As far as the function of a representative during foreign relations is concerned, the President ratifies and terminates international contracts, appoints and dismisses representatives of Poland in other states and organizations and receives letters of credence. As far as the domestic affairs are concerned, the head of Polish military forces appoints the Chief of General Staff and commanders of Armed Forces.

In relation to provisions of the Small Constitution, however, the role of the President was limited through e.g. renouncement of the right to veto the budget law; removal of provisions on the so-called presidential departments (ministries of power); the required majority in the Sejm for dismissing presidential veto within a legislative procedure has been decreased from two-thirds to three-fifths; removal of the possibility to "contest" acts of law in a twofold manner, making it only possible to veto an act of law or direct it for consideration in the Constitutional Tribunal (the preventive supervision of the acts of law).

In Chapter 6, the Constitution specifies position within the political system for the Council of Ministers, which is appointed e.g. to manage state administration. In relation to the Small Constitution, it has reinforced the political position of the government and made it an essential member of the dualist executive which is assumed to be competent within the scope of politics, unless the entitlements have not been reserved for other bodies or self-government.

Composition of the Council of Ministers is developed with the support of majority in Sejm. Thus, the policy of uniformity is often mentioned in respect to relations with the parliament. The constitution allows the so-called minority government, but they were rare in political practice. For Polish parliament, fragmentation of political par-

ties is a characteristic feature, which generally does not allow a single party to create a government and forces the so-called coalition governments.

In Polish political practice, the habit to designate the leader of a party that has won the elections for the office of Prime Minister is not a tradition. It was common that politicians from the second or even the fifth league were appointed as prime ministers. Alternatively, there were "technical" prime ministers who, however, were not fully liable for the objectives of the government and the manner of governance.

The Constitution assumes three scenarios of appointing the government. In the primary scenario the President designates the Prime Minister, then upon his/her request appoints the government, which receives vote of confidence by a majority of votes in the Sejm (the obligatory vote of confidence). Failing to receive the vote of confidence results in resignation of the government, which President has to accept.

It is also worth noticing that the government can influence on the pace of legislative procedures. The Constitution (just like the Small Constitution) entitles the government to direct urgent draft acts to the Sejm.

Members of the Council of Ministers are held individually and constitutionally liable before the Tribunal of State for infringing the constitution or other acts of law as well as crimes committed in relation to the occupied post. Resolution on holding a member of the Council of Ministers liable is adopted by the Sejm upon request of the President or by at least 115 members of the Sejm through majority of three-fifths of the statutory number of the Sejm members.

The government operates under supervision of the Sejm and bears political responsibility before it. The Constitution assumes that members of the Council of Ministers will mutually and/or individually bear political liability for general policy of the government or the manner of conducting it, or (in the case of individual liability) for matters resorting under the competence or entrusted to the Prime Minister. A characteristic feature of those regulations is an association of political responsibility of the government with the figure of the Prime Minister. Resignation of the Prime Minister constitutes a resignation of the whole Council of Ministers.

In Chapter 8, the Constitution includes provisions that refer to the so-called third pillar – the judiciary. Constitution attributes the judicial authority not only to the courts of law (the Supreme Court, common courts, administrative and military courts), but also to Tribunals (the Constitutional Tribunal and the Tribunal of State). They operate according to two primary and constitutional principles: they constitute a separate and independent power; and deliver judgements on behalf of the Republic of Poland. Underlining separateness of the judiciary (the Constitution does not underline this in relation to other political powers) denotes an organizational and functional separateness of the judiciary from the other powers as well as partial resignation from judiciary's participation in the process of balancing political powers (which is typical of tri-partition of powers). Impact of the judiciary on other branches of political power is limited particularly to judgements of the Constitutional Tribunal on conformity of acts of law with the Constitution, judgements of the Supreme Court on validity of elections to the Sejm, Senate and the office of President as well as to the possibility to dismiss administrative decisions made by public authorities or administrative courts.

The role to watch over justice is entrusted by the Basic Law to the courts of law, i.e. the Supreme Court, the common courts, the administrative courts and the military courts. During state of war, it assumes appointment of special courts or an interim mode. Court proceedings shall be held in at least two instances, which is a guarantee that eliminates mistakes and deficiencies made in courts of lower instances. In practice, common and military courts in Poland have three instances, while administrative courts have two instances. The Supreme Court considers e.g. extraordinary appeals against valid judgements delivered by the court of appeal – i.e. the cassation. The Basic Law protects the position of a judge through the principle of his/her independence which means that the judges are only subject to the Constitution and acts of law (judges of the Constitutional Tribunal are subject to the Constitution only); secondly, they can deliver judgements on the basis of the Constitution and apply them directly with no regard to provisions of other acts of law; thirdly, judges make a decision basing on the law and in accordance with their consciousness or an inner conviction, which means that any external pressure on the decision-making process is prohibited. Moreover, the Constitution includes a series of warranties for independence of the judiciary, e.g. the principle of tenure, the judiciary immunity, *incompabilitas*, apoliticism, appointment for an indefinite period of time.

The legislator has made the National Council of the Judiciary a constitutional body. It is composed mainly of representatives of the judiciary and safeguards independence of the courts of law and judges. Its constitutional entitlements include application to the President to appoint a judge or the possibility to request the Constitutional Tribunal to analyse constitutionality of an act of law within the scope of independence of courts and judges.

The Constitution specifies position of the Constitutional Tribunal within the political system and describes it as a judiciary body for supervision over constitutionality of law being implemented in Poland. Entitlements of the Tribunal under the Constitution are wider than those of 1980s. It is responsible for adjudicating on conformity with the Constitution, yet it does not relate to acts of law only, but also to international agreements as well (its judgements are final and cannot be challenged by the Sejm). The Constitutional Tribunal is also responsible for considering constitutional complaints submitted by the citizens, solving arguments over competence of the central and constitutional authorities of the state. After adoption of the Constitution of 1997, the role of the Tribunal within the scope of interpreting detailed provisions on rights and freedoms of individuals is being underlined (the provisions were absent before 1997). Its key role relates also to "European" adjudication, which firstly concerned the framework of Polish accession to European Union, and then focused on relations between the EU legislation and the Constitution (Haczkowska, 2014).

Its constitutional entitlements are thus relatively wide, also if we take into consideration the fact that the organ has no direct and democratic legitimacy. Such legal position of the tribunal indicates that the legislator wanted to develop a body of strong competence within supervision over contents and meaning of normative acts and, in this way, to supplement a democracy that is based on the votes of majority.

"Contemporary democracy, according to Marek Safjan, is defined not only by governments appointed by majority of the citizens in free and universal elections, but also as a system which is being evaluated on the basis of mechanisms that it uses to outline relations between individuals and the state, dignity of every person, warranties for fundamental rights and freedoms as well as respect for minority rights. In a democratic country of law, the majority elected in democratic elections cannot have the right to act in an unrestrained manner. It has to proceed within the frames delimited by the law, particularly by the law of the highest rank – the Constitution" (Safjan, 2006).

The chapter concerning judiciary concludes with provisions related to the Tribunal of State, which is a body of political and professional nature that realizes principles of constitutional responsibility of persons who hold top positions within the state. The regulation on the State Tribunal have been present in the interwar period as well as in the Constitution of the Polish People's Republic of 1982. In political practice, the Tribunal was not and it still is not an authority that plays a significant role. There were not many cases which it considered.

The doctrine assumes that the adopted model of government shows significant preponderance of entitlements of the Sejm, with several elements being typical of chancellery systems that allows classifying it as the so-called "rationalized" parliamentary-cabinet system (Garlicki, 2002, p. 152) through visible reinforcement of government's position (particularly the positon of Prime Minister) and universal elections to the office of the president. Analysis of cooperation between the two members of the executive that proceed pursuant to the Constitution (concerning the period since it has been adopted to the current day) leads to a conclusion that in Poland there is no structural (i.e. resulting from political position) conflict between the president and the government. Conflicts connected with interpretation of the constitutional provisions are created as a result of consensual governance, where the president comes from another political party that the government and/or relate to personal feature of the prime minister and the president.

As far as the functioning of judiciary is concerned, the Constitution gives a particular attention to the Constitutional Tribunal. The body is actually present in Poland since 1985, which constitutes the subject of political attacks that accused it of communist origin. Currently, a rhetoric resembling that of PRL is also used in reference to the constitutional entitlements of the Tribunal, although the Sejm no longer has the supreme position within the political system (because there is the tripartition of powers). "Introduction of the Constitutional Tribunal in Poland required overcoming political and legal obstacles (writes Wiesław Skrzydło in the commentary to the Constitution of 1997 referring to discussions that took place in Poland between 1982 and 1985). A principle that the Sejm is the superior body among all of the state authorities and occupies the supreme position in relation to the other bodies constituted an obstacle. Hence, entrusting the Tribunal with the right to supervise the acts of law developed by the Sejm, yet letting to adjudicate upon their conformity with the Constitution by another body would infringe the principle" (Skrzydło, 2000, p. 225).

5. Summary

The aim of this work was to illustrate the evolution of constitutional order that took place between the period of weak political stability characterized by numerous changes to the political system and the moment of adopting the act which comprehensively regulated all the issues affecting efficient operation of public authorities, protection of freedom and rights of individuals. From the perspective of the current circumstances it might be concluded that Polish Constitution fulfils its primary objective, it has contributed to reorganization of the legal system and it has strengthened the standards for protection of human rights. At the same time, it resisted political attempts that tried to change it, which confirmed the rigid nature of the basic law and reinforced the need and importance of this kind of an act of law within social conscience (Derlatka, Garlicki, Wiącek, 2016). Between 1989 and 1997, political institutions and organizations that affected and participated in political life of the country have evolved. The institutions of the President and Senate have been revived and numerous new political parties, associations and foundations have been created. What is more, the norms that regulate and organize functioning of the society (including the norms on political institutions that exercise power on behalf of the citizens) have been changed.[20] The scope of possible space for involvement of individuals in a profession, economy or services has also been expanded. Disputes and debates undertaken by the General Assembly, and then by the Constitutional Commission, that concerned the shape of contemporary Constitution as well as practice of its functioning in the later years e.g. through judgements of the Constitutional Tribunal, operation of bodies appointed to supervise the state (e.g. the Ombudsman), possibility to apply the Constitution directly and deliver judgements pursuant to specific provisions of the act on cases referring to an individual (particularly the rights and freedoms of an individual), show that the Constitution has become present in the reality of the state and the citizens, resembling a kind of a *decorum* for the political system. Currently (since 2015), activities and language of politicians display a visible tendency to reject legal acquis, including the constitutional achievements of Poland after 1989, due to its communist and compromise origins, reinforcing the arrangements of the Round Table. It resulted in an attempt to depreciate the former axiological dimension of the Constitution and change the political system without amending the Constitution.

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[20] The symptoms of changes within the Polish political system, which did not constituted the actual change of the system, occurred already before 1989. The Supreme Administrative Court of Poland, which has been existing since 1980, was supervising the functioning of state administration in terms of its compliance with the Constitution, while the Constitutional Tribunal was established in 1982 and was responsible for supervision over constitutionality of law, and the office of Ombudsman was created in 1987 and considered cases related to infringement of rights and freedoms of individuals. According to Garlicki, "activities of the Ombudsman began to give a new legal meaning to the role of constitution [...] and made room for new concepts and ideologies, which allowed Poland to be ahead of other states of the "socialist camp" (Garlicki, 2002, s. 16). In my opinion, the indicated changes show a significant regularity (feature) of the first years of the transition: it began with a conviction of that natural boundaries of political power actually exist.

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Abstract

The time-frame covered by this work spans two dates which are very important to the history of Poland: the year 1989 when fundamental changes to Polish political system and the Constitution of the Polish People's Republic taken place; and the year 1997 when the Constitution of the Republic of Poland that comprehensively settled all aspects of political reality has been adopted by the parliament and then endorsed by the citizens in national referendum. The aim of this work was to illustrate the evolution of constitutional order that took place between the period of weak political stability characterized by numerous changes to the political system and the moment of adopting the act which comprehensively regulated all the issues affecting efficient operation of public authorities, protection of freedom and rights of individuals. The analysis of constitutional changes was supplemented with a description of political system that was present within the dates concerned.

Key words: Constitution of the Republic of Poland, political system of the Republic of Poland after 1989, changes of the constitutional system in Poland after 1989, transformation of the political system in Poland after 1989, Constitution

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Changes within the political system in Poland since 2015[1]

Change of a government often implies greater or smaller shifts within the country's political system understood as "the state apparatus, the political parties, organizations and formal or informal social groups that participate in political activities of the country as well as the entirety of principles and legal regulations specifying their mutual relations" (Podolak, Żmigrodzki, 2013, p. 11). Extent of those changes depends mainly on two factors. Firstly, the inconsistencies in political opinions between the outgoing and the incoming majority in the parliament. Secondly, on the number of mandates, which are available to the parliamentary majority (in a political system where the parliament plays the leading role). Furthermore, the less political parties is forming majority in parliament, the easier isto introduce any changes. Surely, the best solution is when a single political party disposes of a majority.

This work focuses on the vision of Polish political system after the year 2015. Adoption of such a timeframe is the result of a change in parliamentary majority, which has taken place after the parliamentary elections held on 25 October 2015. Every change in the parliamentary majority leads to certain shifts within the scope of the ultimate shape of country's political system. As it has already been mentioned in the above introduction, the extent of changes varies because it depends on factors that constitute a stimulus of changes within political system of the state.

As far as the first factor is concerned, we need to notice that the vision of political system advocated by the Civic Platform (PO) that governed between 2007 and 2015 in coalition with the Polish People's Party was considerably different from the political programme of the Law and Justice (PiS), which has won the parliamentary elections of 2015. What is significant, the differences were not caused by the oppositional stance of Law and Justice, but they rather had an ideological nature.

However, the second factor does not contribute to significant changes in political system. In elections to the Sejm, the Law and Justice party has won 235 of 460 mandates and gained the capability to independently adopt acts and resolutions which require a regular majority of votes (i.e. 231 votes). The party did not decide to form a parliamentary coalition.

This decision can be explained by the fact of holding majority of mandates in the Senate (61 of 100 mandates) as well as the fact of exercising office of the President of the Republic of Poland by Andrzej Duda, who candidate from electoral lists of PiS. Here it should be mentioned that, pursuant to the Constitution, in case of submitting

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[1] The article presents factual and legal state as of 31 December 2016.

amendments to an act of law by Senate, the Sejm can dismiss them only with an absolute majority of votes (Article 121, paragraph 3). However, in the last stage of the legislative procedure it may be required to obtain a majority of three-fifths votes due to a possibility of presidential veto (Article 122, paragraph 5). Nevertheless, the practice of previous years shows that the head of the state which comes from the same political group as the parliamentary majority is rarely vetoing acts of law. Good example is the period between 2010 and 2015, when the Civic Platform (PO) had parliamentary majority (in coalition with the Polish People's Party), while the office of the President was held by Bronisław Komorowski, whose political roots link to PO. Hence, the parliamentary arithmetic indicates that 235 mandates provides PiS with an unrestrained possibility to accomplish those assumptions of the election programme, which required legislative interference.

However, in the Sejm of 8th term the Law and Justice party does not have a qualified majority that is required to adopt many acts of law, particularly to amend the Constitution, which requires two thirds of the votes to be amended by the Sejm and an absolute majority in the Senate (Article 235, paragraph 4). The governing party disposes of the qualified majority only in the Senate (of the 9th term), since in the Sejm it is required to obtain support of more than 300 members, provided that such an important voting session will gather all of the Sejm members. The attempt to be supported by the opposition seems to be hardly achievable in relation to the views of other political parties of the parliament. Taking into account the above fact and considering the unofficial[2] withdrawal of PiS from the draft project of 2010 on amendment of the Constitution, the article will not present the proposals of PiS within the scope of the Constitution amendment. It is also difficult to create a coherent image of the Polish political system basing on the contemporary statements of PiS members. For that reason, this work will analyse only the normative changes and activities of the governing bodies within the period concerned.

1. The Constitutional Tribunal

The first years after PiS has taken the office were characterized by Sejm's appointment of five judges to the Constitutional Tribunal for vacancies, which have already been taken by judges selected by the Sejm of the previous term. On 25 November 2015, the Sejm of 8th term adopted five resolutions declaring ineffectiveness of acts on appointment of five judges to the Constitutional Tribunal by the Sejm of 7th term. The Sejm has also requested the President to refrain from taking the oath from the judges appointed by the Sejm of previous term. On 2 December 2015, the Sejm of 8th term has appointed five judges of the Tribunal. The President of the Republic of Poland has later taken the oath from judges appointed by the contemporary Sejm.

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[2] The draft project on amendment of the Constitution developed by PiS in 2010 has been removed from the official website www.pis.org.pl before the party won the parliamentary elections. See more: Redakcja Radia ZET, *Błąd 404? Nie u nas, mamy Konstytucję według PiS*, http://wiadomosci.radiozet.pl/Wiadomosci/Kraj/Blad-404-Konstytucja-wedlug-PiS-mamy-usuniety-plik-00013060.

That has triggered an argument whether the appointment of members to the Tribunal conducted by the Sejm of 7th term (2011–2015) and 8th term (2015–) conformed with the Constitution. The Sejm of 7th term appointed judges of the Tribunal pursuant to a new act of 25 June 2015 on the Constitutional Tribunal, which permits e.g. appointment of two judges, whose terms of office are to begin already after the Sejm of 8th term has been established. On the other hand, the Sejm of 8th term appointed judges of the Tribunal pursuant to the amended act of 19 November 2015 on the Constitutional Tribunal which assumed e.g. reappointment of judges selected by the Sejm of 7th term, introduction of tenure for the function of the president and the deputy president of the Tribunal as well as expiration of tenure for persons, who were holding the said positions at that time.

It seemed that the argument has been finally settled by the Constitutional Tribunal in two judgements on the appointments conducted by the Sejm of 7th term and the Sejm of 8th term. In a judgement of 3 December 2015, the Tribunal stated that appointment of the three judges, whose term of office was supposed to start already during the "old" term of the Sejm, was done in line with provisions of the Constitution, while appointment of the two new judges, whose term of office would start in the new term of the Sejm, was incompatible with the Constitution. On the other hand, the Constitutional Tribunal in a judgement of 9 December 2015 concerning the act of 19 November 2015 stated e.g. that the provisions relating to the re-appointment of judges do not comply with the Constitution. Due to uncertainties of the executive branch about conformity with the statutory procedure of enacting[3] the judgements delivered by the Tribunal, their publication did not take place before 16 and 18 December 2015. However, the President of Poland did not take the oath from any of the persons appointed by the Sejm of 7th term, which made it impossible for the Tribunal's president to incorporate the persons into the composition of the judiciary. At the same time, however, the president of the Tribunal did not approve jurisdiction of three persons appointed by the Sejm of 8th term for posts that have been already staffed by the Sejm of pervious term. According to the Tribunal, their appointment did not conform with the Constitution. As a result, only 12 of 15 vacancies for judges of the Tribunal have been manned. This situation has forced PiS to reform legal regulations on the Constitutional Tribunal, particularly the principles for appointing its judges.

On 22 December 2015, the Sejm of 8th term has changed many provisions of the act on the Constitutional Tribunal. As a rule, judgements were supposed to be delivered by the full composition of the Tribunal, which required presence of at least 13 judges (previously it was only 9 judges). Judgements delivered in full court required two thirds

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[3] On 10 October 2015, the head of the Chancellery of the Prime Minister has wrote in a letter to the president of the Tribunal that publication of the judgement is delayed due to uncertainty about correct composition of the Tribunal. Pursuant to the act on the Constitutional Tribunal, the Tribunal delivers judgements in full composition (at least 9 judges) for cases of "particular complexity or importance". Initially, through a resolution of 19 November 2015, the head of the formation ordered the case to be considered in full composition. Through Resolution of 1 December 2015, the Tribunal has decided to consider the case being composed of five members.

of judges, just like resolutions of the General Assembly.[4] The amendment allowed delivering judgements by a lower number of judges (7 or 3) in expressly specified circumstances. The act has deprived the General Assembly of the Constitutional Tribunal of the right to terminate mandate of a judge to the Tribunal and it has granted the right to initiate disciplinary proceedings against a judge to the Tribunal by the President of the Republic of Poland or the Minister of Justice, provided that the president of the Tribunal does not consider the proceedings unjustified. The act became effective on the day of its publication, i.e. on 28 December 2015. The first president of the Supreme Court, two groups of members to the Sejm, the Ombudsman and the National Council of the Judiciary of Poland have applied to the Constitutional Tribunal for investigating conformity of the amendment with the Polish Constitution.

The Constitutional Tribunal, in a judgement of 9 March 2015 (Ref. No. K 47/15), proclaimed unconstitutionality of the act *in toto* due to procedural reasons and some of its provisions. The Tribunal has also stated that, pursuant to Article 190, paragraph 1 of the Polish Constitution, judgements of the Tribunal are deemed final and have a generally applicable effect as of the moment of delivering, i.e. at the moment of announcing them in the courtroom. The Tribunal has also indicated that according to the Constitution the finality and common application of the judgement prevent them from being effectively called into question by other authorities of the state. However, these authorities are obliged to execute and respect it.

The judgement became a source of another conflict over the Constitutional Tribunal since it was delivering judgments not in accordance with the act on the Constitutional Tribunal (as amended on 22 December 2015), but pursuant to provisions of the Constitution. What's important, judgements were delivered by twelve judges, not thirteen as specified in the amended act. The judgement was not published by the executive branch because it was delivered by the Tribunal with a disregard for provisions of the amending act of 22 December 2015, which (as every normative act) enjoyed presumption of constitutionality (Zubik, Wiącek, 2009, p. 28), unless the Tribunal stated otherwise.

On 22 July 2016, the new act on the Constitutional Tribunal has been adopted. The most important provisions of the act include: 1) promulgation of certain judgements delivered by the Tribunal, selected with a temporal criterion (judgements delivered before 20 July 2016) and a material criterion (judgements concerning normative acts, which did not lose their effectiveness on the date when the act on the Tribunal of 2016 has come into force); 2) inclusion of judges, who have taken oath before the president, but did not start to exercise obligations of a judge; 3) postponing consultations in full composition upon objection of at least four judges; 4) change of the method for appointing president and deputy president of the Tribunal.

The act on the Constitutional Tribunal of 22 July 2016, similarly to the previously adopted interferences in legislation on the Tribunal, has also been appealed to the Constitutional Tribunal. This time by two groups of the Sejm members and the Ombudsman. Ten provisions, including those referring to the mentioned regulations, have

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[4] Pursuant to Article 190, paragraph 5 of the Constitution of the Republic of Poland, the judgements of the Constitutional Tribunal shall be made by majority of votes.

been called into question. The act has been published in the Journal of Laws on 1 August 2016, which (considering the statutory 14-day period of *vacatio legis*) meant that it should have come into force on 15 August 2016. However, before the date of effectiveness came, the Tribunal has considered the case and delivered its judgement (Ref. No. K 39/16). The act was declared partially unconstitutional. The Constitutional Tribunal has put into question 9 of 10 appealed provisions (including the amendments mentioned above in points 1–3), but did not questioned publication of judgements delivered before 20 July 2016. Once again, the Tribunal referred to the problem of validity of the judgement by indicating that provisions, which have been declared unconstitutional, lose presumption of constitutionality at the moment of announcing the judgement to the public. This has happened already before the analysed act of law came into force and started to produce legal effects. All the state authorities, including the Constitutional Tribunal, are obliged to refrain from applying unfavourable regulations of the act.

In November 2016, the Tribunal has issued one more judgement with reference to a petition submitted by a group of parliament members concerning compliance with the Constitution of the new provisions for appointing the President and the Deputy President of the Tribunal. In a judgement of 7 November 2016 (Ref. No. K 44/16), the Tribunal stated that statutory obligation of the General Assembly of Judges of the Constitutional Tribunal to present before the President the three candidates for the positions of the president and deputy president of the Tribunal does not infringe the constitutional patterns of auditing.

On 16 August 2016, when the above-mentioned act came into force, the Chancellery of the Prime Minister has published eighteen of the "overdue" judgements, except for judgements concerning the Constitutional Tribunal of 9 March 2016 (Ref. No. K. 47/15) and the above-mentioned act of 11 August 2016 (Ref. No. K 39/16). All of the later judgments of the Tribunal were not published.

Another act on the Tribunal has been adopted on 30 November 2016. It contained considerable changes within the scope of appointing the president of the Constitutional Tribunal in connection with the concluding term of office of the current president Andrzej Rzepliński. It specified that e.g. the General Assembly of the judges to the Constitutional Tribunal submits candidates to the President of the Republic of Poland within a month from the day of identifying a vacancy.[5] It also changed the principles for selecting candidates for the post of the president of the Tribunal because the General Assembly is supposed to suggest the President all judges who received at least 5 votes. However, the most important provision, which aims at restoring constitutional composition of the Tribunal (i.e. 15 judges), is a regulation specifying that the General Assembly is composed of judges, who have taken oath before the President. This implies obligation to allow three judges appointed by the Sejm of 8th term in December 2015 to participate in the Assembly.

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[5] On 22 November 2016, pursuant to requirements of the act of 22 July 2016 on the Constitutional Tribunal, the General Assembly has submitted to the President three candidates for the president of the Constitutional Tribunal. However, the provision specifying that the Assembly should feature at least 10 judges of the Tribunal has not been observed (Protokół, 2016).

Another regulation specifying the status of a judge in the Constitutional Tribunal has been adopted on the same day. It introduced, for instance, a transparency of asset declarations submitted by the judges as well as the obligation to allocate cases to a judge of the Constitutional Tribunal, who has already taken the oath.

The mentioned acts of law as well as the act that introduced provisions of the acts have been signed by the President on 19 December 2016. Already on the same day they were published in the Journal of Laws. Most of the provisions came into force after 14 days of *vacatio legis*, but some of them became effective already on the day of publishing the act. On 20 December 2016, pursuant to a new act on the Constitutional Tribunal, the President of the Republic of Poland issued a resolution which entrusted (for the time needed to appoint a new President of the Tribunal) the obligations of the president of the Constitutional Tribunal to a judge who had the longest professional experience within areas specified in the act. On the other hand, on 21 December 2016 the President of the Republic of Poland has appointed a new president of the Constitutional Tribunal on the basis of two candidates submitted by the Assembly of Judges.

Summing up, the legislative changes within the Constitutional Tribunal, which have been introduced by the government of Law and Justice, were not a manifestation of a new vision of the state political system, but they rather resulted from a desire to solve a legal argument related to composition of this body. Such changes, which strive to diminish the role of the Tribunal in the structure of state authorities (of which the governing party is accused), should have been done through amendment of the Constitution which expressly specifies that judgements of the Tribunal are final and binding (Article 190, paragraph 1). In practice, however, a partial paralysis of the authority that supervises constitutionality of the law was noticeable. Over four months, from December 2015 to March 2016, the Tribunal has issued only three judgements and all of them concerned its statutory regulation. The causes were attributed to the Sejm of 7th and 8th term, the executive power as well as the President of the Constitutional Tribunal.

Undoubtedly, interference of the executive authority is a step beyond its competences and position assumed by the current political system of the state. In this context we may state that executive power has been reinforced at the expense of the judiciary, which the Constitutional Tribunal is a part of. Moreover, activity of the President of the Constitutional Tribunal have also contributed to reinforcement of his position, which was not supported by changes in legislation. However, reinforced position of the bodies is not legally justified, remains temporary and does not influence on the political system. At the same time it should be noticed that the authority for supervising constitutionality of law shall not abuse its competence to issue final and non-actionable decisions that aim at correcting deficiencies of law because this weakens its authority and social trust. This would lead to a change of political system, which can be observed in several countries, and development of judicial supremacy in place of the principle of parliamentary power supremacy (Morawski, 2009, p. 64).

It seems that a dispute between the legislator and the authority responsible for supervision over constitutionality of law developed by the said legislator results from a non-exhaustive constitutional regulation and insufficiently precise regulations within the legislation. *De lege ferenda*, constitutional provisions should contain broader regu-

lations on the methods for appointing judges to the Constitutional Tribunal, which is a matter of great importance. In particular, the regulations should specify parliamentary majority in order to eliminate the thread of similar conflicts in the future.

2. Change within legislation on state auditing bodies and law protection

In every democratic state there is a group of auditing bodies that supplement the legislative, executive and judicial authorities. These are the authorities which primary objective is to control the executive power in the course of accomplishing tasks entrusted by the legislative authority. On one hand, these authorities are empowered by and operate to the benefit of the legislative power. On the other, we should bear in mind that the executive power comes from the legislative authority. Therefore, subjection of the auditing bodies to their principal (i.e. the legislative authority) should be rather limited in order to preserve their independence. One of the most important mechanisms that guarantee their independence is constitutional empowerment and relatively long term of office (longer than the term of office within the legislative authority), which does not overlap with the term of office in parliament. The Constitution of the Republic of Poland has a separate chapter dedicated to authorities of this type. Two of the three specified authorities have been attributed with a term of office, which (what's important) is longer than the four-year term of the Sejm. They include the President of Supreme Audit Office (6 years) and the Ombudsman (5 years). On the other hand, pursuant to current legislation, the term of office for members of the third one among the constitutional state supervision authorities (i.e. the National Radio and Television Council) is 6 years. In this place we can also mention the Ombudsman for Children (5 years) or the non-constitutional auditing and law-protection authorities such as: the Inspector General for Personal Data Protection (4 years) or the General Prosecutor (6 years, in times when the function was not merged with the post of the Minister of Justice). In most of the cases, term of office in the auditing authorities is longer than the terms of office for the Sejm and the Senate which take part in appointing them and remain entitled to dismiss them in expressly specified circumstances. Application of such a solution makes it impossible to fill the posts by the new parliamentary majority, which reinforces their independence. Any changes related to status of such authorities should be done with consideration to their auditing function, which may be accomplished only when independence from other bodies (particularly the executive branch) is guaranteed. This part of the work aims at analysing changes introduced by the Law and Justice (PiS) party after it has taken office.

2.1. Merged functions of the General Prosecutor and the Minister of Justice

As far as changes within the area of auditing and law-protection authorities are concerned, the government of PiS has introduced one significant amendment. The new act on prosecutor's office has come into force on 4 March 2016. It has merged the function

of the General Prosecutor and the Minister of Justice for another time as the posts used to be merged already in the years 1990–2010. Here it is worth noticing that (contrary to changes related to the Constitutional Tribunal) the solution has already been planned in the election programme of PiS, which specifies that "return to a model, in which the Minister of Justice is at the same time the General Prosecutor would conform with legislative tradition of Poland" (Election programme of the Law and Justice party of 2014, p. 65). Such a solution can be objected with the same arguments, which have been formulated before the functions were divided in 2010. Doubts are brought by the fact of merging functions of the General Prosecutor and the Minister of Justice, who (being a member of the government) represents a specific political group (Sierpowska, 2014, p. 8). Furthermore, pursuant to Article 7, paragraph 3 of the Act on the Council of Ministers, a member of the Council of Ministers shall realize policy determined by the Council of Ministers. It particularly relates to lack of objectivism of the Minister of Justice and the General Prosecutor during use of competence attributable to the other function. This may apply to a situation of participating in proceedings before the Constitutional Tribunal related to constitutionality of an act, the project of which was co-developed or even comprehensively created by a person acting at that time as the Minister of Justice (Bodio, 2009, pp. 13–14). Impartiality of the General Prosecutor within cases concerning infringement of law by the bodies of executive power is also doubtful.

On the other hand, we should mention arguments that support a merger of those two functions and has appeared during sessions of the Round Table. The circles around "Solidarity" perceived this solutions as a way to subject the prosecutor's office to supervision of the parliament. Supposedly, merger of those two functions was also influenced by the fact that General Prosecutor, who was at that time an independent and sovereign figure, has been often associated with a Leninist model adopted by the Constitution of the People's Republic of Poland (PRL), while the general objective of the legislator was to depart from solutions applied in the PRL,[6] without a thorough analysis of their appropriateness.

Merging the functions of the General Prosecutor and the Minister of Justice has been put into question before the Constitutional Tribunal by the National Council of the Judiciary, an authority which guards independence of courts of law and judges e.g. within the scope of attributing the Minister of Justice, who holds the office of the General Prosecutor, with a right to supervise administratively the activities of courts of common law. The case (Ref. No. K 32/16 and K 29/16) has not yet been considered before the Constitutional Tribunal. Furthermore, the act has been appealed against by the Ombudsman and a group of senators within the scope, in which it imposes on the prosecutor the obligation to obey instructions as to procedural steps that have been issued by the Minister of Justice, who holds the office of the General Prosecutor (Ref. No. K 19/16, Ref. No. K 20/16). This case also awaits consideration.

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[6] A. Frankiewicz, *W sprawie niezależności Prokuratora Generalnego w Polsce*, „Przegląd Prawa Konstytucyjnego" 2010, no. 1, pp. 191–192.

Merger of the functions of the Ministry of Justice and the Prosecutor General should be deemed a certain interference into the shape of Polish political system. It consists in reinforcing position of one of the representatives of the executive power (i.e. the Minister of Justice) by way of creating a possibility to interfere through the already held position of the General Prosecutor into activities of the judiciary. This results from the statutory right to apply certain auditing measures in relation to courts of law as well as the constitutional right to be a member of the National Council of the Judiciary, which is an authority that protects the judiciary (Article 187, paragraph 1, item 1).

2.2. Changes to the act on media supervising authorities

Any legal regulation on the media is not directly affecting the political system of the state. However, it should be remembered that media is called the fourth estate not without a reason (Braun, 2005, p. 5). Media are often more effective than the state authorities responsible for protection and supervision over the law and they are often referred to as the fourth estate (Sylwestrzak, 1992, pp. 87–94). As a consequence, the media are capable of forcing a change within particular decisions made by bodies of the executive branch or even influence on legislation adopted by the legislative authorities. For that reason, an independent body that guards the freedom of speech, the right to be informed and the rights of public interests in radio and television is often appointed. Furthermore, in Poland the National Radio and Television Council has gained the constitutional empowerment, which is a quite rare solution (Rzucidło, 2014, p. 886). The Constitution of the Republic of Poland specifies that the body guards the freedom of speech, the right to be informed and the rights of public interests in radio and television (Article 213, paragraph 1). The PiS was announcing changes within the media law in its election programme by identifying "the necessity to rebuild pluralism in media and give it an appropriate quality and prominence" (Election programme of the Law and Justice party of 2014, p. 142). In its election campaign, the Law and Justice Party has also indicated that "a condition, which allows achieving the latter objective, consists in transforming public media into an institution of public service and deviating from the structure of commercial companies. Their governing bodies will be appointed by the media regulatory body for a five-year term of office. The state will be governed single-handedly, and the maximum term of office will be 10 years" (Election programme of the Law and Justice party of 2014, pp. 142–143).

One of the most important changes in the amended act on the National Radio and Television Council was the shortened term of office for the current members of the management and supervisory boards in the Polish public television and radio broadcasting companies and appointment of new members (including the president of the management board as well as members of the supervisory board) by a minister who is applicable for the affairs connected with the State Treasury. The act has eliminated the requirement to organize a contest and obtain approval of the National Radio and Television Council. Supervision of the National Radio and Television Council over changes being introduced to statutes of public TV and radio companies has also been

removed. It should also be noticed that several months after the amended act has come into force, a separate legislation established the National Media Council. The Council has taken over the competence to appoint management and supervisory boards in state television and radio broadcasting companies from the minister applicable for the affairs related to the State Treasury. The Council is composed of five members, three of whom are selected by the Sejm, while the remaining two are appointed by the President of the Republic of Poland on the basis of suggestions from the largest parliamentary circles of the opposition. In this way, an important competence of representative of the executive power has been revoked. However, the criticism from e.g. the Helsinki Foundation for Human Rights (*Uwagi*, 2016, pp. 5–8) concerned creation of another body responsible for the public media, particularly because the National Media Council has taken over a significant competence of a constitutional authority of the state, that is the National Radio and Television Council.

The mentioned solutions have been appealed against by the Ombudsman who requested the Constitutional Tribunal to investigate constitutionality of those solutions, considering them contradictory to a principle of independence of the public media that results from constitutional guarantee of freedom of speech (Article 54, paragraph 1 of the Constitution) in conjunction with the media liberty (Article 14 of the Constitution). Pursuant to the petitioner, granting the minister of State Treasury an exclusive competence to appoint and dismiss management and supervisory boards in the public media as well as to develop their statutes (disregarding any role of the National Radio and Television Council) does not comply with Article 213, paragraph 1 of the Constitution.

In a judgement of 13 December 2016 (Ref. No. K 13/16), the Constitutional Tribunal considered unconstitutional those solutions of the amending act, which have completely excluded the National Radio and Television Council from participation in the procedure of staffing various companies associated within the public radio and television. Furthermore, the Tribunal declared it was unconstitutional to deprive this authority of competence to approve changes within statutes of public radio and television companies.

2.3. Changes within the immunity of auditing authorities

The government of PiS has also introduced changes that weakened independence of other bodies that can be counted among the supervising authorities, i.e. the Ombudsman, the President of the Supreme Audit Office, the Ombudsman for Children and the Inspector General for Personal Data Protection. One of the fundamental guarantees for independence of those bodies is the formal immunity, which provides limited liability (particularly criminal liability) of a person due to his or her function and during his or her term of office, with a possibility to waive the immunity.

In March 2016, the acts regulating functions of the above authorities have been changed. The changes consisted in regulating the procedure for waiving immunity of persons who were exercising the mentioned functions. Three elements of those proceedings were rising doubts.

Firstly, it was made possible to initiate procedure of waiving immunity by a private prosecutor. Although the same legislation applies to the process of waiving immunity of the parliament members, the mentioned state auditing authorities enjoy the privilege of being independent. Although they are liable before the Sejm, it seems that the liability should be precisely specified, rather than concern an explicit number of events such as e.g. defamation (particularly when a member of the governing party is the victim).

Another issue concerns inclusion of the General Prosecutor with the above procedures. In the submitted draft of the act, the General Prosecutor supposed to be the initiator of the proceedings. However, this has been changed due to protests from the part of e.g. the Ombudsman, who filed a petition to the Organization for Security and Co-operation in Europe (OSCE) with the aim to receive an appraisal of the project. The OSCE has advised to reconsider applicability of the Minister of Justice in the process of submitting petitions for Sejm's acceptance to hold the Ombudsman criminally liable in a public prosecution case or specify that the Minister of Justice is just an entity that submits the said petition (*Opinia*, 2016, p. 4). Pursuant to the adopted text of the act, the competence of the Minister of Justice is only formal because it consists in being an intermediary between the prosecutor and the Sejm. However, inclusion of an entity that belongs to the executive branch into the procedure of waiving immunity of an entity that supervises the first seems problematic.

Thirdly, only the absolute majority of votes in the Sejm allows to adopt a resolution on waiving immunity, which increases dependence of the authorities on the Sejm.

The solutions adopted in relation to the state auditing bodies have complemented a significant legal loophole. On the other hand, the solutions have limited their independence. It is another act of law which slightly amends the political system of the state without infringing the Constitution or its particular provisions. The regulation mentioned above has strengthened legislative and executive authority at the expense of the governing body.

3. Changes to the civil service

The problem of the civil service is not directly related to the notion of political system. The Constitution of the Republic of Poland excludes the possibility of politicization within administrative bodies. Pursuant to Article 153, paragraph 1, civil service in public administration bodies should be professional, reliable, impartial and politically neutral when exercising objectives of the state. Constitution of the Republic of Poland mentions members of the civil service once more by specifying that an official in the civil service cannot simultaneously be a member of parliament (Article 103, paragraph 2). Since a political system is understood as a variety of authorities and groups, which participate in political actions, the apolitical civil service is not consistent with this notion. Changes introduced to legal regulations on the civil service in 2015 arise doubts about apoliticism of that group of civil servants.

The Law and Justice party in its election programme has referred to problems of the civil service by advocating pursuit of "the actual dimension of an idea about pro-

fessional and apolitical officials" at the same time criticizing government of the Civil Platform for appointing own people to various positions (Election programme of the Law and Justice party of 2014, p. 51).

The government of PiS has adopted an act of law that amended the act on civil service. This, in consequence, brought doubts related to its conformity with the constitutional requirement of keeping the civil service apolitical. The regulations, which brought the most doubts and became the subject of an application to the Constitutional Tribunal submitted by the Ombudsman and a group of parliament members (a joint case under Ref. No. 6/16 and 8/16) of the previously governing Civic Platform include: 1) removal of provisions which guaranteed access to higher posts in the civil service through an open and competitive recruitment and introduction of appointment procedures; 2) elimination of obligation for the Head of Civil Service that prevented him or her from being a member of a political party within five years preceding the moment of taking the office, introduction of the only requirement of not being a member of a political party at the moment of taking the office and removal of an obligation to possess professional experience at appropriate posts; 3) termination of employment with relation to persons holding higher posts in civil service; their employment will be terminated 30 days after the act becomes effective (which happened on January 23), unless they receive a proposal of new employment; 4) substituting the Civil Service Council with Public Service Council. The Civil Service Council is composed of 15 members (term of office is 6 years), of which 6 was appointed by the Prime Minister from among persons who meet the statutory criteria, while the remaining 7 were appointed upon application of all the parliamentary clubs. Currently, the Public Service Council is composed of 7–9 members (term of office is four years), who are appointed by the Prime Minister.

The petitioners claimed that the changes will increase politicisation of the civil service. The appraisal of constitutionality of the introduced amendments shall be done by the Constitutional Tribunal, which has not yet considered this case. However, it may be stated that the introduced changes do not affect the political system of the state because they do not include (at least formally) the civil service in structures of the governing authority. On the other hand, the absence of parliamentary opposition in the advisory authority (the Public Service Council) should be appraised negatively. Taking into account the opinion-giving character of that body, it has no considerable impact on political system of the state.

4. Summary

The illustrated amendments introduced by PiS in the first months after it has taken the office are not a significant modification of the political system of the state. This is caused by regulation of similar in the Constitution of the Republic of Poland. As a result, the governing majority tried to amend legislation by observing particular constitutional regulations. However, there were doubts about the constitutionality of general clauses and principles. Hence, it should not be surprising that some of those solutions

have been identified by the Constitutional Tribunal as unconstitutional. The adopted solutions have been subjected to a wide criticism of the opposition and international organizations that operate towards protection of democracy (the European Union and Venice Commission). The critique is partially justified, but we should pay attention to a fact that the most commonly discussed problem referring to composition of the Tribunal has emerged actually before PiS took the office. Moreover, we should take notice of that all political parties aim at seizing political power. In the event of taking office, a political party strives to maintain it. Virtually all political groups, which take office in a country, make changes in legislation in order to strengthen its political power, which was noticeable in the previous term of the Sejm as well. However, the Constitution serves as a tool for limiting extent of those actions. This is manifested by the idea to regulate all the most important issues for political system of the state in the constitution and establish absolute majority that is required for its change. As far as the Constitution of the Republic of Poland is concerned from that point of view, it should be stated that majority required in the Sejm is considerably limiting possibilities to make instrumental changes. However, the Constitution of the Republic of Poland lacked several regulations that would exclude such instrumental changes within the general legislation. First of all, there is a shortage of detailed information on the manner of appointing the members of the Constitutional Tribunal. The easiest solution would be to determine the qualified majority for appointing a judge to the Tribunal, as it is adopted in constitutions of many other states, e.g. Hungary (Article 24, paragraph 4). There was also no constitutional regulation on the institution of the General Prosecutor as well as just a general delimitation of competence attributable to the National Radio and Television Council.

By appraising the changes from the perspective of the political system, we may notice a certain reinforcement of entities from the executive branch, particularly the Minister of Justice and, as a consequence, his immediate superior: the Prime Minister. The reinforcement proceeds at the expense of state auditing bodies and law protection. However, it should be stated that democratic mechanisms in Poland, and at the same time the democracy itself, is not threatened. However, the changes are not significant and remain under control of the Constitutional Tribunal and the state auditing bodies, which are competent to initiate an audit of the constitutionality of law. However, there seems to be a need for regulating certain issues on the constitutional level.

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Abstract

This work is a description of changes introduced to the Polish legislation system following the Law and Justice party has taken office in autumn 2015. Particular attention was paid to the disputes on the Constitutional Tribunal, which (due to constitutional guarantee of finality of its judgements) did not affect the shape of Polish political system. In turn, position of the president of the Constitutional Tribunal was partially and illegally strengthened and authority of this body was decreased in connection with his attempts to be a legislator. Changes within state auditing bodies and legal protection have also been illustrated. By appraising the changes from the perspective of the political system, the current author notices a certain reinforcement of entities from the executive branch, particularly the Minister of Justice and, as a consequence, his immediate superior: the Prime Minister.

Key words: Political system, democracy, constitutional court, prosecution, media

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The Polish model of democracy

Preliminary considerations

Discussions about democracy can be described as multi-dimensional and arise many questions. This is connected with a multi-year development of the political system and a considerable increase in the number of democratic states that took place in 20th century. As A. Antoszewski has indicated, "one of the central assumptions of democracy is to provide such a degree of compliance between the contents of binding political decisions and preferences of the citizens in order to avoid tensions between expectations of the public opinion and political decisions" (Antoszewski, 1997, p. 211). In this context it can be noticed that (in etymological terms) democracy is the power (rule) of people. However, analysis of the practice within majority of the contemporary democratic states shows that the actual power is exercised by the political elite appointed through cyclical and competitive elections (see more: Rachwał, 2013, pp. 69–82). Therefore, it is natural that some inconsistencies between the expectations of the public opinion and the decisions made by the political elite may arise. By referring to the issue of possible paths for eliminating the mentioned inconsistencies, it is worth emphasizing essentially the two primary stances. "The first of them underlines skills, qualifications and responsibility of the political elite. Supporters of representative (indirect) democracy claim that the general election law provides the possibility to select a representative and a stable government, which will be responsible for making the ultimate decisions. […] On the opposite there is the concept of participatory (direct) democracy that puts an emphasis on citizens' direct participation in decision-making processes. It is emphasized that increase in the level of employment as well as development of ICT technologies allow overcoming previous intellectual and technological barriers against popularization of the art of governing. It is also commonly accepted that increased influence of the individuals and their organization on the course of political processes is limiting the threat of destabilizing democracy through increase of its legitimization" (Antoszewski, 1997, p. 211).

David Held in his book *Models of Democracy* has illustrated a developed system for classifying democracies. However, he emphasized that the whole set of models (apart from the deliberative democracy) "can be divided into two general groups:
1) models of direct democracy or participatory democracy (of a decision-making system related to public affairs that includes direct participation of the citizens);
2) models of liberal or, rather, representative democracy (a governance system, in which the appointed «officials» decide to act as «representatives» of interests and/ or views of the citizens according to the «rule of law»)" (Held, 2010, p. 5).

The debate on classical and contemporary models of democracy is quite developed. Hence, it contains significantly more complex classifications. However, researches on the Polish model of democracy assume a dichotomic division that takes into account two models of democracy, i.e. the model of participatory (direct) democracy and the model of representative (indirect) democracy. The mentioned methodological assumptions make us lose some discrepancies (sometimes of key importance).[1] On the other hand, however, it allows for drawing perceivable models of democracy, which should be treated as two extremes of a continuity. This means that the actual democratic systems are usually positioned between the opposite poles.

For the purposes of this publication it was assumed that the model of participatory (direct) democracy is characterized by a permanent inclusion of the sovereign in the political decision-making processes, which means that citizens are not appointing their representatives, but rather settle the public affairs on their own. Certainly, such a model requires an operational government and public administration, which would be responsible for preparation of proposals and fulfilment of the decision made. A good example is provided by the democracy of Athens, which essence were the citizens' gatherings organized at a given place and time in order to make decisions on matters related to the functioning of the polis of Athens. "All important public matters were considered at the sessions and voted on by the citizens: legal regulations on the public order, finances and direct taxes, ostracism, evaluation of the army and navy as well as foreign affairs such as covenants, declaration of war or peace deals. The Assembly was delimiting directions for political involvement of the state of Athens. [...] However, the Assembly was too large to be able to prepare agenda of its own sessions, develop draft laws and direct the course of initiatives and political proposals. Hence, initiation and development of decisions on the public matters was the responsibility of the Boule [...]. Although the courts were slightly less oversized than the Assembly, the executive functions within a city were entrusted to the so-called magistrates composed of nine clerks each. Their members were appointed on a term of one year, while a individual citizen could be appointed to most of the administrative bodies not more than two times during his or her life" (Held, 2010, pp. 21–23). On the other hand, the model of representative democracy limits citizens' influence on public life and participation in elections. Hence, the sovereign affects functioning of the political system only through selection of the representatives, who then make all decisions about the public matters on its behalf.

The research aimed at analyzing the constitutional and statutory regulations which refer to instruments that allow Polish citizens exerting an impact on functions of the state. In this way, the main scope of the author's interests include such procedures as elections, referendum and people's petition. The analysis of legal grounds as well as illustration of the political practice was aimed at allowing to address the research problem which essence consists in the question about Polish model of democracy.

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[1] As D. Held has indicated, valueable learnings are provided by "differences between classical democracy, developmental republicanism, direct democracy and participatory democracy – even if all those types should be classified as a varieties of «direct democracy». Considering them solely as forms of this group would threaten to miss the differences that provide grounds for introduction of a more complex system of classification"; D. Held, *Modele demokracji*, Kraków 2010, p. 5.

Before starting the research, the current author assumed a hypothesis that Poland can generally be identified as representative democracy. Although the legislator has expanded the legal basis for various forms of direct (semi-direct) democracy during the period of political transition[2], such institutions as referendum or people's petition are still under control of the political elite. As a result, they have limited capabilities of modifying the model of representative democracy presented above (towards the model of participatory democracy).

The researches on Polish democracy model considered the national level, thus the legal regulations and practices within the local and regional levels (of a commune, poviat or voivodeship) did not constituted the basis for drawing the final conclusions. The timeframe covered by the research was 1989–2016. The starting point of this work is delimited by the beginning of political transition in Poland. By specifying the ending point, the current author wanted to refer to the most current state of the analyzed subject.

The first part of this article was dedicated to description of the most important events of the landmark year 1989 in Poland. The Round Table sessions, which were being held at that time, have brought agreements which allowed launching the essential stage of political transition in Poland. As far as this scope is concerned, broader elaboration concerns an agreement on political reforms and the process of its implementation (e.g. it addresses the problems connected with partially free parliamentary elections of June 1989). Further part of the article was dedicated to analysis of election procedures that applied in Poland in the period between 1990 and 2016. The research refers to circumstances around introduction of direct and general elections for the office of the President, whereas the problems of legal basis and practices during elections to the Sejm and Senate were also described. The researches on Polish model of

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[2] Taking into account the role do citizens in the decision-making processes, in this research I assume that it is necessary to distinguish the forms of direct democracy, semi-direct democracy as well as the representative democracy. For the purposes of this article we need to define the notion of "direct democracy" as well as the notion of "semi-direct democracy". According to the adopted terminology, the notion of "direct democracy" refers to a "decisive procedure which is comprehensively controlled by the citizens, who at the same time are able to submit a proposal and retain the right to make the final decision (or correct decision of the representative authorities). Thus, direct democracy describes a situation, in which the citizens are able to make a decision irrespectively of the willingness displayed among the political elite (the representative organs). In this way, a referendum organized in consequence of a direct people's initiative shall be counted as the institution of direct democracy. However, if organization of a referendum depends on willingness of the representative authorities, such a situation shall be defined as semi-direct democracy. It should be noticed that in the latter case, the citizens can make a decision, yet only upon prior approval of the political elite." On the other hand, the notion of „semi-direct democracy" refers to a decision-making procedures, during which "the citizens and representative bodies (political elite) cooperate with each other. Thus, it may essentially mean that the application is submitted by the citizens, while the final decision relies upon the representation organs. The reverse, however, is also possible because the political elite can put forward a suggestion, which is then considered by the citizens who are able to accept or reject it. What is more, the forms of semi-direct democracy can include any situations, in which citizens are part of the decision-making procedure at any of its stages, e.g. on the stage of social consultations"; M. Rachwał, *Funkcjonowanie obywatelskiej inicjatywy ustawodawczej w Polsce. Podstawy prawne – Praktyka – Perspektywy rozwoju*, Poznań 2016, p. 26.

democracy require addressing the role, which was played by the forms of direct and semi-democracy in the analyzed period. For that reason, the subsequent part of the article will address considerations about the legal basis and practice of using referendum and people's petition. The considerations are concluded by an attempt to identify the current model of democracy in Poland.

The landmark year 1989 – the beginning of political transition in Poland

In Poland, a non-democratic political system has been established after the Second World War. Its essence did not assume limiting political power through election procedures or application of various forms of direct and semi-direct democracy. Hence, the elections and referenda that were held in Poland have actually no influence on the political and social reality. The government was using the mentioned procedures, though a non-democratic state uses elections to achieve other goals that democratic countries. As regards the above-mentioned scope, it should be noted that as long as elections in democratic states can result in a change of the governing party, this is not possible in case of non-democratic states.[3] In 1990s, the political system of the People's Republic of Poland has undergone a slight modification. However, the breakthrough in the history of post-war Poland took place in 1989. In that time, negotiations between representatives of the government and a part of the opposition have been held. The Round Table sessions brought agreements[4], which allowed for initiating the process of political transition in Poland, i.e. the process of changes within the political and economic systems. As a result, a democratic system and a free-market economy have been created. As Z. Blok aptly noticed, political transition is also a process of changing the worldview. "We consider political transition as a global social process, which reaches deeply to all subsystems of the social system. […] Ultimately, the process will end only when it becomes mapped in the social conscience, i.e. when values that grew on the base of new quality of the social system become interpreted by significant groups of people and social layers" (Blok, 1993, p. 13).

From the perspective of the current subject, the most important is the agreement on political reforms, which was concluded during the Round Table sessions. The agreement was founded on "principles of the future political system which originated from the non-transferable right of the citizens to live in a country that comprehensively realizes sovereignty of the state" (*Porozumienia…*, p. 5). The essence of this agreement

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[3] More on the importance of elections in authoritarian and totalitarian states: M. Żyromski, *Rola i funkcje wyborów w systemach niedemokratycznych*, „Przegląd Politologiczny" 2016, no. 3, pp. 109–116.

[4] "The Round Table negotiations between representatives of the opposition and the government have begun on February 6, and ended on 5 April 1989. Two days later, the Sejm has adopted the so-called April amendment, which introduced the previous settlements. The adopted text of the agreements (developed at the Round Table – note M.R.) has been put in a form of three documents, i.e. stances on the matter: a) political reforms; b) social and economic policy as well as reforms of the political system; and c) political pluralism"; M. Dobrowolski, *Ustrój państwa w porozumieniach Okrągłego Stołu*, „Przegląd Sejmowy" 2009, no. 3, p. 80.

was the settlement on principles of evolution of the political system with the aim to provide citizens with e.g. the possibility to influence on personal composition of the representative organs. Although the agreement did not assume a wholly free and competitive elections, it constituted a major step towards establishment of a democratic political system. The concluded agreement resulted e.g. in re-establishment of the office of Polish president (the president was appointed in an indirect manner, i.e. by the General Assembly), the Senate (elected in free elections) and introduction of partially free elections to the Sejm. "This year's elections (of 1989 – note M.R.) shall appoint the Sejm and the Senate, in which various political forces will decide on the fate of the state. It is the beginning of a path to parliamentary democracy. The parliament elected in this year's elections has a task of creating a new and democratic constitution as well as a new and democratic election system" (*Porozumienia*…, p. 7). Later, it turned out that adoption of a new constitution has taken significantly more time. However, the next parliamentary elections (of 1991) were held pursuant to principles of democratic elections. This accomplished a political declaration that "the parties will do anything in order to guarantee that the composition of the next parliament is determined by the voters" (*Porozumienia*…, p. 7).

Thus, in 1989 the citizens participated in partially free elections to the Sejm (the so-called contract elections[5]) and wholly free elections to the Senate.[6] As it was already mentioned, the President has been appointed by the General Assembly. "The Senate acting together with the Sejm to create the General Assembly shall appoint the President of the first term by absolute majority of votes" (*Porozumienia*…, p. 10). In consequence of an agreement concluded at the Round Table, "the opposition has won (for the first time since 1947) the right to operate legally and be present in the public life. This applied to the actual opposition, not the structures which depended on the Polish United Workers' Party to a greater or lesser degree" (Ajnenkiel, 2001, pp. 341–342).

To summarize the above part of this work it should be emphasized that the events of 1989 (e.g. agreement at the Round Table, amendment of the Constitution, restoration of partially free election) have triggered the process of political transition. As a consequence of this process, the elections were no longer a fiction and the citizens through their activity have gained an actual right to influence on composition of the representative bodies. Consequently, they also became able to affect the shape of government and the directions of domestic and foreign policies. Not only were the elections of 1989 partially free, but also their results have started a process of changes that led to wholly

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[5] "Freedom of elections to the Sejm of 10th term will be limited by the distribution of mandates, which was agreed during the Round Table sessions. The agreement on distribution of mandates in the Sejm refers only to elections to the Sejm of the 10th term. […] Candidates, who does not belong to any party and were submitted by independent groups of citizens will compete separately for 35% of the total number of mandates to the Sejm" (*Porozumienia Okrągłego Stołu*, oprac. W. Salmonowicz, Olsztyn 1989, p. 8). Thus, 35% of mandates to the Sejm were the subject of a competition between non-party candidates submitted by independent groups of citizens, while 65% of the mandates were reserved for the hegemonic party (the Polish United Workers' Party) and its allies.

[6] "Freedom of elections to the Senate is not limited by any arrangement on distribution of mandates. The number of seats in the Senate, which is assigned to individual parties, will depend exclusively on the decision of the voters from each of the constituencies"; *Porozumienia*…, op. cit., p. 9.

free presidential elections of 1990, while the wholly free parliamentary elections took place in 1991. As A. Ajnenkiel has emphasized, "on 4 June 1989, the first partially free election after the Second World War has taken place in Poland. From the total number of 100 mandates, 99 were taken by candidates of the «Solidarity» [...]. The remaining 35% of unmanned mandates (in the Sejm – note M.R.) were distributed accordingly. It was a huge, even a sensational victory of the circles gathered around Lech Wałęsa and the «Solidarity»" (Ajnenkiel, 2001, p. 347).

Election procedures in Poland between 1990 and 2016. The national level

On 19 July 1989, the General Assembly has appointed General Wojciech Jaruzelski (from the Polish United Workers' Party) to the office of the President of Poland. In 1989, establishment of "the office of President has been justified by the need to maintain stability of the state and guarantee that decisions are made even if works in the Sejm and Senate become blocked or a long-lasting crisis of the government is present" (*Porozumienia*…, p. 10). According to decisions of that time, term of office for the president was set to six years. However, it turned out that W. Jaruzelski remained the President for slightly more than a year. "Just after the elections to self-governments (May 1990), the conditions for a considerable change in political system became rising. Wałęsa began to articulate social discontent and voiced willingness to participate in the governance. […] The September amendment of the constitution (1990) prejudges the significant change of the system […]. The direct and general presidential elections with a principle of the absolute majority have been introduced" (Raciborski, 2003, p. 82). According to the amended Polish Constitution of 27 September 1990, the President was elected by the Nation (Ustawa z dnia 27 września 1990 r. *o zmianie*…, Art. 1). "The elections are universal; the right to vote is available for every Polish citizen, who is at least 18 years old on the day of elections. […] The elections are direct; voters select the President of the Republic of Poland directly" (Ustawa z dnia 27 września 1990 r. *o wyborze*…, Art. 2 and 5).

The historically first general and direct elections for the office of the Polish President were the result of above-mentioned political conditions of the initial period of the political transition. As a result of the elections, the office of the President was taken by Lech Wałęsa. Hence, the first years of political transition featured a significant change of the way, in which the head of the state was appointed as in place of indirect elections, the direct elections were introduced. The indicated solution has been maintained in the Small Constitution of 1992 (Ustawa konstytucyjna z dnia 17 października…, Art. 29–30) as well as in the Polish Constitution of 1997. "The President of the Republic of Poland is selected by the Nation in general, equal, direct and secret elections" (*Konstytucja*…, Art. 127 par. 1).

In 1989, the office of the President was established (recovered) in place of the collegial head of the state, i.e. the Council of State. The first President was appointed by the General Assembly, while the other presidents came from direct elections. The office of the President of the Republic of Poland was held successively by: Wojciech

Jaruzelski (1989–1990), Lech Wałęsa (1990–1995), Aleksander Kwaśniewski (1995–2005), Lech Kaczyński (2005–2010), Bronisław Komorowski (2010–2015) and Andrzej Duda (since 2015). In this way, in 1990 the sovereign has gained the right to directly select the head of the state, which was confirmed by the next constitutional acts. However, such a manner of selecting the president is not necessarily in line with the current position of the Polish President within the political system. The model for general and direct elections does not conform with the weakened "concept of Polish presidency in the current Constitution (of 1997 – note M.R.). This controversial decision of the General Assembly (i.e. the body which adopted the Constitution – note M.R.) was based on the assumption that the Nation should not be deprived of similar entitlements, especially that the Nation has already accepted and become familiarized with these entitlements. Hence, it was clear that the decision was politically conditioned and it remain in a vivid disproportion to other general assumptions of the legislation, which form the basis for law-making decisions of the General Assembly" (*Prawo…*, p. 311).

Lech Falandysz emphasized that "the President who disposes of a relatively low competence could be appointed by the General Assembly, i.e. the combined chambers of the parliament". As the cited author added in later part of his statement, candidates for the office of the president "need to make some important and attractive promises in order to encourage citizens to participate in elections. Unfortunately, most of the time these are solemn declarations because the Polish president is not able to accomplish anything individually" (Falandysz, *Obiecanki…*). It should be emphasized here that, from the perspective of political situation of the Polish President, the universal and direct elections are debatable. On the other hand, from the perspective of the sovereign, it is worth noticing that Poles have accepted this manner of appointing the head of the state and now it would be difficult to change political system in order to introduce indirect elections. We should bear in mind that presidential elections enjoy greater interest than the parliamentary elections.

As it was mentioned before, in 1989 the partially free elections to the Polish parliament were held. Their result has launched the process of fast changes within the society and politics. Initially, it was assumed that parliament appointed in 1989 will be functioning until 1993. However, the scale and pace of changes that occurred in Poland and other countries of Central and Eastern Europe made it necessary to shorten the term of Sejm and Senate. "The unexpected pace of political changes in other states of the Central and Eastern Europe has shown that idea about maintaining the contract of 1989 becomes more and more anachronic. When the term of office of the President Jaruzelski was shortened and Lech Wałęsa was appointed, the Sejm remained the only element of the political structure, which was agreed upon at the Round Table. In the Sejm – and especially in the Senate – there was no serious opposition against shortening the term of office" (Wiatr, 2003, pp. 105–106). As a result, in 1991 early parliamentary elections were held in a completely democratic and free manner.

The law on elections to the Sejm of the People's Republic of Poland of the 10th term (Ustawa z dnia 7 kwietnia…), which was adopted in 1989, could be applied only once. Hence, the next elections required adoption of a new election law. "New law on elec-

tion to the Sejm of 1991 has introduced the principle of proportional elections in place of the majority system" (Stelmach, 2013, p. 54). The proportional representation formula adopted in 1991 has been maintained by the Small Constitution of 1992[7] as well as the Constitution of 1997. "The Sejm is composed of 460 members. The elections to the Sejm are general, equal, direct and proportional and they proceed in a secret voting" (*Konstytucja…*, Art. 96 par. 96). The personal composition of the Sejm is created during the general and direct elections as well. "The Senate is composed of 100 senators. The elections to the Senate are general, direct and proceed in a secret voting" (*Konstytucja…*, Art. 96 par. 97). According to provisions of the Polish Constitution of 1997, both chambers of the parliament are appointed for four-years terms.

Elections to the Polish Sejm between 1991 and 2015 "proceeded according to the proportional representation formula, however the method for converting votes into mandates and the size of constituencies were changing. In 1993 the election thresholds were introduced, while in 2001 the national candidate lists have been removed. It should be also mentioned that three methods for converting votes into mandates were applying during the period concerned: the Hare-Niemeyer method (in 1991), the Sainte-Laguë method (in 2001) and d'Hondt method (in the rest of elections to the Polish Sejm)" (Rachwał, 2017, p. 13). An important place during the whole political transition process has been taken by the issue of introducing the majority rule formula (or, alternatively, the mixed formula). "The supporters of majority rule formula justify the postulate by invoking an argument that such a manner of creating the composition of a representative body brings members of the parliament and the nation closer together (the position of a MP within a constituency is more important than his/her position in the management board of a political party). On the other hand, the proportional representation formula deprives voters of direct influence on composition of the parliament because the dominant role in the process of recruiting the political elite is played by election committees, which decide about the shape of the election lists" (Rachwał, 2017, pp. 17–18). In this way the supporters of the majority rule formula express their belief that such a manner of creating composition of the Sejm would increase the role of citizens in the election process and, consequently, their influence on the functions of the state.

Since 1989, the elections to the Senate are being held according to the majority rule formula and application of the relative majority (only in 1989, in order to win a mandate it was necessary to achieve the absolute majority). "The several-mandate constituencies were applying until elections of 2007. This changed after 2011, when 100 single-mandate constituencies were established pursuant to the Election Code" (Rachwał, 2016b, p. 270). Hence, the postulate formulated in relation to elections to the Sejm (i.e. establishment of single-mandate constituencies) has been achieved in case of elections to the Senate. By referring to the electoral practices it is worth to emphasize that "upon application of the relative majority, the majority rule formula leads

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[7]   "The Sejm is composed of 460 members who are appointed in general, equal, direct, proportional elections conducted at a secret voting"; The constitutional act of 17 October 1992 on mutual relations between the legislative authority and the executive authority of the Republic of Poland and the local government, Journal of Laws of 1992, No. 84, item 426 as amended, Art. 3, par. 1.

to a non-representative composition of the Senate. The largest political groups (election committees) dispose «in the other chamber» of considerably more representatives than the support expressed in percentage values that they receive. On the other hand it should be noted that the adopted election formula has marginalized the smaller political parties and the independent candidates" (Rachwał, 2016b, s. 269).

Thus, on the national level, direct elections apply to the office of the President, the Sejm and the Senate. Elections to the Sejm are held according to the proportional representation formula, while the personal composition of the Senate is created by way of applying the majority rule formula. Moreover, it should be added that elections to both chambers of the Polish parliament take place at the same time. Virtually since the beginning of the political transition, the political practice suggests that a party (election committee) which wins the elections to the Sejm is also the winner in elections to the Senate. As a result, both chambers of the parliament are similar in terms of their political image, which is proved e.g. by the elections of 2015. During elections to the Sejm, the Law and Justice Election Committee has won 235 mandates (51% of all available mandates), while during elections to Senate the winning party obtained 61 mandates (61% of all available mandates) (*Dane…*).

Direct and semi-direct democracy in Poland between 1989 and 2016. The national level

In 1987, the Sejm has amended the Constitution of the People's Republic of Poland of 1952 by introducing the institution of a referendum. The respective provision was worded as follows: "The working people govern the state also by expressing their will at a referendum. The principles and mode of holding the referendum are specified by the act" (Ustawa z dnia 6 maja…, Art. 1). In 1987, a national referendum on economic and political reforms was held pursuant to the mentioned provisions from the Constitution of the PRL (see more: Rachwał, 2010a, pp. 99–108). Hence, already before the main phase of political transition in Poland has started, the institution of a referendum was introduced to the political system.

The Small Constitution, which was adopted in 1992, specified that "matters of particular importance for the state shall be considered in a referendum" (Ustawa konstytucyjna z dnia 17 października…, Art. 19, par. 1). According to the adopted legal regulations, a national referendum could be held by the Sejm, or the President acting upon consent of the Senate. Furthermore, in 1992 a constitutional act on the manner of preparing and adopting the new basic law has been adopted. The act specified that "Constitution of the Republic of Poland, adopted by the Sejm and the Senate acting together as the General Assembly, is accepted by the Nation through a constitutional referendum" (Ustawa konstytucyjna z dnia 23 kwietnia…, Art. 1 par. 1). In this way, the legal acts of constitutional rank adopted in the first stage of political transition have introduced two types of national referendum into the Polish political system, i.e. a referendum on matters particularly important for the state as well as a constitutional referendum. The period between 1994 and 1997 delimits the

second phase of development of legal bases for application of various direct and semi-direct forms of democracy.

In 1993, an early parliamentary elections were held in Poland, during which "the politically and organizationally scattered and divided right has lost a total amount of about 35% of votes" (Godlewski, 2005, p. 58). These votes were cast on the right-wing parties (committees), which did not introduced their representatives to the Sejm because they did not exceed the voting thresholds. As a result, part of the political environment has decided to advocate a thesis that such a parliament should not adopt a new basic law because it is not composed of representatives of all political forces that are well-recognized within the society. The Constitutional Committee of the General Assembly has been "composed not only of the representatives of the parliamentary majority, but also the representatives of all political groups from the Sejm and the Senate. However, this did not saved the General Assembly from accusations that even though the Sejm and Senate dispose of legal legitimacy to adopt constitution, they have no political legitimacy because the composition of Sejm […] lacked representatives of 35% of voters who participated in elections of September 1993" (*Polskie…*, p. 105). Undoubtedly, the described situation constituted a problem, which was addressed through amendment of the constitutional act on the mode of preparing and adopting the Polish Constitution (Ustawa z dnia 22 kwietnia…). In order to increase legitimacy of the process of adopting a new constitution it was decided that the mentioned procedure can take advantage of two other forms of direct (semi-direct) democracy (apart from the constitutional referendum), i.e. the people's constitutional petition and introductory constitutional referendum (the referendum on principles forming a base for the future constitution). Hence, the procedure for preparing and adopting the new Polish Constitution could take advantage of three forms of direct (semi-direct) democracy: constitutional (obligatory) referendum, introductory (optional) constitutional referendum and people's constitutional petition. "The legislative initiative within the scope of submitting drafts of new Constitution to the General Assembly applies also to the group of citizens who support their project with at least 500,000 persons who are eligible to vote during elections to the Sejm." Accomplishment of the people's constitutional initiative was "permissible within 3 months from when the act enters into force" (Ustawa z dnia 22 kwietnia…, art. 1).

In 1995 the act on referenda was adopted (Journal of Laws of 1995, No. 99, item 487 as amended). It has regulated the principles and the manner of conducting referenda on matters of particular importance for the state as well as referenda stipulated in the procedures for adopting new basic laws. What's important, the act of 1995 on referendum has introduced an institution of the people's petition into Polish political system. Thus, the citizens of Poland gained the right to submit petitions for organizing a national referendum. "The Sejm can decide on subjecting a given case to a referendum upon an initiative of a group of citizens, who support their application with at least 500,000 persons eligible to participate in elections to the Sejm. A referendum organized from the initiative of a group of citizens cannot refer to expenses, incomes and defense of the state as well as amnesty" (Ustawa z dnia 29 czerwca…, Art. 6, par. 1). The mentioned act has introduced (which was then maintained by the

act of 2003[8]) a people's referendum petition in an indirect form (a petition submitted by the citizens is not binding for members of the parliament, who have the right to adopt or dismiss it).

When the Constitution of 1997 has entered into force, it concluded an essential stage of developing legal basis for the institutions of direct and semi-direct democracy on the Polish national level. Authors of the new constitution specified two solutions for the scope concerned, i.e. the people's legislative initiative and the possibility to conduct a referendum to ratify given international agreements. In this way, the Polish Constitution of 1997 assumes two forms of direct (semi-direct) democracy within the national level, which include referendum and the people's petition. The mentioned institutions are not uniform in nature and we can distinguish the following forms of them[9]:

1) National referendum:
   a) on issues particularly important for the state;
   b) on voicing an approval to ratify an international agreement, under which the Republic of Poland entrusts an international organization or international body with the specified competence attributable to the state authorities;
   c) on validating the act on amendment of the Polish constitution.[10]

2) People's petition:
   a) people's legislative initiative – applies to a group of at least 100 thousand citizens who are eligible to participate in elections to the Sejm;
   b) the initiative to start collecting signatures under an application to organize national referendum on particularly important issues (people's referendum initiative) can be utilized by a group of at least 500 thousand persons who are eligible to participate in the referendum.

In a summary of the above considerations it should be indicated that the period of political transition in Poland distinguishes two stages of development of legal bases for application of various direct and semi-direct forms of democracy. The first stage is delimited by the year 1992, while the second refers to the period between 1994 and 1997. The legal order, which has been shaped in that time, applies to this day in a slightly modified form.[11] By reference to basic elements of construction, it is worth noting that all national referenda have a top-down and optional nature. An optional referendum means that the law permits, yet it not specifies, a requirement to conduct a general voting on a given decision-making process. On the other hand, the top-down referendum is characterized by that it is organized upon a decision of the representative authorities (the political elites), which is the opposite of bottom-up referendum that is organized by citizens through submission of direct people's petition. On the other hand,

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[8] Act of 14 March 2003 *on national referendum*, Journal of Laws of 2015, item 318, Art. 63.

[9] Developed basing on: 1) the *Constitution of the Republic of Poland of 2 April 1997*, Journal of Laws of 1997, No. 78, item 483 as amended, Art. 90, 118, 125, 235; 2) Act of 24 June 1999 *on legislative initiatives of citizens*, Journal of Laws of 1999, No. 62, item 688 as amended; 3) Act of 14 March…, op. cit.

[10] The referendum may be held, when the "act on amendment of the Constitution refers to provisions of chapters 1, 2 or 12" (*Konstytucja*…, op. cit., Art. 235, par. 6). Hence, not every act on amending the constitution can be directed for verification through a referendum.

[11] This article takes into account the legal state as of 31 December 2016.

both forms of the people's initiative has an indirect nature, i.e. the citizens can submit a draft act or an application to organize national referendum, yet the ultimate faith of the people's initiatives remain in the hands of the state representatives. What is important, "a group of voters who take an initiative has no instruments which would provide the right to undermine the respective resolution" (Rachwał, 2010b, p. 198).

In the period concerned (i.e. between the years 1989 and 2016), five national referenda were held, although there were much more initiatives within that scope. The organized referenda concerned the following matters: universal restitution of the citizens (1996), selected directions for allocating the state assets (1996[12]), ratification of the new constitution (1997), Polish accession to the European Union (2003), introduction of single-mandate constituencies during elections to the Sejm, principles for financing political parties, interpretation of the tax law for the benefit of the taxpayer (2015).[13] Taking into account the experiences to date it should be emphasized that only one referendum (i.e. the referendum on Polish accession to the European Union) had a turnout that exceeded 50 per cent.[14] Achievement of the specified voter turnout is crucial because the Polish Constitution specifies that "a national referendum, in which more than a half of eligible voters took part shall be deemed binding" (*Konstytucja…*, Art. 125, par. 3). In this way, if turnout during a referendum does not reach the level specified in the constitution, the voting result is not binding and such a referendum is not constitutional (binding) in character, but has rather an opinion-giving (consultative) nature.[15] The result of constitutional referendum was also considered binding, although the turnout amounted to less than 43 per cent. The mentioned situation resulted from a solution whereby the outcome of the referendum was binding without regard to the turnout. "The Constitution is adopted through a referendum when majority of the voters supported it" (Ustawa konstytucyjna z dnia 23 kwietnia…, Art. 11, par. 1).

Results of the remaining referenda (of 1996 and 2015) were not binding due to low turnout. Particularly unfavourable experiences are connected with the referendum of 2015, when the turnout reached 7.80% (Obwieszczenie PKW z dnia 23 listopada…). Here we can formulate a hypothesis that the referendum will serve as a considerable

[12] In 1996, two different referenda were held on the same day (18 February 1996), i.e. the voting organized by the Polish President upon consent of the Senate (the restitution referendum) as well as the voting organized by the Sejm (the referendum on directions for allocation of state assets).

[13] A broader elaboration on the mentioned referenda has been undertaken e.g. in the following publications (sources): 1) M. Rachwał, *Demokracja bezpośrednia w procesie kształtowania się społeczeństwa obywatelskiego w Polsce*, Warszawa 2010, pp. 166–187; 2) A. K. Piasecki, *Referenda w III RP*, Warszawa 2005; 3) J. Kuciński, *Demokracja przedstawicielska i bezpośrednia w Trzeciej Rzeczypospolitej*, Warszawa 2007, pp. 233–281; 4) *Resolution of the President of the Republic of Poland of 17 June 2015 on organization of national referendum*, Journal of Laws of 2015, item 852.

[14] The voter turnout in a referendum on ratification of the Treaty on accession of Poland to the European Union amounted to 58.85%. Accession to the European Union was favoured by 77.45%, while 22.55% of the voters were against; The notice of the National Election Commission of 21 July 2003 on the revised result of national referendum related to ratification of the Treaty on Polish accession to the European Union, Journal of Laws of 2003, No. 132, item 1223.

[15] The only exception is referendum on validating the act on amendment of the Polish constitution, which result is binding without regard to the turnout. "A change to constitution is adopted if it was supported by majority of the voters"; *Konstytucja…*, op. cit., Art. 235 par. 6, sentence 3.

argument for the opponents of this form of direct (semi-direct) democracy in Poland. By summoning the fact of very low social participation, it will be possible to argue that Poles are not interested in this form of influence on the functions of the contemporary democratic state and, thus, further referenda shall not be organized in the future. However, it seems that low turnout was not caused by citizens' lack of interest in the very subject of the voting, but it rather resulted from the context, in which a decision to organize the referendum was made. The decision to organize the referendum was made by the then President of the Republic of Poland Bronisław Komorowski just after the first round of presidential elections, when he was slightly losing the competition with Andrzej Duda, the candidate of the Law and Justice party. The voters could treat the quite unexpected decision to organize referendum as an element of election campaign of B. Komorowski and opposed such instrumental attitude to this form of direct (semi-direct) democracy by not participating in the referendum.

Taking into account functioning of the people's petition it should be recalled that legal bases for application of the three forms of that institution were actually present during the period covered by the research and included: people's constitutional initiative (it was applied once for the procedure of adopting the Polish Constitution of 1997[16] and is now inactive), people's referendum initiative and citizens' legislative initiative. Experiences connected with the functions of people's petition indicate that members of parliament are prone to accept people's applications to organize referendum on matters particularly important for the state. Even though eight applications have been submitted (e.g. on reprivatisation, Polish political system, pension rights, education system), so far[17] no referendum has been initiated directly by the citizens (see more: Rachwał, 2016c, pp. 150–151). In this way, another bottom-up national referendum was held in Poland.

Undoubtedly, the most popular form of a people's petition was the legislative initiative. Between the years 1999 and 2015 "a total number 143 initiatives to submit a civic draft of an act of law were undertaken and 53 of them were successful i.e. fulfilment of all requirements specified by the applicable law and, consequently, a successful submission of the draft to the Marshal of the Sejm" (Rachwał, 2016a, p. 167). What is important, most of the projects actually were not adopted. Until the end of 7th term of the Sejm (2015), only 11 acts have been passed on the basis of people's initiatives. "In order to show the complete perspective, it should be added that although proposals developed and submitted directly by the group of citizens have been considered, the adopted acts were quite different from the initial intentions of the applicants" (Rachwał, 2016a, p. 168). As a consequence, the legislative initiative of the people did not significantly affect the Polish legislation process. What is more, it should be noticed that constitutionalisation of the indirect form of the initiative allows representatives of the nation to maintain a full control over legislative process (the citizens are not able to set

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[16] The procedure of people's initiative has been launched only once and concerned a civic project developed actually by the Independent Self-governing Trade Union "Solidarity" (R. Chruściak, *Sejm i Senat w Konstytucji RP z 1997 r. Powstawanie przepisów*, Warszawa 2002, p. 12).

[17] As it was already underlined, this article takes into account the legal state as of 31 December 2016.

the law against the will of political elite, which is possible when the people's petition applies in the direct form).

Summary

After the year 1989 in Poland, the practical dimension in which direct (semi-direct) democracy forms were functioning, has slightly modified the model of representative democracy.[18] By reference to legal basis it should be emphasized that a national referendum has a top-down nature and its application is subject to a decision of the authorized public authorities (the Sejm or the President upon consent of the Senate). On the other hand, people's initiative has an indirect nature, which means that approval of a civil legislative initiative or a civil initiative for a referendum depends on the willingness of the political elite. "Such a limitation within the role of people results mainly from the aim to monopolize political power by persons holding mandates in state authorities, who unwillingly invite anyone to their empire. Indeed, the more extensive are privileges of the sovereign, the more limited is a position of particular bodies of the state" (Uziębło, 2009, pp. 93–94).

The evolution of Polish democracy model towards participatory democracy would be possible if solutions to increase citizens' rights in decision-making process were introduced. Similar solutions have been appearing in political discourse and they are being formulated by the parliamentary circles. An instance of the formalized conclusion can be the parliamentary project of an act on amending Polish constitution, which was developed in 2013 (Druk nr 1646…). As the petitioners specified in the grounds, "the project for amending the constitution is a realization of the principle of state's sovereignty and the conviction about benefits provided by expansion of citizens' political rights" (Druk nr 1646…). Essence of the project, which has been dismissed at the first reading session by the votes of the then ruling coalition between the Civic Platform and the Polish Peasant's Party, consisted in the following: strengthening of civil legislative initiatives, creation of people's referendum initiative in a direct form[19], introduction of a civic constitutional initiative.[20]

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[18] A similar situation occurs in most of the contemporary democratic states, although one of the significant exceptions is Switzerland. "The main assumption of democracy is people's participation in the state decision-making process. The larger is the scale of that phenomenon, the better it meets assumptions of the underlying ideology. The accompanying instruments include people's initiative, referendum or (rarely applied, yet common in political culture) the people's assemblies. A good example of a highly developed direct democracy is the Swiss model, often referred to as the «phenomenon». Switzerland is the only country, in which direct democracy institutions have developed to such a degree and undeniably it distinguishes itself from other democratic states" (M. Matyja, *Dysfunkcjonalność szwajcarskiej demokracji bezpośredniej*, Toruń 2016, pp. 10–11).

[19] "The Sejm organizes national referendum if the initiative is supported by a group of at least 1,000,000 citizens who are eligible to participate in elections to the Sejm" (Druk nr 1646, Sejm VII kadencji).

[20] "The project of an act on amending the constitution may be submitted by at least one-fifth of the statutory number of the Sejm members, the Senate or a group of at least 1,000,000 citizens who are eligible to participate in elections to the Sejm" (Druk nr 1646…, op. cit.).

Previous experiences suggest that a postulate to change legal basis in order to reinforce the role of citizens in decision-making processes as well as the decisions made in order to hold a referendum or apply a civil initiative remain the domain of oppositional parties. The mentioned political groups, after winning the majority in Sejm that translates into capability of taking over the political power within the state (e.g. allows creating the Council of Ministers), are often withdrawing from their previous declarations and they are not willing to apply direct and semi-direct democracy forms in practice. This conforms with a thesis that "apart from Switzerland (yet not quite completely) where direct democracy is deeply rooted, the instruments of direct and semi-direct governance of the people are just a tool created with consideration to citizens themselves, not for the benefit of the entities that associate them, particularly the entities of the opposition which can take advantage of them to develop their political position" (Uziębło, 2009, p. 102).

The current discussion can be summarized with a statement that a change of Polish participatory democracy model would in the first place require amendment of legal basis applicable to referenda or civil initiative, which depends on willingness of public authorities that participate in the procedures for changing the Polish constitution. In this way, the political elite should have taken a decision to significantly decrease their political influence and hand it over to citizens. This, from the perspective of previous experiences, seems to be highly improbable within the foreseeable timeframe.

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Abstract

The researches undertaken in this work aimed at addressing the questions about model of democracy that applied in Poland in the period between 1989 and 2016 (during the times of political transition). For the purpose of this research, the author distinguished two models of democracy, i.e. the model of participatory democracy and the model of representative democracy, which constitute two extremes suggesting that the actual democratic systems are usually defined within those opposite poles. The model of participatory democracy is characterized by ongoing inclusion of the sovereign in the political decision-making processes, whereas in the representative democracy model the citizens' impact on public life is limited to participation in elections (decisions are made by the state representatives).

The legal basis for mechanisms that enable the sovereign to exert an impact on the functions of Polish political system as well as the political practice lead to a conclusion that Poland is organized according to the model of representative democracy. The institutions of referendum and people's initiative have only slightly affected resolution of particular public issues. Indeed, the national level of the Polish political system has been constructed in a way to provide representatives of the state with a comprehensive control over decision-making processes.

Key words: democracy, participatory democracy, representative democracy, elections, referendum, people's initiative

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The transition process in Poland and Hungary and the neofunctional elitist paradigm

It has already been forty years since the first book which presented the idea of the so-called neofunctional elitist paradigm was published (Higley, Field, Grøholt, 1976). Nevertheless, this is still the newest theory of elite known to sociology and political sciences (Żyromski, 2007). The theory of elite, however, emerged already in the last years of 19th century in Italy. At that time Italians had already elaborated their honeymoon of the unification process (the so-called *Risorgimento*), which is illustrated for instance in many pictures and photographs gathered in the special museum (*Museo del Risorgimento*), placed inside the great monument (*Altare della Patria*) just in the centre of Rome – *Piazza Venezia*. The Italians became deeply disgusted by the constant change of governments, the corruption among politicians, and afterwards became afraid of the possible consequences of introducing the universal voting system in Italy. As a result, the Italian "founding-fathers" (Żyromski, 2012) of the elite theory (Getano Mosca, Vilfredo Pareto as well as Robert Michels later on) presented very sharp vision of the society. In their opinion there were only two important groups within the society: active organized elite and passive differentiated rest of the society. Hence, the theory of elite emerged in deep conflict with democracy. Gradually though, the process of constant relations (or perhaps even convergence) between the theory of elite and some theories of democracy could be observed. For instance, two years after the military coup in Poland of May 1926 Czesław Znamierowski (later the Professor of law at the Poznań University) published a very interesting book on elite and democracy (*Elita i demokracja*, 1928). Similarly to other proponents of the elitist theories he also opted for universal existence of elite in the society. Simultaneously, the democracy seems to form the best (but perhaps not ideal) political system. A question remains how would it be possible to combine the existence of elite with modern system of parliamentary democracy? Czesław Znamierowski enumerated and described two conditions: firstly, the elite has to be open (in contrast to the closed caste, it should welcome the best persons from the masses) and at the same time the elite should be composed of the best persons from the given society. Not only it means meritocracy but also the persons who take care not only for themselves but also (or rather in the first place) for the rest of the society. Later on this tendency had been continued by some theoreticians of democracy, such as Giovanni Sartori, Norberto Bobbio and Robert Dahl. The protagonists of so-called neofunctional elitist paradigm, however, took a single, yet a very significant step further. Namely, for them there is not only a strong need for coincidence between elite and democracy but also for possible forms of classifying key criteria of democratic systems.

The neofunctional elitist paradigm is elaborated by some scholars like Michael Burton, Richard Gunther or Jan Pakulski. However, almost every book or article refers to the figure of John Higley – professor emeritus at Austin (Texas). The definition of elite presented by this paradigm is very simple because in their opinion many features of elite depend on the given social and political system. "Elites are simply people who are able, through their positions in powerful organizations, to affect national political outcomes individually, regularly, and seriously. Elites thus constitute a nation's top leadership in all sectors – political, governmental, business, trade union, military, media, religious, and intellectual – including both 'establishment' and 'counterelite' factions." (Burton, Higley, 1987, p. 296). The most important value for protagonists of the neofunctional elitist paradigm is the stability of the political system. In order to achieve such the stability some elites of a given society have to cease the constant fights between them and gain some sort of unity. On the other hand, such the unity between elites can be founded on two, quite opposite bases. Firstly, elites functioning in the given society can share the same ideology (the so-called **ideologically unified elites**). We can find examples of this in totalitarian political systems that existed in Europe in the 20th century (especially the Third Reich in Germany, Stalinist Soviet Union and to some extent Italy during the rule of Benito Mussolini). Those cases confirm that unity of elites was achieved (or rather enforced) but at the expense of diminishing (or perhaps abolishing) human and citizen rights and liberties. Nevertheless, the unity between elites can be based also on commonly shared values (like in the so-called **consensually unified elites**) – values closely connected with the democracy and the rule of law. This model of consensually unified elites is certainly the best solution because it combines the unity between elites with the preservation of citizens' rights and liberties. Of course even in this situation some conflicts between elites could be found but these conflicts do not aim to annihilate the opposite elite. Moreover, such conflicts have to be in the realm of the liberal and parliamentary democratic system. At the same time, the so-called consensually unified elites create the first of two important factors for the so-called **consolidated democracy**. The second factor is the possibility for the citizens to participate in democratic procedures. Yet, it is a completely different question about how and to what extent the citizens would want to use these possibilities. John Higley, the chief proponent of the so-called neofunctional elitist paradigm described the system of consolidated democracies as "elective polyarchies in which open, peaceful political contestation and participation constitute the 'only game in town' […] Paying more attention to how consolidated democracy depends upon certain patterns of elite cohesion, elite correspondence with non-elites, and elite circulation can help to specify this regime type." (Higley, Pakulski, 1999, p. 117). The term polyarchy was introduced into the political sciences mainly by Robert Dahl (Dahl, 1971). Besides the above-mentioned ideal of consolidated democracy we can also find two systems that can be labelled as non-fully democratic. The first one is the so-called **unconsolidated democracy**, in which there is a possibility of universal participation of citizens in all the democratic mechanisms but at the same time there is no consent between elites even on some basic democratic values. Such a situation occurred for instance in the Weimar Republic in Germany (before 1933) and in Spain before the civil

war. It is interesting that both these cases led to the abandon of democracy in favour of authoritarian or even totalitarian political systems. Quite the reverse situation is called (at least in the neofunctional elitist paradigm) the **stable limited democracy**. In this system there is elite settlement but at the same time there is no possibility to engage in democratic procedures by a part (or even majority) of the given society. Such a situation existed for example in 19th century's Great Britain or Sweden where the process of gradual enlargement of the voting system could be observed. Nevertheless, this model leads to the system of consolidated democracy instead of any form of an authoritarian or totalitarian political system (as in the previously analysed model). Therefore, it can be presumed that for some protagonists of the so-called neofunctional elitist paradigm more important is the consent between elites (especially in the form of elite settlement) than even the universal participation in the democratic procedures. They also enumerated the fourth model, the so-called **quasi-democracy**. This model exhibits one stable elite group only and simultaneously the democratic procedures cover or mask its rule and dominant position within the state. As far as application of this model before 1989 is concerned, we can mention many countries of Latin America as well as some countries of our region of the Central and Eastern Europe. Nevertheless, it is doubtful whether such a system can be actually considered democratic.

The authors of the so-called neofunctional elitist paradigm devoted most of their attention to the system of consolidated democracy which they perceive as the best democratic system invented so far. In their opinion such a system can only be created in one of the three following ways:

1) the abandon of colonial or semi-colonial status (like in the USA, Canada, Australia or India) or the defeat in war (Germany, Austria or Japan);
2) the long evolution of the political system (like in Sweden or Norway);
3) the elite settlement.

Especially the last pattern (the so-called **elite settlement**) is very much discussed in books and articles written by the proponents of the so-called neofunctional elitist paradigm. They even wrote that "elite settlements consist of broad compromises among previously warring elite factions, resulting in political stability and thus providing a necessary precondition for the sustained practice of representative democracy." (Burton, Higley, 1987, p. 295). Initially, only four examples of such elite settlements could be found: England 1688–1989; Sweden 1809; Columbia 1957–1958; Venezuela 1958. The first example is especially interesting because the authors limited their paradigm to the industrial societies only. Undoubtedly, England in the end of the 17th century was on the verge of industrial revolution which took place about hundred years later. Nevertheless, the so-called Glorious Revolution of 1688–1689 was of great importance not only for England but for the whole political system of Europe as well. There was not only a change of the ruling dynasty but first of all it was the end of any dreams for absolute power in England, which can be illustrated for instance by the great (also in terms of its dimensions) picture of Charles II painted by sir Anthony van Dyck and placed in the London's *National Gallery*. "Elite settlements have two main consequences: they create patterns of open but peaceful competition [...] among all major elite factions; and they transform unstable political regimes, in which irregular

seizures of government executive power by force are frequent or widely expected oc-
currences, into stable regimes" (Burton, Higley, 1987, p. 295). There are two main
factors leading to the elite settlement – deep conflict which breaks unification of elites
and make them unable to resolve major economic or international crisis. "One is the
recent elite experience of costly, but also essentially inconclusive, conflict. [...] Eng-
land during the 1640s […] The second kind of circumstances […] is the occurrence
of a major crisis, which provokes elite action […]. In Sweden the crisis involved the
loss of Finland to Russia in 1808" (Burton, Higley, 1987, p. 298). Eleven years later
the same two authors devoted a separate article to the role of crises in processes of
elite settlement (Burton, Higley, 1998). In the first place, they underlined the great
difference between the elite configuration before and after the process of elite settle-
ment. "Prior to settlements, elites disapprove legitimacy of government institutions,
engage in unchecked fights for dominance, and view politics as winner-takes-all. After
settlements, elite persons and groups continue to be affiliated with conflicting parties,
movements and believes, but they share a consensus about the worth of institutions,
the codes and rules of political competition." (Burton, Higley, 1998, p. 47). Instead of
conflicts and sometimes even fights between different elites and/or other groups we
rather exhibit a desire to compromise and discuss. Nevertheless, competition remains
a constant feature of the democratic game. "Elites become accustomed, in other words,
in respecting one another's basic organizational and sectorial interests while engaging
in essentially peaceful and restrained competitions for government power that involve
appeals for the electoral support of somewhat conflicting mass interests and catego-
ries." (Burton, Higley, 1998, p. 47). This time the authors presented the list of twelve
(instead of four) elite settlements, which included Spain in the time following the death
of Franco, Poland and Hungary (in 1989) or South Africa (1992–1993). The process of
elite settlement, however, is still very rare. Even in the modern world in the beginning
of the 21st century rather the divided (or disunited) elites prevail, creating the system
of unconsolidated democracy in most favourable cases. But why the processes of elite
settlement are so rare? The proponents of the so-called neofunctional elitist paradigm
enumerated and analysed some factors and conditions that all have to be simultaneous-
ly met in order to make process of elite settlement successful. "The processes through
which settlements are accomplished unfold principally among a small circle of lead-
ers […] settlements are accomplished with considerable speed, seldom taking more
than a few weeks or months; the longer the process takes, the more likely it becomes
that blocking actions by elites outside the small circle will be effective. Second, set-
tlements entail face-to-face and secret meetings and consultations […] Third, some
formal document […] Fourth, settlements are typically and primarily the handwork of
established, experienced, and skilled leaders who have painful personal memories of
past conflicts […] Fifth, considerable elite autonomy from cadres and mass pressure
appears to be necessary." (Burton, Higley, 1998, pp. 55–56). Especially the last condi-
tion seems to be very uncommon in the modern world of mass communication. "Taken
with the other features we have noted, the need for substantial elite autonomy helps us
understand why elite settlements are so rare in modern history and in the contemporary
world." (Burton, Higley, 1987, p. 301).

Undoubtedly, for the authors of the so-called neofunctional elitist paradigm both Poland and Hungary were the two examples of post-communist countries which managed to accomplish a successful transition into a system of parliamentary democracy and market economy. Both the roundtable negotiations in Poland in 1989 and their effect in the form og parliamentary elections in June 4, 1989 began the process of transformation in the Central (and to a lesser degree) in the Eastern Europe. "This agreement laid the groundwork for a broad and lasting elite consensus about democratic procedures and such strategic goals as free market and integrating with the European Union." (Higley, Pakulski, Wesołowki, 1998, p. 9). After fifty years of communist or socialist power, the countries in our part of the Central Europe started building the political system of representative democracy and the socio-economic system of market economy. Already in 1995 both Poland and Hungary had been described by the proponents of the so-called neofunctional elitist paradigm as the leaders in process of creation the system of consolidated democracy. Some scientists predicted the "possible emergence of national elites that share a consensus on rules of the game and that are unified to defend democratic institutions. Prospects for such elites are judged to be the best in Poland, in Hungary, less in Czechoslovakia, poor in Romania, Bulgaria and Albania, and virtually non-existent in the Yugoslav republic." (Higley, Pakulski, 1995, p. 434). Moreover, in 1998 the four main patterns of elite transformation in Eastern Europe have been established :

1) "a negotiated settlement creating consensual elites" (Poland, Hungary, Czech after 1992);
2) "a sudden regime implosion and exodus of top communist leaders, their replacement by a congeries of liberal-democratic and national-populist leaders, and the reconstruction of states with new territorial identities" (Czechoslovakia, East Germany, the former Yugoslav republics);
3) "a limited liberalization of postcommunist regimes resulting in fragmented elites" (Bulgaria, Albania, Slovakia after 1992);
4) "a pre-emptive coup producing divided elites" (Romania, Ukraine, Belarus) (Higley, Pakulski, Wesołowski, 1998, p. 7).

Moreover, five years later (that is in 2003) A. G. Walder presented, in a separate article, different opportunities for elites in postcommunist countries:

1) "Communist hierarchies collapse, losing asserts and appointment powers. Ruling party shrinks into electoral party. High rates of elite turnover in both political and economic organizations. Limited mobility into propertied and corporate elites" (Poland, Hungary, Czech Republic, Estonia).
2) "Communist hierarchies survive and continue to exercise power. Privatization is delayed and slow. Low rates of elite turnover. Cadres retain posts but limits on privatization delays and restricts movement into new propertied or corporate elite" (China, Belarus, Vietnam, Tajikistan, Turkmenistan).
3) "Communist hierarchies collapse, losing asserts and appointment powers. Systematic privatization is chaotic and poorly regulated. High rates of turnover in political elite, but extensive opportunity for movement into propertied and corporate elites. Lower rates of downward mobility for old elite" (Ukraine, Russia).

4) "Communist hierarchies survive and continue to exercise power. Privatization is directed by old regime elites with few barriers to asset appropriation. Low rates of elite turnover. Formation of new propertied and corporate elite out of the old elite." (Uzbekistan, Kazakhstan, Kyrgyzstan) (Walder, 2003, p. 912).

When the process of political and economic transition in Poland had already started, there emerged also some analyses that employed the so-called neofunctional elitist paradigm as its main theoretical tool. For instance, in 2006 a very interesting book, which analysed Polish political elites that functioned in the government from 1997 up to 2004, was published. (*Elity*, 2006). According to the editor of this book (Jacek Raciborski), who expressed his opinion in the introduction, "the collapse of communist regimes in Central – Eastern Europe confirmed the theory of elite settlements, formulated in 1987 by Burton and Higley." (Raciborski, 2006a, p. 11). These researches contained the analysis of two completely different (in terms of both ideological profile and political background) Polish governments: the right-wing government of Jerzy Buzek (1997–2001) and the left-wing government of Leszek Miller (2001–2004). It is interesting that deep division into the postcommunist and postsolidarity parties was visible actually not in their political programs but rather in biographies and life careers of their chief proponents. "The politicians under scrutiny were active socially already in the primary schools – generally were excellent pupils and became chiefs of class groups." (Raciborski, 2006b, p. 79). Almost half (about 40%) of the members of Leszek Miller's government started their social and political activity already in the students organization – not only as the ordinary members, but rather as the activists. In the opinion of Jacek Raciborski it is very difficult to evaluate the political elite in contemporary Poland. "If we take the perspective of mature, consolidated democracy, in which political leaders usually have a long experience (mainly in institutionalized political parties and parliament) and gained education in the elite's universities, it is obvious that government elites in Poland do not fulfil these standards." (Raciborski, 2006b, p. 136). On the other hand, we must take into consideration the relatively short history of the representative democratic system in Poland, which results in lack of experience and competence among Polish politicians and even the government officials.

Undoubtedly, the successive process of elite settlements both in Poland and Hungary were facilitated by some important features of political leaders. Not only some representatives of the so-called opposition, but also many members of communist (or perhaps socialist) elites were rather open-minded and did not try to preserve their political power at all cost. "Transitions from state socialist to post-socialist regimes in Poland, Hungary and Czechoslovakia late in 1989 were initiated, negotiated and implemented through collaborations – which was more apparent in Poland and Hungary than Czechoslovakia – of the previous and the new elites […] The Hungarian transition resulted from roundtable talks between a hundred or more socialist and anti-state socialist leaders, most of whom were moderate – minded products of Hungary's 'goulash communism' during the 1970s and 1980s. They reached a rough consensus about creating a parliamentary democracy, a market economy based on private ownership, and participation in European integration" (Frić, Lengyel, Pakulski, Szomobanyi, 2014, p. 81). Moreover, already in 1970s and 1980s in some socialist countries (mainly

in Poland and Hungary) the "partial decentralization of power, a relative pluralization of elites and their widespread professionalization" (Higley, Kahlberg, Pakulski, 2002, p. 35) could be observed. On the other hand, many former socialist activists and/ or bureaucrats successfully transformed their political power into the economic and social power in the new system of market economy and representative democracy. For instance, the position of former president Aleksander Kwaśniewski in Poland testifies that "generally high degree of elite continuity is better understood as a consequence of how elites were evolving before communism's collapse. Gradual changes in the composition and orientation of elites enabled them to adapt" (Higley, Kahlberg, Pakulski, 2002, p. 36). At the same time this high level of elite continuity facilitated not only the process of elite settlement but also enabled the process of creation (both in Poland and in Hungary) the so-called consolidated democracy, considered by proponents of the so-called neofunctional elitist paradigm as the best model of a democratic system. "Although it sounds perverse, the essential continuity of elites is the one reason why democracy has been able to progress in Central and Eastern Europe. Democracy has not constituted a dire threat to most established elites." (Higley, Kahlberg, Pakulski, 2002, p. 38).

In spite of the fact that both Poland and Hungary could be treated as the leaders in processes of creating the consolidated democracy in Central and Eastern Europe, some difficulties (and also some differences between these two countries) soon emerged. Already in 1998 in Hungary the parliamentary victory of FIDESZ party signified the emergence of "increasingly authoritarian party apparatus" (Frić, Lengyel, Pakulski, Szomobanyi, 2014, p. 84). Besides, in 1993 death of Jozsef Antall and the lack of charismatic leader became soon very important for the democratic and liberal political forces in Hungary. In 2005 the parliamentary elections in Poland had been won by the "Peace and Justice Party (PiS) headed by the flamboyant Kaczyński Twin brothers" (Frić, Lengyel, Pakulski, Szomobanyi, 2014, p. 84). Nevertheless, just two years later the ruling coalition split out and in the parliamentary elections of 2007 the political and governmental power in Poland had been gained by "Europhile and rather pragmatic Civic Platform (PO), led by the politically talented but personally unassuming Donald Tusk." (Frić, Lengyel, Pakulski, Szomobanyi, 2014, p. 84). It is very significant (and quite unusual at the same time) that this very pro-European and rather liberal political party remained in power during two parliamentary terms (2007–2015). This very unusual situation occurred in spite of the heavy economic crisis which actually did not hit the Polish economy and no recession was observed. Hence, the metaphor of "Poland as the green island" in Europe became one of the significant motif in the propaganda of the Civic Platform. In the opinion of Heinrich Best and John Higley, "Poland, the least affected country before 2013 to Hungary, in which the crisis has greatly polarized politics" (Best, Higley, 2014, p. 19). At the same time, Hungary even in the beginning of 2000 noted quite a significant growth of GDP (*Gross Domestic Product*) of 4 per cent. Nevertheless, in 2002 FIDESZ had been replaced by socialists as the ruling party in Hungary. The economy stagnated in Hungary already in 2006. Hungary became the most heavily indebted country of the whole V-4 group (Visegrad) and in 2009 its debt reached even 158 per cent of GDP. Moreover, one of the leading Hungarian socialist politicians informed that "We have lied day and night" about the economic situation.

Thus, it was not surprising that in 2010 FIDESZ and Orban achieved the overwhelming victory in the parliamentary elections in Hungary. "Orban appeared to regard the FIDESZ victory as a license to make sweeping economic, political and social changes." (Frić, Lengyel, Pakulski, Szomobanyi, 2014, p. 95). He introduced and still continues the centralization policy in Hungary and he even managed to change the Hungarian constitution in that direction. "The mandatory retirement age was lowered from 70 to 62 in some professions (judges, doctors, professors, for example), thereby decapitating professions capable of contributing usefully to policymaking." (Frić, Lengyel, Pakulski, Szomobanyi, 2014, p. 95). However, after the intervention by some EU institutions the retirement age for judges had been increased to 65, some judges received even the financial compensations but the pensioners did not get back their lost positions. At the same time, the political elite in Poland seemed to be more consolidated and in 2010 the presidential elections won Bronisław Komorowski, representing the Civic Platform. "After accession in 2004, Poland received the biggest allocations of EU funds granted to any member state" (Frić, Lengyel, Pakulski, Szomobanyi, 2014, p. 88). These enormous sum of money (about 68 billion Euro) enabled to change the whole landscape of Poland. Most important investments included highways. "By the end of 2012 Poland has surpassed Russia in her *per capita* GDP (close to $ 22,000 purchasing power parity)" (Frić, Lengyel, Pakulski, Szomobanyi, 2014, p. 88). There were even some estimates that in 2016 Poland would surpass Portugal (as the first country of the so-called 'Old Union') in her GDP *per capita*. By the way, in 1939 just before the outbreak of the second world war the GDP in Poland had been greater not only than in Portugal, but also bigger than in Spain and some other countries as well.

There are very interesting and important questions why Poland and Hungary, i.e. two countries that had been labelled as the champions in the process of political and economic transition from one-party state and centralized economy into a system of representative democracy and market economy, nowadays seem to lead the populist processes and tendencies in Central and Eastern Europe? As it had been already mentioned in this article, Hungary with its overwhelming victory of FIDESZ and Orban in 2010 were the first to revert the course. Then, in spring of 2015 in Poland, a widely unknown candidate of Law and Justice Andrzej Duda won presidential elections (he got about half the million more votes that Bronisław Komorowski) – mostly thanks to his very active electoral campaign. Later on, in autumn of 2015, Law and Justice took the dominant position in both chambers of Polish parliament after parliamentary elections. That was partly a consequence of a split within the Left resulting in its greatest defeat after 1989 (there is no representative of the Left in Polish parliament at all). Nevertheless, for the first time since the 1989 one political party (i.e. the Law and Justice) had been able to construct the government without any coalition, taking at the same time the great majority in the upper chamber of Polish parliament (Senat) and having its own president. On the other hand, in sharp contrast with the situation in Hungary, even the majority gained by the Law and Justice do not permit to change the constitution as occurred in Hungary. That is perhaps the reason for constant and still lasting conflict over the constitutional tribunal in Poland. It seems there are two reasons (or rather two groups of reasons) for this situation: international and national ones. In referendum

held in the spring of 2016, a slight majority of voting population of the United Kingdom voted in favour of leaving the European Union (the so-called *Brexit*). It is interesting that in very next day the most frequently searched query in the Internet in United Kingdom was Brexit. It seems that quite a lot of people were not in favour of what they actually voted for. Then on November 8, 2016 (the anniversary of October Revolution in Russia), Donald Trump won the presidential elections in the United States, though he gained at about two millions votes less than Hillary Clinton. In France, the right-wing populist Marine Le Pen has a good chance to win the presidential election scheduled for the end of April 2017. The process of gradual abandonment of values connected with the liberal representative democracy observed nowadays in Poland and in Hungary is not something uncommon in the world. We can observe now the process of growing economic inequalities – it had been estimated that 85 richest billionaires (that can be placed in one London's double-decker) in the world has the similar economic position as the poorest half of world's population. Certainly and in spite of these general tendencies, we have also some factors characteristic for our region of the Central and Eastern Europe. The very fast process of economic transformation into the market economy is perhaps mainly responsible for the fact that majority of the "fruits" had been gathered by minor part of the society. It had been in perfect concordance with the liberal tendencies, represented for instance by the Civic Platform in Poland. But our region of the Central and Eastern Europe embraces not only Poland and Hungary. Then, why these two countries are now mostly affected by these populist tendencies? There is a well-known hypothesis in sociology that very big expectations often create very great frustrations – *revolution of rising expectations* transforms into the *revolution of rising frustrations.* Undoubtedly, some expectations in Poland and Hungary were much bigger than for instance in Czech Republic, which has the poorest index of corruption in the whole Central Europe. Moreover, Charles Tilly, one of the leading modern neofunctionalists noticed that most revolutions coincide with improvement of the economic situation, but at the same time most 'fruits' of this improvement are consumed only by the few. Perhaps such is the situation in Poland and in Hungary. Besides, the famous octopuses in Poland played the same role as the above-mentioned leaks in Hungary. On the other hand, even the victory of populist parties (or leaders) seems to be much better solution than the civil war, revolution on the streets or the gradual evolution toward the authoritarian political system – as occurred before the second world war in the most of European countries (in Poland after 1926).

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Abstract

The main goal of this article is to check the possibility of using the so-called *neofunctional elitist paradigm* to the analysis of transition process taking place in modern Poland and in Hungary. Although already forty years have passed since the first publication based on this paradigm emerged but it is still the newest elite theory. On the other hand this theory can be presented as the continuation of very significant researches which tried to combine the existence of elite with the functioning of modern system of representative democracy. For some protagonists of the so-called *neofunctional elitist paradigm* such the combination forms one of two criteria of classification of democratic political systems. For them there is not only the strong need for coincidence between

elite and democracy but such the possibility forms one of the important criteria of classification of democratic systems.

Undoubtedly, for the authors of the so-called *neofunctional elitist paradigm* both Poland and Hungary presented two examples of post-communist countries which managed to perform the successful transition to the system of parliamentary democracy and market economy. Both the roundtable negotiations in Poland in 1989 and in its effect the parliamentary elections in June 4, 1989 began the process of transformation in Central (and to a lesser degree) also in Eastern Europe. In spite of the fact that both Poland and Hungary could be treated as the leaders in process of creating the consolidated democracy in Central and Eastern Europe, some difficulties (and also some differences between these two countries) soon emerged. Already in 1998 in Hungary the parliamentary victory of FIDESZ party signified the emergence of "increasingly authoritarian party apparatus" (Frić, Lengyel, Pakulski, Szomobanyi, 2014, p. 84). Besides, in 1993 died Jozsef Antall and the lack of charismatic leader became soon very important for the democratic and liberal political forces in Hungary. In 2005 the parliamentary elections in Poland had been won by the "Peace and Justice Party (PiS) headed by the flamboyant Kaczyński Twin brothers" (Frić, Lengyel, Pakulski, Szomobanyi, 2014, p. 84). In 2010 FIDESZ and Orban achieved the overwhelming victory in the parliamentary elections in Hungary. He introduced and still continues the centralization policy in Hungary and he even managed to change the Hungarian constitution in that direction. There is very interesting and important questions why Poland and Hungary, it means two countries that had been labeled as the champions in the process of political and economic transition from one-party state and centralized economy into the system of representative democracy and market economy nowadays seem to lead the populist processes and tendencies in Central and Eastern Europe? In the spring of 2015 in Poland widely unknown candidate of Law and Justice Andrzej Duda won slightly (he got at about half the million more votes that Bronisław Komorowski) the presidential elections – mostly thanks to his very active electoral campaign. Then in the autumn of 2015 in parliamentary elections Law and Justice took the dominant position in both chambers of Polish parliament, in part because of split on the Left resulting in its greatest defeat after 1989 (there is no representative of the Left in Polish parliament at all). Nevertheless, for the first time since the 1989 one political party (it means Law and Justice) had been able to construct the government without any coalition, taking at the same time the great majority in the upper chamber of Polish parliament (Senat) and having its own president. On the other hand, in sharp contrast with the situation in Hungary, even the majority gained by the Law and Justice do not permit to change the constitution as occurred in Hungary.

Key words: Transition, Poland, Hungary, neofunctional elitist paradigm

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Political and social dimensions of the left–right division. The Polish case

Significance and functions of division between the left-wing and the right-wing parties

A well-established position of the metaphor referring to left-wing and right-wing parties depends on its significance within a given political system. The very foundation for sustainability of the dichotomic division is created by the language, which is composed of binary oppositions that impact the way of thinking and perceiving the reality. What is more, functionality of the both categories is supported by anthropological advantages. The analysed dichotomy resembles a framework of perception, which allows classifying the space and denoting the viewpoints. In the indigenous cultures, the left and the right sides of the body, particularly the hands, were associated with social structure and organization of the religious cult. In many cultures, the right hand is associated with life, dignity, strength and it serves for summoning divinity, burying the dead and signing treaties (Ignazi, 2003, p. 7). The dualism between left-wing politics and right-wing politics is not the only juxtaposition used by individuals to understand the political space. Researches on a notion of the political power are not able to avoid metaphors: "top – bottom", "forwards – backwards" (the Leninist concept of a political party as vanguard of the proletariat); "surface – deep" (understood as "on the stage – behind the scenes") (Dyrberg, 2009).

There are at least several other reasons for the exceptional sustainability of the discussed division within politics. By referring to political thoughts of Carl Schmitt, N. Bobbio pays attention to the fact that notion of politics itself already assumes opposition in the "friend – enemy" form. Hence, "it is not surprising that the most natural, simplest and common manner of representation is a dyad" (Bobbio, 1996, p. 51). The sustainability of the mentioned spatial metaphor is also proven by its symbolic performance and emotional efficiency. For that reason, P. Braud opposes the mechanical rejection of notions of the left-wing and right-wing politics understood as useless and considers them "sources for exceptional and symbolic gratitude within the public area" (Braud, 1995, p. 73). Use of the notions 'left wing' and 'right wing' triggers a great set of symbols or signs, which launch the reason and emotions. The French author distinguishes four categories of symbols connected with the labels of the rightism and leftism: the doctrinaire categories (Marxism, socialism, liberalism etc.) which allow individuals to gain an ideological identity; the so-called general subjects (classic or fundamental issue such as the respect for traditional values, protection of social wealth, redistribution of income

etc.) which attract the electorate; the moral and political virtues that arise favourable connotations (patriotism, freedom, solidarity); and significant, unusual and breakthrough figures or events (the October revolution, August 1989, elections of 4 June 1989, the so-called Revolutions of 1989). All those four categories constitute a symbolic resource whereby progresses the struggle for associating the opponent with pejorative connotations while relating own labels with favourable contents (Braud, 1995, p. 75). Efficiency of the political elite corresponds to usefulness of the electorate. Positioning on the scale of the right-wing and the left-wing provides a unification of aspirations which contradiction may result from contradictory loyalties originating from diverse social roles of an individual, creates a sense of satisfaction from being involved in politics, facilitates self-idealization and glorification of own choices and produces the sense of solidarity and community within a horizontal dimension.

By focusing on the effects noticeable within the sphere of emotions, which are created and modified by the analysed distinction, P. Braud does not position himself apart from the cognitive meaning of the analysed scale. The basic function of a dual categorization of the political space is reduction of complex and multi-dimensional reality and, ultimately, simplification of social, political and cultural problems. Continuum of the right-wing and the left-wing is a simplification and it functions just as a dimension, which comprises n-dimensions of reality that surrounds the individual (Karpiński, 2001, p. 6). "In order to be oriented and successfully participate in social communication, an individual does not need to master all potential meanings of ideology. It is enough to select certain elements of the culturally predetermined set of meanings and duly compare them with the poles of bipolar dimension between the left-wing parties and the right-wing parties" (Fuchs, Klingemann, 1990, p. 207). Both authors emphasize that the discussed spatial metaphor operates through three different mechanisms: a symbolic generalization, limitation and binary scheme. Symbolic generalization means that the used symbols are so general that they can be applied to diverse political phenomena. In this context, the symbolic performance of the division between the left-wing and right-wing parties would originate from its capability to be associated with a great number of phenomena (social issues, economic affairs, gender, ecology etc.). However, the unlimited number of connotations hinders communication. Hence, there is a need to limit the number of associations. Another mechanism for reducing excessive volumes of information is the binary schematization that manifests itself in capability to transform individual dimensions of the division between left wing and right wing into binary oppositions such as capital – work; progressive – conservative; atheistic – clerical etc.

In the source literature, once can distinguish two major approachrs towards the analysis of the notions of left and right wing. The first of them is described by P. Ignazi as instrumentalist, while the second as essentialist (Ignazi, 2003, pp. 8–12).

The instrumentalist approach

The instrumentalist approach indicates social and political structure of the division. In this approach, the right and the left wings are treated rather as "empty labels", which

are filled with meaning typical of a given social and political context. Instrumental interpretation of dichotomy assumes that it is just a tool for reducing the complexity of politics. Even if the citizens and researchers criticize validity of the category, its actual use is still common. This results from flexibility of the category which manifests itself in capability to adapt to local social and political context. Significance of the left-wing and right-wing parties should not be perceived as everlasting and constant essence, but rather as contents that change depending on the system of relations, which they are positioned in. As R. Remond writes with reference to one of the sides on the political scene, "a history of the right wing is largely the history of shifts and transitions which made the schools of though and ideological circles move from the left wing to the right" (Remond, 2008, pp. 112–113). Liberalism and nationalism are typical examples. The left-wing and revolutionary liberalism has moved to right-wing position after emergence of socialism in the first half of 19th century. The latter, associated with the right-wing of 20th century, a dozen or so years before was a manifestation of romantic and important for the left-wing ideals of self-determination of the people (Ignazi, 2003, p. 9).

The instrumentalist approach can also be defined as constructivist. Constructivism seems to be the closest to the analysed approach because it underlines meaning and emphasizes constitutive role of language as strictly related to context as well as the processes of social and political construction of the reality and criticism of essentialism. The constructivist perspective is free from the notions of right-wing and left-wing politics, which are independent of the social construction. These are not categories which exist naturally and independently of the manner, in which they are referred to. The notions are created in the process of interaction between the political scientists, the political elite and the general public, which fill them with meanings. What matters most is the way in which they function in the public sphere. Hence the context in which they appear, what meanings people attribute to them in order to understand the political space and how beneficial those divisions are for citizens and the political elite. In opposition to all those who perceived such attitude as relative and completely deprived of any substantial meaning, the attitude is characterized only by contextualism which forces questions about the details of social and political construction processes, including their history. Notions of the left-wing and the right-wing are the conventionalized metaphors which began to lose their metaphoric and social characteristics (Musolff, 2004; Charteris-Black, 2011). They were constructed in order to describe complex issues with less complicated terms, they are rooted within the history of European language of politics and discourse in individual countries to such an extent that they seem to be obvious. What is more, the political space described with the help of division between the left wing and right wing seems to be a natural sphere that existed already before the political actors had actually said or done anything. According to this way of thinking, political parties occupy position within space just like any other objects and a change of that position is perceived as a shift. Surely, perception of political reality encoded in metaphorical language is a convenience for the voters, who are able to judge on political parties and their programmes despite being not well oriented within the detailed issues concerning e.g. the budget. Hence, the political space and

the phenomenon of moving within that space constitute a useful, cognitive instrument for the voters. However, it should be emphasized that ontological status of those positions does not take the shape of a 'bare truth'. The political parties themselves actively develop the positions, which they eventually want to take. Furthermore, they want to convince the electorate that their political stances have such a nature. Relationship between the political party and the position, which it holds, is largely determined by the parties themselves. For instance, A. Hindmoor notices that political parties attempt to convince voters of being central through rhetorical self-presentation as a moderate force (Hindmoor, 2004, p. 54). Hence, political proposals are not left-wing or right-wing, but they are rather constructed within the political discourse.

The "essentialist" approach

According to supporters of this stance, the variability of meanings associated to the left wing and the right wing that depend on time and place does not overwhelm the entirety of the division and sustainability of its contents. The notions of right-wing parties and left-wing parties are not just a hollow classification "which may contain anything one really wants" (Bobbio, 1996, p. 74). One of typical procedures within the trend is to construct dichotomies that describe the true contents of the left and the right. For instance, according to A. Szahaj the concepts of left-wing parties perceive human as a good, trustworthy entity[1] and a plastic creature, which is a resultant of the intended (upbringing) as well as unintentional (socialization) influence of social structures and institutions. In this case, the non-conformist and deviant behaviour of an individual result from illnesses that consume social institutions, not the immanent wrongfulness of the individual. Such an attitude can be referred to as the anthropological optimism, which is opposed by the anthropological pessimism of the right wing that adopts sinfulness of human nature. If its actions are not restrained, they can bring unhappiness to the individual and the whole society. The left-wing parties underline importance of the conditions which surround the mankind. On the other hand, the right-wing parties emphasize the responsibility of an individual. Hence, the right wing is quite reticent about social activity, while the left-wing parties put emphasis on projects which eliminate defective structures and create those, which allow unleashing natural energy and social orientation among the people. The mentioned carefulness within the right wing arises from historiosophic scepticism, which distances from any social experiments. The right-wing parties prefer being subjected to a spontaneous processes and standardogenic roles of the Tradition. On the contrary, the left wing focuses on emancipation and believes in the Reason, rather than the Tradition, aspires to organize life according to its principles.

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[1] This is a considerable remark as there are concepts which date back to the so-called Pelagian heresy. According to it, a person from the right wing is a person who believes in the original sin, believes that good and evil are bound together within men. The left-wing parties adopt the views of Breton monk called Pelagius, who claimed that free will is able to remove effects of a sin, and reject the concept of men perceived as entities marked with the original sin. The left wing believes that evil can come only from evil structures (Millon-Delsol, 2002, p. 151).

Differences are visible also on the level of recognition of the sources and importance of the viewpoint. The right-wing parties assume that they are the traditional virtues. Religious faith gives a certain, unambiguous and ultimate moral and ideological vision. On the other hand, the left-wing parties are characterized by a tendency to relativize moral believes. What is more, the left-wing parties more willingly acknowledge privatization and pluralization of values. According to A. Szahaj, the left-wing parties highly appreciate freedom perceiving it as the condition that guarantees unrestrained choice of virtues as well as an area of unrestrained accomplishment of individual capabilities. Hence, if freedom becomes real, it is a value which allows accomplishment of the other values. In case of the right-wing parties, the highest value is the Truth, which individuals reveal in religion or traditions of a community. It does not eliminate freedom, yet significantly limits its scope. Right-wing parties perceive equality mainly as the formal equality of chances. On the other hand, the left-wing parties are more suspicious and strive for eliminating any differences between the actual and the formal equality (Szacki, 1991, p. 9). As far as relations between the individuals and the community are concerned, A. Szahaj states that "thoughts of the right-wing parties are organized along axis delimited by the individual, the family and the nation, while the left-wing operates according to axis delimited by the individual, the civil society, the mankind" (Szahaj, 2000, p. 220). Although the construction of A. Szahaj gathers and makes majority of the basic intuitions more coherent (which become apparent during discussions about the scope of meanings attributed to notions of the left-wing and right-wing), yet it is not impartial.

N. Bobbio is an advocate of equality understood as the only criterion that resists the damaging impact of time. However, this does not denote an absolute difference between the left wing and the right wing, but rather a difference within a degree. Thus, we cannot say that the right-wing parties are the elite, while the left-wing remain egalitarian. We should rather identify the left as more egalitarian that the right (Bobbio, 1996, pp. 75–83).

A. Lijphart, an eager supporter of the criterion of relation to the redistributive function of the state, values the importance of social and economic divisions within the Western societies. Empirical studies have visibly shown that the governing left triggered improvement in the public sector, increased the central budget, egalitarianism of income, increased efforts to decrease unemployment and heightened expenditures on social benefits. A. Lijphart has noticed four dimensions of the left-wing and right-wing attitudes to social and economic policy: 1) governmental versus private ownership of the production means; 2) strong versus weak role of the government in economic planning; 3) support versus the opposition of redistribution of wealth from the rich to the poor; 4) development versus resistance to social programmes of the government (Lijphart, 1984, pp. 129 and 132).

The emergence of new social movements in 1960s and 1970s in the western states, increase in income and relative decrease in disparities between social classes, focus on post-materialistic values, opposition to politics predominated with narrowly understood economic rationality (Offe, 1995; Grabowska, 1995), forced transformation from the massive political parties into representative parties, which directed their appeals towards the whole society, not the individual classes. The above changes has cre-

ated a necessity of including changes within the sphere of virtues, which were taking place in the last fifty years, into the economic division. Hence, contemporary analysis of the area of competition between political parties complements the economic dimension of left-wing and right-wing with cultural dimension that covers the space between cultural traditionalism and cultural liberalism. Such a matrix allows for associating left-wing parties with redistributive function of the state and social liberalism (e.g. minority rights, prostitution, abortion etc.), while the right-wing parties with limited emphasis on economic aspiration of the state as well as traditionalism within cultural and social spheres. However, such a point of view does not eliminate the problem with qualification of the political formations, which combine traditional values with attachment to social democratic solutions within economy as well as those solutions that affirm free market by rejecting the ideological conservatism.

Division between left-wing and right-wing parties in Polish politics

Analysis of the situation in Poland shows that the catalogue of problems connected with determination of the notions of left-wing and right-wing as well as the division criteria needs to be supplemented with a series of other difficulties that result from historical and cultural context. In case of Poland it is all about the sustainable effects of non-democratic system domination after the Second World War, which ideological legitimacy formula (that has its roots within the left side of political scene) served for supporting and mystifying political practice that has been far from what was expected. In the era of PRL, the government supposed to be the force of left-wing politics, which was inevitably pushing any other opposition to the right-wing position. The negative value, which has been attributed to the left side of the dichotomy as a result of disgrace of real socialism, has been determining right-wing self-definitions of all critics and opponents of PRL (hence the rightism of "Solidarity" – the worker's union, i.e. a structure traditionally associated with the left-wing politics[2]). Also the traditional association of the right wing with protection of the *status quo* and the left wing with social change has gained ambiguity because changes in the nature of the free-market (that proceeded in post-communist conditions) led to social inequalities and the entities involved within the transitions were able to define themselves as left-wing (as they were attacking the current state of affairs) or right-wing (because they accepted inequalities and market allocation of rare goods[3]). The mentioned difficulties were also triggered by the process of forming political parties, which in conditions of trans-

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[2] Critical work on relationship between "Solidarity" and the right-wing parties can be found in (Ost 2007).

[3] According to H. Kitschelt, G. Toka, Z. Masfeldowa and R. Markowski, the confusion is triggered by the fact that possibility to derive benefits from marketization of economy was often available to members of the then nomenclature (who disposed of appropriate contacts and information) which interests were connected with the right-wing ideology (free market), while their contacts and support concern post-communist parties referred to as the left-wing parties (Kitschelt, Masfeldowa, Toka, Markowski, 1999, p. 283).

formational uncertainty about interests and divisions within the society has not been proceeding according to the idea about relation between the society and the political parties advocated by S. M. Lipset and S. Rokkan, but it was rather resembling the theories of G. Sartori.

In general terms, the concept of S. M. Lipset and S. Rokkan assumes that creation of political parties is an answer to key divisions within society (it is common to define them as the socio-political divisions, i.e. social disparities which are politically significant) and the effect is a combination of two phenomena: politicization of the social disparities, interests and virtues as well as the process of socialization and rootedness of politics (Herbut, 2007, p. 152). Meanwhile, Poland was lacking a clear structure of collective interests. What is more, within the social dimension the structure was rather vague or inadequately perceived (Frentzel-Zagórska, 1994; Lipset, Rokkan, 1995; Markowski, 2000; Wasilewski, 1994). On the other hand, G. Sartori assumes that political parties are demiurges of the social world. They have a power to appropriate certain subjects, control political discourse, delimit the areas of cross-party conflicts, define interests and mobilize electorate around them (Grabowska, Szawiel, 2001, p. 308). Many authors pay attention to the fact that in Poland the second option prevailed in the first years of political transition. Creation and execution of political appeals of the party were not dependent on the structure of economic interests within the society (Antoszewski, Herbut, Jednaka, 1993, pp. 104 and 115; Grzymała-Busse, 2002, pp. 19–68; Szczerbiak, Hanley, 2004, p. 4). Taking a place within one of the sides in the political scene was probably a form of political self-staging, rather than an analysis of the electorate's interests. Furthermore, the political elite was adapting to interests and aspirations of the imagined society, not its real manifestation (Kurczewska, 1995, p. 13; Pankowski, 1995, p. 13; Grabowska, 1997, p. 52). R. Matyja underlines the key importance of disputes within the "Solidarity" which have been described as the "war above" of 1990 that forced political self-determination of many groups and induced use of the notions 'right-wing' or 'left-wing' (Matyja, 2009, p. 166). Political foundations of the division caused the later difficulties within processes of forming the left-wing and right-wing parties on economic grounds. In Poland, the division is mainly connected with uncovering the genealogical dimension that relates to the relationship with non-democratic past and since 2005 with the attitude to post-communist SLD, which was believed to be the successor of the said past. Thus, the polarization between post-communism and anti-communism was the dominant strategy of creating a division within politics (Antoszewski, 2002, pp. 148–149; Simon, 2001, p. 168; Wesołowski, 2000, pp. 68–69). Importance of the division based on anti-communism has eventually maintained after 2001, when the political power was taken over by the post-communist Democratic Left Alliance. On the basis of the Solidarity Electoral Action, which was a gradually collapsing right-wing coalition (that governed between 1997 and 2001) the following parties were formed: Civic Platform (referred to later on as: PO), Law and Justice (abbreviated in Polish to PiS), League of Polish Families (LPR) and they have been taking advantage of the anti-communism rhetoric to a varying degree (Lipiński, 2016). Moreover, the Law and Justice as well as the Civic Platform have been symbolically fighting for being legitimate to describe themselves as the

inheritors of "Solidarity" (Bielasiak, 2010). Also after 2005, despite the fact that PiS and PO (the parties that come from the circles related to the "Solidarity") have taken hegemonic position, the rhetorical strategies connected with anti-communism played a vital role in discretisation of the political opponent or definition of political situation (Lipiński, 2012). Genealogical division is supplemented with the axiological division, which relies along the axis between traditionalism and cultural liberalism and refers to relation with the Catholic Church, participation in religious practices or convictions (Jasiewicz, 2002). Its strongly antagonistic capacity is visible in all crucial events or references to many subjects being discussed in the Polish political space, beginning from the case of cross in the Sejm, through abortion, in vitro and gender, ending at the case of cross in the Krakowskie Przedmieście street in Warsaw which was placed in front of the presidential palace after the Smolensk air disaster of April 2010 (Antoszewski, 1995; Jednaka, 2002; Lang, 1994; Wesołowski, 2000). It is commonly observed that social and political division in Poland are dominated by ideological cleavage determined by relation to the past and the role of Catholic Church in the country (Herbut, Jednaka, 1994, pp. 148–149; Grabowska, 2005; Cześnik, Markowski, 2011). I. Słodkowska notices that the political structure in Poland is dependent mainly on factors that are unnegotiable, display characteristics of ideological choice and divide the political scene into two parts. The main axes of this division run along the attitude to Communist history of Poland, the relation to political vetting and decommunization, the rectification of victims of the non-democratic system and, finally, the ideological issues connected with the religion (Słodkowska, 1997, pp. 76–78).

Even in contemporary Poland, there still exists the classification problem in relation to the right-wing parties in cultural dimension of economic views (Słomka, 1997, pp. 140–141; Sobolewska-Myślik, 1999, p. 91; Markowski, 2007). This practice is the most noticeable disadvantage of political programmes, which are characterized by accidentality, incoherence and "uncorrelation" between economic, political and cultural standards (Jednaka, 1995, p. 129; Wesołowski, 1994, pp. 132–133; Sokół, Żmigrodzki, 1992–1993, pp. 41–44). What is more, criticism concerns also the internal diversity, that is the party's factionalism, which allows distinguishing left-wing and right-wing parties in relation e.g. to axiological problems, the party's vision about the economy etc. (Nalewajko, 1997, pp. 54–60).

Division within economic sphere is surely noticeable and perceived as one of the cross-party conflict planes. However, the division is not a decisive criterion that determines cross-party cooperation or, in other words, the exemplary manner of forming coalition (Antoszewski, 2002, pp. 148–149; Wojtasik, 2011). Secondly, we can identify a similarity within political programme of the party within social and economic aspect resulting from similaritiesbetween the electorates (Cześnik, Markowski, 2011, p. 116). Differences in stances of the right-wing and the left-wing parties do not apply to the essence of the free market, but rather to the extent or measure of its acceptance. Thirdly, as it was already mentioned, paying attention to the economic criterion can lead to results being inconsistent with the social perception as well as the declared identity of the party (e.g. positioning the Christian National Union or the Law and Justice parties in the left wing) (Nalewajko, 1997, p. 61; Wiatr, 2000, p. 27).

Division between left-wing and right-wing parties on the social level

The division between the right and the left as well as the overlapping division originating from attitudes to the authoritarian past (which is present within the political scene and puts its stamp on the political programmes and election campaigns, clearly identified by parties that have their representatives in the parliament as well as the extra-parliamentary opposition) has been a reflection of differences within the society (Jasiecki, 1998, pp. 76–81; Gortat, 1998, pp. 168–171). According to public opinion surveys, political choices of the Polish society are predominated by self-determination along the axis between the left wing and the right wing. Besides, between 1992 and 2001, over 80% of Poles were able to categorize their views as left-wing or right-wing. In researches of the Polish General Social Survey conducted between 1992 and 1999, the percentage of uncertain answers varied between 4% (June 1995) and 8.6% (June 1992). In researches conducted by the Institute of Sociology between 1995 and 2001, the percentage of people who declared "hard to tell" amounted to 20%. As far as the political trends are concerned, we need to underline that after change of the political system in 1989 the percentage of people who declared support for the left wing has considerably decreased – from 28% in 1990 to 15% in 1991. Declarations of support for right-wing parties prevailed until 1993. In 1994, the left-wing answers were given more frequently by 8 per cent than the right-wing (the percentage of people with the left-wing views amounted to 27%). Strong polarization of 1995 connected with the presidential elections (which was a competition between the then leader of "Solidarity" Lech Wałęsa and the representative of post-communist SLD Aleksander Kwaśniewski) has led to increase in number of people who identified themselves as right-wing – from 33% to 44%. During the years 1995–1998, the right-wing preference was strong. Sustained support for the right-wing parties resulted mainly from the institutionalization of cooperation between the right-wing parties in the form of the Solidarity Electoral Action. The disturbance arose by reforms which have been started by the Solidarity Electoral Action (AWS), conflicts with the coalition member within the government of AWS as well as internal conflicts within the AWS itself and between the right-wing parties have led to shifts in sympathies of the electorate (Szawiel, 2002).

Increase in social support for the left-wing, which has begun in 1999, led to victory of the coalition of the Democratic Left Alliance and the Labour Union in elections of 2001. In autumn 2001, the left wing noted 38–42% of social support, while the right wing 26–28%. However, already a year after SLD has taken rules, support for the left-wing became to decrease (CBOS, 2006). At the same time, the popularity of right-wing ideology increased, yet not before 2004 when the last phase of SLD's government has started. In the first phase of SLD's government, gradual decrease in support for the left-wing was not accompanied by increase in support for the right-wing ideology. The popularity of the right-wing parties increased its pace only in the last stage (CBOS, 2006). According to the TNS OBOP research institute, in 2004 almost half of Poles, when asked for their political preferences, did not choose any particular option. Within the remaining part, 12 per cent indicated the left-wing views, 9 per cent positioned themselves as centre-left and 11 per cent as right-wing. When dividing views

of the surveyed into three options, the left-wing was supported by 12%, the centre and the right-wing by 20%. In case of the bipolar division, the left-wing was favoured by 21% of the surveyed, while the right-wing supported 31% (TNS OBOP, 2004). In those times, the increasing sympathy to right-wing parties is visible. This brought good results for the right wing in general elections of 2005 and 2007. Moreover, the trend continued during the next years: in 2008, support for the left-wing parties has reached the highest value since the last 25 years (13%), and then began to vary between 14% and 17%. This phenomenon is accompanied by increase in popularity of the right-wing preferences. In 2008, as many as 33% of the surveyed have confirmed the preference for the right wing. What's characteristic, the radicalization of right-wing views is noticeable in the period between 2013 and 2015. In the first quarters of 2015, persons who declared to be radical supporters of the right constituted as many as 12% of the surveyed (and 37% of all supporter of the right-wing parties). This happened for the first time since the Public Opinion Research Centre has been analysing the issue of political radicality. Another characteristic feature is also the frequency of right-wing preferences among the young, which grows rapidly since 2014. On average, in the first three quarters of 2015 the right-wing views were supported by one-third (33%) of the surveyed in the age of 18 to 24 (CBOS, 2015).

We should also notice the far-reaching convergence (revealed by sociological studies) between the ideological self-identification adopted by the political parties (as left-wing or right-wing), their public image and the sense of ideological identity in the electorate (Żukowski, 2003, pp. 42–43; Markowski, Cześnik, 2003, p. 33; Haman, 2001, p. 74; Migalski, 2006, p. 53). For instance, in 2004 the preference for the left-wing that was declared among the electorate was connected with the support for SLD, favourable appraisal of its government and condition of the state as well as the faith in that other governments will not do better. On the other hand, the rightism was associated with support for the Civic Platform, critical appraisal of the state of national economy, the government of SLD as well as the belief that the opposition would form a better government (TNS OBOP, 2004).

Another characteristic feature of the Polish division between the political left and right is also that the basic social and demographic variables do not display significant correlation with self-identification as left-wing or right-wing. Self-identification within the left-wing or right-wing parties is hardly connected with social and economic problems. The situation has begun in the 1990s and it is still present now. Characteristic feature of the Polish political system is the fact that parties associated with the right-wing by the electorate and the experts (PiS, PO, LPR) have left-wing electorate in economic terms. What is more, in economic terms "the electorate of Law and Justice, a truly right-wing party, can be described as more left-wing than the electorate of the Civic Platform" (Markowski, Cześnik, 2011, p. 116).

It may seem paradoxical only if the point of reference are the models of division between the left wing and the right wing created on the basis of experiences from the Western European party systems (Antoszewski, 2004, p. 191). In Poland however, the content of the left-wing or right-wing identity focuses on the sphere of virtues and the relation to the communist past. The criterion of division is surely sociocultural. Poles

believed that the left-wing party is a party that was forming government before 1989 and its successors after 1989 (Pankowski, 1997, p. 77; Tworzecki, 1996, p. 191; Flis, 2010). The analysed dichotomy is visibly connected with relation to ideological and institutional forms of the political system before 1989 as well as to vital issues after 1989. Opponents of socialism and communism understood as the form of government, supporters of the Velvet Revolution, members of the "Solidarity" and those who have never been members of the Polish United Workers' Party and in 1989 voted in favour of the Solidarity, declare rather right-wing identity. Similar situation concerns persons who voted for Lech Wałęsa in the first general elections. Those persons advocate political vetting, declare trust in the Church and they are characterized by a higher level of religiousness (Grabowska, Szawiel, 2001, p. 252). The presented arrangements clearly reveal a great impact which historical experiences of Poland had on the spatial metamorphosis of the left-wing and right-wing parties. The experiences arouse social disparities according to relation to the past and relation to the attempts to settle it within the post-communist period. As M. Grabowska writes, they determined the political sphere and divided it into two bands: a post-Solidarity band and a post-communist band. The bands refer to voting behaviours of Poles, their political identity and ideological identity of the party or political groups as well as to models of cross-party competition (Grabowska, 1996, 1999, 2005). The historical event, which consisted in transition from communist system into democracy, has created a division that significantly influenced the process of forming political parties and electorate after 1989. "The parties that won in elections of 1989 were deeply rooted in the past and the biographies of men." This applied to politics, the processes of forming political parties, the traditions which they were summoning, the subsequent governments and elections. This applied also to the voters, for whom the events were connected with identities and practices (e.g. religiousness, listening to foreign radio stations) and affiliations (e.g. to the "Solidarity" or the Polish United Workers' Party) (Ibid., pp. 268–269). A significant differentiating element is the religious dimension, which has been incorporated in the division between the left and the right. The right-wing supporters more often participate in masses, they declare faith in God and approve the Church's position in the public life. Sustainability of the historical division between left wing and right wing was not changed by dominant position of the right-wing parties which developed after elections of 2005. The symbolic issues are still an important predictor of voting behaviour and they differentiate electorates of PO, PiS and SLD (CBOS, 2011, p. 17).

Public opinion survey of May 2015 confirms sustainability of the axiological and symbolic criterion, not the economic criterion understood as the base for differentiating the electorate into the left wing and the right wing. Political orientation manifested in the scale between the left-wing and the right-wing is not differentiating views with regard to the role of the state and the taxation system. Majority of the citizens support progressive tax and the idea about the state which provides a wide offer of social benefits (78–82% of the surveyed). Polish specificity is manifested by the fact that persons who declare support for the left wing less often favour the caring state over the linear tax. There is also a shortage of significant divergence in relation to opinions

about the market and its privatization. Division between the left and the right-wing politics is underlined in opinions about integration with the EU and introduction of euro in Poland. As many as 46% of persons having the left-wing preferences believe that Poland should strive for closer cooperation with the EU, while 29% of voters who support right-wing preferences think the opposite. Majority of the society is critical about introduction of euro, while the dominant role in this field is played by persons of the right-wing views. As many as 74% of them claim that Poland should not adopt the European currency at all. However, the greatest differences between the left, centre and the right refer to the sphere of virtues: relation between the Church and the state, the right of homosexual persons to enter into registered partnerships as well as abortion law. The surveyed, who support the left-wing, generally believe that concordat is not necessary (62%) and the state should not reward any of the churches in this way. To the contrary, majority of those who identify themselves with the right-wing parties claim that concordat in Poland is needed and somehow natural because most of the citizens belong to the Catholic Church (50% supporters of the right wing). Persons who prefer the left-wing parties more often accept the right of homosexuals to enter into registered partnerships and support liberalization of the current regulations on abortion (CBOS, 2015).

Conclusions

Division between the left-wing and right-wing parties has been and still is arising disputes about its pertinence, actuality and analytical usefulness. On one hand, the disputes refer to varying dichotomy resulting from a strong dependence on cultural and social context. On the other, the categories of left-wing and right-wing parties are a part of political competition for favourable position of the given party and labelling of the political opponent. In case of Poland, despite a constant instability of the party system, the division between the right and the left is consequently used by the players of political scene. The division is also utilized by the electorate to define the place of a political party within the political scene as well as to position own political opinions of the voters themselves. Secondly, there is also a significant convergence between the ideological self-identification adopted by the political parties (as left-wing or right-wing), their public image and the sense of ideological identity in the electorate. Thirdly, the basic social and demographic variables within the electorate do not display significant relation with the self-identification as left-wing or right-wing. Fourthly, the self-identification within the left-wing or right-wing parties is hardly connected with social and economic problems. Fifthly and finally, the fundamental criterion that differentiates the left-wing and the right-wing parties within the level of political party and the electorate in Poland is the axiological division as well as the division in relation to non-democratic past. The latter criterion has played a particularly significant role until 2005, when the political scene was predominated by the strong post-communist party. Currently, however, anti-communism is still a considerable aspect of the right-wing identity.

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Abstract

Division between the left-wing and right-wing parties has been and still is arising disputes about its pertinence, actuality and analytical usefulness. In case of Poland, despite a constant instability of the party system, the division between the right and the left is consequently used by the players of political scene. The aim of the article is to analyse the disputes over the significance and actuality of the dichotomy and depict the culturally and politically specific content of the division in the Polish context. Moreover, the paper attempts to scrutinize the functions it plays in the political system and the results of public opinion surveys pertaining to the self-placement at the ideological axis.

Key words: left, right, Poland, anticommunism, political divisions

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The development of civil society in Poland after World War II

Introduction

Experience of the cruel war and development of authoritarian and totalitarian regimes were conducive to a search for perfect models of the society and the state as well as their mutual relations. A true renaissance of the concept of civil society occurred between 1970s and 1980s in connection with transformational changes taking place in the countries of Central and Eastern Europe, especially at the time the Solidarity movement was born. Besides the demands on transforming the political sphere, the main idea referred to transition into a democratic and capitalist system, which was a key issue for activists of the opposition. This does not mean, however, that the period of Polish People's Republic has created the foundations for developing a civil society. According to Andrzej Antoszewski, the period of the Polish People's Republic features only 2 of 3 phases of civil society formation in Poland – the defective phase and the ethical phase. The third transformational phase began with the political changes that started in 1989 (Antoszewski, 2000, pp. 7–8). The larger part of today's definition of civil society is based on a finding that it is autonomous to social space of the state and it is rather a voluntary cooperation of affiliated units. However, the notion of civil society has plenty of definitions (See works of Klaus von Beyme, Andrew Arato, Jean Cohen, Michael Walzer). Nevertheless, there seems to be an agreement that civil society cannot be regarded as opposition to activities of the state, but as an intermediate structure understood as a public space between the realm of the state (in which individuals are involved in the process of creating political power) and the private sphere (which meets their needs). This definition is closer to the meaning of civil society represented by Alexis de Tocqueville than to the meaning advocated by other thinkers. The aim of this article is to analyse the historical development of civil society in Poland after World War II. Theoretical considerations will be based on selected concepts of civil society, including the concepts of Alexis de Tocquville and Antonio Gramsci as well as the concepts of contemporary theorists i.e.: Ralph Dahrendorf, Jürgen Habermas Edward Shils. The second part of the article will be dedicated to the socio-political conditions of formation and development of civil society in Poland after II World War, with particular emphasis on its institutional emanation. The main hypothesis manifests itself in a claim that an authoritarian regime can develop some elements of civil society, but its character, capabilities, scope and freedom of action vary from those typical of democratic regime.

Civil society as an analytical category

What draws the attention of many researchers dealing with civil society today is the vague definition of this term. The literature distinguishes the three main trends: the sociological (institutional), formal and legal (procedural) and normative. (Dziubka, 2000, pp. 45–46; Magoska, 2001, p. 95).

Current sociological link to Tocqueville's concept matches civil society with establishment of public space and autonomously operating institutions and social organizations, which are the implementation of agreements voluntary concluded by the citizens with the aim to resolve socially important tasks. It is an external, tangible and visible manifestation of existence of civil society in practice. Civil society according to A. de Tocqueville was related to the sphere of associations only and the associations focused on implementation of supra-individual interests and activities developed within their individual activity. In this perspective, civil society is developing alongside with the state – which is defined as a system of formal political representation as well as with political society being the core of civic involvement in politics and concern for public affairs. The development activities of voluntary organizations and associations provide individuals with the opportunity to be active in different spheres: social, political, religious, economic, commercial, industrial and professional as well as to participate in creation and implementation of joint actions and projects. Social self-organization, the integration of fellow citizens teaches "democracy in action." It shapes open, solidary attitudes based on trust, prevents from alienation and withdrawal from the socio-political sphere. According to Tocqueville, only active participation in public life was able to maintain the democratic nature of political culture and promote the development of democratic institutions.

According to Ralph Dahrendorf who also takes part in the discussion, civil society includes the existence of autonomous (i.e. uncontrolled by the state) organizations and institutions: political parties, trade unions, independent churches, social movements and public foundations, which are an emanation of the people's will. Those institutions and organisations are characterized by civic attitude to spiritual and self-conscious collective participation, consisting e.g. of trust, care about something beyond their own affairs as well as interest in collective responsibility for the fate of a community which they are the members of and the conviction of a need to take measures conducive to its development. Sociologically mainstream civil society is also represented by Victor Perez-Diaz, Charles Taylor, Jean Keane, Ernest Gellner and Paul Sarnecki.

On the other hand, the procedural trend (referred to also as formal and legal trend), emphasizes the subjective nature of civic participation in social, political, economic and cultural sphere. Subjectivity is the condition of being independent from the state power and the development of other elements of civil society. This approach can be found e.g. in the works of Jürgen Habermas and Karl Popper. According to Jürgen Habermas, contemporary social sciences are dominated by two models of active citizenship. The first one, referring to liberal tradition of Locke, emphasizes the individualistic and instrumental understanding of the role of a citizen who is involved in activities of voluntary organizations. Its fundamental belief is that individuals remain

outside the country, while having certain obligations towards it – e.g. obligation to pay taxes and expectations about a guarantee of social benefits. For John Locke, civil society was a voluntary association which allows individuals to exercise their rights and freedom and at same time a sphere of exchange, competition and cooperation between them and the state. Alternatively, the second model finds its sources in the Aristotelian tradition that is based on the ethical way of perceiving citizens, their attribution to self-describing and self-sufficient political community. Habermas uses two paradigms in the reconstruction of the idea of civil society. A key element of this concept is the notion of the public sphere understood as a space for dialogue, communication and mediation between the State and the individuals with their needs and a tool to achieve true democratic participation. It is rooted in voluntary associations and societies, which are the institutional emanation of civil society. The public sphere is, according to Habermas, a place for agreement, consensus, mitigation of private and group interests, where decisions about political, social and cultural issues take place. According to Habermas, civic activity brings to life associations, pressure groups and other types of organizations that have the ability to carry out its basic functions (Habermas, 2007).

In a normative take, civil society is regarded as a set of specific norms, values, beliefs and behavioural patterns of symbolic actions, which shape community ties and enable creation of a network of civil society involvement. Sources of normative recognition of civil society can be found in the works of G. W. Hegel and A. Gramsci. For Hegel, civil society was a community whose members were united by the same values and lived their lives obeying them. According to Hegel, shape of a community consists in the first place of the system needs that combine individual needs with work and exchange, aiming at fulfilling the needs of the Community. Secondly, the judiciary and protecting property ensures compliance with the law. Thirdly, the police and corporations "protect against randomness [...] and processing of specific interests as community ones" (Hegel, 1969, p. 191). The existence and operation of corporations (which members are tied together in the course of implementing common goals for their groups of interest) allow members of the state participating in community life and provide a sphere of mediation between the interests of a unit and the Community. According to Hegel, civil society cannot exist and develop outside of the country. Only the state can guarantee a legal framework for functioning of civic community, but it can fully realize the common good, while only the units can lead ethical lives. On the other hand, in the writings of A. Gramsci, civil society consisted of independent non-governmental institutions and social organizations on one hand, and on the other meant opposition and autonomous social sphere, i.e. existing outside of the country.

Currently, the normative approach is developed e.g. in the works of Francis Draus, Zbigniew Pełczyński and Edward Shils. According to the E. Shils, civil society constitutes collective (cognitive and normative) self-awareness, focused on the common good. Civil society is the public sphere understood as a product of private and governmental institutions, many related interactions that include e.g. ratio of obedience to the authority, applicable law, common interests, common ideals, beliefs and knowledge. According to Shils, indispensable requirement for civil society to exist is the awareness among its members of their belonging to the society as

a whole, yet consisting of various communities and layers: families, churches, ethnic groups, political and religious institutions. Its existence is strengthened by civic traditions, language, common historical and cultural heritage as well as political, legislative and judicial institutions that actively operate. The resulting citizenship is an expression of accepting the obligation to act for the common good (at least to some extent), especially in situations involving conflict of interests with a collective unit. It is a disposition to be active in the name of the community in order to guarantee protection and general welfare.

The inactive civil society in Poland before 1989

Prior to 1989 in Poland, a self-organized society could not freely and autonomously develop in conditions of a non-democratic regime. Despite this, there were many initiatives and protests indicating the existence of a spirit of independence and self-reliance. In terms of organization and social institutions, sharpened policy of the state was accompanied by periods of its relative mitigation.

Immediately after the war, in the first phase of the country reconstruction from the ravages of war that fell between the years 1945–1947, the majority of associations, foundations, secular and religious compounds have been reactivated. They supported activities of the government, complementing the humanitarian aid, health care, education and culture by running hospitals, sanatoriums, orphanages and schools. Catholic organizations and associations has been reactivated and taken care of the most needy. This phase lasted a short time, though. In 1947, the state began to take control of economic and social life and self-limiting citizens. The liquidation of independent institutions and organizations progressed as the state was taking over their property. Those institutions which have been allowed to continue operation (the Red Cross, the Polish Committee for Social Welfare, Polish Women League) were subjected to strict control of the political apparatus and became a kind of "transmission belt" policy. Although the government deprived them of their greatest strength (i.e. the ability to define and meet the needs of the society), these organizations still tried to properly fulfil their tasks, yet to a limited extent (Leś, 1994, p. 7).

The last years of the 1940s were not favourable to functioning of social organizations. State policy in that time aimed at eliminating the institution of civil society. Efforts were made to remove all signs of independence in the society and resolve or submit all organizations to the Communist Party. Those who have been allowed to operate became a "transmission belt" for the state policy. A central management system was introduced, industry and trade nationalized, local governments abolished. All foundations of independence were eliminated. Until the year 1956, the time was passing mainly under control of the state in all areas of life.

As a result of workers' protests of June 1956, there was a slight recovery in the development of societies, yet they still continued to be controlled by the state. The resulting club of the Catholic intelligentsia and political discussion clubs have reactivated activities of some secular and religious associations and resumed operation of parish

charity teams (Leś, 2000, p. 134). However, their autonomy was not as significant as it used to be between 1945–1947.

From the beginning of the 1970s, disappointment over the political system that did not provide economic prosperity and social justice for all citizens began to visibly manifest itself. It found its expression in spontaneous self-help and civic initiatives aimed at assisting the needy opposition activists and providing civic activities. The involvement of citizens in framework of legally operating organizations was reduced, whereas importance gained the activities undertaken in informal, underground initiatives. Protests of the intelligentsia and students in 1968 as well as protests of workers in 1970 have unified the previously opposing groups. The disturbances of 1976 and subsequent detentions and dismissals of militant workers brought the opposition back into action. In the aftermath, a group of intellectuals founded the opposition organization called the Workers' Defence Committee (in Polish abbreviated as "KOR"), which aim was to fight against official repression of the protesting workers.

On 22 September 1976, fourteen signatories declared the so-called 'appeal to the society and the communist authorities' which reported that repressions against protesters in Radom, Ursus and other cities create the need of "solidarity and mutual assistance" within society. The KOR aimed at initiating legal assistance, providing financial, medical and publicly available information about the persecution. The Committee demanded amnesty for prisoners and detainees and restoring oppressed people to work. We have taken a number of other activities, among which educational activity played a particularly important part. As part of the „Flying University", professors showed blue collar workers the achievements of global mindset, illustrating them the vision of history and reality other than the official one. During this period, civil society was the reflection of circumstances, in which it had to function. It served as a tool to sustain the largest problems of the system and to limit the sovereignty of the state over society and individuals. Civil society was not established to exist in parallel to the state, but rather against it.

The strength of the "civil society" of the 1970s and 1980s was its unity. The situation worsened when it came to launch works over reducing harm caused to individuals and society by the former state and the ruling party. This ability to remain united, however, helped to conceal differences between opinions, programs and interests. The ideological nature in which the opposition was represented prevented from achieving tangible and common goals to a greater extent than the general slogans referring to freedom, independence, sovereignty, equality, justice and solidarity. Civil society of this period was organized in opposition to the state, around ideas and values, not social or economic interests.

A breakthrough was the birth of a new social movement centred around the Independent Self-Governing Trade Union „Solidarity", which was created on 17 August 1981 in the shipyard of Gdańsk. It was the first time in history when a country belonging to the Warsaw Pact has developed a trade union that was not controlled by a communist party. Before September 1981, the movement had 9.5 million members and reached 10 million members during its Congress. Those numbers constituted one third of the whole working-age population of Poland. In the 1980s, Solidarity was a broad

anti-bureaucratic social movement, that used methods of civil resistance to advocate workers' rights and social change. The government attempted to destroy the union by imposing martial law in Poland between December 1981 and July 1983, which was followed by several years of political repression.

The creation of Solidarity renewed commitment to public life and social citizens. It has also showed that Poles, despite the historical experience, are still able to self-organize and create institutions and organizations which constitute the essence of an inactive civil society and seem to be crucial in the process of taking the responsibility for the fate of civic community.

The abolition of martial law initiated in the second half of the 1980s, a period dedicated to gradual rebuilding of activities and many other social organizations (mostly charitable and philanthropic) that supported the state in implementation of basic social tasks. Their uprising was the result of deteriorating economic situation and state. The development of the organization forced adoption of its legal foundations. In 1984, a law on foundations was passed and it is still is in effect until today. As far as the previous political system is concerned, the number of newly created entities having the form of non-governmental organizations (foundations) was decidedly low. However, the state influence on their operation was relatively strong. As a result, during the first years after the law was passed, there was no significant increase in numbers of newly established third-sector organizations. Detailed data on the number of foundations created between the years 1984–1989 is shown in Table 1.

Table 1

The number of foundations registered in Poland between 1984–1989

	1984	1985	1986	1987	1988	1989
Foundations	3	9	21	48	99	287

Source: M. Wawrzyński, *Fundacje w Polsce*, Warszawa 1997, p. 22.

Protection of rights and freedoms was supposed to be ensured by the Ombudsman who began his term on 1 January 1988. Round-table talks between the government and the opposing "Solidarity" madeit possible to initiate political transformation in Poland.

Development of Polish civil society after 1989

The collapse of real socialism created the legal basis for development of civil society. In 1989 the proceedings of the Round Table were continued and resulted in the first partially democratic elections and restoration of bicameral parliament. In 1990 the first free, universal presidential elections were held. The winner was the victorious leader of the Solidarity movement – Lech Wałęsa. Political changes and political developments required adoption of a new constitution. It was adopted on 2 April 1997. The new constitution introduced separation of powers, political pluralism, the rule of law and democratic sovereignty.

The system transformation has opened a new chapter in the history of Polish civic activity. The introduction of democratic system based on parliamentary democracy and market economy has triggered development of the civil sector. Foundations, associations, committees, movements, associations and other public organizations, which operated independently of the state, began to form on a mass scale and allowed to pursue the basic idea of civil society. The bottom-up and state-independent NGOs and non-profit organizations were the backbone of the third sector. Their work, supported by voluntary and free commitment of volunteers, allowed to solve key issues and social problems. Reduction of ties that hindered social activity brought a level playing field for all organizations and associations operating in Poland – new ones that originated from the opposition as well as those that existed before 1989 officially as non-oppositional unions, associations and all kinds of social and cultural organizations. These organizations have opted for new authorities, sometimes slightly changed the statutes and began to act as independent institutions of civil society. Property obtained from the state in return for loyalty retained the old staff, friendly ties and dependency.

The main function of the third-sector organizations is to supplement the state in carrying out its tasks. However, the range and real possibilities of action is decided by country's formal (law-related) and informal (resulting from tradition or culture) principles and mechanisms governing operation of political power and its relationship with the society.

Institutionalization of the civil society after 1989

The best manifestation of civil society in practice is the involvement of citizens in activities of non-governmental organizations operating within the third sector. The literature provides narrow and wide understanding of the third sector. The broad definition of the third sector covers a very diverse group of civic organizations including foundations, associations and unions, federations of associations, political parties, organizations that function under separate regulations such as hunting circles (i.e. the Polish Hunting Association), Polish Red Cross, Association of Volunteer Fire Brigades, parents' committees and councils of parents, social committees, trade unions, employers' associations, professional groups organizations (chambers of commerce), except those in which membership is mandatory, as in the example of the Medical Council and the Council of the Lawyers, agriculture rings and farmers' wives circles, church organizations (social institutions of churches and religious associations), leading secular activities, including member organizations (e.g. the Catholic Action, Fellowship of Orthodox Youth), clubs, support groups, self-help groups. The narrow definition only covers the foundations and associations (yet without the volunteer fire departments, which in Poland have also a legal form associations) acting on the basis of separate laws.

The main sources of information about the number of NGOs in Poland are: the National Official Business Register – REGON, Central Statistical Office and the National Court Register. According to data from the Central Statistical Office, the National Court Register and the information from bazy.ngo.pl website, on 30 November 2014

there were 117,000 social organizations registered in Poland. The number comprises 100,000 associations and 17,000 foundations. Taking into account the wide definition of the third sector (which includes trade unions, voluntary fire brigades, organizations, church institutions of different denominations and religious organizations, local governmental organizations and professional associations of employers and political movements), in total there were more than 140,000 civil society organizations. Conducted research shows that about 60–70% of those organizations reveal no activity. Slightly different figures result from analyses conducted by the Central Statistical Office. According to data from the report entitled "The Third Sector in Polish Associations, Foundations, Faith-Based Charities, Professional and Business Associations, Employers' Organizations in 2012" prepared by the Central Statistical Office at the end of 2012, there were 83.5 thousand of third sector organizations. The details about the civil sector are presented in Table 2.

Table 2

The size of Polish third sector

Type of organization	Data from	
	KLON/JAWOR Association (2014)	**Central Statistical Office (2012)**
Associations	100,000	69,600
Foundations	17,000	8,500
Volunteers Fire Brigades	16,000	14,900
Local governmental organizations and professional organizations	6,500	3,600
Other member organizations classified as associations (hunting clubs, labour unions, social committees)	3,800	2,400
Local branches of the Catholic Church organizational units performing social activities (according to Central Statistical Office for Poland)	2,000	1,800

Source: Own study based on data from registers of the Central Statistical Office and surveys conducted by KLON/JAWOR. Associations and *The Third Sector in Polish Associations, Foundations, Faith-Based Charities, Professional and Business Associations, Employers' Organizations in 2012* report prepared by the Central Statistical Office, Warsaw 2014, p. 207.

The third sector in Poland is governed by relevant normative acts, in particular the *Act of 6 April 1984 on Foundations* (OJ 1984, No. 21, item 97, as amended), the *Act of 7 April 1989 on Associations* (OJ 1989, No. 20, item 104, as amended) and the *Act of 24 April 2003 on Public Benefit Organizations and Volunteerism* (OJ 2003, No. 96, item 873, as amended). Adoption of the Law on Public Benefit and Volunteer by the Polish parliament introduced definition of a NGO into the legal system. In accordance with article 3, paragraph 2, *non-governmental organization is not an entity of public finance sector, as defined in the Public Finance Act and inoperative in order to achieve profit for a legal person or entity without legal personality, which separate law recognizes as a legal capacity, including in particular foundations and associations*. In accordance with the provisions of the Act, non-governmental organizations do not include political parties, trade unions and employers' organizations, professional as-

sociations and foundations established by political parties, although they are included in the study as it uses a broad definition of the third sector.

It is difficult to describe the dynamics of changes which occurred over the last twenty seven years because non-governmental sector was rarely analysed. Conducted research was based on different methodologies and for that reason it is really difficult to compare data and come up with any generalizations. The most complementary studies were periodically conducted by the Klon/Jawor Association since 2004 and then every two years (in 2006, 2008, 2010, 2012 and 2014) on a representative sample and were related to ten similar group of people represented different organizations.

In Poland, most of the third sector organizations promote physical culture, popularize sport, recreation and tourism (see: Table 2). The second largest group of civic organizations take activities in the fields of education and upbringing (15%); they are followed by organizations that work in the sphere of arts and culture (13%). In recent years, the number of organizations focused on social services and social assistance has significantly decreased (decline from 11.2% in 2008 to 8% in 2014). Similar situation, yet to a smaller extent, concerns organizations undertaking activities in the sphere of health care (decline by 1% over six years). Research shows (confirming the social reality) that in Poland there are only few organizations which deal with human rights. Details of the fields of activities of civil society organizations in 2006–2014 are presented in Table 3.

Table 3

The fields of organizations' activities in 2006, 2008, 2010, 2012 and 2014

	2006	2008	2010	2012	2014
Sport, recreation, tourism, hobbies	39.2%	38.3%	36%	38%	34%
Education	10.3%	12.8%	15%	14%	15%
Culture and art	12.8%	12.7%	14%	17%	13%
Social services and social work	9.9%	11.2%	7%	6%	8%
Healthcare	8.0%	7.7%	7%	6%	7%
Local development on social level	5.9%	3.9%	5%	5%	6%
The labour market, employment, vocational activation	2.3%	2.2%	1%	2%	2%
Environmental protection	2.2%	2.2%	2%	2%	2%
Law, human rights, political activity	1.8%	2.0%	2%	1%	2%
Support for institutions, NGOs and civil initiatives	1.0%	1.7%	1%	1%	2%
Professional, trade and labour issues	1.9%	1.2%	2%	1%	1%
Scientific research	1.3%	0.7%	1%	1%	2%
Religion	0.8%	0.5%	0%	0%	1%
International activities	0.6%	0.3%	0%	0%	1%
Other activities	2.0%	2.6%	5%	5%	5%

Source: Own study based on KLON/JAWOR Association.

Unfortunately, dynamic development of civil society institutions is not accompanied by increase in social involvement. Although voluntary activity is gaining wider popularity from year to year, still only a few percent of Poles are involved in the activities of NGOs. Detailed data on the level of involvement of volunteers presents Figure 1 (Volunteering in Poland).

Figure 1. Volunteering in Poland [in %]
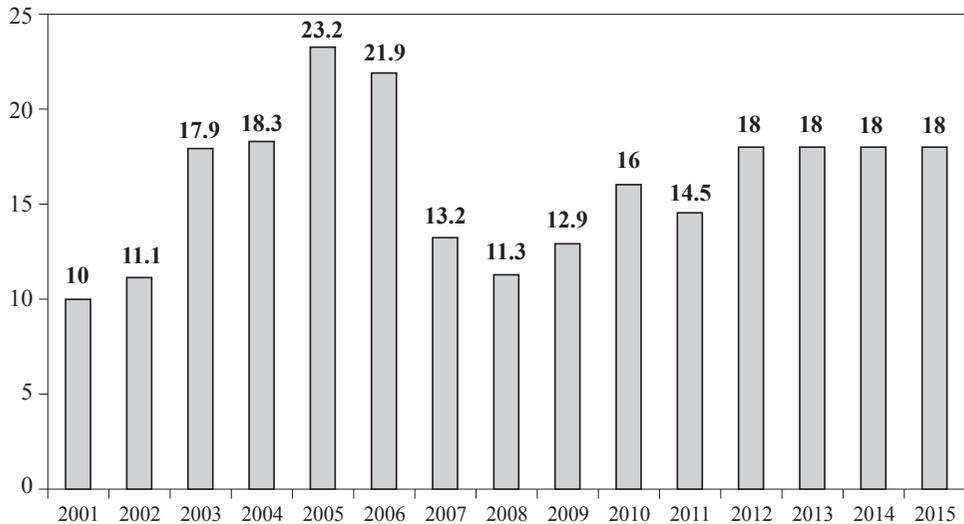
Apart from low social commitment, the main barriers to development of civil society in Poland are insufficient financial resources of the organizations, in particular the dependence on competitions and projects, which lead to instability and financial uncertainty and hinder daily functioning. What is more, the organizations draw attention to overly complicated formalities related to access to funds from the EU and excessive bureaucracy of public administration. Although at insufficient pace, the ratio of officials to non-governmental sector and its employees is changing. To a lesser extent, the sector is seen as a hostile competitor for activities implemented at the municipal level, rather than as a real and concrete support in solving local social problems.

The third sector, however, is not only a place for meeting important social needs, but it may also be an area of numerous frauds and irregularities. The black economy does not only consist of organizations brought into existence in order to obtain exemptions and tax deductions, but also attempts to appropriate the non-governmental public and private sectors. An example of this type of pathology is created by para-independent NGOs, quasi-NGOs (*quasi-autonomous non-governmental Organizations*), GoNGO (*Government-organized Non-Governmental Organizations*) and the BoNGO (*Business-organized Non-Governmental Organizations*). Quasi-NGO has full dependence on the state structures. This dependence is manifested by overt or covert political control exercised by the public authority, compete dependence on funds received from the state and possession of a privileged position in relation to other third sector organizations. It happens very often that people heavily involved in politics, who failed to win in the next elections to parliament, find employment there. In Poland, the examples include the Foundations of the Treasury.

Moreover, organizations such as a GoNGO are formed by initiative of public institutions which try to obtain additional funds from the pool of funds for NGOs activities. Their objective is to carry out tasks of the government or local governments with the participation of public administration and, consequently, under its supervision and control. GoNGOs emerge in situations where administrations are obliged to outsource some of the tasks to external yet public entities and do not want to pass them to the "foreign". The objective of a BoNGO is lobbying for companies and their legal or institutional solutions. Access to facilities, infrastructure and financial resources make them an extremely dangerous competitor for an ordinary non-governmental organization that do not have similarly significant support. In addition, BoNGOsare often used to cover up dark dealings among commercial entities. While the GoNGO activity takes into account the needs of local community and accomplishment of tasks with the help of "trusted" organizations, it promotes the BoNGOs as favourable only to particular interests of private companies.

Conclusions

To conclude, the arguments presented in this article support the thesis that after World War II some elements of civil society managed to develop within the authoritarian regime. In the Polish People's Republic, development of civil society was not perfect. From the very beginning, the civil society was resembling the concept represented by A. Gramsci, who treats the civil society as a tool for opposing the state. This approach was more popular than the currently advocated concept of A. de Tocqueville, who perceives civil society as a sphere of mediation between individuals and the state. Political conditions hindered development of independent organizations. In spite of this, Poles were accompanied by the spirit of civil action. It found its manifestation not only in activities within informal institutions, but also in everyday attitudes. Despite the restrictions and prohibitions introduced by the state, it was common to listen to the frequently jammed Radio Free Europe and read underground press and literature (the Parisian „Culture").

The times of political transformation triggered the proper phase of civil society formation. At that time, Poles regained the ability to self-organize. Various types of social organizations (i.e. foundations and associations) began to develop and covered all or nearly all aspects of social life. Establishment of civil organizations stimulated activities of many citizens who began to engage in their work voluntarily and without payment. Despite many positive examples of social engagement, civil society institutions in Poland are still an enclave and remain among the most vulnerable and relatively least numerous in Europe. Furthermore, the data on civic participation and social capital in Poland are the worst in the whole Europe. Most of the pro-democratic and activating functions of civil sector (particularly supervision over the government, citizens' participation in decision-making process or expert functions) need to be strengthened. There is also a need to strengthen the institutions of civil and social dialogue. The civic sector in Poland should be a true and equal partner in public and social life in order to strengthen politics, economy, media and local governments.

Reforms in civic institutions (in close cooperation with the widest non-governmental milieu) require several important changes in legal and political system, whose long-term goal should support and improve operations that aim at increasing the subjectivity of civil society institutions. Those proposed changes were partially introduced in an amendment to the Act on Public Benefit Activity and Volunteerism with an intention to help weaker and smaller organizations and simplify procedures which allow to increase the transparency of such organizations.

The current protests and demonstrations against violations of law have gathered thousands of people who disagree with politics conducted by the government represent by the Law and Justice party. This engagement opened a new stage in the process of developing civil society in Poland. The growing political awareness is being visible.

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The Third Sector in Poland Associations, Foundations, Faith-Based Charities, Professional and Business Assiociations, Employers' Organizations in 2012 (2012), Central Statistical Office, Warszawa.

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Abstract

Before the year 1989 in Poland, self-organizing society could not develop freely under a non-democratic regime. Due to many actions taken by citizens during protests and strikes, it was possible to form a basis for creation of general social movement, which has united workers and intellectuals in the 1980s. It created a strong and united opposition to the government and gave a clear and strong basis for creation of independent and autonomous civic organizations.

System transformation has opened a new chapter in the history of Polish civic activity. The introduction of market economy and democratic system based on parliamentary democracy has triggered development of civil sector. Structures independent of the state and public organizations (foundations, associations, committees and movements) have begun to form on a massive scale. They allowed citizens to pursue the basic idea of civil society. The NGOs independent of the state and non-profit organizations established according to bottom-up approach are the backbone of the third sector. Their work, supported by the involvement of volunteers, allows solving key issues and social problems.

Key words: civil society, Poland, third sector, non-governmental organizations, civic activity

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Social media in relation to acts of government and (un)shaping of citizenship

Introduction

Communication between people not only constitutes the basis for all social activities, but also integrates activities manifested by a civil society. Every project that becomes an embodiment of this ideology needs prior consultation within a given group or a society. According to Margaret S. Somers, who defines a communication plane that is vital from the perspective of collective activities, "public sphere is a space for contestation and participation, where legal entities, citizens, economic figures and members of families and local communities create public bodies and engage into negotiations and contestation over political and social life" (1993, pp. 589).

Apart from open space for communication, the key to understand civil society are the notions of activity and engagement. Hence, we may suppose that the moment of initiating social activities refers also to involvement in a discussion, deliberation and development of widely accepted social order through communication. Progressing media offer better and better tools, including network solutions, which used to be perceived as the Holy Grail of contemporary democracy. Although the press and commercial television hadn't initially had a chance to become the main place for public debates, they finally managed to create perfect conditions for open dialogue and discussion thanks to online utilities often addressed by Jürgen Habermas (Giddens, 2004, pp. 696). They were supposed to engage citizens in discussions over the future or popularize tools of direct democracy etc. to a greater extent. In other words, they were supposed to assist in development of the civil society. It is worth to summon factual examples and ask whether the idea has actually come true.

The article aims at verifying two hypotheses presented below:

HP1
Social media did not meet expectations of being a tool that provides access to the public sphere, improves social involvement and develops civic attitudes. Although the new media have increased involvement in quantitative terms, yet they still need to pursue qualitative perfection as understood according to the definition of "civil society".

HP2
Dispute over the Constitutional Tribunal in Poland, the media act and stricter abortion law (political conflicts typical of Poland and the whole Central Europe, e.g.

Hungary) have started a wide and emotional debate in the media. However, quality of the debate did not bring an added value in development of the civil society or the public sphere.

In order to confirm the hypotheses it was decided to conduct an analysis of Polish-language contents from the online communities. The analysis will allow to achieve the research objectives as well as provide a broader background for discussions about usefulness of the networks at civil society projects.

Civil society and deliberative democracy in relation to development of new media –the bilateral relationship

As far as the context of this article is concerned, it is vital to define the notion of "civil society" and illustrate its relationship with deliberative democracy. According to Jürgen Habermas and John Rawls, deliberative democracy considers discussion and dialogue as a basis for development of public opinion and political choice[1] (Żardecka-Nowak, 2008). Most of definitions suggest that civil society is a part of the social space which remains independent of the state and abounds with voluntary cooperation between the associated individuals. Its core relies in voluntary participation of individuals and their association within the public debate as well as the ability to make unforced decisions that exert pressure on the state authorities. Civil society is a place for developing a consensus which may become the basis for further action. Hence, civil society assumes that there is a connection between the associated individuals and allows taking specific actions.

As communication is the basic requirement for establishing a relation between individuals, it seems that interactive media are the perfect space for civil society to develop. That was the initial assumption. Claus Leggewie (1998) is one of the researchers who describe favourable influence of the internet on civil societies. He draws attention e.g. to involvement of this medium in the process of creating decentralized social movements. At the same time, the researcher emphasizes that the network has significant limitations within the scope of political communication as well as the reach among people who actually decide to act through it. On the other hand, Benjamin Barber expected that use of the internet in political participation will result in its massive popularization which would allow to achieve the perfect model of participatory democracy that he advocated (1984; 1998–1999). Theoreticians who work in the field of democracy include many sceptics, with Robert D. Putnam being one of the most prominent of them. He believes that media have unfavourable influence on activities of citizens because they separate individuals and give just an impression of being active and a part of a group. The social capital begins to fade and the citizens eventually become "the lonely bowlers" (Putnam, 2008). Assuming that the internet is actually more popular among the favoured groups, it was also considered whether the internet can make more active those groups, which had previously been

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[1] The two notions were compared e.g. in: Buksiński, 2002.

inactive. If that was true, would the activation translate into increased efficiency of similar activities?[2] Taking into account the results of numerous researches, the both uncertainties can be resolved with a negative answer. It turns out that the internet does not lead to a greater diversification among participants of political activities. Everything suggests that most active are the individuals who display higher level of political activity in the real world. What is more, the efficiency of activities conducted through the internet is also negatively appraised (cf. the notion of *slacktivism* described below).

Kazimierz Dziubka (2008, pp. 306) identifies the role of political debate as a tool which precedes a democratic action. In reference to civil society, the most closely related notion is the public sphere because it denotes a space for discussion and development of public opinion (Dobek-Ostrowska, 2006). Discussion whether the internet is a favourable "place" for developing public sphere has been present since its very beginning. Scholars have different opinions in this field. Social media platforms give a chance to exchange views, yet on the other hand they allow to gather around socially important issues and seem to be conducive to development of civil society and public sphere. The recent years have provided numerous examples (also in Poland) of online discussion groups, mostly on Facebook, which were forming around political issues. The groups were then moving their activities onto the streets (e.g. demonstrations against ACTA, the activity of the Committee for the Defence of Democracy, #black-protest). There are also some groups like e.g. the young, who perceive the online reality as less deceitful and less "ingrained". This point of view may encourage to use the said reality for political purposes (Lakomy, 2013; Nowak, 2008; Castells, 2013). This group of people is often referred to as the "generation Web 2.0". Some researchers, e.g. Mirosław Lakomy, believe that we can define them as "network citizens" who disagree with the model of passive participation and remain in favour of the participatory model (cf. Lakomy, 2013, pp. 10–151). The conclusions presented by Jakub Nowak seem to conform with such an attitude. Nowak claims that "development and popularization of new media broaden the dimensions of democratic debate and participation, which favours creation of new public spaces for civic activities" (Nowak, 2008, pp. 75). It may entail both positive as well as negative effects on democracy and the civil society. However, it is not possible that the Internet is able to eliminate one of the primary problems of the contemporary democracy, namely the deep mistrust among the society towards politics and politicians. According to Manuel Castells, the Internet is not actually fixing, but rather deteriorating the legitimacy crisis within politics (Castells, 2003).

Political activity which originated in the Internet began to be referred to as the *slactivism* (supposed authors of this term are Fred Clark and Dwight Ozard who used it to describe bottom-up activities of the young that aimed at influencing the society in a more personal dimension). In fact, it is a kind of an epithet which serves for emphasizing little or even no influence of such activity on political and social reality (Moro-

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[2] A more detailed review of unfavorable consequences of increased internet use in politics can be found in Mider, 2008, pp. 337–370.

zov, 2009; Putnam, 2008). The *slactivism* can manifest itself through such activities as signing an online petition, joining a group on Facebook, placing political slogans on clothes or vehicles as well as participation in consumer spurns that originate on the Internet. The opponents of activities that originate in the Internet point out that it is less effective on one hand, and on the other it may decrease the overall index of political activity among the individuals concerned.

The primary points against online political activities have been summarized by Stephen Coleman and Jay G. Blumler (2009). They emphasize that such actions are separated from the institutionalized politics, which can hinder or prevent from exercising control over the governing authorities. What is more, the ephemerality of those acts make them rarely reach the institutions, where the actual decisions are made. What is more, the low quality of similar activities is often argued. The activities may have a destructive character, which is being commonly underestimated or even stigmatized by the governing officials. The ease at which online activities are taken does not translate into increased ability to influence. It may seem that such an activity can be harmful to some extent, both in terms of a system as well as the individuals. By calming down the nerves of those who actually taken up the activity, it can result in withdrawal from real activity that brings real effects.

Although we may agree with at least some of the arguments against the activities taken from the Internet, yet it is difficult to completely underestimate this new area of activity. Even if a part of them that has some properties of *slactivism* may be considered as less effective, it is hard to depreciate importance of the Internet as an efficient tool for informing people about certain problems or mobilizing them to take action beyond the Internet (cf. Nowak, 2011). It is a tool and an environment of conscious civic participation, yet the author himself confirms that this applies only to a narrow group of citizens[3] (Nowak, 2011b, pp. 115). It may also play the role of "vigilance, notification and appraisal" which according to Pierre Rosanvallon is considerably more important that the participatory function or the deliberative function (see also Rosanvallon, 2011, pp. 53–55).

Analysis of discussions about political topics popular within the research period may help to solve at least some of the uncertainties and move us a step closer towards answering the question whether the Internet can be an efficient tool for developing a strong civil society?

Research methodology

The research has been conducted with the content analysis method (partially automatic) that utilized a tool for gathering and monitoring data obtained from the In-

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[3] The tools offered by social media services only augment this phenomenon through the so-called filter bubble, which refers to various algorithms that contribute to the way users see particular contents in the internet, namely according to their preferences, political views, taste etc. It is a common element of communication in the most popular social media services.

ternet.[4] The selected subjects reflect current problems in politics (2016) which are characteristic for a wider context of phenomena within the political debate in young democracies of Central Europe.

It is worth emphasizing that after a period of relative political stability in the first decade of 21st century, the second decade shows pronounced turbulence of social attitudes within local contexts. The phenomena include a shift in public support towards projects developed by the right-wing parties, greater interest in conservative and protectionist ideas, anti-elitism, support for a strong leadership or return to discussions about social and moral issues (abortion, euthanasia, minority rights etc.).

The subjects which has been widely discussed in the public sphere of Poland and currently within other countries of Central Europe as well (to a greater or lesser extent) have been selected as the most representative for the concerned political transition. They include: (anti)abortion law, role of the constitutional court and public media involvement in politics. The developed hypotheses have been verified basing on online content which included selected keywords that indicated that it referred to the field analysed herein.[5]

The time frame of individual contents was selected deliberately and focused on the periods of intensified discussions about the given subjects, which adopted monthly or bi-monthly intervals. In case of the anti-abortion act that was October 2016 (the so-called "black protest" on the streets of many Polish cities that followed the start of proceedings on the draft act which was supposed to restrict the abortion law). The discussions about media law took place between April and June 2016 (in that time the Sejm was working on the legislative procedure for the "large media law" which would regulate the status of Polish public media; later on the document was enacted and signed by the President of the Republic of Poland). The case of the Constitutional Tribunal in Poland was analysed on the base of a one-month period (March 2016, when the Sejm adopted one of many acts of law on the Tribunal and when the Venice Commission voiced its opinion, which gained great interest within the public about the previous acts of law).

It is worth adding that the scope of websites which featured the below contents included websites in Polish language except for those qualified by the algorithms of the tool as spam,[6] hence those that did not contribute to the discussion (e.g. websites containing short announcements etc.). To a large extent, they included online forums, social media services and news portals, where the Internet users are able to comment.

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[4] The tool can be placed within a broader methodological context based on the analysis of big data from researches on new media (the digital methods).

[5] The set includes the following phrases: *anti-abortion act*, *#blackprotest*, *the media act*, *the Constitutional Tribunal*. The selection criteria were complemented by a willingness to select one representative and unambiguous phrase for each subject which would allow for choosing only those contents that should be a part of database gathered in the current studies.

[6] That refers to content which does not contribute to discussion within the given areas. Here, it is worth adding that the tool selected for the research procedure (gathering of data, creating database and conducting partially automated analysis of the contents) was an online service designed for commercial use, yet available and successfully applied within social and political scope: Brand24.

Result analysis

The following information has been gathered and analysed in the course of data collection:
- quantitative distribution of text units over time (N);
- emotionalism (sentiment) of the communication.

The data is presented in charts (1–3) that constitute a basis for analysis and subsequent conclusions or generalizations.[7]

Chart 1. Distribution of content and emotionalism (sentiment) over time (The Constitutional Tribunal)
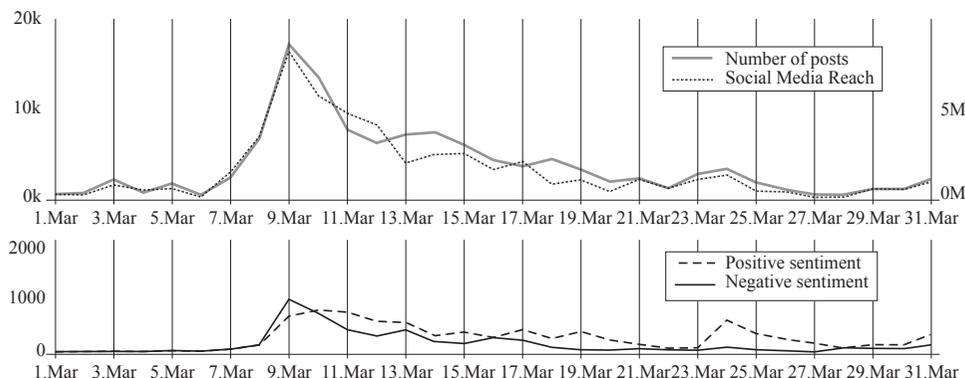
N=116,640.
**Source:** brand24.

Chart 2. Distribution of content and emotionalism (sentiment) over time (media act)
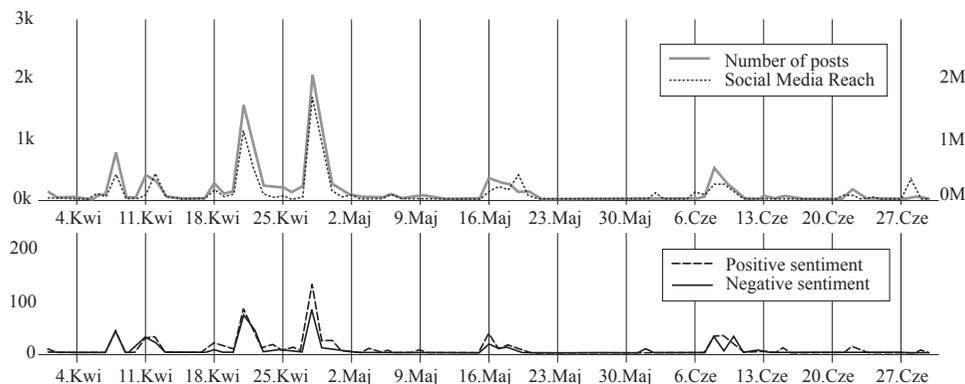
N= 18,498.
Source: brand24.

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[7] The second stage did not require to develop categories for analysis of individual text units. The data has been qualified according to the tool's algorithm, which does not allow for drawing unambiguous conclusions within the scope of positive/negative emotions that accompany the answers. However, it allows for conservative conclusions within the area of emotionality of the discussion.

Chart 3. Distribution of content and emotionalism (sentiment) over time (#blackprotest)
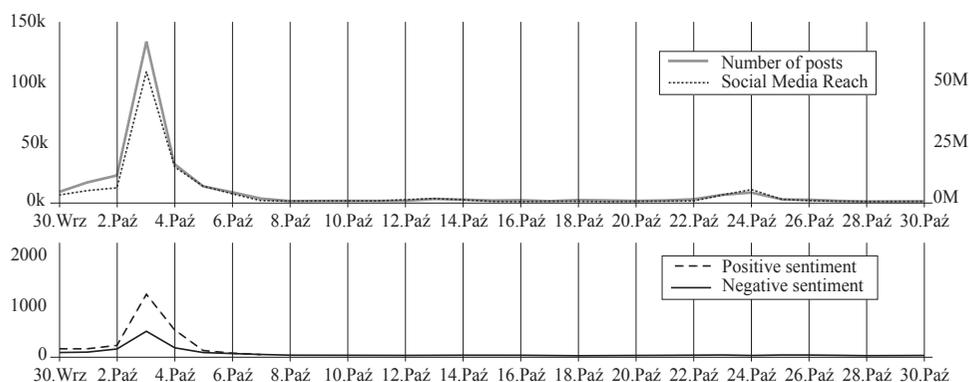
N= 274,007.
Source: brand24.

A comparison of entities that display the highest influence on activity of other users of the Internet has been developed basing on the gathered data.[8] It was illustrated in table 1.

Table 1
**Distribution of the impact coefficient within all three analysed fields
(5 most influential entities)**

Social media channel	Impact coefficient
Constitutional Tribunal	
Gazeta Wyborcza (Twitter)	8.8
TVN24 (Twitter)	6.7
TVN24 (Facebook)	6.7
Gazeta Wyborcza (Facebook)	6.2
TVP INFO (Twitter)	3.4
Media law	
TVP INFO (Twitter)	12.7
TVN24 (Twitter)	10.8
Gazeta Wyborcza (Twitter)	6.5
Onet (Facebook)	4.6
TVN24 (Facebook)	3.9
#blackprotest	
TVN24 (Twitter)	7.4
Gazeta Wyborcza (Twitter)	5.5
TVN24.pl (Facebook)	2.7
TVP INFO (Twitter)	2.6
Newsweek Poland (Twitter)	2.5

Source: Brand24.

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8 The impact was calculated on the basis of the influence score, i.e. a percentage share of a given entity in the influence on discussion about given subject in social media. The result is calculated as a percentage proportion between the number of contribution of a given subject, the number of their "friends" or subscribers and the visibility coefficient calculated for contents published on the selected social media services in relation to all contributions on a given subject in the social media.

Conclusions

Basing on the data, the theoretical concepts of media sociology and the knowledge about civil society and social activation, the following conclusions have been formed:

1. The Internet as "a place of lost chances"

All charts that illustrate the moments of publication of the given subject are characterized by cyclical increases in interest at short time intervals (one or two days) and their popularity (usually) dynamically decreases. On one hand, this data is not surprising because of the specificity of the events that arise great interest in media. It is also worth emphasizing that this fully confirms the trends which are typical of a shortened lifetime of an information understood as a product within the media market (Jupowicz-Ginalska, 2010, p. 58). If we combine this fact with the theory of deliberative democracy and the expectations towards the Internet as a catalyst for fully democratic debate,[9] it may seem that the expectations and hopes which are typical of the Internet enthusiasts are not currently reflected in the communication practice. The Internet makes communication more dynamic and expands it, yet at the same time it is characterized by cyclical increases in interest which occur in parallel to phenomena observed in traditional media. However, as opposed to the above, the interactive network allows continuing the discussion, participating in the problem-solving processes or treating initial interest in a problem as a stage in the path towards the essential part of the dispute, which consists in suggesting and attempting to introduce particular solutions that are favourable for the mobilized group of citizens. Meanwhile, it turns out that the stage of mobilization is often the last stage which makes the whole communication process more dynamic and intense, yet barren in terms of developed solutions and effects. In this way, social media become only (or surely) a catalyst or a plane of stimulation, thus the so-called "platform of lost chances."

2. Slacktivism

Online activity which can be characterized as politically motivated are often less engaging in moderate and long periods of time. As it was already mentioned, the literature identifies this phenomenon as *slacktivism* which refers to fake activity stimulated mainly by:
– psychological factors and determinants of internal nature, such as the sense of self-complacency or the willingness to get rid of an uncomfortable feeling connected with the need of self-fulfilment and self-recognition. Hence, it's all about creating an image of oneself which would materialize social models of e.g. good citizen or a person who remains politically active. The ideological foundations for the concept of civil society, which are the element of the school curriculum and culturally

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[9] This attitude has a long tradition in the literature and often "comes back" to the agenda of matters related to democratizing function of the internet. It has manifested itself already in 1990s when the commercialized internet was perceived as the way to overcome crisis in democracy based on traditional media and their influence that was driving tabloidization (cf. Wilhelm, 1999, pp. 154–179) in the first years of the 21st century. In that time, the new "opening to the society" and enthusiasm about the new *millennium* have risen hopes of a greater independency among the citizens (cf. Baciak, 2006) or after 2011 when the "Arab Spring" or demonstrations against ACTA have shown the power of mobilization through the internet (cf. Lakomy, 2013).

inherited point of reference within socialization process, may constitute a strong stimulus that encourages to involve in activities which can help to accomplish the said models. At the same time, other factors that remain on the other extreme of an individual's pursuance (e.g. lack of free time, fear of the consequences of involvement, the specificity of communication tools that can pronounce and dilute relationship etc.) cause a dissonance that leads to a willingness to compromise that fulfils the above needs, but at the same time has a low value from the perspective of efficiency within political activity. This activity can be aptly symbolized by the "Like!" button referred to in numerous publications on *slacktivism*. The button seems to give the users a false impression of political involvement;

– factors from the field of personal branding, which aim at creating an image of a supposedly politically involved individual. This is dependent on (external) social considerations – the expectations and willingness to meet them. The effect of those factors is relatively covered by the internal matters, hence encourages the individual to calculate economically and compare the effort exercised in actual political activity with the consequences in the form of e.g. fulfilment of the need to be recognized. In times when organic reality merges with virtual reality, the convenience and effects of online activities characterized by low involvement as well as many persons who are able to observe us in a single "spot" forces the users to choose an intermediate path that leads between the involvement and the political passivity: simulates online communication activities (e.g. through a one-time participation in a discussion over important political subject, subscription to a given online profile, sharing important information to friends etc.).[10]

3. Primacy of traditional media in the new media

The gathered data unambiguously indicate that discussion about particular subjects analysed here is predominated by the editorial offices from traditional media sector. Still, they are active within the framework of social media services. It is worth mentioning that in the conducted research all of the most influencing social media accounts belonged to the recognized offices of TVN24, Gazeta and TVP INFO. In the selected examples (i.e. within the area of political communication), the media complement or expand the traditional offer (Szews, 2014). Again, this is not a new phenomenon from the perspective of the principles that govern the media economics. However, adopting the critical perspective of the theory of democracy and the civil society, in particular their ideological element that glorifies e.g. the bottom-up activities, it is worth to analyse how the current way of media operation contributes to or hinders civic activity within the field of communication. It turns out that a belief about a network that lacks the primacy of power and a fully democratic civil society that provides all citizens with the same possibilities to voice opinions, which originated in 1990s and is still present within some scholarly circles,is actually not reflected in communication and reality of the commercial

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[10] It is worth emphasizing that shortage of psychological research hinders explicit conclusions in this matter. Hence, it is hardly possible to explicitly define the motivation on the basis of the applied research method. However, basing on other similar analyses we may suppose that it would be an important factor which influences the shape of communication as described herein.

Internet.[11] Taking into account the analysed examples it is worth asking to what extent the usefulness and the properties of online communication create actual possibility to conduct a discussion, joint development of solutions and the possibility to popularize the bottom-up social initiatives? It seems that "jamming" such activities by significantly more popular and influential media may remain in contrast to similar postulates.

4. Trivialisation within politics

Analysis of individual units of text on a given subject makes it possible to determine the most popular contents among the users and identify them as the criterion of usefulness of the Internet and the factor that shapes civil society. Then, in the qualitative part of the current research, it will be possible to additionally identify their value within the area of discussion about politics. As it turns out, the effects of such analysis may indicate the trend of readership, sharing and other activities in the field of communication, which are characterized by trivialization, depreciation or tabloidization of the subject. What is more, politics and most of other social phenomena become the space for broadcasting popular culture.[12] The case of the Constitutional Tribunal can be a good demonstration of this regularity (see Fig. 1).

**Fig. 1. The most willingly shared Polish Facebook post of 2016,
referring to the Constitutional Tribunal case.**

Source: Facebook, March 09, 2016[13].

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[11] To a large extent it is represented through introduction of the "prosumer" notion into the vocabulary of media theoreticians.

[12] Interestingly, the black protest has started with a provocative comment published by actress Krystyna Janda on public fun page on Facebook. She recalled the strike of Island women of 1975 and accused Poles of lacking solidarity that would allow to organize a similar strike in Poland.

[13] Magda Gessler is one of the most famous Polish celebs for many years leading culinary programs.

The above fact, through a phenomenon of culture and politics celebritization, actually moves context of the discussion from issues being important to the discourse (political functions of the state authorities) towards social relationships and opinion of supposed authoritative figures of the public life. This, in turn, seems to be a less important contribution helping to solve the political conflict. What is more, it may seem that some part of the social energy (which could be used for creating relations, developing discussions, self-organization or a debate with apt arguments) "vanishes into nothingness" and from the perspective of economics of action becomes wasted during fake or futile undertakings. This makes the Internet, once again, a communication plane which is potentially more valuable and impressive in terms of the content volumes. However, from the perspective of ideological foundations for the concept of civil society, the Internet is feeble within the area of operation.

<p style="text-align:center">* * *</p>

It may be concluded that the two hypotheses formulated in the introduction have been confirmed. Hence, thanks to the mentioned capability of social media services, or rather the users of such media, to mobilize citizens, the number of activities taken within the field of civil society has increased. However, it is hard to talk about development of the public sphere as understood by theoreticians. The made decisions do not deepen the discussion and do not lead to a compromise or at least a partial agreement between antagonist attitudes. They do not create valuable projects. The dispute about the Constitutional Tribunal, the media law or the anti-abortion law triggered quite broad, yet very emotional discussion which hindered agreement between the both parties of this conflict. Not only the directly involved groups have remained in the dispute, but also the rest of society which needed to support one or the other side.

It is worth emphasizing that social media undoubtedly play an important role in the process of political activation, which is the key condition for any manifestation of civil society. However, it worth to realize that we talk here mostly about some stages or a function of such activity. When the party of Jarosław Kaczyński has taken office, we were experiencing numerous demonstration of the Committee for the Defence of Democracy (abbreviated in Polish as "KOD") or the women strike. In both cases, the activities started on the Internet. As far as we cannot talk about the actual effects of demonstrations organized by KOD, the case of the women strike forced the governing party to withdraw (at least so far) from the controversial solutions. It is hard to speculate whether the social awakening will be continuous in its nature and whether the political authorities will eventually be afraid of the "punishing power of the people." Undoubtedly, such a prompt mobilization among the citizens will not be possible without social media.

On the other hand, it is regrettable that media, which were created to facilitate communication and popularize it, to some extent did not manage to meet the expectations. According to the presented analyses, the main players within traditional media are the most influential entities in online discussion. Furthermore, the quality of debate is

often lower than the quality observed in other places (see also Charles, 2014).[14] The idea about developing deliberative democracy, which may use the Internet as its tool, seems to be hardly achievable at this moment. Change of the tool does not change the core of the problem. Just like before, as a society we are currently capable of short-term outbreaks (e.g. to come out to the streets in the rain, to place a short comment under an article, to take a photograph wearing a shirt with a slogan) because they are easier than a substantive debate which allows each of the sides to present their arguments in a clear and understandable way. It is still undecided whether the number of demonstrations that have recently taken place in Poland can be seen as a manifestation of the power of Polish civil society. However, we may conclude that the internet and the possibilities which it offers do not contribute to stronger civil society, do not deepen the discourse and, consequently, do not make consensus at socially important matters easier.[15] The emotional debate moves from the internet onto the streets, where it is similarly difficult to find reasonable arguments.

At least two important functions of civil society mentioned by the scientists who work in this field (i.e. the influence on social solidarity, communication between individuals of various views and the function of facilitating consensus) are still not being accomplished. The time will tell whether this is a phenomenon that abides absolutely, or whether it is only a stage on the path towards our "deepened knowledge on the internet" which would be understood as a tool for accomplishing political objectives.

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[14] According to Charles, the space covered by the internet does not favour development of public debate from many reasons, of which one refers to its quality and emotionality.

[15] For instance, there is a closed group on Facebook that gathers women who supported the strike. Its members actually exchange interesting and useful information. However, it is hard to definitely state that information which negate or broaden own point of view may emerge in a closed circuit.

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Abstract

    From the very beginning, the Internet has been bringing many hopes for solving social and political problems of the western democracies since they have reborn after the Second World War. Decreasing level of citizens' participation, worsening media quality (tabloidization) and, finally, the crisis of ideas about liberal democracy – all that gave the network an image of a remedy for all the contemporary problems. As its widely accessible, encourages involvement and abounds with information, the internet was supposed to serve the citizens and allow them participating in democratic institutions in a comfortable and efficient way.

    Meanwhile, it turns out that after a period of some positive examples which were confirming the above hypothesis (online activists, the Arab spring etc.), the contrary trends became visible. This arises some uncertainties and puts forward a question whether the pro-citizen image of the internet is not a myth that originated from spectacular impact of certain events, whereas within the level of an individual the value of this network for creating civic attitudes is significantly overestimated?

    In order to find answer for this question we have undertaken a research that took the form of an analysis of social media contents (posts, comments) which were particularly interesting for the public opinion in 2016 (the case of Constitutional Tribunal, the Black Protest, media act). We have assumed that the analysis of activities and actions of citizens (users) would allow verifying whether involvement of people is factual or simulated. We have also decided (basing on the acknowledged concepts of civil society) to verify extent of the activities (if they actually exist) that translate into quality of democratic institutions, in which people participate according to the bottom-up manner.

Key words: civil society, social media, political participation, internet

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