



Olivia Houssais

Democratic Deficit Theory: A Reversed Approach

Why Radical Political Changes in Member States Affect the Quality of Democracy in the EU

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AFFECT THE QUALITY OF DEMOCRACY IN THE EU

FOREWORD

The European Master's Degree in Human Rights and Democratisation (EMA) is a one-year intensive programme launched in 1997 as a joint initiative of universities in all EU Member States with support from the European Commission. Based on an action- and policy-oriented approach to learning, it combines legal, political, historical, anthropological and philosophical perspectives on the study of human rights and democracy with targeted skills-building activities. The aim from the outset was to prepare young professionals to respond to the requirements and challenges of work in international organisations, field operations, governmental and non-governmental bodies, and academia. As a measure of its success, EMA has served as a model of inspiration for the establishment of six other EU-sponsored regional master's programmes in the area of human rights and democratisation in different parts of the world. Today these programmes cooperate closely in the framework of the Global Campus of Human Rights, which is based in Venice, Italy.

Up to 90 students are admitted to the EMA programme each year. During the first semester in Venice, they have the opportunity to meet and learn from leading academics, experts and representatives of international and non-governmental organisations. During the second semester, they relocate to one of the 42 participating universities to follow additional courses in an area of specialisation of their own choice and to conduct research under the supervision of the resident EMA Director or other academic staff. After successfully passing assessments and completing a master's thesis, students are awarded the European Master's Degree in Human Rights and Democratisation, which is jointly conferred by a group of EMA universities.

Each year the EMA Council of Directors selects five theses, which stand out not only for their formal academic qualities but also for the originality of topic, innovative character of methodology and approach, potential usefulness in raising awareness about neglected issues, and capacity for contributing to the promotion of the values underlying human rights and democracy.

The EMA Awarded Theses of the academic year 2019/2020 are:

- Caruana, Deborah, *Securitising Children Rights: Victims and Heirs of Terrorism. A Critical Analysis of France's Approach to Children of Foreign Terrorist Fighters*. Supervisor: Heidi Riley, University College Dublin, National University of Ireland, Dublin.
- Catalão, Mariana, *Environmental Justice, Climate Change and Human Rights. Different Contributions, Different Consequences and Different Capabilities Should Equal Different Human Rights Obligations*. Supervisor: Jan Klabbers, University of Helsinki.
- Houssais, Olivia, *Democratic Deficit Theory: A Reversed Approach. Why Radical Political Changes in Member States Affect the Quality of Democracy in the EU*. Supervisor: Anna Unger, Eötvös Loránd University, Budapest.
- Monteiro Burkle, Eduardo. *When Forgetting Is Dangerous: Transitional Justice, Collective Remembrance and Brazil's Shift to Far-Right Populism*. Supervisor: Alice Panepinto, Queen's University Belfast.
- Stockhem, Ophélie, *Improving the International Regulation of Cybersex Trafficking of Women and Children through the Use of Data Science and Artificial Intelligence*. Supervisors: Maria López Belloso and Demelsa Beniso Sánchez, University of Deusto, Bilbao.

The selected theses demonstrate the breadth, depth and reach of the EMA programme and the passion and talent of its students. We are particularly proud of EMA's 2019/20 students: as teachers and students across the world can testify, the COVID-19 pandemic brought many different challenges for teaching and learning. It is fair to say that our students researched and wrote their theses in turbulent times. On behalf of the Governing Bodies of EMA and of all participating universities, we applaud and congratulate them.

Prof. Manfred NOWAK
Global Campus Secretary General

Prof. Thérèse MURPHY
EMA Chairperson

Dr Wiebke Lamer
EMA Programme Director

This publication includes the thesis *Democratic Deficit Theory: A Reversed Approach. Why Radical Political Changes in Member States Affect the Quality of Democracy in the EU* written by Olivia Houssais and supervised by Anna Unger, Eötvös Loránd University, Budapest.

BIOGRAPHY

Olivia Houssais is a graduated student from the Global Campus Europe. Previously, she obtained a double Bachelor in Political Sciences and International Relations in HEIP, Paris, and subsequently specialized in European Governance with a Master in Sciences Po Grenoble. Her internship with the European Association for Local Democracy (ALDA) in Vicenza, particularly determined her willingness to study Human Rights, and more specifically, democratic issues.

ABSTRACT

The thematic of the democratic deficit has stirred passions and created divisions among scholars, who find no consensus on how to answer it. Too often, the methodological approaches implemented to deal with the democratic problems of the EU either emphasise the procedures only at the EU level or mainly focus on the integration processes. Yet, due to the multilevel framework at stake within the EU area, there is a relationship connection between the domestic and the European levels: what happens nationally influences de facto the EU and its institutions.

The aim of this thesis is therefore to propose a revision to the democratic deficit theory, by adopting a reversing approach, which focuses on the evolution of the quality of democracy at both levels. It demonstrates that the radical political changes encountered by the Member States from 2008 to 2018 (Chapter 2) not only jeopardised national democracies, but also led to downward trends in the quality of democracy in these same Member States, thus creating a risk of democratic erosion domestically (Chapter 3). And because of the correlation link between both levels, it is revealed that Member States are the predominant actors in the variation of the EU quality of democracy, namely that their own downward trends negatively influence the EU quality of democracy (Chapter 4).

Focusing specifically on the level of the EU quality of democracy is particularly interesting because of the lack of research on the matter. There is however a high need to develop this kind of approach in the field since it allows to underline the democratic issues the EU and its Member States are facing and will have to face.

Keywords: Democratic deficit, quality of democracy, erosion of democracy, crisis of democracy, liberal democracy, European Union, political changes, populism, illiberalism, political parties, far-right parties, rule of law, political freedom, political competition

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This thesis is dedicated to all the people who spend their lives defending human rights and democracy, in Europe and other parts of the world, following the conviction that it is the most precious thing we have

PREFACE

When I first began the elaboration of my research, more than exploring issues that really mattered to me, my will was to propose another understanding of the society I evolved in since the development of my political consciousness. At that moment, my feeling, shared by many other scholars, was that European liberal democracies and the fundamental freedoms they were supposed to guarantee were threatened, notably due to the radical political evolutions we have encountered since the economic crisis (and here, my topic was born!). I deeply wanted to become more active in my engagement to promote and protect democracy, freedom and rule of law in the European area. With all the humility I have, I really hoped that my work could help any individual interested in this topic, to better apprehend the issues we are facing as EU citizens.

I would never have thought, back then, that my own freedoms could be restricted that much. I would never have thought, back then, that the conception of our societies would have been reinvented so quickly. I would never have thought, back then, that a country I temporarily lived in, would have turned into a true autocracy to the eyes of the world. I would never have thought, back then, that the simple fact of studying in a public library would have represented a privilege.

In less than one month, everything changed: the world as we knew it, our daily interactions, the human condition. I guess that these past months have been difficult for the majority of us. But I still consider myself particularly lucky, since despite my isolation, I was always surrounded.

Thankfully, my research methodology did not necessitate any field trips or interviews, which meant that I was able to continue my study from home, without being affected too much by the collateral effects

of the pandemic. Yet and considering the global context, I found it particularly difficult to bring back a meaning in my work: would it still be possible to give a reading of the democratic situation in the EU when it encountered so many drastic evolutions?

After a time of reflection, I realised how important it is to take a step back while looking at any transformation. I therefore remain deeply convinced that my thesis can help to provide the analysis it was originally looking for. Research on the EU quality of democracy in a time of a global pandemic is more than relevant: it is necessary, most notably because EU liberties are more jeopardised than ever, as Hungary sadly demonstrated.

I am not here to take the role of fortune tellers. I have absolutely no idea of how our societies will reconstruct themselves. Is this pandemic the big crisis many scholars, such as David Runciman, expected to ‘save’ the democracy?¹ Will it help to break the polarisation of our societies? Will it reconsider the presence of all kinds of inequalities poisoning our democracies?

The only element I am sure of is the need to reconsider the meaning of our universal values, for it to reveal its profound sense.

I will therefore finish this preface with the words of Vasily Grossman in *Life and Fate*: ‘Freedom was both painful and difficult; it was life itself’.²

¹ David Runciman, *How Democracy Ends* (Profile Books 2018).

² Vasily Grossman, *Life and Fate* (first published 1960, Vintage Classics 2006) 326.

TABLE OF ABBREVIATIONS

CEE	Central and Eastern Europe
CoE	Council of Europe
ECJ	European Court of Justice
ECHR	European Convention on Human Rights
EFF	Election free and fair
EFCM	Election free campaign media
EL	Election losers accept result
EM	Elections multiparty
EU	European Union
EPP	European People's Party
FPÖ	Freiheitliche Partei Österreichs (Freedom Party of Austria)
FRA	European Union Agency for Fundamental Rights
M5S	Movimento Cinque Stelle (Five Star Movement)
MEP	Member of the European Parliament
PR	Political Rights
RSF	Reporters Without Borders
TEU	Treaty on the European Union
V-Dem	Varieties of Democracy
UK	United Kingdom
UN	United Nations

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1.

AN INTRODUCTION TO THE STATE OF DEMOCRACY IN
THE EU

The adoption of the Maastricht Treaty in 1992 represented a turning point for the European Union (EU) and its Member States.³ With its entry into force, not only did the organisation endorse a new name, but it also gave the EU further competences, allowing it to become this ‘unidentified political object’ according to the well-known expression of Jacques Delors.⁴ From an economic community, it transformed itself into a deeply political organisation. Following this birth certificate, the EU continued, years after years, or better ‘step by step’, its progress in order to foster European integration through its enlargement or the adoption of other fundamental treaties.

Despite these positive elements, the year 1992 also represents the breaking point between the EU project and its citizens: the debates on the ratification of the Maastricht Treaty implied a ‘politicization of the European stakes’ and a ‘polarization of the public opinion’ towards the EU, namely a fight of the sovereignist against the integrationist ideologies.⁵ These transformations led to a significant decrease in the public opinion vis-à-vis the European integration in the following years.⁶ More worryingly, it also drastically and increasingly ensured a voice to Eurosceptics, together with accusations of democratic deficit.⁷

³ Consolidated Version of the Treaty on European Union [1992] OJ C325/5.

⁴ Jacques Delors, ‘Speech by Mr Delors’ (Speech at the First Intergovernmental Conference, Luxembourg, 9 September 1985) <www.cvce.eu/content/publication/2001/10/19/423d6913-b4e2-4395-9157-fe70b3ca8521/publishable_en.pdf> accessed 27 April 2020.

⁵ Bruno Cautrès, *Les Européens aiment-ils (toujours) l’Europe* (La Documentation française, Réflexe Europe 2014) 16.

⁶ *ibid.*

⁷ Sabine Saurugger, *Theoretical Approaches to European Integration* (The European Union Series, Palgrave Macmillan 2014) 195-203.

In their common imaginary, the EU growing power would actually be an obscure bureaucratic – sometimes even kind of authoritarian – organisation, which would impose its directives and other regulations on EU citizens who never asked for them. In their famous article ‘Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik’, Andreas Føllesdal and Simon Hix elaborate a definition of the concept according to five main features:⁸

1. ‘European integration has meant an increase in executive power and a decrease in national parliamentary control’;
 2. ‘The European Parliament is too weak’;
 3. ‘There are no “European” elections’ per se;
 4. ‘The EU is simply “too distant” from voters’; and
 5. ‘The EU adopts policies that are not supported by a majority of citizens in many or even most Member States’.
- 6.

Well aware of the criticism it received, EU institutions, with the inputs of the European Commission, tried to address these comments by further democratising its legislative process and/or by reinforcing transparency within the institutions. The adoption of the Lisbon Treaty in 2007⁹ represented a turning point in the EU strategy on the matter, with its objective being ‘to make the EU more democratic, more efficient and able to address global problems’.¹⁰

Notwithstanding these satisfactory reforms, EU democracy still encounters democratic problems and the crisis of legitimacy the EU has to face persists.

1.1 DEMOCRACY IN THE EU: UNITED IN DIVERSITY?

Since the 1990s, many scholars who specialise in European governance have entered into this debate, allowing the development of the reflection on the democratic deficit topic. Unfortunately, it is important to underline

⁸ Andreas Føllesdal and Simon Hix, ‘Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik’ (2006) 44 *JCMS* 533, 534-37.

⁹ Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

¹⁰ European Union, ‘EU treaties’ <https://europa.eu/european-union/law/treaties_en> accessed 28 April 2020.

that, too often, condemnations – that is in the media, public speeches or even in academic publications – regarding the EU democratic level reveal a profound misunderstanding and/or an almost ignorance of the functioning of the EU institutions (which reinforces this feeling of democratic illegitimacy). It is true that there are many points on which criticism can be formulated. The management of the Eurozone, for instance, is particularly perceived as holding an authoritarian nature for many authors.¹¹ Yet, the problem may not rely per se on the specificities according to which the EU operates – whereby Yascha Mounk classifies the organisation under the ‘undemocratic liberalism’¹² category – but rather on the phenomenon of the general increasing scepticism from the citizens towards their democratic institutions, therefore at the national and European levels.¹³

Indeed, whereas the new century was supposed to be ‘the End of the History’¹⁴ or the very victory of liberal democracies over forms of authoritarianism and totalitarianism, many democratic regimes from the EU area have found themselves in ‘crisis’ since the end of the 20th century. This ascertainment can appear as paradoxical in considering that thinkers as ancient as Plato, Aristotle, Thomas Hobbes, Alexis de Tocqueville, Karl Marx or even Max Weber, always stated that democracy and crisis are deeply correlated: to ‘talk about a crisis of democracy is hence as old as democracy itself’.¹⁵ But since the 1990s, the literature on the matter drastically increased, as an illustration of the fear encountered by many to see their democracies collapse. Even more recently, several authors have asked successively dramatic questions such as: is ‘democracy in

¹¹ Christian Kreuder-Sonnen, ‘An authoritarian turn in Europe and European Studies?’ (2018) 25 *Journal of European Public Policy* 452. See also Stéphanie Hennette and others, *Pour un traité de démocratisation de l’Europe* (Editions du Seuil 2017).

¹² Yascha Mounk, *The People Vs. Democracy. Why Our Freedom Is in Danger and How to Save it* (Harvard UP 2018) 21.

¹³ See Sabine Saurugger, ‘Crise de l’Union européenne ou crises de la démocratie ?’ (2017) Spring 1 *Politique étrangère* 23 <www.cairn.info/revue-politique-etrangere-2017-1-page-23.htm> accessed 25 April 2020.

¹⁴ Francis Fukuyama, ‘The End of History?’ (Summer 1989) 16 *The National Interest* 3 <www.jstor.org/stable/24027184?seq=1#metadata_info_tab_contents> accessed 27 April 2020.

¹⁵ Wolfgang Merkel, ‘Challenge or Crisis of Democracy’ in Wolfgang Merkel and Sascha Kenip (eds), *Democracy and Crisis: Challenges in Turbulent Times* (Springer 2018) 1.

decline?’¹⁶ ‘how democracies die?’¹⁷ ‘how democracy ends?’¹⁸ or ‘how to lose a country?’¹⁹ Are all these political scientists deeply pessimistic or does this literature reveal a current trend?

For what specifically concerns EU Member States, democracies are supposed to be particularly consolidated. It is indeed necessary to remember that democracy appears as one of the EU values, provided by article 2 of the Treaty on EU (TEU).²⁰ Not only does the EU recognise democracy as the most legitimate form of regime, but it also promotes and monitors its implementation – article 7 of the TEU, related to breaches by Member States of the values of article 2 of the TEU, illustrates it.²¹ But the fact remains that, since the economic and financial crisis of 2007 and 2008, many radical political changes occurred in the EU Member States, causing several attacks on their democratic principles.

Political changes in democracy are not necessarily bad; theoretically it is actually the opposite since ‘changes’ are supposed to reflect citizens’ will, therefore proving that the power is not concentrated into the hands of a single political force. In these conditions, ‘political swings’, namely the ‘permanent and constant fluctuation of parties into government office and out of government office’, can be a good indicator of how healthy a democracy is.²² Yet, some of the changes occurring since 2008 are way more radical and have jeopardised the quality of democracy of those countries. Worse, it has threatened the liberal democratic systems. A true ‘democratic backsliding’ has indeed been observed in countries such as Hungary, Poland, Romania, Bulgaria or Slovenia, making these EU Member States regimes some kind of ‘nascent autocracies’ for Daniel Kelemen.²³ And this happened despite the EU prevention and sanction mechanisms, elaborated to counter these kinds of situations.²⁴

¹⁶ Larry Diamond and Marc F Plattner, *Democracy in decline?* (A journal of democracy book, Johns Hopkins UP 2015).

¹⁷ Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (Crown Publishing 2018).

¹⁸ David Runciman, *How Democracy Ends* (Profile Books 2018).

¹⁹ Ece Temelkuran, *How to Lose a Country. The Seven Steps from Democracy to Dictatorship* (4th Estate 2019).

²⁰ Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

²¹ *ibid.* See also ch 4 for a focus on art 7.

²² David FJ Campbell, *Global Quality of Democracy as Innovation Enabler. Measuring Democracy for Success* (Palgrave Macmillan, Springer International Publishing 2019) 230.

²³ Daniel Kelemen, ‘Europe’s Other Democratic Deficit: National Authoritarianism in Europe’s Democratic Union’ (2017) 52 *Government and Opposition* 211, 212.

²⁴ See ch 4 for the procedures implemented from 2008 to 2018 and a criticism regarding their efficiency.

Other events, which happened outside of the EU, could have rendered the Member States aware of the increasing scepticism related to liberal democratic principles globally. But most of them seemed too far from the reality they then encountered. And even when the Brexit referendum took place, which directly targeted the EU in its very heart, denial quickly took over again: after all, the United Kingdom (UK) is an ‘island’, which more than often has opposed itself to the deepening of the EU integration throughout years.²⁵ In these conditions and despite the strong footprint of right-wing populism left on the referendum vote, the UK’s exit from the EU could represent a healthy decision or even a good chance for the organisation. For many, the perspective remained that EU liberal democracies and the EU itself were strong enough, consolidated enough, and mature enough, and that they would be able to withstand these shocks.²⁶ In other words, liberal democracies may be jeopardised elsewhere in the world, but the EU and its Member States would continue to promote it.

But these kinds of radical political changes are particularly perverse because most of them respect democratic mechanisms – the Brexit vote was organised in free and fair conditions for instance. They are not brutal, shattering or destructive, but they nevertheless operate as a slow erosion of democracy by implying a smooth lowering of its quality level.²⁷

The main issue is that while being the centre element of its core values, it is definitely democracy that allows the EU to be unified in diversity. It is then possible to formulate the assumption that any lowering of the EU Member States’ quality of democracy level would necessarily have negative impacts on the EU itself. In such a context, would the EU still overcome this situation because it developed a solid quality of democracy at the EU level? Or would the lowering of the quality of democracies of its Member States actually be one of the causes of the EU democratic problem? Because, if the Member States are encountering an erosion of their own democracies, it seems very difficult for them to participate in an organisation defined as a democratic one, since the EU is nothing else than what its Member States want(ed) it to be.

This thesis aims to propose a reinterpretation of the democratic deficit theory, by reversing it: instead of focusing on the EU itself, it

²⁵ Michel Rocard, *Suicide de l’Occident, Suicide de l’Humanité?* (Flammarion 2015) 568.

²⁶ Temelkuran (n 19).

²⁷ Levitsky and Ziblatt (n 17) 132.

appears now necessary to first understand the different evolutions of liberal democracies at national levels. To make an analogy, to think the infinitely large, it has been necessary to understand the infinitely small (Planck-Einstein relation); in the case of this thesis, it is necessary first to come back to the level of democracy of the EU Member States (our infinitely small) in order to consider the one of the EU itself (our infinitely large here). With this approach in mind, it will be possible to answer the central questions on which this study rely: why is the quality of democracy of the EU Member States affected by the radical political changes; and why does it impact the quality of democracy of the EU itself?

1.2 METHODOLOGY

Quality of democracy is a controversial concept: on what grounds can one simplify such a complex process and judge if a democracy is at a ‘high level’ or not?²⁸ But for the purposes of this thesis, quality of democracy is understood as a ‘concept which should allow to distinguish between different qualities of democracy, by this implying that there can be democracies with a lower quality of democracy but also with a higher quality of democracy’.²⁹ Because EU Member States are recognised as ‘free democracies’³⁰ – except for Hungary whose status declined last year to ‘partly free’³¹ – the aim of this study is not to judge how good EU democracies are, but to detect if, despite the high standards of these countries, downwards trends can be identified according to specific indicators and during a precise period. The timeline chosen goes from 2008 to 2018, since 2008 is recognised as ‘the year of the democratic decline’ and paved the way to several kinds of recessions.³² On this basis, it would be possible to elaborate a correlation of the quality of

²⁸ Marc F Plattner, ‘The Quality of Democracy: A Skeptical Afterword’ (2004) 15 *Journal of Democracy* 106.

²⁹ Campbell (n 22) 15.

³⁰ Freedom House, ‘Freedom in the World 2019’ (Freedom House 2019) <https://freedomhouse.org/sites/default/files/Feb2019_FH_FITW_2019_Report_ForWeb-compressed.pdf> accessed 5 March 2020.

³¹ *ibid.*

³² Arch Puddington quoted in Steven Levitsky and Lucan Way, ‘The Myth of Democratic Recession’ in Larry Diamond and Marc F Plattner (eds), *Democracy in decline?* (A journal of democracy book, Johns Hopkins UP 2015) 58.

democracy trends between the national and the EU levels.

The methodology developed here will use a mix of qualitative and quantitative tools. For what specifically concerns the measure of the quality of democracy at national levels, the focus will be put on three main parameters, all of them calculated thanks to the data provided by Varieties of Democracy (V- Dem):³³

1. Rule of law: this concept, apart from being an EU value, is an ‘essential pillar upon which any high-quality democracy rests’.³⁴ It seems therefore essential to consider its evolution in order to detect the trends in the EU Member States.
2. Political freedom: freedom also belongs to the EU values and represents in general an essential criterion to measure because ‘democracy without freedom is a contraction in terms’.³⁵ In order to calculate such a broad parameter, this thesis will focus on the ‘political freedom’ and adopt the methodology developed by Campbell³⁶ in analysing the levels of ‘political rights’, ‘civil liberties’ and ‘freedom of the press’.
3. Political competition: this criterion appears particularly interesting, in considering it may often be taken for granted in ‘consolidated democracies’ such as the ones of the EU Member States. Yet it reveals the lack of fairness during electoral campaigns, an essential criterion for liberal democracies, particularly in an EU multilevel context.

For the assessment of the EU quality of democracy, the analysis will concentrate on the same parameters, which are the rule of law, political freedom and political competition. However, according to the knowledge gathered at the time of the elaboration of this thesis, no index provides a quantification of the quality of democracy of the EU. Therefore, the methodology adopted here will only be qualitative, notably by emphasising the behaviour of the different agents involved

³³ V-Dem, ‘Variable Graph’ <www.v-dem.net/en/analysis/VariableGraph/> accessed 5 March 2020.

³⁴ Guillermo O’Donnell, ‘The Quality of Democracy: Why the Rule of Law Matters’ (2004) 15 *Journal of Democracy* 32, 32.

³⁵ David Beetham, ‘The Quality of Democracy: Freedom as the Foundation’ (2004) 15 *Journal of Democracy* 61, 62.

³⁶ Campbell (n 22).

in the EU decision-making, as a proof of the Member States' influence on the EU quality of democracy.

The analysis will be divided into three parts, which respectively correspond to the three following chapters. Chapter 2 will interest itself in the current trends occurring within EU Member States' political landscapes. The idea here, is to understand how to think about EU liberal democracies nowadays and to review the radical political changes encountered by the Member States from 2008 to 2018. This thesis will then analyse the downward trends in the quality of democracy of the EU Member States during the same timeline (Chapter 3), therefore demonstrating that these countries know a progressive erosion of their democracies. The findings of these chapters will help this thesis to assess the quality of democracy level of the EU itself, thus allowing a revision to the democratic deficit debate by reversing it (Chapter 4). Finally, a conclusion and a discussion are proposed in Chapter 5.

2.

THINKING EU DEMOCRACIES: A STATE OF PLAY OF THE
RADICAL POLITICAL CHANGES FROM 2008 TO 2018

The project of the European Communities has always relied on the idea of unifying peoples through the creation of a deeply political entity which would foster peace, democracy and mutual trust.³⁷ Yet, when the founding fathers drafted the Rome Treaty in 1957,³⁸ it provided no mention about democracy or respect for fundamental human rights. It was not until the end of the 20th century that a legal evolution allowed its recognition with the adoption of the Copenhagen criteria defined in 1993 by the European Council, which recognised democracy as a prerequisite to enter into the organisation.³⁹ The later inclusion of human rights and democracy in the EU law, thanks to the execution of the Charter of Fundamental Rights of 2000 within the Nice Treaty, represents a further consecration. The text, which emphasises the respect of democratic principles in its Preamble,⁴⁰ is now legally binding as the Lisbon Treaty mentions it at article 6 of the TEU, in addition to its article 2 related to the EU values.⁴¹ Democracy is therefore more than a *sine qua non* condition for taking part into the EU club: as soon as a country becomes an EU Member State, democracy belongs to its identity. Democracy in the EU is not an abstract notion, but an interactive form that connects one State to the others, as well as to the institutions of the organisation.

³⁷ Preamble of the Treaty establishing the European Economic Community [1957] OJ C224/11.

³⁸ *ibid.*

³⁹ Eur-Lex, 'Accession Criteria (Copenhagen criteria)' <https://eur-lex.europa.eu/summary/glossary/accession_criteria_copenhagen.html> accessed 2 April 2020.

⁴⁰ Charter of Fundamental Rights of the European Union [2000] OJ C364/01.

⁴¹ Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

Yet, the series of radical political changes, notably since 2008, have deeply challenged democracies at national levels.⁴² This is particularly the case for Bulgaria, Hungary, Poland, Romania and Slovenia who have been put under the spotlight due to the observations of backsliding episodes.⁴³ Some authors, such as Philippe Schmitter, deny any global democratic ‘declines’ and analyse these elements of concern as traditional ‘crises’ related to the ‘process of transition’.⁴⁴ In following his argument, one could state that since the so-called ‘nascent autocracies’⁴⁵ democratised more recently, their perceived democratic drop would actually not notify that EU democracies in general are dying, but that the whole system is genuinely democratic. Debating or raising considerations for these countries would then just be something procedural and liberal democracies would remain sacrosanct.

However, when reconsidering the democratic situation of every EU Member State, and particularly those supposedly more consolidated, it is possible to – at best – talk about movements of contestations against democracies, or – at worst – of a proper decline of democracies in the area. Indeed, since 2008, many of them have known moments during which their very own democracies, and notably their liberal component, have been restricted, crippled and/or disputed.

Some of these changes came from the national governments themselves, others developed in the form of common radical trends within the Member States’ political landscapes. What is particularly interesting is that these transformations may not be aggressive or antidemocratic by definition – they may even claim more democratisation as in the case of some populist movements for instance. But the accumulation of these radical tendencies, together with the erosion of democracy, which started already in the 1990s, are creating a mixture of dangerous solvents for EU democracies.

The aim of this chapter is therefore to review the literature dealing with the changes that have been observed in many of the EU Member

⁴² Larry Diamond and Marc F Plattner, *Democracy in decline?* (A journal of democracy book, Johns Hopkins UP 2015).

⁴³ Daniel Kelemen, ‘Europe’s Other Democratic Deficit: National Authoritarianism in Europe’s Democratic Union’ (2017) 52 *Government and Opposition* 211, 212.

⁴⁴ Philippe C Schmitter, ‘Crisis and Transition, But Not Decline’ in Larry Diamond and Marc F Plattner (eds), *Democracy in decline?* (A journal of democracy book, Johns Hopkins UP 2015) 44.

⁴⁵ Kelemen (n 43).

States during the period of interest, that is from 2008 to 2018. As it will be developed in the coming paragraphs, many of these evolutions are not new phenomena, but they have slightly accelerated since the economic crisis.

2.1 A SHIFT OF PARADIGM WITHIN EU DEMOCRACIES: THE PROGRESSIVE ABANDONMENT OF LIBERALISM

The concerns of scholars in analysing democracies have been considerably magnified since the end of the Cold War and the expansion of the third wave of democratisation. With the multiplication of the birth of democracies, a scientific necessity has appeared in order to list the different types of systems, while differentiating their democratic levels.

To meet this need, many indexes have been gradually developed, and they now provide a very precise classification of the different kinds of regimes globally. What is interesting here is that, despite the methodology chosen by one index in comparison with another, together with the internal debates for what concerns the status of some countries – namely Hungary, because of its recent evolutions in 2018 as it has already been stated in the introductory chapter – EU Member States are all examined as being democracies. For instance, the 2018 Democracy Index of the Economist Intelligence Unit, which considers each of the 28 Member States, categorised 11 of them as being ‘full democracies’ and 17 as ‘flawed democracies’ – they respectively represent the first and second levels out of four types of regimes, the others being ‘hybrid’ and ‘authoritarian’.⁴⁶ The differentiation in the classification here, although related to the methodology chosen by the Economist Intelligence Unit in quantifying their parameters, reveals an inequality in the way EU democracies are implemented from one State to another. Despite the differentiation in their democratisation processes, this illustration

⁴⁶ In this index, Hungary is considered as a ‘flawed democracy’. This differentiation of categorisation compared with the results given by Freedom House – due to a diversification in the methodology applied – illustrates the complexity in analysing the status of a country encountering backsliding episodes.

The Economist Intelligence Unit, ‘Democracy Index 2018: Me too? Political participation, protest and democracy’ (The Economist Intelligence Unit 2019) <https://275rzy1ul4252pt1hv2dqyuf-ypengine.netdna-ssl.com/wp-content/uploads/2019/01/Democracy_Index_2018.pdf> accessed 21 June 2020.

actually proves that EU Member States are categorised as democracies by definition. It complements the argument claiming that democracy in the EU scope is not just part of a strategical propaganda to corroborate the construction of a shared EU identity; but that democracy truly represents the very essence of the EU Member States, even though improvements are still needed.

The EU area therefore offers a privileged context for the democracies of its Member States to develop: it appears very unlikely that a sudden coup would reverse a democracy in a given country of the zone.⁴⁷ Nevertheless, the durability and solidity of the EU democracies are not a given fact either, most notably for what concerns the protection of their 'liberal' part – here again, the case of Hungary is particularly relevant, as it will be explained in the coming paragraphs.

There is actually nothing too surprising in stating that a crisis point exists between democracy and liberalism, since a problem of duality subsists according to their respective definitions. Pierre Rosanvallon explains this tension by associating the principle of 'liberty' to 'liberal', while opposing it to 'power', the corollary of 'democracy' in this scheme; 'the one representing the moment of personal autonomy, the other expressing the moment of group empowerment'.⁴⁸ This paradox constitutes one of the many tensions Pierre Rosanvallon reveals and that lie within the notion itself of democracy.⁴⁹ The problem is that these same tensions can generate a feeling of deception for the citizens in the way they perceive the structure of their democracies, which is a key element of explanation in describing the democratic crises. This is notably what scholars have observed since the economic crisis of 2008: the tension between 'liberal' and 'democracy' has increased drastically, jeopardising both notions and feeding by the same token the several democratic crises that were already installed within the EU Member States (of representation, of the welfare state etc).⁵⁰

A shift of paradigm has therefore appeared when fundamental liberties have begun to be attacked in many of the EU countries. Not only are liberal and democracy two principles increasingly in tension, but it is also the 'liberty' feeling that is completely eroding. This is firstly

⁴⁷ Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (Crown Publishing 2018).

⁴⁸ Pierre Rosanvallon, *Democracy Past and Future* (Samuel Moyns ed, Columbia UP 2006) 330.

⁴⁹ *ibid.*

⁵⁰ To go further, see Yascha Mounk, *The People Vs. Democracy. Why Our Freedom Is in Danger and How to Save it* (Harvard UP 2018).

surprising because of the EU context, which again, is built on the value of freedom and recognised as a liberal entity.⁵¹ But despite the privileged space provided by the EU framework, a progressive slide towards authoritarianism – most of the time in the name of security – has been implemented by national governments during the past years.⁵²

Many EU Member States, led by traditional political parties from the right or the left side, chose to implement policies which represent threats to liberalism. The state of emergency (i.e. a restriction of the public liberties) implemented by the French government – whose majority was from the left side, that is the Parti Socialiste (PS) – as a reaction after the terrorist attacks of 13 November 2015 and that lasted two entire years, can demonstrate it. Without even mentioning its reasonability and proportionality, it is the impact of such a long limitation of fundamental democratic principles on the quality of democracy of the French Republic that provokes huge questioning.⁵³ Indeed, the sentiment of insecurity that has increased within the EU societies – because of the economic crisis, the so-called migrant crisis or the terrorist attacks – have progressively led to an abandonment of the notion of liberty to the benefit of the principle of security, putting citizens in the position of a ‘consented servitude’ until they are directly and personally threatened in their own freedom.⁵⁴ A menace to liberal democracies has therefore slightly developed right within the heart of the EU national governments.

More worrying is the case of several Central and Eastern European (CEE) governments, which because of their aggressive behaviour towards liberalism – as it will be developed later in the second paragraph of this chapter – provokes a high depreciation of the democratic perception of their citizens. The think-tank GLOBSEC demonstrated in its recent study ‘Voices of Central and Eastern Europe: Perceptions of democracy & governance in 10 EU countries’ that the faith of CEE citizens towards

⁵¹ Mounk (n 50) 19, 28, 33. For authors such as Yascha Mounk, the EU is even considered as an ‘undemocratic liberal entity’, which would have pushed further the liberal part and diminished drastically the democratic side. In such an analysis, it seems even more surprising that EU Member States would have chosen to diminish their own liberal part. See ch 4 for the discussion on the democratic part of the EU.

⁵² François Sureau, *Sans la liberté* (Gallimard 2019).

⁵³ *ibid* 51. As François Sureau develops it, historically, freedom-destroying regimes have been created to counter an indisputable threat in the mind of their authors: as soon as they existed, they were used to do something else. For instance, the 2015 French state of emergency actually allowed the government to assign ecologist activists, whereas the context was that of the COP21; thus, denying them their right to demonstrate.

⁵⁴ *ibid* 60.

liberal democracies has declined, which correlates with the backsliding episodes of these same countries.⁵⁵ If citizens do not trust liberal values any more, it seems difficult – and even somehow antidemocratic – to defend these same values, especially in an environment within which governments openly criticise liberalism.

Lessening the emphasis on liberties provokes a deterioration of the way EU citizens envision their democracies and the role they have to play in this frame; it also alters their apprehension of the notion of power in general. In their very famous study, Yascha Mounk and Roberto Stefan Foa demonstrated the consequences of the decline in trust in political institutions of Western countries, EU States included.⁵⁶ Their argument was particularly innovative in the field, as the leading scholars – Ronald Inglehart, Pippa Norris, Christian Welzel and Russell J. Dalton – used to analyse ‘these trends as benign indications of the increasing political sophistication of younger generations of “critical” citizens who are less willing to defer to traditional elites’.⁵⁷ Yet, the results provided by Yascha Mounk and Roberto Stefan Foa ascertain that even EU countries should not have a ‘democratic self-confidence’: firstly because popular support for democracies has declined; and secondly because their data ‘suggest a significant generational reversal’ as ‘it is clear that citizens today express less of an attachment to liberal democracy, interpret the nature of democracy in a less liberal way, and have less hope of affecting public policy through active participation in the political process than they once did’.⁵⁸ If democracy still remains the wisest form of regime in the common spirit, it is particularly concerning to observe that, even in EU countries, citizens become more open to an authoritarian style of regime and trust less in a liberal democracy.

This shift of paradigm is very problematic, as it is deeply rooted within the political vision of the EU citizens towards their own governments – which, in this context, may be encouraged by the public opinion to continue the decrease of implementation of liberal policies in favour of more security. The main paradox, as explained before, is that despite

⁵⁵ GLOBSEC, ‘Voices of Central and Eastern Europe: Perceptions of democracy & governance in 10 EU countries’ (GLOBSEC 2020) <www.globsec.org/wp-content/uploads/2020/06/Voices-of-Central-and-Eastern-Europe_read-version.pdf> accessed 23 June 2020.

⁵⁶ Stefan Foa and Yascha Mounk, ‘The Danger of Deconsolidation’ (July 2016) 27 *Journal of Democracy* 5.

⁵⁷ *ibid* 6.

⁵⁸ *ibid* 11.

the fact that ‘liberal’ and ‘democracy’ are in tension, they work together: the first one needs the second and vice-versa. For Yascha Mounk, ‘the mutual dependence of liberalism and democracy shows just how quickly dysfunction in one aspect of our politics can breed dysfunction in another’.⁵⁹ The profound disillusion of citizens, their loss of confidence within democratic institutions and their lack of trust in respect to liberalism is therefore a political change that is necessary to consider in studying the state of play of EU democracies.

Thankfully, not every citizen is inattentive to this discrete erosion: many individuals are well aware of the main radical political changes occurring since 2008, which led them formulate the astonishing question well described by Ece Temelkuran: ‘is this still our country?’.⁶⁰

2.2 A REVIEW OF THE MAIN POLITICAL CHANGES FROM 2008 TO 2018

2.2.1 *The dissemination of populism*

Populism is not a ‘new’ phenomenon per se. It has actually existed, in various forms, since the 19th century with the Second Empire of Napoleon III, with the Russian Populism, or with the US People’s Party.⁶¹ But despite its longevity, a substantial lack of consensus persists between scholars when it comes to define the concept, which nowadays seems to serve ‘as both a screen and a crutch’.⁶² The use of the word ‘populism’ in the academic literature, the political life or the media has drastically increased since the economic crisis of 2008, whereas the understanding of what it really represents, remains blurred in the common picture. In this context, there is a real need, especially for what regards the scientific literature, to use this connotation carefully in order to bring back meaning to it.⁶³

⁵⁹ Mounk (n 50).

⁶⁰ Ece Temelkuran, *How to Lose a Country. The Seven Steps from Democracy to Dictatorship* (4th Estate 2019) 226.

⁶¹ Pierre Rosanvallon, *Le Siècle du populisme : Histoire, théorie, critique* (Editions du Seuil 2020) 97-159, 253-70.

⁶² Pierre Rosanvallon, *Counter-Democracy. Politics in an Age of Distrust* (CUP 2008) 265.

⁶³ For an opinion on the use of the term ‘populism’ see Tamas D Ziegler, ‘The Populist Hoax - Getting The Far Right and Post-Fascism Wrong’ (*Social Europe*, 2 February 2018) <www.socialeurope.eu/THE-POPULIST-HOAX-GETTING-THE-FAR-RIGHT-AND-POST-FASCISM-WRONG> accessed 2 July 2020.

Nowadays, it is the definition provided by Cas Mudde that gathers the most consensus. According to him, populism is a ‘thin-centered ideology that considers society to be ultimately operated into two homogeneous and antagonistic groups, “the pure people” against “the corrupt elite”, and which argues that politics should be an expression of the *volonté générale* of the people’.⁶⁴ Scholars such as Pierre Rosanvallon even go further, in insisting on the necessity to analyse populism as ‘a perverse inversion of the ideals and procedures of democracy’.⁶⁵ In this pattern, populism is envisaged as a ‘pathological’ form of democracy and would rely on three main features which are:

1. The misperception of the people and the elite as two unified and separated entities, whereas none of them are homogeneous;
2. The misunderstanding of direct democracy and its relative instruments; and
3. The misuse of representativity, by playing with the ambiguities created in the description of the society by populist leaders.⁶⁶

Considering the people in a unique form, without taking into account its variabilities, does not help to reach the common good or does not provide a democratic community.⁶⁷ Yet, an increasing dissemination of populism (as a political form, or just a strategy) within the EU societies could have been observed in the previous years, until it eventually reached power.

The evolutions occurring in Italy are, in this sense, particularly interesting. Even though the country has its specificities, it can be considered as a ‘laboratory’ of the EU political landscapes, namely a ‘seismograph that registers the least telluric shocks shaking the political order’ and whose ‘aftershocks are felt in the whole Europe’.⁶⁸ During the 1990s, the arrival in power of Silvio Berlusconi shook up the European political life, since he introduced a new form of communication in implementing an innovative populist style of personalising the power, always supported by his media, while playing the role of a business

⁶⁴ Cas Mudde and Rovira Kaltwasser, *Populism: A Very Short Introduction* (OUP 2017) 6.

⁶⁵ Rosanvallon (n 62).

⁶⁶ For further details, see Rosanvallon (n 61).

⁶⁷ *ibid.*

⁶⁸ Ilvo Diamanti and Marc Lazar, *Popolocrazia: La metamorfosi delle nostre democrazie* (GLF editori Laterza 2019) 16.

man in a situation of conflict of interests.⁶⁹ Since then, this model of making politics has been for instance reproduced in the Czech Republic with Andrej Babiš, or in Slovakia with Robert Fico. More recently, it is the electoral results of 2018 that really provoked a shock wave in the whole of Europe: ‘for the first time in one of the six founding countries of the European Communities (...) populists, those of the Lega and of the Movimento 5 Stelle took power’.⁷⁰ These two political parties, even though in conflict during the electoral campaign, finally created a coalition after long bargaining. Their government was based on an incoherent programme, whose main argument was the necessity to recover the Italian full national sovereignty.⁷¹ Their promise, in a very populist style, was to bring change while embodying the people.

If the Italian coalition government fell after one and a half years, this episode is nevertheless not anecdotal. First of all because populist parties also accessed power in other EU countries, such as Austria, Belgium, the Czech Republic or Slovakia. And more specifically, because the Italian example illustrates a European phenomenon of a populist institutionalisation within European governments which causes its dissemination in the EU Member States’ political lives. But this trend has a price: populist parties now influence politics at the national and the European level. As a consequence, the democratic life is now completely modulated in its very foundations, notably because of the populist obsession to invoke the so-called ‘people’. On that point, Ivo Diamanti and Marc Lazar now prefer to talk about ‘Popolocrazia’ (which could be translated as ‘Peoplecracy’) to refer to these countries, instead of democracy.⁷²

One of the characteristics of populists, ‘whether it is from the left or the right’, is indeed to claim that ‘democracy has been stolen from the people by the elites’.⁷³ They thus seek to implement strategies in order to claim this power back, whereby ‘the elites have to be flushed out from their hiding places, where they conceal what they are up to by paying lip service to democracy’.⁷⁴ This ‘conspiracy theory’,⁷⁵ related to the crisis

⁶⁹ Diamanti and Lazar (n 68).

⁷⁰ *ibid.*

⁷¹ See Movimento Cinque Stelle (M5S) and Lega, ‘Contratto per il Governo del Cambiamento’ (M5S and Lega 2018) <www.ansa.it/documents/1526568727881_Governo.pdf> accessed 24 June 2020.

⁷² Diamanti and Lazar (n 68).

⁷³ David Runciman, *How Democracy Ends* (Profile Books 2018) 65.

⁷⁴ *ibid.*

⁷⁵ *ibid.*

of representativity, is of course particularly visible when populist parties reach power. In 2015, when Alexis Tsípras formed a new government with Syriza (a left-wing populist party) his promise was to break the austerity imposed by the EU institutions and on which the previous Greek political leaders agreed: the past governments were the ones that would have betrayed the ‘true’ Greek people.⁷⁶ Yet, the denunciation of the previous political classes and the reconsideration of the Greek democratic system did not lead to the expected result since, despite Alexis Tsípras’ use of the referendum, he too could not respect the clear expression of the popular will, as the final agreement with the Troika on the Greek situation still implied the implementation of austerity measures, which continued for several years after.⁷⁷

Populists therefore adroitly make use of the disenchantment of citizens with their own democracies, which contributes to the dissemination of populism in the political life of the country: populist parties/movements multiplied since several years now, and the use of populism as a political style or strategy increased.⁷⁸ Many politicians, who would not belong to a populist party or would not be classified as populist leaders, have thus adopted a ‘populist style’ of doing politics, as part of their global strategy. The Team Populism think-tank has analysed different speeches conducted by different politicians – some publicly recognised as populists and others not.⁷⁹ The result of their study is striking since it becomes particularly visible that the rhetoric used by politicians, whatever is their position on the political landscape, is increasingly becoming populist. According to their assessment, Theresa May would therefore be ‘somewhat populist’ in her speeches – which is a category in which Jair Bolsonaro, Donald Trump or even Viktor Orbán are listed.⁸⁰ As a matter of fact, many of the most important populist arguments – the calls to organise referenda or the reference to national-protectionist philosophy for instance – are found everywhere in the daily political speeches in many of the EU Member States.⁸¹

Such a change in the way of practicing politics can have a huge

⁷⁶ Mounk (n 50) 18-19.

⁷⁷ *ibid.*

⁷⁸ Rosanvallon (n 61) 78-80.

⁷⁹ *ibid.*

⁸⁰ Kirk A Hawkins and others, ‘Global Populism Database: Populism Dataset for Leaders 1.0’ (*Team Populism*, 2019) <https://populism.byu.edu/App_Data/DataSetFiles/Populist%20speech%20data.xlsx> accessed 1 April 2020.

⁸¹ Rosanvallon (n 61).

impact on the EU Member States' democracies: by denouncing the elites in general, dissemination of populism reinforces the polarisation of the society and enhances the crisis of citizens' mistrust towards their own democratic institutions, making them weaker than ever.

2.2.2 *The rise of illiberalism*

Nowadays, the rise of illiberalism mostly concerns the CEE countries. The references to this terminology increased after a speech given by the Prime Minister Viktor Orbán, whose provocative manner refuted the 'liberal' connotation to define the Hungarian type of regime, and introduced the idea of 'illiberalism' or 'non-liberalism', rejecting therefore the centrality of the freedom values in order to embrace better the so-called identity of the Hungarian nation.⁸²

Talking about 'illiberal democracies' complicates analyses relative to the democratic status of these countries:⁸³ all in all, these leaders still play the democratic game in organising elections for instance. But for many observers, this connotation is just another word to classify hybrid or authoritarian regimes, notably because illiberal leaders softly mute the opposition.⁸⁴ Its democratic aspect is just a façade, which completely leads to the discredit of 'democracy itself, casting a shadow on democratic governance', thus making of illiberalism probably one of the 'greatest danger' liberal democracies know.⁸⁵

What happened in Hungary is particularly significant in considering how successfully the country democratically transitioned in the 1990s. In joining the EU in 2004 with other CEE countries, its democracy seemed more consolidated than ever. Yet, the economic problems, the rising inequalities, the migration vague, together with corruption scandals, propelled the Fidesz party under the leading of Viktor Orbán during

⁸² See Viktor Orbán, 'Viktor Orbán's Speech at Băile Tuşnad' (Speech at the XXV Bálványos Free Summer University and Youth Camp, 26 July 2014) <<https://hungarianspectrum.org/2014/07/31/viktor-orbans-speech-at-the-xxv-balvanyos-free-summer-university-and-youth-camp-july-26-2014-baile-tusnad-tusnadfurdo/>> accessed 3 May 2020.

⁸³ Freedom House, 'Freedom in the World 2019' (Freedom House 2019) <https://freedomhouse.org/sites/default/files/Feb2019_FH_FITW_2019_Report_ForWeb-compressed.pdf> accessed 5 March 2020.

⁸⁴ Kelemen (n 43); Daniel Kelemen, 'Hungary's democracy just got a failing grade' (*The Washington Post*, 7 February 2019) <www.washingtonpost.com/news/monkey-cage/wp/2019/02/07/hungarys-democracy-just-got-a-failing-grade/> accessed 20 February 2020.

⁸⁵ Fareed Zakaria, 'The Rise of Illiberal Democracy' (November/December 1997) 76 *Foreign Affairs* 22, 42.

the parliamentary elections in 2010, where he obtained two-thirds of the majority. It has to be underlined that the Fidesz party, when created in 1988, belonged to the liberal type before it transformed itself into a conservative party, which did not change when Viktor Orbán became Prime Minister for the first time from 1998 to 2002.⁸⁶ The shift towards authoritarianism operated after 2010 when the leading party began to undermine democratic institutions, attacked the media and the civil society. One of the main illiberal reforms regarded the Constitutional Tribunal, whose size has been expanded from eight members to 15, changing the nomination rules in order for the Fidesz party to name loyal judges belonging to the party – obviously posing high democratic problems.⁸⁷ Yet, Viktor Orbán still won a super-majority in 2018, which allowed him and the Fidesz party to entrench their domination on the political life of the country. Again, anti-democratic decisions for the media, the civil society and notably the academic life have been rapidly taken – the example of the closure of the Central European University is well-known,⁸⁸ but the interference of the government within the research life of the public universities, in banning the gender studies for instance, is another breach example.⁸⁹

These reforms did not stay within the Hungarian borders, but rapidly spread within the CEE countries and most notably in Poland, which raised high awareness within the EU institutions. The Polish Law and Justice Party (*Prawo i Sprawiedliwość*), led by Jarosław Kaczyński, came back to power in 2015 by winning the majority within the Sejm – the lower house of the national legislature.⁹⁰ In order to consolidate the power of the party, they also reformed the Constitutional Tribunal to obtain a majority within the institution.⁹¹ Such a move led to the

⁸⁶ Tamas D Ziegler, 'EU disintegration as cultural insurrection of the anti-Enlightenment tradition' [2020] *Journal of Contemporary European Studies* 434 <<https://doi.org/10.1080/14782804.2020.1784109>> accessed 10 July 2020.

⁸⁷ Levitsky and Ziblatt (n 47) 136-37.

⁸⁸ Laszlo Bruszt, 'Failed by Europe: The EU's University in Exile' (*Balkan Insight*, 4 December 2019) <<https://balkaninsight.com/2019/12/04/failed-by-europe-the-eus-university-in-exile/>> accessed 21 March 2020.

⁸⁹ Lauren Kent and Samantha Tapfumaneyi, 'Hungary's PM bans gender study at college saying "people are born either male or female"' (*CNN World*, 19 October 2018) <<https://edition.cnn.com/2018/10/19/europe/hungary-bans-gender-study-at-colleges-trnd/index.html>> accessed 23 June 2020.

⁹⁰ Jan Cienski, 'Polish right sweeps parliamentary elections' (*Politico*, 25 October 2015) <www.politico.eu/article/polands-government-defeated-in-parliamentary-elections-2/> accessed 22 March 2020.

⁹¹ Levitsky and Ziblatt (n 47).

major erosion of the check and balances that are yet necessary in every democracy. For some observers, Poland has now turned into a ‘Soviet-style justice system (...) where the control of courts, prosecutors and judges lies with the executive and a single party’.⁹²

What is the most striking with this illiberal shift is that not so long ago, citizens in the CEE countries exercised ‘considerable control over their rulers’.⁹³ For Andrew Roberts, these States were encountering an important success in building high-quality democracies during the 2000s: they established democratic institutions that were free and fair, with ‘regular elections’ and where civil rights allowed ‘citizens to express their opinions to and about their government’.⁹⁴

However, the previous illustrations of Hungarian and Polish reforms show how much democratic institutions in illiberal countries are progressively undermined. And as Fareed Zakaria tells it, ‘democracy without constitutional liberalism is not simply inadequate, but dangerous, bringing with it the erosion of liberty, the abuse of power, ethnic divisions, and even war’.⁹⁵

This situation is deeply worrying because illiberalism is not confined to the CEE area, but is also slightly spreading to Western countries. The Austrian government, for instance, implemented attacks on the freedom of media that are similar to those done in Hungary and Poland, by putting pressure on the public broadcaster.⁹⁶

2.2.3 *The rise of far-right parties and of the neofascist ideology*

The recent changes in the EU Member States’ political landscapes have also correlated with a visible rise of the far-right parties. Some scholars include them in the category of the right-wing populist parties. It is the case of the Front National (FN), which recently changed its formation to Rassemblement National (RN): authors first spoke of a far-right party and now categorise it as a right-wing populist one, since

⁹² Laurent Pech and Daniel Kelemen, ‘If you think the U.S. is having a constitutional crisis, you should see what is happening in Poland’ (*The Washington Post*, 25 January 2020) <www.washingtonpost.com/politics/2020/01/25/if-you-think-us-is-having-constitutional-crisis-you-should-see-what-is-happening-poland/> accessed 12 February 2020.

⁹³ Andrew Roberts, *The Quality of Democracy in Eastern Europe: Public Preferences and Policy Reforms* (CUP 2009) 1.

⁹⁴ *ibid* 5.

⁹⁵ Zakaria (n 85).

⁹⁶ Levitsky and Ziblatt (n 47) 136-37.

Marine Le Pen succeeded in de-demonising the image of her movement by making it more mainstream. It seems, however, problematical to use the term ‘populism’ for ‘aggressive right-wing movements, because they are something different, something more than that – by far.’⁹⁷ In brief, no matter which category one prefers to define such political parties or movements, what is important is to consider them for what they are, namely for belonging to an ideology that combines nationalism, exclusiveness, xenophobia and an anti-democratic spirit.⁹⁸

Exogenous factors – the consequences of the economic crisis, or the so-called migrant crisis for instance – accelerated the progression of these parties. Whereas not so long ago, they were just regarded as marginal, they are now properly considered as belonging to the opposition since they entered into national parliaments. Sometimes, they even represent the major political force in a country, according to the electoral period. Among the most powerful in 2018 according to their scores in the most recent elections (in percentages), it is possible to mention the Hungarian Fidesz (49%) and Jobbik (19%); the Austrian Freiheitliche Partei Österreichs (FPÖ) (26%), the Danish Dansk Folkeparti (DF) (21%), the Belgian Nieuw-Vlaamse Alliantie (N-VA) (20%), the Estonian Eesti Konservatiivne Rahvaerakond (EKRE) (17.8%), the Finnish Perussuomalaiset (PS) (17.7%), the Spanish Vox (15%); or the Swedish Sverigedemokraterna (SD) (17.6%).⁹⁹ Considering that the ideology of these political parties is at the complete opposite of the democratic principles on which the EU societies are built, their expansion significantly jeopardises EU democracies.

In parallel to this rise, it is also possible to observe a gain in visibility of pure neofascist movements. Two of them, the Greek Golden Dawn and the Slovakian Kotlebists even entered their national parliaments – from 2012 to 2015 for Golden Dawn and from 2016 until today for Kotlebists. Another concerning example comes with the Italian Casa Pound, which did not reach the national parliament so far, but has become more violent in the previous years. The hate actions of the movement are principally directed against associations related to the

⁹⁷ Ziegler (n 63).

⁹⁸ Cas Mudde, *The Ideology of the Extreme Right* (Manchester UP 2000) 11.

⁹⁹ BBC News, ‘Europe and right-wing nationalism: A country-by-country guide’ (BBC, 13 November 2019) <www.bbc.com/news/world-europe-36130006> accessed 31 April 2020. See also Tamas Boros and others, *State of Populism in Europe* (FEPS, Policy Solution 2018) <www.policysolutions.hu/userfiles/elemzes/298/web_state_of_populism_in_europe_2018.pdf> accessed 12 June 2020.

left-side of the political chess, to the lesbian, gay, bisexual, trans, queer and intersex+ community, or to black people. Their violence reached its peak in 2011 with the murders of Samb Modou and Diop Mor, two market traders from Senegal.¹⁰⁰

These kinds of evolutions are very worrying for EU democracies since these far right and neofascist parties remain deeply aggressive, dangerous and anti-democratic (even in the cases where they seem to respect the democratic game). They too contribute to a deep polarisation of the societies, notably by discriminating, attacking and refuting the existence of minorities. It is therefore of utmost importance to consider the rise in visibility and the growing power of these parties/movements; and not to treat them as insignificant ones, especially when analysing the quality of democracy of EU Member States.

2.2.4 The death of traditional political parties and the genesis of political movements

Western political parties have always evolved according to the relative democratic period itself, as Peter Mair demonstrated in proposing a typology of their developments since the beginning of the 20th century.¹⁰¹ The ‘parties of notables’ have thus been replaced by the ‘mass-membership organizations with strong, hierarchical structures’ at the beginning of the 1900s; which themselves have been substituted by the ‘mainstream parties’ during the mid-1960s whose main objective was to fish out as many electors as possible in order to reach power; before leaving the floor to the ‘government by cartel’ during the mid-1980s which was the ‘elimination of effective opposition’ since the political life was in a situation in which ‘no meaningful differences divide the party protagonist’.¹⁰² The beginning of the 21st century has however been the testimony of a new phenomenon, representing the heritage of the previous evolutions just mentioned, that is ‘a gradual but also inexorable withdrawal of the parties from the realm of civil society towards the realm of government and the state’.¹⁰³ What

¹⁰⁰ Annalisa Camilli, ‘Un paese in cui i neri vengono uccisi per strada’ (*Internazionale*, 7 March 2018) <www.internazionale.it/bloc-notes/annalisa-camilli/2018/03/07/finenze-senegalese-ucciso> accessed 2 May 2020.

¹⁰¹ Peter Mair, *Ruling the Void: The Hollowing of Western Democracy* (Verso 2013).

¹⁰² Peter Mair quoted in Wolfgang Streeck, ‘The Politics of Exit’ (July August 2014) 88 *New Left Review* 121, 123.

¹⁰³ *ibid.*

happened is that, since the 2000s, citizens have softly withdrawn from the political life, which became more and more complex, implying the creation of what Pierre Rosanvallon calls the ‘unpolitical democracy’, namely a paralysis of the political action.¹⁰⁴ Margaret Canovan explains this phenomenon by the existence of an important paradox within the modern democratic societies: the process of democratisation led to the abandonment of the individual as a politically engaged citizen, because he or she lost the possibility to understand a world that is becoming too complex.¹⁰⁵

Traditional political parties belong to this complicated realm, so they gradually give way to the so-called political movements. In a globalised world, where everything moves so fast, a political movement indeed appears more adapted to the evolutions of the societies according to their relative political leaders. Better, quoting Ece Temelkuran, ‘political movements are promises of transition from actuality to potentiality – unlike political parties, which must operate as part of actuality, playing the game but standing still’.¹⁰⁶

Interestingly, traditional political parties still remain in the political landscape so far, even though they are drastically losing voters and adherents. But the common feeling is that the traditional competition between the left and the right is crucially lacking meaning. With this kind of rhetoric, political movements, but especially populist ones, find a strong position to win more voters and to establish their powers within national parliaments or even governments. They particularly benefit from the ‘centre left’s abandonment of its old constituency, in pursuit of grand coalitions with the centre right’, that is one of the main components of the critics targeting traditional forms of political parties.¹⁰⁷

This phenomenon obviously accelerated after the economic crisis of 2008, which resulted in a complete reconstruction of the political landscapes in many of the EU Member States. The best example is probably the one of the French legislative elections in 2017 during which a real trend, nicknamed ‘le grand dégagisme’ (the big buzz off),

¹⁰⁴ Rosanvallon (n 62) 249-318.

¹⁰⁵ Margaret Canovan, ‘Taking Politics to the People: Populism as the Ideology of Democracy’ in Yves Mény and Yves Surel (eds), *Democracies and the Populist Challenge* (Palgrave 2002).

¹⁰⁶ Temelkuran (n 60) 25.

¹⁰⁷ Streeck (n 102) 129.

occurred.¹⁰⁸ The idea behind this concept, in a very populist rhetoric, was that politicians misrepresented citizens because most of them were part of the political game for too long. This would have transformed them into a proper elite, far from the realities of the ‘true’ French people. The ‘big buzz off’ had then to change the political landscape in order to bring new politicians – i.e. people who were not part of the political system before, recently involved in political movements and perceived as more adapted to represent the voters. As a result, the French PS, which traditionally represented the left in the political landscape – and was the party of the outgoing President François Hollande – lost nearly nine out of ten of its seats in the national parliament.¹⁰⁹ Similar trends have been observed in Netherlands, Greece and Italy since 2008, where traditional parties have been kicked out of the national parliaments.¹¹⁰

If such political swings could be interpreted as a democratic good or as a solution to the crisis of representativeness, they however also should be considered as a matter of concern because political parties ‘were the glue that held representative democracy together’ and ‘it is not clear that democracy can work without them’.¹¹¹ In many democracies, political parties act as gatekeepers, by ensuring, through their internal mechanisms, that those who would reach power are respectful of the democratic values.¹¹² On the contrary, political movements are more dependent on the figure of their leaders. Up to now, most of them develop an ideology based on questions of identity, that is the replacement of the ‘I’ by a very unsure ‘we’.¹¹³ Their attacks on the so-called establishment, following a populist style, can therefore paralyse the political system, which would in turn deeply jeopardise EU Member States democracies.

¹⁰⁸ Renaud Dély, ‘Macron, le dégaïste bienveillant’ (*Marianne*, 12 June 2017) <www.marianne.net/debattons/editions/macron-le-degaïste-bienveillant> accessed 3 April 2020.

¹⁰⁹ Runciman (n 73) 148.

¹¹⁰ *ibid.*

¹¹¹ *ibid.* 150-51.

¹¹² Levitsky and Ziblatt (n 47) 40.

¹¹³ *ibid.* 19-23; Temelkuran (n 60) 25.

2.3 THE CONSEQUENCES OF SUCH AN EVOLVING CONTEXT FOR THE EU MEMBER STATES AND THE EU ITSELF

The shift of paradigm towards less liberalism, together with the radical political changes mentioned in this chapter, have drawn a worrying picture for the state of EU democracies. It appears undeniable that democracies at national levels are encountering crises and that the EU citizens' fundamental liberties are jeopardised. The situation of the media on this point brings evidence as to the political context described in previous paragraphs which has led to an increasing insecurity of the profession. Journalists, who are supposed to act as democratic safeguards, are increasingly attacked (notably because they are considered as being part of the 'elite' according to populist leaders). Reporters Without Borders (RSF) has thus noted an increase in the murders, physical and verbal attacks, or in any kind of pressure, intimidation and harassment in European countries since 2008.¹¹⁴ The murders of the Slovakian investigative reporter Ján Kuciak, after he denounced corruption links between government officials and organised crime,¹¹⁵ and of the Maltese Daphne Caruana Galizia after she reported on corruption,¹¹⁶ sadly illustrate the escalation of violence in such a virulent environment for journalists.

Reviewing the political changes therefore clearly shows the clash existing between what is stated at the EU level in terms of protection of democracy, and the reality at national levels; between how EU countries present themselves internationally, and the reality of their internal debates. In other words, the democratic backsliding is not only 'happening to others'. Despite the fact that most of the EU Member States are consolidated democracies, they are not immune to the danger of a democratic decline. The case of Hungary and Poland already awoken many of the observers, but attention must also be put on the

¹¹⁴ RSF, '2019 RSF Index: Has a dam burst in Europe?' <<https://rsf.org/en/2019-rsf-index-has-dam-burst-europe>> accessed 29 April 2020.

¹¹⁵ Euractiv, 'Contract killer tells court how he murdered Slovak journalist and his fiancée' (*Euractiv*, 14 January 2020) <www.euractiv.com/section/elections/news/contract-killer-tells-court-how-he-murdered-slovak-journalist-and-his-fiancee/> accessed 24 June 2020.

¹¹⁶ RSF, 'RSF Report: The Assassination of Daphne Caruana Galizia and Malta's deteriorating press freedom climate' (RSF 14 October 2019) <<https://rsf.org/en/news/rsf-report-assassination-daphne-caruana-galizia-and-maltas-deteriorating-press-freedom-climate>> accessed 12 June 2020.

other Member States: even though Hungary and Poland represent interesting laboratories, they are not isolated cases, neither are the CEE countries in general.

It is necessary to underline that many other exogenous factors participate to reinforce these tensions – it is the case of specific events, but also of wider phenomena related to economic factors, cultural backlash, social inequalities, etc.¹¹⁷ Interestingly, most of these changes are intertwined, which complicates the analysis for the academics, but also the citizens. The crisis of democracy is very discussed, but if a broader perspective is not taken, it is somehow difficult to apprehend to what extent the disease has spread within one particular country.

It is also important to nuance the dark picture provided by this chapter since the specific national contexts lead to a variation of the democratic problems from one country to another. Not every Member States encountered the same radical political changes at the same level. For instance, in 2018 in Germany, the decline of the German traditional political parties led to the rise of populist and far-right parties/movements; but it has also benefited the Greens, a political party that respects democratic values.

Nevertheless, in reviewing the state of play of the political changes within EU democracies, the observation remains the same: EU liberal democracies are slightly decomposing year after year, which is why it is so important to provide a revision to the democratic deficit theory. Developing a bottom-up approach to reverse it, in focusing primarily on the state of the EU Member States and on their level of quality of democracy, appears therefore as a necessity.

¹¹⁷ For the importance of cultural backlash in the rise of populism, see Ronald F Inglehart and Pippa Norris, 'Trump, Brexit, and the Rise of Populism: Economic Have-Nots and Cultural Backlash' (August 2016) RWP16-026 Harvard Kennedy School Faculty Research Working Paper Series 1.

3.

MEASURING THE QUALITY OF DEMOCRACY OF THE EU
MEMBER STATES

Liberal democracy can be defined as ‘a set of binding electoral institutions that effectively translates popular views into public policies’ and ‘effectively protects the rule of law and guarantees individual rights such as freedom of speech, worship, press, and association to all citizens (including ethnic and religious minorities)’.¹¹⁸ It appears then clearly that the radical political changes, exposed in the previous chapter, implemented a contextual instability within the democracies of the EU Member States. Despite the fact that most of these changes are not new phenomena, their expansion and their accumulation not only altered the rules of the game, but also led to a threat for liberal democracies and their relative values. This observation indicates that democratic crises exist within the EU area at national levels. It is therefore necessary to understand if these changes are also visible in terms of impacts on their levels of quality of democracy, or in other words, if these evolutions are translated into downward trends according to the relative indicators.

As a matter of fact, EU Member States’ democracies are of high levels, notably because they respect the minimum criteria of a democracy which are:¹¹⁹

1. The respect of the universal and adult suffrage;
2. The occurrence of free and fair elections;
3. The existence of political parties – notably of opposition ones; and
4. An easy access to information.

¹¹⁸ Yascha Mounk, *The People Vs. Democracy. Why Our Freedom Is in Danger and How to Save it* (Harvard UP 2018) 33.

¹¹⁹ Larry Diamond and Leonardo Morlino, ‘The Quality of Democracy: An Overview’ (2004) 15 *Journal of Democracy* 20, 21.

Furthermore, their democratisation process converted into their legislative framework, which gave them the possibility to reach, to a certain extent, what Larry Diamond and Leonardo Morlino call ‘the three main goals of an ideal democracy (political and civil freedom, popular sovereignty, political equality) as well as broader standards of good governance (transparency, legality and responsible rule)’.¹²⁰

Measuring the levels of quality of democracy for countries such as the EU Member States therefore allows the identification of how precisely they satisfy or meet the ‘goals of an ideal democracy’.¹²¹ But it also permits to determine to what extent democracies are on the path of decline. Quantifying the evolutions in terms of quality of democracy for each of the EU Member States leads to the formulation of an initial answer to the current debate. Indeed, if the democratic crises and the radical changes exposed before had neutral effects on the quality of democracy of the EU Member States, then, there should be very little variation – or no variation at all – in the relative indicators. Another hypothesis could even assume that levels actually increased during the period, by considering that democracies are always in progress despite the crises they may encounter, as democracy is ‘constantly challenged to self-improve continuously, to reinvent itself’.¹²² Both of these scenarios would confirm the democratic deficit theory, namely the fact that only the EU knows a true democratic problem, while its Member States stay deeply democratic. Yet, the database provided by this thesis proposes another reading and further elements allowing a revision to this theory: democratic issues may principally rely at national levels, and this, not only because the words liberal and democracy, by definition, are in tension, but rather because the quality level of the EU Member States’ democracies is eroding.

It is important to underline the complexity of the notion of quality of democracy, because of its pluralistic aspect. Many dimensions indeed matter in order to determine how much democracies can vary in terms of quality. Leonardo Morlino and Larry Diamond for instance recognise eight of these dimensions:¹²³

¹²⁰ Diamond and Morlino (n 219).

¹²¹ *ibid.*

¹²² David FJ Campbell, *Global Quality of Democracy as Innovation Enabler. Measuring Democracy for Success* (Palgrave Macmillan, Springer International Publishing 2019) 17.

¹²³ *ibid.* 22.

1. Rule of law;
2. Participation;
3. Competition;
4. Vertical accountability;
5. Horizontal accountability;
6. Respect for civil and political freedoms;
7. Progressive implementation of greater political equality; and
8. Responsiveness.

Each of them can fluctuate according to the methodology adopted by one index compared to another, in the choice that is made to concentrate on certain parameters and quantifying them. Measuring the quality of democracy is therefore not an exact science, but it remains particularly relevant in order to determine several trends that are occurring within the democracies. It is also for this reason that the study focuses on a period of ten years, beginning from 2008, ‘the year of the democratic decline’,¹²⁴ so trends and variations can be determined with more accuracy, despite the methodological choices of the selected parameters.

Considering the means and time conditions of this thesis, it was necessary to only pick some of these dimensions to allow the study to propose a deeper and more specific analysis of the criteria. It has then been chosen to follow the approach developed by Leonardo Morlino and Larry Diamond, but just focusing on three objective parameters that appeared to be the best and most representative of the democratic situation of the Member States in an EU context, namely: the rule of law, political freedom and political competition. Again, these three indicators obviously only permit a partial understanding of the global situation as many other parameters matter in the measurement of the quality of democracy. But they authorise the drawing of conclusions for what regards the level of quality of democracy of the EU Member States (especially because they represent among the most important elements according to the definition of liberal democracy), while revealing the downward trends this study is looking for, as a result of the radical political changes enumerated in the previous chapter.

To allow a comparison of the data as a whole, it was also necessary

¹²⁴ Arch Puddington quoted in Steven Levitsky and Lucan Way, ‘The Myth of Democratic Recession’ in Larry Diamond and Marc F Plattner (eds), *Democracy in decline?* (A journal of democracy book, Johns Hopkins UP 2015) 58.

to only apprehend a single type of index. For this purpose, the database – available in the annexes – has been created according to the data provided by V-Dem, since it regrouped every of the parameters this thesis was interested in; and because the reliability of the methodology used by this index is widely recognised in the academic world.¹²⁵

The details of the data are presented in the tables of Annex 1 for the rule of law; Annex 2 for the political freedom, as well as for the details related to the press freedom; and Annex 3 for the political competition.

3.1 ANALYSIS OF THE RULE OF LAW VARIATIONS IN THE EU MEMBER STATES FROM 2008 TO 2018

3.1.1 *Rule of law: Defining the concept and the methodology used*

The modern apprehension of the notion of the rule of law, and the disclosure of its importance, only emerged at the end of the 19th century.¹²⁶ It then rapidly spread within democracies, adapting it to the legal framework and the national contexts. The British rule of law, the French *État de droit*, the German *Rechtsstaat* or the Portuguese *Estado de direito* are therefore not synonymous, since they, by definition, differ in their emphasis on the nature of the state. Yet, all of them foster the same scope, that is to provide an institutional and legal framework within which the public authority is subject to the law. Hence they must be differentiated from other concepts such as the ‘rule by law’ or the ‘law by rules’ that are formalistic approaches ‘under which any action of a public official which is authorized by law is said to fulfil its requirements’, namely interpretations enabling an authoritarian behaviour of the state.¹²⁷

Rule of law, in its general understanding, consequently became a universal concept, indivisible of the notion of democracy, and is one

¹²⁵ Michael Coppedge and others, ‘V-Dem Comparisons and Contrasts with Other Measurement Projects’ (V-Dem Working Paper 2017) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2951014> accessed 5 March 2020.

¹²⁶ European Commission for Democracy through Law (Venice Commission), ‘Report on the Rule of Law’ (Study No 512 / 2009 CDL-AD(2011)003rev 4 April 2011) <[www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2011\)003rev-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)003rev-e)> accessed 28 June 2020.

¹²⁷ *ibid.*

of the most important foundations for the EU itself, since article 2 of the TEU recognises it as a value.¹²⁸ Rule of law is indeed an ‘essential pillar upon which any high-quality democracy rests’ because it ‘ensures political rights, civil liberties, and mechanisms of accountability which in turn affirm the political equality of all citizens and constrain potential abuses of state power’.¹²⁹ For this reason, it must be implemented at both international and national levels, as it has been claimed by the UN Member States during the 2005 World Summit.¹³⁰

To go into the specific, the rule of law is here understood according to the definition given by the Council of Europe (CoE) – basing itself on a definition provided by Tom Bingham – that stresses six essential elements, as follows:¹³¹

1. Legality, including a transparent, accountable, and democratic process for enacting law;
2. Legal certainty;
3. Prohibition of arbitrariness;
4. Access to justice before independent and impartial courts, including judicial review of administrative acts;
5. Respect for human rights; and
6. Non-discrimination and equality before the law.

Every EU Member State should therefore, at a minimum, respect these six criteria to claim that they implement a rule of law system, despite the specificities of their legal framework or the name given to this concept. Indeed, not only is the rule of law an EU value, but it is predominantly one of the principles upon which democracy is built. It may even be the very first element countries must respect in order for a democracy to function, especially if this democracy claims to be of a high level. For that reason and because it regulates the relations between the rulers and the subjects, any downward trends in the evolution of the rule of law can reveal forms of democratic decline. Analysing the variations of the rule of law for each of the EU Member States, in

¹²⁸ Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

¹²⁹ Guillermo O’Donnell, ‘The Quality of Democracy: Why the Rule of Law Matters’ (2004) 15 *Journal of Democracy* 32, 32.

¹³⁰ 2005 World Summit Outcome UNGA Res 60/1 (24 October 2005) 134.

¹³¹ European Commission for Democracy through Law (Venice Commission) (n 126).

order to understand the transformations occurring in their qualities of democracy, is thus particularly essential.

In that respect, the Rule of Law Index provided by the V-Dem database is particularly relevant, because it considers the compliance of a mix of indicators, answering the following question: ‘to what extent are laws transparently, independently, predictably, impartially, and equally enforced, and to what extent do the actions of government officials comply with the law?’.¹³² The scale used here goes from low (0) to high (1).

3.1.2 Presentation of the results obtained for the rule of law of the EU Member States

The results procured by the database of this thesis¹³³ confirm that most of the EU Member States hold a high level of rule of law for the whole period: the majority of them possesses a score around 0.9, despite the different variations captured. Such numbers corroborate the assessment formulated during the previous chapter, namely that so far, the EU area provides a specific context within which its Member States can develop a high level of quality of democracy, even though democratic crises occur.

On the contrary, but still without any surprises, Bulgaria, Croatia, Hungary, Malta and Romania present low levels in 2018, with very worrying variations and drastic decreases. The levels of their rule of law confirm the diagnostic offered by Daniel Kelemen, who considers these countries as the main cause of the democratic problem in Europe, because of their backsliding episodes.¹³⁴ As an illustration, the most important decline is the one encountered by Romania, which passed from 0.82 in 2016, to 0.42 in 2018. In total, Romania obtains a negative

¹³² To go into the specific, the indicators here analyse the following aspects: (1) the compliance of democratic systems with high court judiciary, high court independence, low court independence; (2) the executive respect constitution; (3) the rigorous and impartial public administrations; (4) the transparency of laws with predictable enforcement; (5) the access to justice for men and women; (6) the judicial accountability; (7) the judicial corruption decision; (8) the public sector corrupt exchanges; (9) the public sector theft; (10) the executive bribery and corrupt exchanges; (11) the executive embezzlement and theft. See V-Dem, ‘Variable Graph, Rule of Law Index’ <www.v-dem.net/en/analysis/VariableGraph/> accessed 5 March 2020.

¹³³ See the database presented in annex 1.

¹³⁴ Daniel Kelemen, ‘Europe’s Other Democratic Deficit: National Authoritarianism in Europe’s Democratic Union’ (2017) 52 *Government and Opposition* 211.

rate of change of 22.22 % from 2008 to 2018. The name of Malta in this list may be a little bit more surprising, as the country is rarely mentioned in the analyses focusing on the ‘nascent autocracies’ of Europe. Yet, the State is in steady decline since 2013, year during which its rule of law passed from 0.89 to 0.84, and then decreased again to 0.80 in 2018 – that is a negative rate of change of 10.11 % for the whole period. The results obtained in the case of Malta are not as dramatic as the ones of the countries mentioned before, but its evolution is also alarming and indicative.¹³⁵

The majority of the Member States – i.e. 14 countries – also shows negative trends when considering the rate of change from 2008 to 2018. Some of them are not very evocative, as variations for the whole period are minimal or because their results still remain at a very high level, namely around 0.9. This is the case of Denmark for instance, which passed from 1 – namely the perfect result – to 0.99 in 2015 – an almost perfect result. The high standard of the country, despite the minor negative trend, thus prevents analyses to talk about a proper decline for the rule of law in Denmark.

However, even though some countries seem to have insignificant negative trends, it is still necessary to note the unfavourable tendencies that are currently occurring. When the data shows negative rates of change for countries that are supposed to be among the most consolidated of the EU area, such as Belgium, Finland, France or the Netherlands, it is necessary to remain alerted for what will come in the next years, because a declining pattern is emerging.

This concerning observation cannot be formulated for every Member States: six countries remained at the level they were in 2008, which means that they present no variation or very little variation for the whole period. The case of the UK is particularly interesting as the country only lost 0.01 point from 2013 to 2017 and passed from 0.98 to 0.97, whereas the Brexit vote happened in 2016. This event, interpreted as a political earthquake for many commentators, therefore had almost no direct consequences on the rule of law. Such a result can be reassuring for what concerns the democratic stability of the British institutions. It also illustrates that radical political changes can happen, but they may

¹³⁵ The murder of the journalist Daphne Caruana Galizia after she reported on corruption affairs within the country demonstrates the erosion of the rule of law in Malta - see ch 2.

not have an immediate impact on the domestic quality of democracy, or at least on some of its indicators. This confirms the necessity to complement a qualitative analysis with a quantitative one in order to study the democratic issues of a given area; a methodology developed in this thesis.

Furthermore, eight countries show a positive trend. But here again, it is necessary to look closer at the evolutions of the numbers, because in considering the year the rule of law was the highest for a precise country, it is possible to underline some drops and downward trends. This is the situation for five of these eight countries that are Croatia, Greece, Latvia, Portugal and Slovenia. The case of Croatia is particularly relevant here: the country had a level of 0.68 in 2008, which increased to 0.82 from 2010, but then dropped to 0.78 in 2013 – that is the year the country entered into the EU – and decreased again to 0.71 in 2018. The rate of change from 2010 to 2018 is negative and illustrates a loss of 5.46%. What is here necessary to underline is that the Croatian rule of law is continuously decreasing since it became an EU Member State, whereas the organisation should have provided a certain stability to the country.

The case of Slovenia is also very interesting because the country encountered a drop in 2012, during which the rule of law passed from 0.93 to 0.89. This result actually corresponds to the beginning of the trials of the Patria affair – a scandal related to corruption allegations of Slovenian civil servants.¹³⁶ At that moment, the perception of the citizens on the level of corruption within Slovenian political affairs massively influenced the result of the 2012 rule of law. Already in 2013, the level of the rule of law re-increased to 0.92. With this example, it is visible that a political event can directly impact a specific indicator, but this same indicator can go back to progress rapidly if the national crisis is faced.

The illustration provided by the specific Slovenian case allows to draw parallels with the countries presenting negative rates of change: in this context, they appear as not being capable of overcoming their own national crises, leading their quality of rule of law to decline over several years. This conjecture reinforces the alarming observations already designed.

¹³⁶ Damjan Lajh, 'Slovenia' Nations in Transit 2012 (Freedom House 2013) <https://freedomhouse.org/sites/default/files/Slovenia_final.pdf> accessed 2 July 2020.

Only Estonia, Germany, Spain and Sweden are particularly stable in their results, which remain at very high levels. Nevertheless, this observation cannot be interpreted in an inspirational way because the situation of these four countries should be a requirement for the 28 Member States. Yet, the EU average of every rates of change also shows a negative trend, namely a negative rate of change of 3.42% for the whole period.¹³⁷

These findings are not really surprising when put in parallel with the attacks implemented against the liberal part of EU democracies.¹³⁸ Since the rule of law should be itself protected by the liberal institutions, there is undeniably a correlation link between the political evolutions and their negative impacts on the quality of this notion.

Nevertheless, the rule of law represents one of the foundations of democracy and consequently, it should be one of the most stable parameters in the measurement of the quality of democracy: only governments that cannot be trusted by its citizens are unable to implement a rule of law stable constitutionally; only anti-democratic governments do not respect this notion.¹³⁹ The downward trends presented here, although very dependent on the specific national contexts, must therefore be watched carefully.

3.2 ANALYSIS OF THE POLITICAL FREEDOM VARIATIONS IN THE EU MEMBER STATES FROM 2008 TO 2018

3.2.1 *Political freedom: Defining the concept and the methodology used*

The specificity of liberal democracies, in comparison with other types of democracy (such as the Marxist/socialist delegative democracy, participative democracy, or radical democracy) relies on the emphasis that is put on the notion of liberty.¹⁴⁰ In this scheme, if freedom

¹³⁷ The 'EU average' has been obtained by making the average of each result obtained for the EU Member States, Croatia excluded until 2013. From 2008-2012, it therefore covers 27 Member States; and from 2013-2018 28 Member States

¹³⁸ See ch 2.

¹³⁹ Mortimer NS Sellers, 'What is the Rule of Law and Why is it so Important?' in Flora Goudappel and Ernst MH Hirsch Ballin (eds), *Democracy and Rule of Law in the European Union* (Springer, Asser Press 2016).

¹⁴⁰ Milja Kurki, 'Democracy and Conceptual Contestability. Reconsidering Conceptions of Democracy in Democracy Promotion' (2010) 12 *International Studies Review* 362.

is not guaranteed in theory and in practice, notably through the implementation of a dedicated legislative framework, it is absolutely impossible to talk about democracy: ‘if people are to have any influence or control over public decision making and decision makers, they must be free to communicate and associate with one another, to receive accurate information and express divergent opinion, to enjoy freedom of movement and to be free from arbitrary arrest and imprisonment’.¹⁴¹

This conception has been particularly reinforced by the entry into force of the International Covenant on Civil and Political Rights in 1976.¹⁴² Not only did every EU Member State ratify this Bill of Rights, but the importance of freedom has also been recognised by the EU itself as another one of its fundamental values (article 2 of the TEU).¹⁴³ The concept of freedom is therefore deeply correlated to democracy in an EU context and of utmost importance for citizens to enjoy their rights at the fullest, since they are the principal recipients in this format of regime.

Yet even though freedoms are guaranteed by the constitutions and international treaties, they may not be completely applied in practice, which is why it seems so important to apprehend the calculation of the level of freedom in a given country, in assessing the quality of democracy of this same country.¹⁴⁴ It figures even more prominently to analyse this parameter in the context of the EU Member States, considering how much the liberal component of EU democracies have been under attack these past years.¹⁴⁵

In the methodological approach determined by David Campbell, the measurement of freedom, as a major parameter for the quality of democracy, is divided into two categories: the political freedom on the one hand, and the economic freedom on the other hand.¹⁴⁶ In these circumstances and considering that this thesis is particularly interested in the impacts of the political changes on the quality of democracy, it appeared more relevant to only focus on the variations of the political freedom. Besides, political freedom is an essential part of the liberal

¹⁴¹ David Beetham, ‘The Quality of Democracy: Freedom as the Foundation’ (2004) 15 *Journal of Democracy* 61, 61.

¹⁴² International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

¹⁴³ Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

¹⁴⁴ See Beetham (n 141).

¹⁴⁵ See ch 2.

¹⁴⁶ Campbell (n 122) 40.

democracy definition, which must implement them – notably by ensuring political rights, such as the right to campaign, to elect and to vote – under the penalty of being in total contradiction with the fundamental principles that make of liberal democracy what it is.¹⁴⁷

With this perspective in mind, three indicators have been selected in order to provide an estimation of the level of political freedom in the EU Member States, that are ‘political rights’, ‘civil liberties’ and ‘freedom of press’. For each year, the result obtained is the average of the three mentioned indicators, according to the indexes of V-Dem.¹⁴⁸ All of them have been regrouped into the tables, accessible in Annex 2.

The scale here again goes from low (0) to high (1). However, no index was available on V-Dem for what concerns specifically the freedom of press. It has then been decided to mix three other indicators – namely ‘media bias’, ‘media corrupt’ and ‘media self-censorship’ – also provided by V-Dem, which, regrouped together, allow to calculate the level of the freedom of press. The details of this calculation are also provided in Annex 2. The scale for ‘media bias’ and ‘media corrupt’ goes from low (0) to high (4), but it goes from low (0) to high (3) for ‘media self-censorship’. It has then been necessary to first rescale the results of ‘media self-censorship’ from low (0) to high (4), in order to obtain an average of the three indicators and get an estimation of the level of the freedom of media for the 28 Member States; and then, to rescale again the average of the freedom of press from low (0) to high (1), in order to be able to compare all the data together and provide an average for the level of the general political freedom of the 28 Member States.

3.2.2 Presentation of the results obtained for the political freedom of the EU Member States

When looking at the database,¹⁴⁹ the first observation that can be elaborated is that no Member State presents a stable level from 2008 to 2018, namely that no rate of change is neutral. This can be explained by the fact that the results have been obtained by making an average

¹⁴⁷ Beetham (n 141) 69.

¹⁴⁸ V-Dem, ‘Variable Graph’, ‘Political rights’, ‘Civil liberties’, ‘Media bias’, ‘Media corrupt’ and ‘Media self-censorship’ <www.v-dem.net/en/analysis/VariableGraph/> accessed 5 March 2020.

¹⁴⁹ See annex 2.

of three indicators, within which one of it has been rescaled. In these conditions, it sounds harder to obtain steady results.

Nevertheless, what appears as exceptionally alarming is that 22 countries out of 28 Member States obtained a negative rate of change. As a matter of fact, the rate of change of the EU average is of -3.55% for the whole period, a worrying downward trend.¹⁵⁰ Just as in the case of the rule of law, some countries present negative tendencies that are very subtle – namely a negative rate of change somewhere between 0 and 1. This situation – encountered by Denmark, France, Italy, Luxembourg, Portugal, Slovakia and Sweden – cannot be interpreted as a significant drop, even though it must be watched carefully.

Unsurprisingly, the States that have already been underlined for their backsliding episodes, deliver very significative downward trends for the whole period and/or very low results for the year 2018. The lowest results obtained here thus match with those described in the rule of law index, and concern Bulgaria, Hungary, Malta, Poland and Romania. On this point, it is necessary to underline the cases of:

- Hungary, which obtained a very alarming negative rate of change of 27.78% for the whole period;
- Malta, with a negative rate of change of 12.59%; and
- Poland, with a negative rate of change of 18.51%.

Other Member States also present negative rates of change that are particularly worrying, because they are situated above the EU average, such as:

- Austria, with a negative rate of change of 3.82%;
- Bulgaria, with a negative rate of change of 5.30%;
- Czech Republic, with a negative rate of change of 5.30%;
- Greece, with a negative rate of change of 4.38%, even though the data came back to a slight increase in 2018; and
- Romania, with a negative rate of change of 3.57%.

¹⁵⁰ The 'EU average' has been obtained by making the average of each result obtained for the EU Member States, Croatia excluded until 2013. From 2008-2012, it therefore covers 27 Member States; and from 2013-2018 28 Member States.

These declining results must be put in parallel with the positive rates of change obtained by six Member States for the whole period. Yet, here again, it is necessary to look closer to the specific situations of the countries, because in considering the year where the number obtained for the political freedom was at the highest, then only two countries – Estonia and Lithuania – really present a positive trend. The others, Croatia, Republic of Cyprus, Latvia and the Netherlands, all demonstrate downward trends. The case of Croatia, here again, is particularly worrying as the country has been in constant decline since 2015, and passed from 0.93 this same year, to reach 0.86 in 2018, which represents a negative rate of change of 7.53%.

The global evolution of the levels of political freedom from 2008 to 2018 is therefore particularly concerning and confirms the threats on liberal democracies described before. Moreover, when looking more closely to the three parameters, it becomes visible that ‘freedom of press’ is the indicator showing the most important negative trends. According to the table dedicated to this indicator, ten countries obtained positive rates of change, but only three – Italy, Lithuania and Luxembourg – actually saw positive tendencies when considering the year that the freedom of press number was at the highest.

Besides, very negative tendencies are encountered by:

- Austria, with a negative rate of change of 9.74%;
- Bulgaria, with a negative rate of change of 14.41%;
- Croatia, with a negative rate of change of 9.02%;
- Czech Republic, with a negative rate of change of 13.12%;
- Hungary, with a negative rate of change of 39.76% – an absolutely alarming result;
- Malta, with a negative rate of change of 12.33%; and
- Poland, with a negative rate of change of 28.19%.

Freedom of press is therefore the most jeopardised parameter. And it is all the more pertinent to highlight that it is threatened even in very consolidated countries, such as Germany which presented a level of rule of law which was rather stable, but here obtained a negative rate of change of 7.88%. It is also interesting to mention the cases of Greece, Slovenia and Romania that also show downward trends situated above the rate of change obtained for the EU average, namely above -5.71%.

Considering the results, it seemed necessary to compare the figures acquired from the V-Dem database, with the ones developed in the

‘World Press Freedom Index’ of RSF;¹⁵¹ because this last ranking follows a different approach and includes 180 countries in total. The differentiation of perspective allows the results to complement the first findings this thesis got with V-Dem. The RSF index changed its methodology of measurement in 2013. It is therefore only possible to compare the data from 2013 to 2018.¹⁵²

When analysing the two tables, results are slightly different from one database to the other.¹⁵³ According to RSF, in 2018, Bulgaria was at the lowest place among all of the EU countries, namely at the 111th position out of 180 countries – whereas, on the same year and according to the V-Dem database, it is Hungary that shows the lowest result; and Sweden appears at the highest position among all of the EU country in the RSF ranking, namely at the second position out of 180 countries – whereas according to the V-Dem database, it is Denmark that shows the best result.

But overall and according to the RSF table, only 11 Member States obtained a better position in 2018 compared to 2013. The majority of the EU Member States thus encountered a decline in their freedom of media – which confirms the results obtained with the V-Dem indexes, despite the differences in the assessment.

What is particularly interesting in the RSF ranking is the position of countries supposedly more consolidated. For example, Italy – which obtained a positive rate of change according to the data regrouped with V-Dem, and increased its position in comparison with 2013 in the RSF ranking – is only situated at the 46th rank in 2018, which appears to be only one place higher than the one occupied by Hungary. This result is alarming considering the current situation of the Hungarian media, crucially lacking freedom.¹⁵⁴ In the Italian case, the low result is explained by the threats on the journalists’ lives investigating the mafia rather than because of government decisions that would threaten their work – even though this last element also matters; thereby the observation remains worrying.¹⁵⁵

¹⁵¹ RSF, ‘World Press Freedom Index’ <<https://rsf.org/en/ranking/2018>> accessed 20 April 2020.

¹⁵² Results of the RSF ranking are reproduced in annex 2.

¹⁵³ See annex 2.

¹⁵⁴ See RSF, ‘Hungary’ <<https://rsf.org/en/hungary>> accessed 10 May 2020; European Federation of Journalists (EFJ), ‘Hungary: almost 78% of the media are pro-government’ (EFJ, 9 May 2019) <<https://europeanjournalists.org/blog/2019/05/09/hungary-almost-78-of-the-media-are-pro-government/>> accessed 10 May 2020.

¹⁵⁵ RSF, ‘Italy’ <<https://rsf.org/en/italy>> accessed 12 May 2020.

Not only do these results allow the conclusion that political freedom is jeopardised within the EU Member States, but they also reveal how much media freedom is eroding because of the specific attacks that are made on the press. Such a finding is however not surprising when put in parallel with the changes that have occurred in the political landscapes since 2008, and especially for what regards the consequences of the dissemination of populism on the freedom of media.¹⁵⁶ And even though the results obtained by the majority of the EU Member States remain at a relatively high level – around 0.9 for the whole period – a downward trend is still visible. Considering that a decline in the political freedom can lead to forms of authoritarianism, as the reforms targeting the media sector and the political rights in Hungary demonstrated,¹⁵⁷ these observations are particularly concerning.

3.3 ANALYSIS OF THE POLITICAL COMPETITION VARIATIONS IN THE EU MEMBER STATES FROM 2008 TO 2018

3.3.1 *Political competition: Defining the concept and the methodology used*

The choice of analysing the evolution of political competition in the frame of a study on the quality of democracy for given countries may seem a less obvious preference, considering that all ‘democracies vary in their degree of competitiveness’.¹⁵⁸ Besides, political competition is another fundamental element in liberal democracies, and in appearance, implemented by each of the EU Member States, since it regards the elaboration of ‘regular, free and fair electoral competition between different political parties’.¹⁵⁹ It is indeed recognised that for a regime to be a proper democracy, by definition, there is the need to organise something more than simply voting as part of an electoral process: ‘the core of what is understood to be democracy conforms to a fairly standard view of liberal democracy as entailing free and fair elections and constitutional guarantees of individual political, civil and associational

¹⁵⁶ Ece Temelkuran, *How to Lose a Country. The Seven Steps from Democracy to Dictatorship* (4th Estate 2019).

¹⁵⁷ Freedom House, ‘Hungary’ <<https://freedomhouse.org/country/hungary/freedom-world/2020>> accessed 2 May 2020.

¹⁵⁸ Diamond and Morlino (n 119) 24.

¹⁵⁹ *ibid.*

rights'.¹⁶⁰ Political competition, together with the rule of law and political freedom, is therefore the third element that composes liberal democracies. It is also what allows observers to distinguish a consolidated democracy from a hybrid or authoritarian one.

In an EU context, where democracies are supposed to be consolidated – it has been demonstrated before that it is not that simple – the analysis of political competition is even more interesting, as it may often be taken for granted. Julia Cagé, for instance, has recently demonstrated in her book *The Price of Democracy*, that the use of 'money' in politics negatively influences the democratic level of the States, particularly during election times.¹⁶¹ The study of the level of political competition is therefore the element that reveals the lack of fairness relative to the electoral campaigns and, in general, the political life within the EU Member States.

The V-Dem database provides an index that specifically targets political competition. However, this index only focuses on variables relative to the degree of institutionalisation of the political competition and the extent of government restriction on political competition.¹⁶² It therefore appeared as being too general for the purposes of this study and did not allow any perception of the evolutions related to the particularities of one country from another. To go deeper into the analysis, it has thus been chosen to aggregate four parameters, which, apprehended all together, form what is defined as 'political competition', namely: 'election free and fair', 'election free campaign media', 'elections multiparty' and 'election losers accept result'.¹⁶³ Consequently, for each year, the figures have been obtained by making the average of these four parameters, as presented in the table available in Annex 3. The data here goes from low (0) to high (4). But for what concerns the indicator 'election free campaign media', the data provided has a scale going from low (0) to high (2); it was then necessary to rescale it from low (0) to high (4) in order to compare the data all together.

¹⁶⁰ Kurki (n 140) 365. See also Robert Talisse, *Engaging Political Philosophy: An Introduction* (Routledge 2016) 127-58.

¹⁶¹ Julia Cagé, *The Price of Democracy* (Fayard 2018). See also Julia Cagé, 'The Price of Democracy' <www.leprixdelademocratie.fr/livre.php#en> accessed 3 May 2020.

¹⁶² V-Dem, 'Variable Graph', 'Political competition' <www.v-dem.net/en/analysis/VariableGraph/> accessed 4 March 2020.

¹⁶³ V-Dem, 'Variable Graph', 'Election free and fair', 'Election free campaigning media', 'Elections multiparty' and 'Election losers accept result' <www.v-dem.net/en/analysis/VariableGraph/> accessed 5 March 2020.

3.3.2 Presentation of the results obtained for the political competition of the EU Member States

The finding here¹⁶⁴ is less concerning than it was for the rule of law and political freedom parameters. Indeed, even though 17 countries demonstrate a negative rate of change for the whole period, the percentages are very minor, since most of them are contained between -0% and -1%. This proves that the majority of the EU Member States still enjoys a certain stability in terms of political competition. Furthermore, most of them show high levels of political competition for the whole period, because the numbers vary around 3.80 according to the EU average.¹⁶⁵

Nevertheless, some countries suggest concerning elements, most notably Hungary which encountered a drastic decline of its political competition from 2008 to 2018. It passed from 3.88 in 2013 to 2.83 in 2018. On the whole period, the country presents a negative rate of change of 24.52%, the highest among all of the EU Member States. Again, this situation is not particularly surprising considering the radical changes that occurred in Hungary, in terms of the repression of the political opposition since the constitutional reforms implemented in 2013 and the following electoral laws.¹⁶⁶ The cases of Austria, Belgium, Bulgaria, the Czech Republic and Malta are also very worrying, as these countries are all positioned at a lower level than the EU average for the year 2018, which was of 3.77.

The database also demonstrates that ten countries, out of 28 Member States, saw a positive rate of change. But as in the case of the analyses relative to the measurement of the rule of law and political freedom, only five of these countries – Greece, Latvia, Luxembourg, Portugal and Romania – actually face a positive trend if it is the highest figure obtained during the whole period that is considered. Furthermore, these same countries which have encountered an increase of their data from 2008 to 2018 show little augmentation: their rates of change remain quite minimal, namely around 1%. Latvia is the only State showing an interesting and positive rate of change of 5.05%, a very

¹⁶⁴ See annex 3.

¹⁶⁵ The 'EU average' has been obtained by making the average of each result obtained for the EU Member States, Croatia excluded until 2013. From 2008-2012, it therefore covers 27 Member States; and from 2013-2018 28 Member States.

¹⁶⁶ Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (Crown Publishing 2018) 150-151.

significant result. It is also necessary to highlight the optimistic results obtained by Romania, which has been in a constant increase since 2008: at the beginning of the period, its political competition was of 3.69 and augmented to reach, in 2018, the EU average of 3.77. This outcome contradicts the negative scenario associated with the country and that has been revealed with the two parameters previously analysed. The Romanian example, on this case, confirms the necessity to multiply the parameters in the measurement of the quality of democracy, since not every indicator may be in decline despite the backsliding episodes encountered by a specific country.

The overall stability of the figures obtained here must not hide the worrying variations of the specific indicator ‘election media campaign’. Indeed, this last element is the only one that particularly varies from one year to another for the majority of the Member States. In most of the cases, it is actually the component that provides a downward trend in the average obtained to calculate the political competition. This indicator answered the question: ‘in this national election, did parties or candidates receive either free or publicly financed access to national broadcast media?’.¹⁶⁷ The results obtained here are not surprising, but confirms the concerns related to the freedom of media as detailed in the second section of this chapter. It however reveals how much freedom of press, when put in relation with the political competition, is of utmost importance for a democracy to be of a high quality, most notably because it allows the opposition to have a voice. And yet, this parameter is currently jeopardised: even a country such as Sweden – namely one of the most successful countries in terms of media freedom¹⁶⁸ – encounters downward trends as it possessed a level of 3.76 in 2010, which progressively decreased until it dropped to 3.34 in 2018, representing a negative rate of change of almost 9%.

These results corroborate with the demonstration elaborated by Julia Cagé on the funding of political parties and its impact on democracies: if no public funding or no public access to the media is made available for political parties that are campaigning during election times, the main voice remains in the hands of the wealthiest political leaders or to those who already are in power.¹⁶⁹ Democracy is deeply affected by threats on

¹⁶⁷ V-Dem, ‘Variable Graph’, ‘Election free campaigning media’ <www.v-dem.net/en/analysis/VariableGraph/> accessed 5 March 2020.

¹⁶⁸ RSF (n 151). See also results in annex 2.

¹⁶⁹ Cagé (n 161).

liberties, particularly by those directed against the freedom of media, which yet is supposed to be vital to democracy.¹⁷⁰ In such a context, even though political competition in general remains a parameter at a very high level and quite stable in most of the EU countries, it is still possible to underline downward trends that participate to the decline of EU democracies.

3.4 THE CONSEQUENCES OF SUCH DOWNWARD TRENDS ON THE EU MEMBER STATES' QUALITY OF DEMOCRACY

The results obtained through the calculation of the rule of law, political freedom and political competition and their various evolutions from 2008 to 2018 demonstrate that the democratic context of the EU Member States is more complex than it seems to be. On one hand, the majority of the countries presented high results, which confirms their status of consolidated democracies. Yet, many drops in the figures clearly appeared, and most notably for what concerned the measurement of the political freedom, namely the indicator that has been the most affected by the radical political changes according to the detailed database.

In such a context, it is possible to discuss – in the most optimistic scenario – of a downward tendency in the EU quality of democracies in general, or – in the most pessimistic scenario – of a true decline of democracies at the EU national level. The environment surrounding the EU Member States appears as not being totally free anymore, neither totally fair; a situation that usually correlates with the beginning of a democratic erosion.¹⁷¹

Of course, and unsurprisingly, the countries accused of being ‘nascent autocracies’¹⁷² presented results that are particularly worrying considering the huge decreases and the low levels of the figures obtained between 2008 to 2018. Hungary, most notably, portrays an alarming situation since it is, for the three parameters, the country with the most negative rate of change among all of the other Member States. These results just confirm the analysis provided by Freedom House in 2019, when it considered the State as ‘partly free’ and not as a ‘free democracy’ anymore.¹⁷³

¹⁷⁰ In its very famous judgment *Goodwin v The United Kingdom*, the European Court of Human Rights indeed recognised the ‘vital public-watchdog role of the press’ for democracy. See *Goodwin v United Kingdom* (1996) EHRR 1996-II.

¹⁷¹ Levitsky and Ziblatt (n 166).

¹⁷² Kelemen (n 134) 212.

¹⁷³ Freedom House, ‘Freedom in the World 2019’ (Freedom House 2019) <https://freedomhouse.org/sites/default/files/Feb2019_FH_FITW_2019_Report_ForWeb-compressed.pdf> accessed 5 March 2020.

However, the broad approach followed by this paper, namely the consideration of the evolution of three parameters relative to the quality of democracy for each of the EU Member States, reveals that also the most consolidated democracies show downward trends. It is possible to go even further in the analysis since there is not a single country that presents a continuous positive trend for simultaneously the rule of law, political freedom and political competition.

The decreasing levels of the Member States' qualities of democracy are therefore a cause for concern, although it is important to take a step back in underlining that the majority of these countries remain far from any forms of authoritarianism – most of the parameters analysed in this paper are at a level that is too high for drawing such a conclusion. Yet, it proves how deeply EU democracies are in crises and finding it a hard time in renewing themselves in order to face the challenges ahead. More than ever, EU societies seem to turn their back to their liberal part, and increasingly settle themselves for more security, or in the worst case, for more antidemocratic decisions, in place of protecting human rights and fundamental freedoms.¹⁷⁴

Of course, to enrich this study, it would be interesting to consider other parameters relative to the measurement of the quality of democracy (and particularly the indexes relative to the levels of 'accountability' and 'responsiveness'). Furthermore, in view of the recent evolutions implemented with the coronavirus pandemic, which completely changed our realities and implied a confinement of fundamental freedoms, it would be relevant to extend this study to the year 2020 and after, when the data will be available.

Otherwise, the results detailed in this paragraph are also of utmost interest if apprehended through the lens of the EU in general. Since it is now confirmed that the EU Member States in effect know a lowering in their quality of democracy levels, as a consequence of the political changes of the past years, it is then legitimate to understand the impacts on the EU itself, and the correlating link between the erosion of democracies at the national level and at the European level. It indeed seems that 'where liberal democracy and the rule of law cease to function, there Europe ends'.¹⁷⁵

¹⁷⁴ See François Sureau, *Sans la liberté* (Gallimard 2019).

¹⁷⁵ Jan-Werner Müller, 'Defending Democracy within the EU' (April 2013) 24 *Journal of Democracy* 138.

4.

THINKING THE EU QUALITY OF DEMOCRACY AS
IMPACTED BY THE NATIONAL DOWNWARD TRENDS OF
THE EU MEMBER STATES TO REVERSE THE DEMOCRATIC
DEFICIT THEORY

The EU democratic deficit theory is among the most debated topics between scholars and yet, there is no consensus on how to answer it. At the origins of this discussion lies a criticism related to the legitimacy of the EU, notably for what regards its decision-making procedure. Already, in 1988, whereas the European Parliament was seeking to strengthen its power, a resolution recognised the existence of a democratic deficit, stressing ‘that at European Community level, the right of joint decision accorded to the European Parliament is too limited’.¹⁷⁶ But it was particularly during the process of the Maastricht Treaty ratification, which coincides with the end of the ‘permissive consensus’, that the issue gained ground.¹⁷⁷ The referenda organised in France and Denmark brought a politicisation of the EU challenges at their domestic levels: for the first time, the goals of the community and its future were discussed publicly. The rejection of the treaty by the Danish people (49% in favour and 51% against) and the concerns raised by the German Constitutional Court relating to the protection of the fundamental rights of the EU citizens in transferring national powers to the EU institutions¹⁷⁸ created a fertile ground for this legitimacy debate to flourish.¹⁷⁹ To provide an

¹⁷⁶ European Parliament Resolution of 17 June 1988 on the democratic deficit in the European Community [1988] OJ C187.

¹⁷⁷ Bruno Cautrès, *Les Européens aiment-ils (toujours) l’Europe* (La Documentation française, Réflexe Europe 2014) 11-14.

¹⁷⁸ Bundesverfassungsgericht, Judgment of 12 October 1993, 2 BvR 2134/92, 2 BvR 2159/92. See also Bundesverfassungsgericht, ‘Statement by the Press Office of the Federal Constitutional Court’ (Press Release 39/1993 12 October 1993) <www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/EN/1993/bvg93-039.html> accessed 3 July 2020.

¹⁷⁹ Sabine Saurugger, *Theoretical Approaches to European Integration* (The European Union Series, Palgrave Macmillan 2014) 197.

answer to these critics and in order to reinforce its legitimacy, the EU strengthened its transparency, increased the powers of the European Parliament and worked to elaborate a proper EU identity, notably through the establishment of a set of symbols through which the EU citizens could identify themselves.¹⁸⁰ Nevertheless, the debate continued and even increased with the rejection of the Constitutional Treaty and the failure of the Irish referendum on the Lisbon Treaty in 2008,¹⁸¹ which consequently fed Euroscepticism arguments and left room for populist and far-right parties that are increasingly found at the EU level.¹⁸²

The legitimacy deficit and the democratic one are related, but must be differentiated: ‘while the legitimacy deficit includes the idea of interpretation of a political process, the notion of democratic deficit refers to a more or less explicit understanding of what democracy is and why there is a substantial (formal) deficit in the EU’.¹⁸³ In other words, if the legitimacy deficit discussions base themselves on normative elements, the democratic deficit arguments rely on another internal debate, namely on the questions relative to the definition of democracy. Indeed, if democracy in the EU area is understood as belonging to the liberal type, there is, however, no standardised vision of what it precisely means; of what are the objectives to set in order for this EU democracy to reach the common good.¹⁸⁴ How, in these conditions, is it possible to determine if the EU is democratic or not?

¹⁸⁰ Fondation Robert Schuman, ‘Europe and the identity challenge: who are “we”?’ European Issue No 466 <www.robert-schuman.eu/en/european-issues/0466-europe-and-the-identity-challenge-who-are-we> accessed 10 July 2020.

¹⁸¹ Saurugger (n 179).

¹⁸² See Tamas D Ziegler, ‘EU disintegration as cultural insurrection of the anti-Enlightenment tradition’ [2020] *Journal of Contemporary European Studies* 434 <<https://doi.org/10.1080/14782804.2020.1784109>> accessed 10 July 2020. See also Ronald F Inglehart and Pippa Norris, ‘Trump, Brexit, and the Rise of Populism: Economic Havens and Cultural Backlash’ (August 2016) RWP16-026 Harvard Kennedy School Faculty Research Working Paper Series.

¹⁸³ Saurugger (n 179).

¹⁸⁴ Pierre Rosanvallon, *Democracy Past and Future* (Samuel Moyns ed, Columbia UP 2006); Jan-Werner Müller, ‘Defending Democracy within the EU’ (April 2013) 24 *Journal of Democracy* 138.

4.1 THE NEED TO DEVELOP OTHER APPROACHES IN THE DEMOCRATIC DEFICIT DEBATE

By looking closely to the EU procedures, particularly those related to the decision-making, and the EU legal framework, it becomes visible that the minimalist definition of democracy is respected, namely that the EU develops a regime where every citizen has ‘the right to vote and to stand for elections and thereby seek to defend their interests in the political system’.¹⁸⁵ To provide a brief recap, the Members of the European Parliament (MEPs) are directly elected by the EU citizens; the Council of the EU is formed by the ministers of the EU Member States, themselves democratically selected at the domestic level; and the EU Commission is composed of commissioners named by each of the Member States and whose final arrangement is approved by the freshly elected MEPs. Simply put, EU democracy is based on a double representative system, within which citizens are directly represented in the EU Parliament and within which Member States are directly represented in the Council of the EU.¹⁸⁶ EU citizens, who are apprehended as being the sovereign actors in a democratic context,¹⁸⁷ are therefore represented directly and indirectly.

Yet, one of the main allegations articulated within the democratic deficit debate nowadays denounces the fact that many members of the EU institutions involved in the elaboration of directives and regulations, which will later apply on EU citizens, are not directly elected by these same EU citizens.¹⁸⁸ However, these particularities of direct and indirect representations are also found within most of the EU Member States, themselves considered as democracies of high quality levels.¹⁸⁹ Of course, certain EU procedures could be pushed further to foster their democratic

¹⁸⁵ Milja Kurki, ‘Democracy and Conceptual Contestability. Reconsidering Conceptions of Democracy in Democracy Promotion’ (2010) 12 *International Studies Review* 362, 367. See also Yascha Mounk, *The People Vs. Democracy. Why Our Freedom Is in Danger and How to Save it* (Harvard UP 2018) 31-32.

¹⁸⁶ European Union, ‘The EU in brief’ <https://europa.eu/european-union/about-eu/eu-in-brief_en> accessed 20 June 2020.

¹⁸⁷ Simona Piattoni, ‘The European Union’ in Simona Piattoni (ed), *The European Union: Democratic Principles and Institutional Architectures in Times of Crisis* (OUP 2015) 7.

¹⁸⁸ Andreas Føllesdal and Simon Hix, ‘Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik’ (2006) 44 *JCMS* 533, 534-37. See also David Beetham, ‘The Quality of Democracy: Freedom as the Foundation’ (October 2004) 15 *Journal of Democracy* 61, 69.

¹⁸⁹ Nadia Urbinati, ‘Representative Democracy: Principles and Genealogy’ (June 2007) 5 *Perspectives on Politics* 271.

levels – notably for what concerns the election of the Commission President and the discussed procedure of the Spitzenkandidat.¹⁹⁰ But it has to be claimed that, at the end of the day, the way the EU system functions since the entry into force of the Lisbon Treaty, remains democratic – at least according to the minimalist definition of liberal democracy.

In his very famous reflection, Andrew Moravcsik goes deeper, in considering that the issues raised by those who plead the democratic deficit are nothing else but misleading. He thus rejects the very existence of a lack of EU democracy, in arguing that the EU democratic level is itself guaranteed by the democratic levels of its Member States.¹⁹¹ Following this approach, it is then possible to ask what happens to the EU democratic level, when its Member States are less democratic? Daniel Kelemen addresses this question and proposes another interpretation to the democratic deficit theory, by blaming the ‘nascent autocracies’. In his scheme, the EU democratic problem actually comes from the States that are encountering critical democratic backsliding episodes, which are predominantly Bulgaria, Hungary, Poland, Slovenia and Romania.¹⁹²

A correlation link between the domestic and the European levels, in terms of democratic standards, has therefore already been drawn by these authors. This chapter proposes to push the reflection further by considering each of the EU Member States and thus proposing an approach allowing to revise the democratic deficit theory. Since it has been demonstrated before that EU Member States know downward trends in their levels of quality of democracy, it is relevant to formulate the following question: what are the consequences of these changes on the quality of democracy level of the EU itself?

The aim here is not to add another answer in favour or against the democratic deficit debate, but rather to reverse it, in proposing another reading of the democratic problems within the EU area. Actually, if no consensus is found between the scholars, it is also due to the complexity of the elements deeply anchored within the EU, the domestic procedures

¹⁹⁰ Maia De La Baume, ‘The stalled quest for a more democratic EU’ (*Politico*, 22 May 2018) <www.politico.eu/article/the-stalled-quest-for-a-more-democratic-eu-spitzenkandidat-european-commission/> accessed 5 June 2020.

¹⁹¹ Andrew Moravcsik, ‘In Defense of the “Democratic Deficit”: Reassessing Legitimacy in the EU’ (2003) 92 CES Working Paper 1; Andrew Moravcsik, ‘Is there a ‘Democratic Deficit’ in World Politics? A Framework for Analysis’ (2004) 39 *Government and Opposition* 336.

¹⁹² Daniel Kelemen, ‘Europe’s Other Democratic Deficit: National Authoritarianism in Europe’s Democratic Union’ (2017) 52 *Government and Opposition* 211.

and their relative political cultures, which are surrounding this discussion. Tamas D Ziegler, for instance, reveals the existence of a tricky pattern within which components of enlightenment and anti-enlightenment heritages – or to adapt the speech to this thesis, of democratic and anti-democratic notions – are deeply rooted within the cultural and political tradition of the EU Member States and the EU itself.¹⁹³ As a consequence, this intricate scheme allows the continuation of the EU integration process, but can also lead to disintegration, through democratic or non-democratic actions from the EU institutions or the Member States, in both of the scenarios.¹⁹⁴ The whole system is then rendered even more complex because of the binary logic of the EU (the domestic and European levels) and of the multidimensionality of the causes-effects relationship (who influences who, what impacts what). It is also necessary to underline that it is not that simple to affirm that an organisation possesses a high level of democratic quality by definition, when this same organisation keeps anti-enlightenment elements within its political culture, which mainly reappears in times of crises.¹⁹⁵

In addition, most of the discussions related to the democratic deficit are focusing on the cooperation achievements within the community and principally seek to highlight the opportunities created in times of emergencies. The crises encountered by the EU and the answers it provides – the management of the Greek debt, the so-called migrant crisis and the Brexit – are mainly thought of in terms of ‘disintegration’, ‘integration’, ‘stagnation’ or ‘no integration’; from a political, economic or social point of view.¹⁹⁶ For Christian Kreuder-Sonnen, ‘this trend ties in with an optimist inclination in European studies which envisions the EU as an emerging democratic order whose path is set on progress’.¹⁹⁷ In this context and when considering the interests of the academic literature on the erosion of democracy at the domestic level, and the

¹⁹³ Ziegler (n 182).

¹⁹⁴ *ibid.* See also Tamas D Ziegler, ‘The Edge of Enlightenment: The EU’s struggle with post-fascist cynicism’ (*Völkerrechtsblog*, 4 September 2019) <<https://voelkerrechtsblog.org/the-edge-of-enlightenment/>> accessed 2 July 2020.

¹⁹⁵ *ibid.*

¹⁹⁶ Tanja A Börzel and Thomas Risse, ‘A Litmus Test for European Integration Theories: Explaining Crises and Comparing Regionalisms’ (May 2018) 85 KFG Working Paper Series 3. See also Annegret Eppler, Lisa H Anders and Thomas Tuntschew, ‘Europe’s political, social, and economic (dis-)integration: Revisiting the Elephant in times of crises’ (October 2016) 143 IHS Political Science Series 2.

¹⁹⁷ Christian Kreuder-Sonnen, ‘An authoritarian turn in Europe and European Studies?’ (2018) 25 *Journal of European Public Policy* 452, 452.

democratic deficit at the EU level, the relevancy of proposing another approach to complement the huge literature already existing, appears as an evidence: both of the levels matter in the elaboration of EU policies and in the management of European crises; it is now time to reconcile them by following a bottom-up perspective, itself focused on the quality of democracy evolutions.

It seems indeed paradoxical to only consider the EU in terms of integration or legitimacy theories, and not to explore its level of quality of democracy. How is it possible to determine a deficit of democracy if it is not made according to specific parameters that allow to underline the erosion of democracy – as determined for the Member States in the previous chapter? Because ‘the EU has often and by many been conceptualized as a system in which “multilevel governance” prevails’, it then restricts the elaboration of a ‘normative assessment of the democratic quality of the EU’.¹⁹⁸ And indeed, from the knowledge gathered when this thesis was written, not only a lack of research appears on the matter, but also no indexes actually provide a measurement of the quality of democracy for the EU itself. Of course, the EU is not the same as a State, which means that its measurement should differ from those provided for the domestic level. But since the EU is also defined as something ‘more than a simple intergovernmental system, because its political authority overrides that of its Member States in common policy fields’,¹⁹⁹ and since the EU implements democratic standards, there is the possibility and the need to measure its level of quality of democracy.

Considering the times and means of this thesis, it is unfortunately not possible to create a new database for this purpose. This chapter will therefore pursue a qualitative methodology: by retaking the same parameters measured at the domestic level (rule of law, political freedom and political competition), the following paragraphs will propose a reversal of the democratic deficit theory by demonstrating the existence of a correlation link between the downward trends encountered at the domestic level and their negative impacts on the quality of democracy of the EU itself. The approach will particularly focus on the influences domestic agents have on the EU institutions and on the behaviours of these two entities.

¹⁹⁸ Sandra Kröger, ‘Democratic Representation as the Normative and Organizing Principle of the European Union’ in Simona Piattoni (ed), *The European Union: Democratic Principles and Institutional Architectures in Times of Crisis* (OUP 2015) 112.

¹⁹⁹ Saurugger (n 179) 208.

4.2 ANALYSING THE RULE OF LAW IN THE EU AS A FIRST PARAMETER FOR MEASURING THE EU QUALITY OF DEMOCRACY

4.2.1 *The rule of law framework in the EU*

The respect of the rule of law principle in the EU context represents a fundamental element since it allows Member States to gather, in order for them to cooperate and pursue the integration process. In this sense, not only the rule of law is enshrined in article 2 of the TEU as being an EU value,²⁰⁰ but it is also ‘regarded as the foundation for trust between the EU states, upon the basis of which a unified political system is possible’.²⁰¹ The rule of law is therefore a key element in the EU area for the community to meet its goals and must be applied at the domestic and supranational level.

Paradoxically and despite the various mentions of the rule of law in the EU treaties – specifically in articles 2 and 21 of the TEU,²⁰² as well as in the Preamble of the Charter²⁰³ – there is no precise definition of what this value refers to in the scope of EU law or of what are the main criteria for the EU institutions and its Member States to respect in order for the rule of law to be ensured. Accordingly, a differentiation in the translations of the EU legal acts exists, depending on the constitutional tradition followed by a specific Member State at the domestic level: for instance, in the French version of the TEU, rule of law is translated as *État de droit*, and in the German version as *Rechtsstaat*.²⁰⁴ As it has been explained in the first paragraph of Chapter 3, the rule of law by definition slightly differs in its way of being implemented from these other understandings, even though, at the end of the day, they all pursue the same scope, namely to democratically ensure that public authorities are subject to the law.²⁰⁵

²⁰⁰ Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

²⁰¹ Annegret Eppler, Andreas Hackhofer and Andreas Maurer, ‘The Multilevel Rule of Law System of the European Union: Eked Out, Contested, Still Unassured’ in Luisa Antonioli, Luigi Bonatti and Carlo Ruzza (eds), *Hights and Lows of European Integration: Sixty Years After the Treaty of Rome* (Springer International Publishing AG, Springer Nature 2019) 67.

²⁰² Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

²⁰³ Charter of Fundamental Rights of the European Union [2000] OJ C364/01.

²⁰⁴ European Commission for Democracy through Law (Venice Commission), ‘Rule of Law Checklist’ (Study No 711 / 2013 CDL-AD(2016)007rev 18 March 2016) para 28 <[www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)007-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)007-e)> accessed 28 June 2020.

²⁰⁵ *ibid.*

This lack of clarification is however countered by the fact that, as stated by article 6(3) of the TEU, the EU recognises the fundamental elements enshrined within the European Convention on Human Rights (ECHR), as well as the constitutional traditions common to its Member States.²⁰⁶ Therefore, the main standards revealed by the CoE, of which every EU Member States are members, are also recognised within the EU context.

Hence, the diversity of the rule of law value, as understood within the EU system, allows the organisation to: ‘encompass a number of meanings, including formal notions such as the supremacy of law, but also substantive notions such as respect for fundamental rights and notions specific to European Union law, such as fair application of the law, effective enjoyment of Union law rights, protection of the legitimate expectation, and even anti-corruption (in external relations)’.²⁰⁷

On this point, the role played by the European Court of Justice (ECJ) has been particularly decisive since it has allowed the development of a true jurisprudence, while presenting itself as the main guarantor for the protection and promotion of the rule of law principle within EU law. For instance, in the very famous Kadi ruling, the ECJ concluded that even international agreements, directly incorporated in EU law, cannot go against the principle of the rule of law because of its constitutional nature and this, despite the EU obligations towards its international agreements.²⁰⁸ In this caselaw, the ECJ reaffirmed several times at paragraphs 4, 81, 281, 288 and 316 – that the ‘Community is based on the rule of law, inasmuch as neither its Member States nor its institutions can avoid review of the conformity of their acts with the basic constitutional charter, the Treaty, which established a complete system of legal remedies and procedures designed to enable the Court of Justice to review the legality of acts of the institutions.’²⁰⁹

This judgment is essential for the EU because it underlines the dedication of the ECJ and its willingness to act as a watchdog to promote

²⁰⁶ Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

²⁰⁷ European Commission for Democracy through Law (Venice Commission) (n 204).

²⁰⁸ Koen Lenaerts, ‘The Court of Justice as the guarantor of the rule of law within the European Union’ in Geert De Baere and Jan Wouters (eds), *The Contribution of International and Supranational Courts to the Rule of Law* (Leuven Global Governance, Edward Elgar Pub 2015) 253.

²⁰⁹ Case C-402/05 P and C-415/05 P *Yassin Abdullah Kadi and Al Barakaat International Foundation v Council of the European Union and the Commission of the European Communities* [2008] I-06351 para 4.

the rule of law value: the EU Commission, the Council of the EU and the European Parliament, as well as the EU Member States, must ensure the protection of the rule of law, even in making international agreements.

The action of the ECJ has therefore contributed to a progressive ‘Europeanization’ of the rule of law.²¹⁰ As understood within EU law, it now ‘operates as a “transnational rule of law”, since it is influenced by and in turn influences, the legal orders that surround it’.²¹¹ As a matter of fact, this legal framework ensures a high quality level for the EU rule of law.

Nevertheless, possible breaches not only come from the EU institutions, but also from the Member States; a highly problematic fact considering that the ECJ only reviews the legality of measures when the EU law is applied, which limits crucially the range of actions of the Court, especially when infringements are committed by Member States while they are applying their national legal framework.

4.2.2 The case of article 7 and its relative tools in the context of the quality level of the EU rule of law

Article 7 of the TEU provides the authorisation for the EU to intervene in case its values are jeopardised.²¹² Originally, this measure provided for the suspension of the right to vote of a Member State which would infringe any of the fundamental values of article 2 of the TEU (rule of law included). It was established by the Amsterdam Treaty in view of the European enlargement towards the CEE countries: considering the political context at that time, the EU wanted to be sure it had at its disposal a mechanism whereby the rule of law would be protected.²¹³ However already in 2000, the notable ‘Haider affair’ rendered visible the weaknesses of such a mechanism: despite the concerns of the incompatibility of the FPÖ far-right party under the leading of Jörg Haider with the EU values, Member States refused to launch article 7 – seen as a politically too extreme solution – and preferred to implement diplomatic sanctions against the Austrian government.²¹⁴ It is also important to stress that determining a breach

²¹⁰ Laurent Pech, ‘The Rule of Law as a Constitutional Principle of the European Union’ (Jean Monnet Working Paper 04/09 2009) 9 <<http://jeanmonnetprogram.org/wp-content/uploads/2014/12/090401.pdf>> accessed 15 July 2020.

²¹¹ Lenaerts (n 208) 244.

²¹² Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

²¹³ Ulrich Sedelmeier, ‘Anchoring Democracy from Above? The European Union and Democratic Backsliding in Hungary and Romania after Accession’ (2014) 52 *Journal of Common Market Studies* 105.

²¹⁴ *ibid.*

of an EU value within the frame of article 7 is difficult, considering that – as stated in the now paragraph 2 of this article – it requires the unanimity of the European Council, with the consent of the European Parliament at a majority of two-thirds. The high threshold level made the EU realise that the mechanism needed to be improved in order for it to be more efficient. A paragraph – now the first paragraph of article 7 of the TEU – has therefore been added with the Treaty of Nice: it aims to implement a preventive procedure determining the existence of a ‘clear risk of a serious breach’.²¹⁵ Such a procedure facilitates the initiation of the mechanism and follows a more conciliatory approach in allowing a dialogue with the States concerned. The EU Commission even pushed its mechanism further by elaborating a monitoring tool in 2013, called the ‘Justice Scoreboard’, thanks to which it can review the possible breaches occurring within its Member States;²¹⁶ as well as a Rule of Law Framework in 2014, enabling the institution to provide recommendations to countries.²¹⁷

The legal evolution of article 7 confirms the high quality level of the EU rule of law framework: not only the EU is mindful of its proper compliance, but it also ensures mechanisms to protect it at the national level. Yet, it remains a complicated tool to use because it necessitates a true political commitment from the side of the EU institutions and the Member States. And indeed, since its existence, article 7 has only been triggered against Poland in 2017 and Hungary in 2018, whereas notable breaches – notably in Romania and Bulgaria – have been also noticed in other EU Member States.²¹⁸ As a matter of fact, article 7 is not as efficient as it should be, which undeniably negatively affects the quality of democracy of the EU. Even when it has been activated, it seems that the procedure arrived a little bit too late in comparison with the events happening domestically:

²¹⁵ Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

²¹⁶ European Commission, ‘EU Justice Scoreboard’ <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/eu-justice-scoreboard_en> accessed 8 July 2020.

²¹⁷ European Commission, ‘Communication from the Commission to the European Parliament and the Council: A new EU Framework to strengthen the Rule of Law’ COM(2014) 158 final (11 March 2014) <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0158&from=EN>> accessed 12 July 2020.

²¹⁸ Sedelmeier (n 213).

1. In the Polish case, the EU Commission activated the procedure only on 20 December 2017 by bringing the case before the ECJ, because the country passed more than 13 laws affecting ‘the entire structure of the justice system in Poland’ and this, despite the three recommendations already elaborated by the EU Commissions over a period of two years.²¹⁹
2. In the Hungarian case, lengthy procedures are also visible, considering that the first paragraph of article 7 was only activated on 12 September 2018, whereas breaches in terms of the rule of law had already been happening since 2010.²²⁰

For Kim Lane Scheppele and Laurent Pech, this lack of reaction is due to the consequences of the ‘Haider affair’ already mentioned before. During this case, the EU was accused of reacting too early in the sense that the organisation just perceived an incompatibility between the FPÖ values and its own, whereas no actions – which would have represented a real breach – were actually already taken by this new coalition government.²²¹ Since then, the EU Commission thus prefers to rely upon its prevention mechanism, coupled with its framework and monitoring systems. Yet, to retake the words of these same authors, ‘if Austria was the dog that did not bark, Hungary and Poland are, by now, howling so all should hear’.²²² In this context, a real problem of efficiency exists, with critical consequences on the quality level of the rule of law at national and European levels. Radical political changes are occurring domestically, eroding national democracies, while the EU seems to be frozen in its procedures.

What is even more striking in the Hungarian case is that it was the European Parliament, after repeated requests since 2015, that finally activated the article 7 procedure, by 448 votes in favour, to 147

²¹⁹ European Commission, ‘Rule of Law: European Commission acts to defend judicial independence in Poland’ (*European Commission*, 20 December 2017) <https://ec.europa.eu/commission/presscorner/detail/en/IP_17_5367> accessed 24 July 2020.

²²⁰ See the database in annex 1.

²²¹ Kim Lane Scheppele and Laurent Pech, ‘Didn’t the EU Learn That These Rule-of-Law Interventions Don’t Work?’ (*Verfassungsblog*, 9 March 2018) <<https://verfassungsblog.de/didnt-the-eu-learn-that-these-rule-of-law-interventions-dont-work/>> accessed 24 July 2020.

²²² *ibid.*

against and 48 abstentions.²²³ The institution showed an interesting determination to also act as a watchdog to protect the rule of law in the EU context, in revealing the so-called ‘Copenhagen dilemma’, ‘whereby the EU remains very strict with regard to compliance with the common values and standards on the part of candidate countries but lacks effective monitoring and sanctioning tools once they have joined the EU’.²²⁴ The European Parliament counteracted the inaction of the EU and the national heads of states and governments, who ‘refused to invoke that tool against the Hungarian government’.²²⁵

Daniel Kelemen explains this lack of decisive measures against the Hungarian backsliding by political reasons. For him, the link of the Fidesz party with the European People’s Party (EPP) leadership within the EU sphere blocked any conclusive movements to protect the rule of law in Hungary, leaving therefore a full freedom of action for Viktor Orbán to perpetuate illiberalism in the country.²²⁶ However, and very interestingly, the European Parliament showed a serious political willingness to participate in the rule of law debate, by going beyond those political tensions.

The European Parliament, together with the Commission and the ECJ, then appear as being three institutions increasingly dedicated to promoting respect for the rule of law, at the domestic and the European levels. Such an observation should neglect the possible downward trends in the quality level of the EU rule of law. But despite the good faith of these three institutions, the inefficiency of article 7 and its relative tools actually implies the fact that the breaches of the rule of law at the domestic level, not only continue, but worsen year after year,²²⁷ which, as a consequence, also implies a downward trend in the quality of the EU rule of law.

²²³ Alice Cuddy, ‘European Parliament votes to trigger Article 7 sanctions procedure against Hungary’ (*Euronews*, 12 September 2018) <www.euronews.com/2018/09/12/european-parliament-votes-to-trigger-article-7-sanctions-procedure-against-hungary> accessed 2 July 2020.

²²⁴ European Parliament Resolution P7_TA(2013)0315 of 3 July 2013 on the situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament resolution of 16 February 2012) (2012/2130 (INI)) para 73.

²²⁵ Kelemen (n 192) 224.

²²⁶ *ibid.*

²²⁷ See the database in annex 1.

The correlation link here is particularly visible in the behaviour of the Council of the EU. In the Polish case, the Council of Ministers remained completely silent when the EU Commission triggered article 7.²²⁸ And in the Hungarian case, the then President of the Parliament, Martin Schulz, invited the Presidency of the Council – which was Latvian at that time – in May 2015 to take part to the first discussions the Parliament was having on the situation of the country: the Latvian Presidency first refused the invitation, ‘on the grounds that the Council had not discussed the human rights situation in Hungary and therefore had no position on the issue’, until finally attending the debate ‘but only to confirm that the Council had no position on the matter’.²²⁹

The reluctances of the Council to take positions on this issue are actually older, since already in 2014, in view of the adoption of the Rule of Law Framework, the institution focused ‘its energy on a technical and narrow issue: the question of whether the Commission had the legal power to adopt its Rule of Law Framework, which (...) was somewhat of a red herring as the Commission does clearly have such a power’.²³⁰ The action of the Council then implied the attenuation of the mechanism, which at the end only promotes the elaboration of a dialogue between the Commission, the Council of the EU and the concerned Member States.

This behaviour can be explained by various political issues such as the same EPP leadership already mentioned before; or the fact that the illiberal model advocated by Viktor Orbán is followed by more CEE States, which renders the collective decision-making process more difficult to reach. In this context, for the EU ministers to demonstrate a political willingness in protecting the rule of law seems particularly compromised. Furthermore, such actions do not appear as being in the interest of most of the Member States, as they ‘must inevitably be wary of taking action against one of their number to ensure respect for the values enshrined in Article 2 TEU, for fear that such action may ultimately rebound on

²²⁸ Peter Oliver and Justine Stefanelli, ‘Strengthening the Rule of Law in the EU: The Council’s Inaction’ (September 2016) 54 *Journal of Common Market Studies* 1075, 1081.

²²⁹ *ibid.*

²³⁰ Dimitry Kochenov, Amichai Magen and Laurent Pech, ‘Introduction: The Great Rule of Law Debate in the EU’ (September 2016) 54 *Journal of Common Market Studies* 1045, 1046.

itself.²³¹ Indeed, by making parallels with the results obtained in Chapter 3 and the downward trends revealed, it becomes visible that many of the EU countries could also be concerned by the triggering of article 7 and its related procedures. The Council of the EU therefore contributes to a general EU paralysis despite its attempts to protect the rule of law at both levels, which has direct negative consequences on the quality of the EU rule of law.

Overall, the various EU interventions to protect the rule of law have, so far, little effect: the ECJ cannot rule if the country did not act within the EU law frame; the EU Commission is locked by its political interests; the European Parliament is involved in long procedures, without mentioning the assumed inaction of the Council of Ministers.²³² Therefore, the problem here is not only about the ineffectiveness of EU actions on the matter, but rather about the lack of reaction and the lack of political will, from all of the agents involved in this procedure, whereas rule of law is a political issue. What is paradoxical, is that, as explained before, at the origins of article 7 lies the desire of the EU Commission to reassure the older Member States about the democratic status of the CEE countries that were entering the organisation.²³³ Yet, the day democracy was put in danger happened and the EU does not seem to be able to do anything about it; the EU appears as more inhibited by its worries concerning possible risks of infringements within domestic affairs (if any action is taken from the EU directly), than about the existence of serious breaches of its own values committed by its own Member States.²³⁴

In brief, national downward trends in terms of the rule of law implement a downward trend of the EU rule of law. And it is highly problematical: rule of law is the value upon which trust is built, upon which the integration can be pursued. Through its weakening at the domestic level, it is de facto weakened at the EU level because the trust element, thanks to which EU institutions can democratically function and pursue decision-making processes, is eroding.

²³¹ Oliver and Stefanelli (n 228) 1081-1088.

²³² Scheppele and Pech (n 221).

²³³ *ibid.*

²³⁴ Kelemen (n 192).

4.3 ANALYSING POLITICAL FREEDOM IN THE EU AS A SECOND PARAMETER FOR MEASURING THE EU QUALITY OF DEMOCRACY

4.3.1 *The political freedom framework in the EU*

By becoming EU citizens, individuals enjoy a wide range of rights within which political freedom – namely political rights, civil liberties and media freedom – is protected. Considering that freedom and human rights are also part of the values enshrined in article 2 of the TEU,²³⁵ the protective legal framework that surrounds political freedom is identical to the one already described for the rule of law. In other words, EU citizens' political freedom is ensured by EU legal sources – mainly the Charter²³⁶ and articles 2, 6 and 7 of the TEU²³⁷ – whose correct application is controlled by the ruling of the ECJ; but they are also implemented through international treaties and courts recognised by the EU – that is the ECHR with the ruling of the European Court of Human Rights.²³⁸ It is necessary to add that national courts also play an important role in this framework, because they interpret EU legislation, which means that besides controlling the correct application of their national constitutions, they must pay attention to the enforcement of the EU legal texts transposed into their national systems.

This multiplicity of legal safeguards, in terms of both legal texts and bodies in a multilevel environment, provides the EU with a framework of high quality in terms of protection of its political freedom. However, the counterpart of this system also implies a more complex implementation of the EU framework due to the risks of conflicts between the different jurisdictions when they interpret the legal texts.²³⁹ As a consequence, the use of the Charter is particularly limited at national levels, whereas this text possesses a high added value: it is more than just another legal instrument for ensuring fundamental rights, as it pushes further the protective legal framework in comparison to national constitutions and international treaties, especially concerning its articles relating to freedoms.²⁴⁰ Yet, as the EU Agency for Fundamental Rights (FRA)

²³⁵ Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

²³⁶ Charter of Fundamental Rights of the European Union [2000] OJ C364/01.

²³⁷ Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

²³⁸ Lenaerts (n 208) 252. See also Fiona Murray, 'The Rise and Rise of EU Citizenship' in Flora Goudappel and Ernst MH Hirsch Ballin (eds), *Democracy and Rule of Law in the European Union* (Springer, Asser Press 2016).

²³⁹ *ibid.*

²⁴⁰ See European Union Agency for Fundamental Rights (FRA), *Fundamental Rights Report 2018* (FRA 2018) <https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-fundamental-rights-report-2018_en.pdf> accessed 14 July 2020.

studies demonstrate, despite the increasing national courts' awareness of the Charter, its application by these same courts is still very limited and 'its use by governments and parliaments remains low'.²⁴¹

A lack of knowledge and misuse of such a protective text necessarily implies a lowering in the quality level of political freedom in the EU – even though improvements are occurring. There is a critical need for the EU and its Member States to promote the awareness related to the Charter and to foster the expert trainings in order for this text to be more commonly used.²⁴²

Another problematic element comes from the substantial lack of knowledge of the EU citizens for what regards the existence of the Charter: they are not aware of their rights. A recent Eurobarometer survey indeed reports that only 42% of the respondents – which covers a representative sample of the EU citizens who were aware of the existence of the Charter, and 'amongst those who have heard about the Charter, only 12% say that they know what it is'.²⁴³ Even though there is a slight increase in the overall awareness since 2012, the visibility of the Charter remains particularly low among EU citizens.²⁴⁴ Such an observation is highly problematic for the quality level of the EU political freedom: how to defend the political rights, civil liberties and media freedom of an EU citizen or an EU entity, if the individuals are not aware of the rights they possess? This lack of awareness is not linked to a general disinterest of the citizens for the EU in general, as the survey also demonstrates that the majority of them wish to obtain more information about it.²⁴⁵

In brief, the legal framework surrounding political freedom may be very developed and of a high quality, but its lack of visibility and application implies a lowering of this same quality level – even though efforts have been made from the EU, most notably through the work conducted by the FRA, to enhance this situation.

²⁴¹ FRA, *Fundamental Rights Report 2020* (FRA 2020) <https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-fundamental-rights-report-2020_en.pdf> accessed 14 July 2020.

²⁴² *ibid.*

²⁴³ Eurobarometer, 'Special Eurobarometer 487: Charter of fundamental rights and General Data Protection Regulation' (15 May 2019) <https://data.europa.eu/euodp/fr/data/dataset/S2222_91_2_487_ENG/resource/26a76818-259d-44e6-9eb7-b5e6309392bf> accessed 16 July 2020.

²⁴⁴ *ibid.*

²⁴⁵ *ibid.*

4.3.2 Focus on the situation of media freedom within the EU

To push further the analysis of the EU political freedom quality level, it seems particularly relevant to focus specifically on the situation of EU media freedom. Since media freedom was the parameter the most targeted by downward trends at national levels,²⁴⁶ a correlation link can be found at the European level.

And indeed, already in 2013, the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament raised concerns on the worrying evolution of media freedom, pluralism and concentration in the EU Member States.²⁴⁷ As in the case of the rule of law, the European Parliament assumes here the role of a watchdog in surveilling and denouncing breaches of media freedom in the EU. The appeal of the Committee for the EU Commission to foster its monitoring mechanism reached success since in 2016, the Media Pluralism Monitor was definitively implemented after several tests conducted in previous years. This tool, now co-funded by the EU, is interesting as it allows an assessment of the risks for media pluralism in every EU Member State. Yet, only monitoring the situation of media pluralism in the EU is not enough: in 2017 they formulated the stark observation that ‘no country analysed is free from risks to media pluralism’.²⁴⁸ Their results correlate with the data provided in Chapter 3 of this thesis, but also allows reflection on the consequences of such a situation for the EU. Since press freedom is somehow jeopardised in every EU country, access to information for what specifically concerns the EU is also threatened.

Indeed, very few media only dedicate themselves to EU news specifically – it is possible to mention the European versions of *Politico*, *New Europe* or the *EUobserver* for instance. The plurality of media at the only EU level is then questionable. These specialised media mainly target a community that is particularly interested in and already aware of European affairs. Moreover, they also encounter problems of accessibility since most of them provide news in English, which

²⁴⁶ See ch 3 and annex 2.

²⁴⁷ Committee on Civil Liberties, Justice and Home Affairs, ‘Report on the EU Charter: standard settings for media freedom across the EU’ (25 March 2013) A7-0117/2013 <www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2013-0117+0+DOC+PDF+V0//EN> accessed 2 July 2020.

²⁴⁸ CMPF, ‘Media Pluralism Monitor’ <<https://cmpf.eui.eu/media-pluralism-monitor/>> accessed 4 July 2020.

reduces the possibility to reach the public at large. Some initiatives have been launched to translate articles in the languages of several Member States – it is the case of *Voxeurope* or *Euractiv* for instance – but their impacts still remain limited to a public that is already well informed on the EU. In other words, the few number of ‘true’ EU media, coupled with their lack of accessibility, leads to a quasi-monopolistic position of the national media, through which EU citizens gather the majority of their information for what regards EU affairs. This situation causes two major problems:

1. Firstly, these media, because not specialised on the EU institutions, are sometimes unclear on the procedures that are going on at the EU level, which reinforces the misunderstandings between the EU and its citizens; and
2. Secondly, it means that EU media freedom relies predominantly on the domestic media freedom, whereas this same media freedom is eroding nationally.²⁴⁹

The context is rendered even more complicated by the advent of the so-called digital information age. Even though it has caused a drastic rise of the number of information sources and an easier access to it, this ‘does not automatically increase the number of informed citizens’.²⁵⁰ The digital information era also correlates with the increase of the spread of fake news. Of course, disinformation has a high negative impact on democracy and this is why the work of independent journalists is so important: they are the ‘weapon to fight such threats’,²⁵¹ they are the guardians of democracy. Considering the multiplication of the risks taken by journalists everywhere in Europe everyday (because jeopardised in their own freedom), there is now a high need to implement check and balances procedures to protect press freedom and democracy at the same time.²⁵² This political will must come from the EU institutions

²⁴⁹ See ch 3 and annex 2.

²⁵⁰ Wiebke Lamer, ‘Fostering Independent Journalism and Press Freedom to Protect against Information-Related Dangers of the Digital Age’ (Global Campus Policy Briefs 2018) <https://repository.gchumanrights.org/bitstream/handle/20.500.11825/628/PolicyBrief_Europe.pdf?sequence=1&isAllowed=y> accessed 16 March 2020.

²⁵¹ *ibid.*

²⁵² David Runciman, *How Democracy Ends* (Profile Books 2018).

who should ‘become a more outspoken backer of press freedom’,²⁵³ and this not only because it is one of its values, but also because it is in its political interest.

A perfect illustration was given during the debates before the Brexit vote, which made visible to the whole EU how deep the misunderstanding of its functioning and its objectives was. The spread of fake news and fact-checking articles were really active, while opinion columnists from both camps gave their opinions in the news on a daily basis. The importance of the citizens’ choices for what regards their sources of information were absolutely not innocent in this debate, as Florian Foos and Daniel Bischof’s research demonstrated. They indeed found a correlation link between the long-term impact of the mass media influence on public opinion: because inhabitants of the Merseyside area had long boycotted *The Sun* newspaper (which was pro-Brexit), they mainly voted in favour of remaining in the EU.²⁵⁴ If media have such a power, it becomes clearer why the defence of their plurality and independency does matter. Plus, citizens tend to only follow media that suits them the most – as the case of Merseyside demonstrates. This may not be dangerous for democracy if every media were free. But at the age of the fake news, and at a time where journalism is not always free, this situation becomes highly problematical – also in considering the low level of media literacy in the EU, which means that the majority of EU citizens do not possess the necessary knowledge basis to cross-check their information.²⁵⁵

It therefore must be claimed that the erosion of media freedom at national levels has direct negative impacts on the EU. In a country such as Hungary, where the media is the least free in the whole EU according to the database developed in this thesis, the concerns raised here prove to be true and should be a cause of worry for the EU, in considering that ‘the vast majority of media, both private and public, echoes the fake news propaganda of the government’.²⁵⁶ The example of

²⁵³ Lamer (n 250).

²⁵⁴ Andy Bounds, ‘Sun boycott reduced Euroscepticism on Merseyside, study shows’ (*Financial Times*, 26 August 2019) <www.ft.com/content/ffdb6e8c-c5c8-11e9-a8e9-296ca66511c9> accessed 29 July 2020.

²⁵⁵ CMPF (n 248).

²⁵⁶ András Jakab, ‘How to Defend the Integrity of the EP Elections against Authoritarian Member States’ (*Verfassungsblog*, 31 March 2019) <<https://verfassungsblog.de/how-to-defend-the-integrity-of-the-ep-elections-against-authoritarian-member-states/>> accessed 18 June 2020.

the 2016 Hungarian quota referendum and the action of the Hungarian media since then provides a good example: the Hungarian government organised this referendum, whereas the decision regarding the quotas had already been agreed in a collective way by the Member States as adopted in the frame of the European Council. The voter turnout was below 50%, which stopped the effects of the vote – as referenda need at least 50% of participation to be considered according to the Hungarian Constitution – but the majority of the voters rejected the quota policies. The result of this referendum has been the progressive implementation of a true battle of information between different media which covered the EU position – whose representatives highly criticised the referendum – and the Hungarian government. Considering that the majority of the Hungarian press is now related or fair to the government, it becomes harder for the EU to use its voice to specify this quota policy that has been completely demonized. For instance, the official information website of Hungary, *About Hungary*, continues to publish propaganda articles against the EU on this specific issue, by using an aggressive and Eurosceptic rhetoric, while countering the attempts of the EU Commission to clarify the facts.²⁵⁷ This never-ending story affects the EU because it increases the misunderstanding between the citizens, the national government and the EU institutions. As a last consequence, this affair also feeds Euroscepticism.

In brief, the repeated attacks on media freedom – at both levels – deteriorates the general quality level of the EU democracy, because it reinforces the gap between the EU citizens and the EU institutions, it weakens the faith EU citizens have towards the EU institutions and it deteriorates the legitimacy accusations the EU tries to face. There is, here too, the need for the EU to strengthen its commitments to protect media and press freedom; and not only from an internal market perspective as it has often been the case (for instance in the procedure launched since 2010 following the revision of the Hungarian media law);²⁵⁸ but rather from a true human rights and democratic based approach.

²⁵⁷ Zoltán Kovács, 'You have the right to know: Brussels and the never-ending story of the migrant quota' (*About Hungary*, 27 February 2019) <<http://abouthungary.hu/blog/you-have-the-right-to-know-brussels-and-the-never-ending-story-of-the-migrant-quota/>> accessed 20 July 2020.

²⁵⁸ Neelie Kroes, 'Speech/11/22' (17 January 2011) <https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_11_22> accessed 10 August 2020.

4.4 ANALYSING THE POLITICAL COMPETITION IN THE EU AS A THIRD PARAMETER FOR MEASURING THE EU QUALITY OF DEMOCRACY

Due to the organisation of the EU polity, namely a mixed system of direct and indirect representativity, political competition at the EU level operates in two different manners: ‘on the one hand, citizens seek to exert influence through their national parliaments and governments, and then, in a further step, through the Council of Ministers and the European Council; and ‘on the other hand and with more immediate effect, (...) citizens can seek representation through the European Parliament’.²⁵⁹ The first type of political competition therefore completely depends on the quality level of the domestic political competition. Considering that the assessment of the quality level of the Member States’ political competition has already been done in Chapter 3, this paragraph will only focus on the political competition within the European Parliament, while keeping in mind the findings obtained on this matter. Such an approach complements the observations already made and enables the evaluation of the quality level of the political competition in the EU.

One of the most important elements in the assessment of the political competition is to understand if the elections are free and fair. Since EU elections are organised nationally, their standards of ‘free and fair’ entirely depends on the quality level of the Member States’ political competition. In this context, if a given Member State does not meet the necessary threshold limit on the matter, the future MEPs from this same country will consequently not have been elected in a free and fair way, which will directly impacts negatively the quality level of the EU political competition. Such a deduction is worrying when regarding specifically the situation occurring in the EU ‘nascent autocracies’ where elections are less free and less fair: for some observers, MEPs do not hold democratic mandate anymore.²⁶⁰ Indeed, in these countries, the voice they give to opposition parties is reduced day after day. And as Ece Temelkuran describes it, it is when opposition parties are becoming less apparent that ‘democracy starts to smell funny’, that ‘it begins to smell like rotting onions’.²⁶¹ The European Parliament is

²⁵⁹ Peter Mair, *Ruling the Void: The Hollowing of Western Democracy* (Verso 2013) 181.

²⁶⁰ Jakab (n 256).

²⁶¹ Ece Temelkuran, *How to Lose a Country. The Seven Steps from Democracy to Dictatorship* (4th Estate 2019) 144.

one of the most important institutions in the EU since it represents the EU citizens directly and the way its MEPs are selected is of utmost importance for the general level of EU quality of democracy. In this pattern, any downward trends in the domestic political competition necessarily impacts negatively the one of the EU level and, by extension, its democratic status. Considering that downward trends in terms of political competition have been revealed for most of the EU Member States in the previous chapter, it can already be stated that the quality level of the EU political competition is in decline.

In addition to this argument, comes the observation that for several years now, EU elections gather very few participants. The last EU elections of the period of this thesis interest took place in 2014 and met a turnout of 42.61%.²⁶² In Slovakia, participation dropped to 13.05%, the lowest turnout amongst each of the EU Member States that year.²⁶³ This fact is important to consider in the assessment of the quality level of the EU political competition. Already in a high level of democracy, the lack of participation during elections makes observers raise questions for what regards the outcome of such low turnouts in the frame of a representative system.²⁶⁴ If on the top of that, a Member State also shows downward trends in its national political competition, within which opposition parties are becoming insignificant, then, the results obtained with the EU elections appear to be closer to the one of an authoritarian State than of a democratic entity. Fortunately, the turnout was a little bit better in 2019 (50.66% in the whole of Europe), which may be the sign of a democratic revival for the EU. However to draw such conclusions it will be necessary to continue the observations of the participation rates for the coming years.

Nevertheless, despite the fact that EU elections rely principally on national levels, a real Europeanisation of the debates during the election times has been observed since the end of the permissive consensus, namely since the end of the 1990s.²⁶⁵ As a matter of fact, the progressive politicisation of EU issues allows the elaboration of discussions increasingly detaching themselves from only national

²⁶² European Parliament, 'European elections results' <<https://europarl.europa.eu/election-results-2019/en/turnout/>> accessed 28 July 2020.

²⁶³ *ibid.*

²⁶⁴ Pippa Norris, 'Conclusions: The Growth of Critical Citizens and Its Consequences' in Pippa Norris (ed), *Critical Citizens: Global Support for Democracy* (OUP 1999).

²⁶⁵ Cautrès (n 177) 16.

problematics, which the EU would not have the competency to deal with. The counterpart of this phenomenon is that it has left more room for populist and Eurosceptics parties: considering the EU represents an elitist symbol these parties are rhetorically fighting against, EU elections ‘became a hammer with which to beat the establishment’.²⁶⁶ But overall, this politicisation can be interpreted as a sign of an increasing interest of the EU citizens for the EU affairs, which should allow a greater quality level of the EU political competition. The more EU policies are debated nationally, the more EU citizens can seek representation at the EU level, the more EU processes are democratised.

Yet, EU elections, and the MEPs in general, remain too anchored to their national contexts. And this is problematic for two reasons.

1. Firstly, because during the EU election times, it is not clear which EU political group one candidate will join if she or he becomes a MEP. In this context, political competition is mainly happening within the national environment, namely according to the different lists of the national political parties/movements. Candidates for the European elections prefer to play the card of their national political affiliation, rather than openly organising themselves in order to clearly stand with which EU political group they want to form/join when they would have reached the EU Parliament. As a consequence, political parties, which are in competition at the national level (and even sometimes ideologically far the one from each other), joined the same political group within the EU Parliament. During the seventh and eighth legislatures, the European Greens, for instance, were formed of different Green political parties from several Member States, but also of some Pirate parties and Separatist parties. If all of these parties may find ideological common grounds to collaborate together at the EU level, they still possess different values and diversified approaches of making politics – without mentioning the fact that they are also competing against each other at national level as the rivalry example between the German Pirates and the Greens can illustrate.²⁶⁷ Such a behaviour undermines the legitimacy and the ideology behind each

²⁶⁶ Mair (n 259) 196.

²⁶⁷ Der Spiegel, ‘Pirates Country’s Third Strongest Party in New Poll’ (*Spiegel International*, 10 April 2012) <www.spiegel.de/international/germany/german-pirate-party-beats-greens-in-national-poll-a-826540.html> accessed 7 July 2020.

of the EU political groups, which then appear as a pretext for MEPs to have more power within the EU Parliament. Yet, EU political groups, and the values they advocate for, do matter because they are the ones that organise the legislative activities within the institution. An interesting solution to counter these effects and reinforce the EU political competition would then be to create transnational lists during EU elections, but so far, Member States are reluctant to go that way²⁶⁸ – a first unsuccessful attempt was created with Diem 25 in 2019.²⁶⁹

The other well-known case of the EPP is also a good illustration of the problems related to the lack of transparency from the MEPs with their choices in joining an EU political group, notably in view of the influence national political parties possess on these same EU groups. Indeed, the Fidesz – which was finally suspended by the group in 2019²⁷⁰ – has been highly powerful within the political group for many years, whereas the ideologies of both entities differ. Its influence was such that EPP MEPs, linked to the Fidesz at national level, amended the ‘Helsinki resolution on values’, in order to change the words ‘liberal democracy’ (now appearing only once in the text) by ‘rule of law’. For the Fidesz members of the EPP, this little change would have represented a diminished risk for Hungary to possibly encounter any procedures of EU funds freezing.²⁷¹ Ironically, the resolution ‘originally intended to strengthen EU values (it was tellingly called ‘Emergency Resolution on Protection EU Values and Safeguarding Democracy’)’ and was actually supposed to stand against the backsliding events which happened in Hungary.²⁷² Yet, Fidesz’s influence on the political group allowed it to substantially

²⁶⁸ Christine Verger, ‘Transnational Lists: A Political Opportunity for Europe With Obstacles To Overcome’ (*Institut Jacques Delors*, 7 February 2018) <<https://institutdelors.eu/wp-content/uploads/2018/02/Transnationalists-Verger-Feb18.pdf>> accessed 18 July 2020.

²⁶⁹ Diem25, ‘A Progressive Movement for Europe’ <<https://diem25.org>> accessed 2 July 2020.

²⁷⁰ EPP, ‘Fidesz membership suspended after EPP Political Assembly’ (*EPP*, 20 March 2019) <www.epp.eu/press-releases/fidesz-membership-suspended-after-epp-political-assembly/> accessed 27 July 2020.

²⁷¹ EPP, ‘Emergency resolution: Protecting EU Values and Safeguarding Democracy’ (7-8 November 2018) <https://helsinki2018.epp.eu/wp-content/uploads/2018/11/1-Emergency-Resolution_Protecting-EU-Values-and-Safeguarding-Democracy.pdf> accessed 27 July 2020.

²⁷² Ziegler (n 182).

undermine this resolution, which was highly symbolic. It then appears that the EPP, the leading party within the European Parliament for several legislatures now, 'is dominated by parties which either use far-right rhetoric or cooperate with the far-right, and as a result, (...) left the consensus of liberal democracy behind'.²⁷³ In other words, downward trends occurring at national levels impact negatively the EPP, which consequently negatively affects the political competition within the European Parliament. These types of influences from the domestic political parties on the quality level of the EU political competition can be found in other political groups. The overall result though is the deterioration of the EU democratic system in general.

2. Secondly, MEPs, once involved in an EU political group, may remain loyal to their national political party/movement and therefore commit defection towards their EU political group. Simon Hix indeed elaborated a model to explain MEP's behaviours and analyse their defections.²⁷⁴ In his scheme, MEPs remain the agents of two 'principals' – their national political party and their EU political group – which both influence the agents when it comes to the voting time.²⁷⁵ When the elected MEP is more influenced by its national political party – because he/she is interested in continuing a career at the domestic level for instance – it means that he/she is most likely to defect from his/her political group. This other correlation link between the national and European levels can be another source of undermining the legitimacy of the EU political groups. Furthermore, if the key actor in this pattern remains the national political party, then the EU political competition is, again, directly negatively impacted by any downward trends at the domestic level on the matter.

All of the different aspects of the political competition, as organised within the European Parliament, prove the existence of an influential relationship between the domestic and the EU level. It is even reinforced by the fact that political competition within the EU, as mentioned

²⁷³ Ziegler (n 182).

²⁷⁴ Simon Hix, Abdul Noury and Gérard Roland, 'Power to the Parties: Cohesion and Competition in the European Parliament 1979-2001' (April 2005) 35 *British Journal of Political Science* 209.

²⁷⁵ Simon Hix, Abdul Noury and Gérard Roland, 'Dimensions of Politics in the European Parliament' (April 2006) 21 *American Journal of Political Science* 494.

before, also takes place within the European Council and the Council of the EU, where national delegations are directly represented. Since the Member States actually know downward trends in their political competition levels – even if minimal for most of them during the period of interest here²⁷⁶ – then, this pattern necessarily leads to a decrease of the quality of the EU political competition, and by extension, to a decline of the EU quality of democracy.

²⁷⁶ See annex 3 and ch 3.

5.

CONCLUSION AND DISCUSSION: REVISING THE
DEMOCRATIC DEFICIT THEORY

To talk about a democratic deficit at the only EU level is not a relevant option for the scientific realm anymore. Since the adoption of the Lisbon Treaty, it is evident that the EU respects the minimalist definition of liberal democracy and ensures representativity in a binary way.

Analysing the framework surrounding the rule of law, political freedom and political competition thus revealed the high quality level of the legal and political instruments that are implemented by the EU to protect democracy. In practice though, improvements are more than necessary, especially when it comes to the EU managing emergency situations – the EU answer to the Greek debt for instance emphasised the extent to which resurgences of antidemocratic traditions are still deeply anchored within the European area in general.²⁷⁷ After all, democratic principles always need to be pushed further in order to bring continuous progress.²⁷⁸

In this context, it appears that the main democratic problem of the EU does not come from the EU itself or from the way it is structured, but rather from the political evolutions occurring within the very heart of its Member States. Indeed, a true correlation link between the national and European level exists: the EU influences what happens domestically, but the other way around also proves to be true.

²⁷⁷ Tamas D Ziegler, 'EU disintegration as cultural insurrection of the anti-Enlightenment tradition' [2020] *Journal of Contemporary European Studies* 434 <<https://doi.org/10.1080/14782804.2020.1784109>> accessed 10 July 2020.

²⁷⁸ David FJ Campbell, *Global Quality of Democracy as Innovation Enabler. Measuring Democracy for Success* (Palgrave Macmillan, Springer International Publishing 2019) 17.

This scheme would not represent an object of concern if Member States truly respected the democratic values, which are supposed to represent the common foundation of the organisation. Yet, this study showed how much radical political changes (developed as a common trend among the Member States) have accelerated during the period 2008-2018, leading to a deterioration of the democratic crises already implemented domestically. Very problematically, this short amount of time was more than necessary to negatively impact the quality of democracy of these same countries. For some of them – and especially Hungary, which now sadly represents an interesting laboratory – a true decline of democracy is occurring, raising de facto the question of the kind of regimes that are being built there (are they still democracies or did they turned into true authoritarian countries?). For others, the results obtained according to the database developed in this thesis, prove that: on the one hand, they still meet high quality levels because the figures remain at high standards; but on the other, the data also demonstrate that real downward trends are happening in each of the EU Member States.

It is then that an analysis of the quality level of the EU democracy must come under consideration. By qualitatively assessing the EU rule of law, political freedom and political competition, it indeed becomes visible that, in terms of democratic principles, Member States are prominent actors when it comes to affect the EU quality of democracy. Emphasising the evolutions occurring within the Member States therefore crucially matters when discussing the democratic quality of the EU.

In brief, and as Pierre Rosanvallon anticipated it, ‘the so-called democratic deficit in Europe is, in fact, only one symptom among others of an inner transformation in the history of democracy’.²⁷⁹ The EU and its Member States indeed find themselves at a crossroad of crises, whereby the question related to the alterations of liberal democracy is put at the centre of the reflection. The 21st century stamped out the model advocated by Western countries: liberal democracy is not seen any more as ‘the final destination on the democratic road’.²⁸⁰ It may not

²⁷⁹ Pierre Rosanvallon, *Democracy Past and Future* (Samuel Moyns ed, Columbia UP 2006) 336.

²⁸⁰ Fareed Zakaria, ‘The Rise of Illiberal Democracy’ (November/December 1997) 76

be the most relevant model for today's societies, but the pathway on which EU democracies are progressively engaging themselves, so far, provided more attacks on EU citizens' fundamental freedoms and democratic backsliding, rather than giving more democratisation.

The EU quality of democracy is highly sensitive to any changes occurring domestically. For these reasons, not only there is a huge need for the EU and its institutions to carefully watch the evolutions within its Member States (and particularly for what regards the nascent autocracies), but there is also the necessity for the EU to state more clearly its positions in order to be in adequacy with its own values.

To bring to the fore liberal democracy at the EU level goes in the interest of the EU citizens, the EU institutions, but also of the Member States. Letting the situation degenerate – which seems to be the case for more than ten years now – will lead to a real democratic deficit at both levels, turning the EU project into an even more complex objective to reach and somehow meaningless: what is the EU if it is not about gathering States around values of democracy, peace and freedom?²⁸¹ The EU must become more active in its steps to defend democracy by freeing itself from political/economic interests. In ensuring that no more – or to speak more realistically, that fewer – backsliding episodes happen domestically, the EU will at the same time improve its own quality of democracy, while silencing critics related to its own democratic and legitimacy deficit.

It was deliberate that this thesis selected a broad topic. Obviously, it was not possible to talk about every factor (exogenous or endogenous), which does matter while dealing with democratic issues in general. The point of view developed here was that it is only in reversing the global picture, that it is possible to underline the influence relationship between trends occurring nationally and at the European level.

Actually, the choice of following a perspective assessing the EU quality of democracy also underlines the weaknesses of other

Foreign Affairs 22, 24.

²⁸¹ European Commission, 'White Paper on the Future of Europe: Reflections and Scenarios for the EU27 by 2025' (March 2017) <<https://op.europa.eu/en/publication-detail/-/publication/ba81f70e-2b10-11e7-9412-01aa75cd71a1/language-en>> accessed 2 July 2020.

approaches, particularly those applying EU integration theories: they demonstrate that EU integration has been politically and economically reinforced through the several crises encountered,²⁸² but they forget to apprehend the ‘cycle of authoritarianism’ that is occurring in the meantime and that undermines the democratic processes of the EU institutions.²⁸³

All in all, there is a crucial need to continue the research in this sense. But in order to better complement the statements made in this thesis, it is necessary to develop quantitative data to precisely measure the EU quality of democracy. It would be also interesting to continue the assessments, at both national and European levels, for the period post-2018 (especially to consider the effects of the COVID-19 pandemic on the quality of EU democracies), in order to understand which directions the trends underlined in this thesis are taking. Such a study could also participate to monitor the democratic evolutions in the EU area in order for every EU agents (EU institutions, Member States, but also EU citizens as well as the civil society) to better apprehend the global context, so they can adapt their strategy to defend EU democracies.

²⁸² Tanja A Börzel and Thomas Risse, ‘A Litmus Test for European Integration Theories: Explaining Crises and Comparing Regionalisms’ (May 2018) 85 KFG Working Paper Series 3. See also Annegret Eppler, Lisa H Anders and Thomas Tuntschew, ‘Europe’s political, social, and economic (dis-)integration: Revisiting the Elephant in times of crises’ (October 2016) 143 IHS Political Science Series 2.

²⁸³ Christian Kreuder-Sonnen, ‘An authoritarian turn in Europe and European Studies?’ (2018) 25 *Journal of European Public Policy* 452, 453.

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ANNEX 1 – RULE OF LAW INDEX

Own elaboration based on the Rule of Law Index of V-Dem.²⁸⁴ The scale goes from low (0) to high (1).

* The EU average has been obtained by making the average of each result obtained for the EU Member States, Croatia excluded until 2013. From 2008-2012 it therefore covers 27 Member States; and from 2013-2018, 28 Member States.

** The rate of change (in %) has been obtained by making the difference between the year 2018 and 2008.

	2008 (0 - 1)	2009 (0 - 1)	2010 (0 - 1)	2011 (0 - 1)	2012 (0 - 1)	2013 (0 - 1)	2014 (0 - 1)	2015 (0 - 1)	2016 (0 - 1)	2017 (0 - 1)	2018 (0 - 1)	Rate of change (in %)**
Austria	0.96	0.96	0.96	0.96	0.96	0.97	0.97	0.97	0.97	0.97	0.96	0.00
Belgium	0.99	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	-1.01
Bulgaria	0.80	0.69	0.70	0.71	0.70	0.70	0.76	0.70	0.71	0.67	0.63	-21.25
Croatia	0.68	0.67	0.82	0.82	0.82	0.78	0.78	0.76	0.75	0.72	0.71	4.41
Republic of Cyprus	0.94	0.94	0.94	0.93	0.94	0.92	0.91	0.92	0.91	0.92	0.92	-2.13
Czech Republic	0.87	0.87	0.89	0.88	0.88	0.89	0.90	0.91	0.90	0.86	0.86	-1.15
Denmark	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.99	0.99	0.99	0.99	-1.00
Estonia	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.00
Finland	0.99	0.99	0.99	0.99	0.99	0.98	0.98	0.99	0.99	0.98	0.98	-1.01
France	0.96	0.96	0.97	0.96	0.96	0.96	0.96	0.96	0.96	0.95	0.95	-1.04
Germany	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.00
Greece	0.85	0.85	0.84	0.86	0.86	0.88	0.89	0.88	0.89	0.89	0.87	2.35
Hungary	0.88	0.87	0.79	0.78	0.75	0.73	0.71	0.71	0.72	0.72	0.69	-21.59
Ireland	0.97	0.97	0.97	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	1.03

²⁸⁴ V-Dem, 'Variable Graph' <www.v-dem.net/en/analysis/VariableGraph/> accessed 5 March 2020.

	2008 (0 - 1)	2009 (0 - 1)	2010 (0 - 1)	2011 (0 - 1)	2012 (0 - 1)	2013 (0 - 1)	2014 (0 - 1)	2015 (0 - 1)	2016 (0 - 1)	2017 (0 - 1)	2018 (0 - 1)	Rate of change (in %)**
Italy	0.89	0.87	0.90	0.91	0.90	0.91	0.91	0.91	0.92	0.90	0.92	3.37
Latvia	0.92	0.93	0.96	0.95	0.96	0.96	0.95	0.96	0.94	0.94	0.94	2.17
Lithuania	0.95	0.95	0.96	0.95	0.95	0.96	0.96	0.96	0.95	0.95	0.94	-1.05
Luxembourg	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.97	1.04
Malta	0.89	0.89	0.89	0.89	0.89	0.84	0.84	0.83	0.80	0.80	0.80	-10.11
Netherlands	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.98	0.98	-1.01
Poland	0.95	0.96	0.96	0.96	0.96	0.95	0.95	0.95	0.91	0.88	0.84	-11.58
Portugal	0.95	0.94	0.94	0.94	0.95	0.94	0.95	0.96	0.96	0.98	0.96	1.05
Romania	0.54	0.57	0.60	0.60	0.59	0.66	0.74	0.78	0.82	0.58	0.42	-22.22
Slovakia	0.85	0.85	0.85	0.88	0.87	0.82	0.83	0.83	0.83	0.82	0.81	-4.71
Slovenia	0.90	0.92	0.92	0.93	0.89	0.92	0.94	0.94	0.95	0.94	0.94	4.44
Spain	0.99	0.99	0.99	0.99	0.98	0.98	0.98	0.98	0.98	0.98	0.99	0.00
Sweden	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.99	0.00
United Kingdom	0.98	0.98	0.98	0.98	0.98	0.97	0.97	0.97	0.97	0.98	0.98	0.00
EU average*	0.92	0.92	0.92	0.92	0.92	0.92	0.93	0.93	0.93	0.91	0.89	-3.11

ANNEX 2 – POLITICAL FREEDOM INDEX

Own elaboration based on the V-Dem indexes.²⁸⁵

The scale goes from low (0) to high (1). The ‘press freedom’ has been calculated by aggregating three other indicators which are ‘media bias’, ‘media corrupt’ and ‘media self-censorship’. The scale for ‘media bias’ and ‘media corrupt’ goes from low (0) to high (4), but it goes from low (0) to high (3) for ‘media self-censorship’. It has then been necessary to rescale the results for ‘media self-censorship’ from (0) to (4); and then to rescale the figures obtained for the ‘press freedom’ from (0) to (1), in order to compare the data all together.

Abbreviations:

PR: Political rights

CL: Civil liberties

FP: Freedom of the press MB: Media bias

MC: Media corrupt

MS-C: Media self-censorship

* The EU average has been obtained by making the average of each result obtained for the EU Member States, Croatia excluded until 2013. From 2008-2012 it therefore covers 27 Member States; and from 2013-2018, 28 Member States.

** The rate of change (in %) has been obtained by making the difference between the year 2018 and 2008.

*** Rescaled number.

²⁸⁵ V-Dem, ‘Variable Graph’ <www.v-dem.net/en/analysis/VariableGraph/> accessed 5 March 2020.

Political freedom 2/6

	2014			2015			2016			2017			2018			Rate of change (in %) **
	PR (0-1)	CL (0-1)	FP (0-1) ***	PR (0-1)	CL (0-1)	FP (0-1) ***	PR (0-1)	CL (0-1)	FP (0-1) ***	PR (0-1)	CL (0-1)	FP (0-1) ***	PR (0-1)	CL (0-1)	FP (0-1) ***	
Austria	1.00	0.94	0.88	1.00	0.94	0.88	1.00	0.93	0.88	1.00	0.93	0.87	1.00	0.91	0.82	-3.82
	0.94			0.94			0.94			0.93			0.91			
Belgium	1.00	0.95	0.95	1.00	0.93	0.95	1.00	0.93	0.95	1.00	0.94	0.95	1.00	0.93	0.95	-1.45
	0.97			0.96			0.96			0.96			0.96			
Bulgaria	0.83	0.87	0.65	0.83	0.86	0.64	0.83	0.88	0.65	0.83	0.88	0.59	0.83	0.86	0.59	-6.16
	0.78			0.78			0.79			0.77			0.76			
Croatia	1.00	0.92	0.83	1.00	0.93	0.85	1.00	0.88	0.75	1.00	0.87	0.75	1.00	0.85	0.73	0.69
	0.92			0.93			0.88			0.87			0.86			
Republic of Cyprus	1.00	0.91	0.84	1.00	0.93	0.85	1.00	0.93	0.84	1.00	0.93	0.84	1.00	0.91	0.83	1.09
	0.92			0.93			0.92			0.92			0.91			
Czech Republic	1.00	0.95	0.83	1.00	0.95	0.83	1.00	0.95	0.83	1.00	0.94	0.82	1.00	0.93	0.82	-5.30
	0.93			0.93			0.93			0.92			0.92			
Denmark	1.00	0.95	0.97	1.00	0.96	0.97	1.00	0.96	0.97	1.00	0.95	0.97	1.00	0.96	0.96	-0.22
	0.97			0.98			0.98			0.97			0.97			
Estonia	1.00	0.95	0.86	1.00	0.95	0.86	1.00	0.95	0.93	1.00	0.94	0.93	1.00	0.94	0.93	0.88
	0.94			0.94			0.96			0.96			0.96			
Finland	1.00	0.95	0.95	1.00	0.93	0.87	1.00	0.93	0.87	1.00	0.94	0.90	1.00	0.94	0.92	-1.39
	0.97			0.93			0.93			0.95			0.95			
France	1.00	0.94	0.96	1.00	0.94	0.96	1.00	0.94	0.96	1.00	0.93	0.96	1.00	0.93	0.95	-0.58
	0.97			0.97			0.97			0.96			0.96			

Political freedom 3/6

	2008			2009			2010			2011			2012			2013		
	PR (0-1)	CL (0-1)	FP (0-1) ***	PR (0-1)	CL (0-1)	FP (0-1) ***	PR (0-1)	CL (0-1)	FP (0-1) ***	PR (0-1)	CL (0-1)	FP (0-1) ***	PR (0-1)	CL (0-1)	FP (0-1) ***	PR (0-1)	CL (0-1)	FP (0-1) ***
Germany	1.00	0.96	0.93	1.00	0.96	0.93	1.00	0.96	0.94	1.00	0.96	0.94	1.00	0.96	0.94	1.00	0.95	0.96
	0.96			0.96			0.97			0.97			0.97			0.97		
Greece	1.00	0.96	0.91	1.00	0.96	0.91	1.00	0.96	0.93	0.83	0.96	0.93	0.83	0.96	0.93	0.83	0.94	0.91
	0.96			0.96			0.96			0.91			0.91			0.89		
Hungary	1.00	0.94	0.83	1.00	0.94	0.83	1.00	0.92	0.74	1.00	0.91	0.74	1.00	0.90	0.74	1.00	0.90	0.66
	0.92			0.92			0.89			0.88			0.88			0.85		
Ireland	1.00	0.93	0.94	1.00	0.94	0.94	1.00	0.94	0.94	1.00	0.94	0.94	1.00	0.94	0.94	1.00	0.94	0.90
	0.96			0.96			0.96			0.96			0.96			0.95		
Italy	1.00	0.93	0.85	1.00	0.93	0.86	1.00	0.94	0.86	1.00	0.92	0.86	0.83	0.93	0.87	1.00	0.94	0.86
	0.93			0.93			0.93			0.93			0.88			0.93		
Latvia	0.83	0.93	0.79	0.83	0.93	0.80	0.83	0.95	0.82	0.83	0.95	0.83	0.83	0.94	0.82	0.83	0.95	0.85
	0.85			0.85			0.87			0.87			0.86			0.88		
Lithuania	1.00	0.94	0.84	1.00	0.94	0.86	1.00	0.93	0.87	1.00	0.93	0.87	1.00	0.94	0.86	1.00	0.91	0.88
	0.93			0.93			0.93			0.93			0.93			0.93		
Luxembourg	1.00	0.93	0.91	1.00	0.93	0.91	1.00	0.93	0.91	1.00	0.93	0.91	1.00	0.93	0.91	1.00	0.93	0.91
	0.95			0.95			0.95			0.95			0.95			0.95		
Malta	1.00	0.89	0.75	1.00	0.90	0.75	1.00	0.89	0.75	1.00	0.89	0.75	1.00	0.89	0.75	1.00	0.89	0.71
	0.88			0.88			0.88			0.88			0.88			0.87		
Netherlands	1.00	0.94	0.86	1.00	0.94	0.86	1.00	0.94	0.89	1.00	0.94	0.89	1.00	0.94	0.89	1.00	0.93	0.90
	0.93			0.93			0.94			0.94			0.94			0.94		
Poland	1.00	0.94	0.92	1.00	0.94	0.92	1.00	0.94	0.92	1.00	0.94	0.92	1.00	0.95	0.92	1.00	0.95	0.91
	0.95			0.95			0.95			0.95			0.96			0.95		

Political freedom 4/6

	2014			2015			2016			2017			2018			Rate of change (in %)**
	PR (0-1)	CL (0-1)	FP (0-1)***	PR (0-1)	CL (0-1)	FP (0-1)***	PR (0-1)	CL (0-1)	FP (0-1)***	PR (0-1)	CL (0-1)	FP (0-1)***	PR (0-1)	CL (0-1)	FP (0-1)***	
Germany	1.00	0.95	0.96	1.00	0.94	0.93	1.00	0.94	0.93	1.00	0.94	0.93	1.00	0.95	0.86	-2.89
	0.97			0.96			0.96			0.96			0.94			
Greece	0.83	0.94	0.91	0.83	0.94	0.90	0.83	0.94	0.90	0.83	0.93	0.83	1.00	0.91	0.83	-4.38
	0.89			0.89			0.89			0.86			0.91			
Hungary	0.83	0.88	0.66	0.83	0.89	0.61	0.67	0.87	0.61	0.67	0.86	0.59	0.67	0.83	0.50	-27.78
	0.79			0.78			0.72			0.71			0.67			
Ireland	1.00	0.94	0.90	1.00	0.94	0.90	1.00	0.94	0.90	1.00	0.94	0.91	1.00	0.92	0.91	-1.64
	0.95			0.95			0.95			0.95			0.94			
Italy	1.00	0.92	0.86	1.00	0.93	0.86	1.00	0.92	0.86	1.00	0.90	0.84	1.00	0.92	0.86	-0.14
	0.93			0.93			0.93			0.91			0.93			
Latvia	0.83	0.95	0.87	0.83	0.95	0.87	1.00	0.93	0.87	0.83	0.93	0.88	0.83	0.93	0.84	1.67
	0.88			0.88			0.93			0.88			0.87			
Lithuania	1.00	0.91	0.86	1.00	0.91	0.86	1.00	0.93	0.84	1.00	0.92	0.86	1.00	0.92	0.89	1.07
	0.92			0.92			0.92			0.93			0.94			
Luxembourg	1.00	0.93	0.91	1.00	0.93	0.91	1.00	0.93	0.91	1.00	0.93	0.91	1.00	0.92	0.91	-0.31
	0.95			0.95			0.95			0.95			0.94			
Malta	1.00	0.88	0.66	1.00	0.89	0.66	1.00	0.89	0.66	1.00	0.82	0.66	0.83	0.82	0.66	-12.59
	0.85			0.85			0.85			0.83			0.77			
Netherlands	1.00	0.94	0.90	1.00	0.94	0.90	1.00	0.94	0.90	1.00	0.94	0.90	1.00	0.94	0.88	0.36
	0.95			0.95			0.95			0.95			0.94			
Poland	1.00	0.94	0.91	1.00	0.93	0.91	1.00	0.89	0.70	1.00	0.82	0.67	0.83	0.84	0.66	-18.51
	0.95			0.95			0.86			0.83			0.78			

Political freedom 6/6

	2014			2015			2016			2017			2018			Rate of change (in %)**
	PR (0-1)	CL (0-1)	FP (0-1)***	PR (0-1)	CL (0-1)	FP (0-1)***	PR (0-1)	CL (0-1)	FP (0-1)***	PR (0-1)	CL (0-1)	FP (0-1)***	PR (0-1)	CL (0-1)	FP (0-1)***	
Portugal	1.00	0.96	0.91	1.00	0.96	0.90	1.00	0.95	0.91	1.00	0.95	0.92	1.00	0.95	0.92	-0.27
	0.96			0.95			0.95			0.96			0.96			
Romania	0.83	0.90	0.57	0.83	0.89	0.58	0.83	0.91	0.63	0.83	0.86	0.61	0.83	0.85	0.65	-3.57
	0.77			0.77			0.79			0.77			0.78			
Slovakia	1.00	0.91	0.85	1.00	0.93	0.87	1.00	0.92	0.87	1.00	0.91	0.90	1.00	0.87	0.87	-0.83
	0.92			0.93			0.93			0.94			0.91			
Slovenia	1.00	0.93	0.87	1.00	0.93	0.86	1.00	0.93	0.85	1.00	0.93	0.81	1.00	0.93	0.78	-2.04
	0.93			0.93			0.93			0.91			0.90			
Spain	1.00	0.96	0.89	1.00	0.94	0.87	1.00	0.94	0.87	1.00	0.94	0.87	1.00	0.94	0.89	-1.48
	0.95			0.94			0.94			0.94			0.94			
Sweden	1.00	0.97	0.93	1.00	0.95	0.92	1.00	0.95	0.92	1.00	0.95	0.94	1.00	0.96	0.92	-0.58
	0.97			0.96			0.96			0.96			0.96			
United Kingdom	1.00	0.89	0.89	1.00	0.91	0.89	1.00	0.91	0.89	1.00	0.92	0.90	1.00	0.91	0.90	-1.93
	0.93			0.93			0.93			0.94			0.94			
EU average*	0.97	0.93	0.86	0.97	0.93	0.85	0.97	0.93	0.85	0.96	0.92	0.84	0.96	0.91	0.83	-3.55
	0.92			0.92			0.92			0.91			0.90			

Freedom of press 1/6

	2008			2009			2010			2011			2012			2013		
	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***
Austria	3.59	3.83	3.45	3.59	3.83	3.45	3.59	3.83	3.45	3.59	3.83	3.45	3.59	3.73	3.45	3.49	3.71	3.39
	3.62			3.62			3.62			3.62			3.59			3.53		
Belgium	3.72	3.90	3.91	3.72	3.90	3.91	3.72	3.90	3.91	3.72	3.90	3.91	3.72	3.90	3.91	3.70	3.87	3.88
	3.84			3.84			3.84			3.84			3.84			3.82		
Bulgaria	3.56	1.75	3.01	3.00	1.63	2.88	3.01	1.54	2.82	3.01	1.54	2.52	3.01	1.54	2.55	3.23	2.07	2.38
	2.77			2.50			2.46			2.36			2.37			2.56		
Croatia	3.06	3.12	3.45	2.92	3.12	3.45	3.70	3.13	3.45	3.70	3.13	3.46	3.70	3.13	3.45	3.42	3.22	3.18
	3.21			3.17			3.43			3.43			3.42			3.27		
Republic of Cyprus	3.81	3.44	2.65	3.81	3.55	2.65	3.81	3.85	2.65	3.81	3.84	2.65	3.72	3.84	2.65	3.84	3.79	2.38
	3.30			3.33			3.44			3.43			3.40			3.34		
Czech Republic	3.84	3.69	3.82	3.79	3.69	3.82	3.79	3.71	3.82	3.79	3.71	3.82	3.79	3.63	3.82	3.73	3.47	2.99
	3.79			3.77			3.77			3.77			3.75			3.40		
Denmark	3.90	3.89	3.87	3.90	3.89	3.87	3.90	3.89	3.87	3.90	3.89	3.87	3.90	3.89	3.87	3.88	3.88	3.82
	3.89			3.89			3.89			3.89			389			3.86		
Estonia	3.73	3.62	3.49	3.56	3.62	3.49	3.56	3.63	3.49	3.56	3.63	3.49	3.56	3.80	3.49	3.18	3.77	3.60
	3.62			3.56			3.56			3.56			3.62			3.52		
Finland	3.77	3.84	3.74	3.77	3.84	3.74	3.77	3.84	3.74	3.77	3.84	3.74	3.77	3.84	3.74	3.77	3.84	3.74
	3.78			3.78			3.78			3.78			3.78			3.78		
France	3.69	3.85	3.86	3.69	3.85	3.86	3.69	3.85	3.86	3.86	3.85	3.86	3.86	3.85	3.86	3.85	3.85	3.86
	3.80			3.80			3.80			3.86			3.86			3.85		

Freedom of press 2/6

	2014			2015			2016			2017			2018			Rate of change (in %) **
	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	
Austria	3.49	3.71	3.39	3.49	3.71	3.39	3.49	3.71	3.39	3.31	3.71	3.39	3.31	3.65	2.85	-9.74
	3.53			3.53			3.53			3.47			3.27			
Belgium	3.70	3.87	3.88	3.70	3.87	3.88	3.70	3.87	3.88	3.70	3.87	3.88	3.70	3.83	3.85	-1.28
	3.82			3.82			3.82			3.82			3.79			
Bulgaria	3.27	2.07	2.44	3.28	2.00	2.41	3.34	2.00	2.41	2.91	2.03	2.10	2.93	2.11	2.09	-14.41
	2.59			2.56			2.58			2.35			2.37			
Croatia	3.43	3.22	3.32	3.66	3.22	3.32	2.78	3.22	2.96	2.86	3.12	2.96	2.84	3.23	2.69	-9.02
	3.32			3.40			2.99			2.98			2.92			
Republic of Cyprus	3.84	3.88	2.38	3.91	3.88	2.40	3.91	3.78	2.40	3.91	3.80	2.38	3.83	3.80	2.39	1.17
	3.37			3.40			3.36			3.36			3.34			
Czech Republic	3.52	3.47	2.99	3.52	3.47	2.99	3.52	3.46	2.99	3.48	3.42	2.99	3.42	3.42	3.03	-13.12
	3.33			3.33			3.32			3.30			3.29			
Denmark	3.88	3.88	3.82	3.88	3.88	3.86	3.88	3.88	3.86	3.88	3.87	3.85	3.86	3.87	3.85	-0.65
	3.86			3.87			3.87			3.86			3.86			
Estonia	3.18	3.77	3.37	3.18	3.77	3.37	3.81	3.78	3.59	3.83	3.78	3.58	3.83	3.88	3.45	2.77
	3.44			3.44			3.72			3.73			3.72			
Finland	3.77	3.84	3.74	3.50	3.79	3.20	3.50	3.79	3.20	3.49	3.77	3.53	3.50	3.77	3.72	-3.20
	3.78			3.50			3.50			3.60			3.66			
France	3.85	3.85	3.86	3.85	3.85	3.86	3.85	3.85	3.86	3.83	3.82	3.81	3.83	3.82	3.79	0.35
	3.85			3.85			3.85			3.82			3.81			

Freedom of press 4/6

	2014			2015			2016			2017			2018			Rate of change (in %)**
	MB (0-4)	MC (0-4)	MS-C (0-4)***	MB (0-4)	MC (0-4)	MS-C (0-4)***	MB (0-4)	MC (0-4)	MS-C (0-4)***	MB (0-4)	MC (0-4)	MS-C (0-4)***	MB (0-4)	MC (0-4)	MS-C (0-4)***	
Germany	3.80	3.89	3.82	3.70	3.72	3.76	3.70	3.72	3.76	3.69	3.74	3.77	3.16	3.74	3.43	-7.88
	3.84			3.73			3.73			3.73			3.44			
Greece	3.75	3.47	3.68	3.50	3.47	3.82	3.50	3.47	3.83	3.30	3.47	3.22	3.28	3.50	3.22	-8.33
	3.63			3.60			3.60			3.33			3.33			
Hungary	2.70	2.94	2.22	2.39	2.92	2.06	2.39	2.93	2.05	2.40	2.60	2.04	2.03	2.18	1.76	-39.76
	2.62			2.46			2.45			2.35			1.99			
Ireland	3.61	3.62	3.63	3.61	3.62	3.63	3.61	3.62	3.63	3.61	3.62	3.64	3.60	3.64	3.65	-3.94
	3.62			3.62			3.62			3.62			3.63			
Italy	3.73	3.58	3.06	3.73	3.58	3.06	3.73	3.58	3.06	3.36	3.59	3.08	3.65	3.57	3.12	0.71
	3.46			3.46			3.46			3.34			3.44			
Latvia	3.69	3.43	3.35	3.69	3.43	3.35	3.58	3.50	3.39	3.62	3.54	3.36	3.61	3.34	3.09	5.36
	3.49			3.49			3.49			3.51			3.35			
Lithuania	3.61	3.46	3.27	3.61	3.46	3.27	3.23	3.65	3.24	3.48	3.65	3.22	3.57	3.66	3.48	5.92
	3.45			3.45			3.37			3.45			3.57			
Luxembourg	3.75	3.79	3.42	3.75	3.79	3.42	3.75	3.79	3.42	3.75	3.79	3.42	3.77	3.79	3.42	0.12
	3.65			3.65			3.65			3.65			3.66			
Malta	2.66	2.78	2.44	2.66	2.78	2.44	2.66	2.78	2.44	2.66	2.78	2.44	2.66	2.78	2.44	-12.33
	2.63			2.63			2.63			2.63			2.63			
Netherlands	3.67	3.76	3.40	3.65	3.76	3.41	3.65	3.76	3.41	3.66	3.76	3.41	3.60	3.72	3.19	1.18
	3.61			3.61			3.61			3.61			3.50			
Poland	3.68	3.55	3.75	3.68	3.55	3.75	2.72	3.31	2.38	2.56	3.10	2.37	2.56	3.00	2.37	-28.19
	3.66			3.66			2.80			2.68			2.64			

Freedom of press 5/6

	2008			2009			2010			2011			2012			2013		
	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***
Portugal	3.64	3.69	3.68	3.64	3.69	3.68	3.64	3.69	3.68	3.64	3.69	3.68	3.64	3.69	3.68	3.59	3.63	3.76
	3.67			3.67			3.67			3.67			3.67			3.66		
Romania	2.99	2.38	3.05	3.04	2.38	3.05	3.27	2.38	2.40	3.27	2.38	3.20	2.75	2.38	2.92	2.58	2.19	2.07
	2.81			2.82			2.68			2.95			2.68			2.28		
Slovakia	3.53	3.18	3.47	3.53	3.18	3.47	3.74	3.18	3.47	3.63	3.18	3.47	3.73	3.18	3.47	3.37	3.25	3.55
	3.40			3.40			3.47			3.43			3.46			3.39		
Slovenia	3.35	3.53	3.33	3.69	3.81	3.72	3.51	3.62	3.55	3.41	3.47	3.40	3.35	3.52	3.33	3.50	3.56	3.37
	3.40			3.74			3.56			3.43			3.40			3.48		
Spain	3.75	3.70	3.58	3.75	3.70	3.58	3.75	3.69	3.57	3.75	3.69	3.57	3.63	3.69	3.57	3.47	3.70	3.62
	3.68			3.68			3.67			3.67			3.63			3.60		
Sweden	3.62	3.87	3.70	3.62	3.87	3.70	3.54	3.87	3.70	3.54	3.87	3.70	3.54	3.87	3.70	3.52	3.88	3.63
	3.73			3.73			3.70			3.70			3.70			3.68		
United Kingdom	3.68	3.74	3.65	3.68	3.74	3.65	3.68	3.74	3.44	3.68	3.74	3.44	3.82	3.74	3.45	3.65	3.66	3.38
	3.69			3.69			3.62			3.62			3.67			3.56		
EU average*	3.61	3.47	3.48	3.59	3.48	3.49	3.61	3.49	3.44	3.61	3.49	3.45	3.58	3.49	3.43	3.53	3.48	3.32
	3.52			3.52			3.51			3.52			3.50			3.44		

Freedom of press 6/6

	2014			2015			2016			2017			2018			Rate of change (in %)**
	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	MB (0-4)	MC (0-4)	MS-C (0-4) ***	
Portugal	3.59	3.63	3.76	3.56	3.45	3.76	3.56	3.64	3.76	3.61	3.64	3.83	3.51	3.75	3.77	0.24
	3.66			3.59			3.65			3.69			3.68			
Romania	2.58	2.19	2.07	2.71	2.19	2.11	3.03	2.20	2.36	2.65	2.25	2.46	2.97	2.10	2.68	-7.99
	2.28			2.34			2.53			2.45			2.58			
Slovakia	3.37	3.25	3.55	3.37	3.53	3.55	3.37	3.53	3.55	3.51	3.63	3.61	3.50	3.63	3.27	2.01
	3.39			3.49			3.49			3.58			3.46			
Slovenia	3.43	3.57	3.41	3.56	3.36	3.41	3.51	3.36	3.31	3.32	3.09	3.31	3.27	2.89	3.24	-7.82
	3.47			3.44			3.39			3.24			3.14			
Spain	3.34	3.70	3.62	3.32	3.66	3.43	3.32	3.66	3.43	3.31	3.68	3.43	3.43	3.68	3.53	-3.54
	3.55			3.47			3.47			3.47			3.55			
Sweden	3.64	3.88	3.63	3.60	3.86	3.59	3.60	3.86	3.59	3.62	3.85	3.75	3.61	3.86	3.52	-1.81
	3.72			3.69			3.69			3.74			3.66			
United Kingdom	3.65	3.66	3.38	3.65	3.66	3.38	3.65	3.66	3.38	3.64	3.62	3.52	3.63	3.62	3.53	-2.72
	3.56			3.56			3.56			3.59			3.59			
EU average*	3.51	3.49	3.31	3.49	3.47	3.28	3.44	3.48	3.23	3.39	3.45	3.23	3.37	3.42	3.16	-5.71
	3.43			3.41			3.38			3.36			3.32			

Own elaboration based on the ‘World Press Freedom Index’ of RSF,²⁸⁶ position of the EU Member States from 2013 to 2018 based on the global ranking out of 180 countries.

Press freedom – RSF ranking (out of 180 countries) 1/2

	2013	2014	2015	2016	2017	2018
Austria	12	12	7	11	11	11
Belgium	21	23	15	13	9	7
Bulgaria	87	100	106	113	109	111
Croatia (2013)	64	65	58	63	74	69
Republic of Cyprus	24	25	24	81	30	25
Czech Republic	16	13	13	21	23	34
Denmark	6	7	3	4	4	9
Estonia	11	11	10	14	12	12
Finland	1	1	1	1	3	4
France	37	39	38	45	39	33
Germany	17	14	12	16	16	15
Greece	84	99	91	89	88	74
Hungary	56	64	65	67	71	73
Ireland	15	16	11	9	14	16

Press freedom – RSF ranking (out of 180 countries) 2/2

	2013	2014	2015	2016	2017	2018
Italy	57	49	73	77	52	46
Latvia	39	37	28	24	28	24
Lithuania	33	32	31	35	36	36
Luxembourg	4	4	19	15	15	17
Malta	45	51	48	46	47	65
Netherlands	2	2	4	2	5	3
Poland	22	19	18	47	54	58
Portugal	28	30	26	23	18	14
Romania	42	45	52	49	46	44
Slovakia	23	20	14	12	17	27
Slovenia	35	34	35	40	37	32
Spain	36	35	33	34	29	31
Sweden	10	10	5	8	2	2
United Kingdom	29	33	34	38	40	40

²⁸⁶ RSF, ‘World Press Freedom Index’ <<https://rsf.org/en/ranking/2018>> accessed 20 April 2020.

ANNEX 3 – POLITICAL COMPETITION INDEX

Own elaboration based on the V-Dem indexes.²⁸⁷

The scale goes from low (0) to high (4). The indicator ‘election free campaign media’ has been rescaled from (0) low to high (2), to (0) low to (4) high, in order to compare all the data together.

Abbreviations:

EFF: Election free and fair

EFCM: Election free campaign media

EM: Elections multiparty

EL: Election losers accept results

* The EU average has been obtained by making the average of each result obtained for the EU Member States, Croatia excluded until 2013. From 2008-2012 it therefore covers 27 Member States; and from 2013-2018, 28 Member States.

** The rate of change (in %) has been obtained by making the difference between the year 2018 and 2008.

*** Rescaled number.

²⁸⁷ V-Dem, ‘Variable Graph’ <www.v-dem.net/en/analysis/VariableGraph/> accessed 5 March 2020.

Political Competition 1/6

	2008				2009				2010				2011				2012				2013			
	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***
Austria	3.83	3.04	3.94	3.91	3.83	3.04	3.94	3.91	3.82	3.04	3.95	3.91	3.82	3.04	3.95	3.91	3.82	3.04	3.95	3.91	3.82	2.96	3.95	3.91
	3.68				3.68				3.68				3.68				3.66							
Belgium	3.89	3.86	3.95	3.94	3.89	3.86	3.95	3.94	3.90	3.86	3.95	3.93	3.90	3.86	3.95	3.93	3.90	3.86	3.95	3.93	3.90	3.86	3.95	3.93
	3.91				3.91				3.91				3.91				3.91							
Bulgaria	3.71	3.52	3.95	3.88	3.31	3.20	3.95	3.66	3.31	3.20	3.95	3.66	3.34	3.54	3.95	3.87	3.34	3.54	3.95	3.87	3.52	2.72	3.95	3.49
	3.77				3.53				3.53				3.68				3.42							
Croatia	3.33	3.78	3.94	3.94	3.78	3.78	3.95	3.94	3.76	3.78	3.95	3.94	3.76	3.78	3.95	3.94	3.76	3.78	3.95	3.94	3.76	3.78	3.95	3.94
	3.75				3.86				3.86				3.86				3.86							
Republic of Cyprus	3.80	3.80	3.92	3.84	3.80	3.80	3.92	3.84	3.80	3.80	3.92	3.84	3.82	3.80	3.93	3.82	3.82	3.80	3.93	3.82	3.80	3.78	3.92	3.87
	3.84				3.84				3.84				3.84				3.84							
Czech Republic	3.86	3.88	3.96	3.90	3.86	3.88	3.96	3.90	3.85	3.86	3.96	3.90	3.85	3.86	3.96	3.90	3.85	3.86	3.96	3.90	3.86	3.88	3.96	3.92
	3.90				3.90				3.89				3.89				3.91							
Denmark	3.81	3.74	3.94	3.91	3.81	3.74	3.94	3.91	3.81	3.74	3.94	3.91	3.81	3.74	3.94	3.92	3.81	3.74	3.94	3.92	3.81	3.74	3.94	3.92
	3.85				3.85				3.85				3.85				3.85							
Estonia	3.74	3.76	3.95	3.84	3.74	3.76	3.95	3.84	3.74	3.76	3.95	3.84	3.90	3.74	3.95	3.95	3.90	3.74	3.95	3.95	3.90	3.74	3.95	3.95
	3.82				3.82				3.82				3.89				3.89							
Finland	3.88	3.44	3.95	3.94	3.88	3.44	3.95	3.94	3.88	3.44	3.95	3.94	3.88	3.52	3.96	3.94	3.88	3.52	3.96	3.94	3.88	3.52	3.96	3.94
	3.80				3.80				3.80				3.83				3.83							

Political Competition 2/6

	2014				2015				2016				2017				2018				Rate of change (in %)***
	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	
Austria	3.82	2.96	3.95	3.91	3.824	2.96	3.95	3.91	3.45	2.92	3.95	3.14	3.54	3.10	3.95	3.52	3.54	3.10	3.95	3.88	-1.70
	3.66				3.66				3.37				3.53				3.62				
Belgium	3.90	3.04	3.95	3.93	3.90	3.04	3.95	3.93	3.90	3.04	3.95	3.93	3.90	3.04	3.95	3.93	3.90	3.04	3.95	3.93	-5.24
	3.71				3.71				3.71				3.71				3.71				
Bulgaria	3.56	2.82	3.95	3.49	3.56	2.82	3.95	3.49	3.87	3.42	3.94	3.92	3.59	3.12	3.94	3.92	3.59	3.12	3.94	3.92	-3.25
	3.46				3.46				3.79				3.64				3.64				
Croatia	3.85	3.76	3.94	3.94	3.85	3.78	3.94	3.61	3.85	3.78	3.94	3.70	3.85	3.78	3.94	3.70	3.85	3.78	3.94	3.70	1.87
	3.87				3.80				3.82				3.82				3.82				
Republic of Cyprus	3.80	3.78	3.92	3.87	3.80	3.78	3.92	3.87	3.80	3.80	3.92	3.87	3.80	3.80	3.92	3.87	3.80	3.76	3.92	3.86	-1.30
	3.84				3.84				3.85				3.85				3.84				
Czech Republic	3.86	3.88	3.96	3.92	3.86	3.88	3.96	3.92	3.86	3.88	3.96	3.92	3.62	3.86	3.95	3.60	3.19	3.52	3.95	3.90	-6.67
	3.91				3.91				3.91				3.76				3.64				
Denmark	3.81	3.74	3.94	3.92	3.80	3.68	3.93	3.90	3.80	3.68	3.93	3.90	3.80	3.68	3.93	3.90	3.80	3.68	3.93	3.90	-0.58
	3.85				3.83				3.83				3.83				3.83				
Estonia	3.90	3.74	3.95	3.95	3.89	3.72	3.95	3.95	3.89	3.72	3.95	3.95	3.89	3.72	3.95	3.95	3.89	3.72	3.95	3.95	1.44
	3.89				3.88				3.88				3.88				3.88				
Finland	3.88	3.52	3.96	3.94	3.87	3.48	3.94	3.94	3.87	3.48	3.94	3.94	3.87	3.48	3.94	3.94	3.87	3.48	3.95	3.92	0.07
	3.83				3.81				3.81				3.81				3.81				

Political Competition 4/6

	2014				2015				2016				2017				2018				Rate of change (in %)**
	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	
France	3.87	3.84	3.95	3.93	3.87	3.84	3.95	3.93	3.87	3.84	3.95	3.93	3.85	3.82	3.94	3.92	3.85	3.82	3.94	3.92	-0.26
	3.90				3.90				3.90				3.88				3.88				
Germany	3.82	3.84	3.93	3.91	3.82	3.84	3.93	3.91	3.82	3.84	3.93	3.91	3.83	3.84	3.93	3.92	3.83	3.84	3.93	3.92	-0.19
	3.88				3.88				3.88				3.88				3.88				
Greece	3.90	3.80	3.96	3.95	3.90	3.90	3.95	3.94	3.90	3.90	3.95	3.94	3.90	3.90	3.95	3.94	3.90	3.90	3.95	3.94	0.51
	3.90				3.92				3.92				3.92				3.92				
Hungary	3.08	3.18	3.72	3.82	3.08	3.18	3.72	3.82	3.08	3.18	3.72	3.82	3.08	3.18	3.72	3.82	2.41	1.82	3.69	3.38	-24.62
	3.45				3.45				3.45				3.45				2.83				
Ireland	3.91	3.64	3.96	3.94	3.91	3.64	3.96	3.94	3.87	3.76	3.96	3.93	3.87	3.76	3.96	3.93	3.85	3.74	3.95	3.92	0.13
	3.86				3.86				3.88				3.88				3.87				
Italy	3.88	3.84	3.96	3.96	3.88	3.84	3.96	3.96	3.88	3.84	3.96	3.96	3.88	3.84	3.96	3.96	3.89	3.42	3.96	3.96	-2.56
	3.91				3.91				3.91				3.91				3.81				
Latvia	3.86	3.44	3.94	3.86	3.86	3.44	3.94	3.86	3.86	3.44	3.94	3.86	3.86	3.44	3.94	3.86	3.84	3.48	3.94	3.93	5.05
	3.78				3.78				3.78				3.78				3.80				
Lithuania	3.82	3.78	3.82	3.94	3.82	3.78	3.82	3.94	3.80	3.74	3.94	3.93	3.80	3.74	3.94	3.93	3.80	3.74	3.94	3.93	-0.58
	3.84				3.84				3.85				3.85				3.85				
Luxembourg	3.80	3.76	3.94	3.91	3.80	3.76	3.94	3.91	3.80	3.76	3.94	3.91	3.80	3.76	3.94	3.91	3.80	3.76	3.94	3.91	0.46
	3.85				3.85				3.85				3.85				3.85				
Malta	3.55	3.50	3.93	3.53	3.55	3.50	3.93	3.53	3.55	3.50	3.93	3.53	3.54	3.50	3.93	3.52	3.54	3.50	3.93	3.52	0.42
	3.63				3.63				3.63				3.62				3.62				

Political Competition 5/6

	2008				2009				2010				2011				2012				2013			
	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4) ***
Netherlands	3.88	3.84	3.95	3.93	3.88	3.84	3.95	3.93	3.86	3.84	3.95	3.93	3.86	3.84	3.95	3.93	3.86	3.84	3.95	3.93	3.86	3.84	3.95	3.93
	3.90				3.90				3.90				3.90				3.90							
Poland	3.89	3.88	3.95	3.85	3.89	3.88	3.95	3.85	3.89	3.88	3.95	3.89	3.89	3.88	3.95	3.88	3.89	3.88	3.95	3.88	3.89	3.88	3.95	3.88
	3.89				3.89				3.90				3.90				3.90							
Portugal	3.83	3.88	3.97	3.96	3.89	3.86	3.97	3.96	3.89	3.86	3.97	3.96	3.90	3.84	3.88	3.96	3.90	3.84	3.88	3.96	3.90	3.84	3.88	3.96
	3.91				3.92				3.92				3.90				3.90							
Romania	3.34	3.54	3.96	3.90	3.34	3.54	3.96	3.90	3.34	3.54	3.96	3.90	3.34	3.54	3.96	3.90	3.16	3.54	3.96	3.89	3.16	3.54	3.96	3.89
	3.69				3.69				3.69				3.69				3.64							
Slovakia	3.83	3.60	3.95	3.89	3.83	3.58	3.96	3.91	3.82	3.58	3.95	3.90	3.82	3.58	3.95	3.90	3.83	3.58	3.95	3.90	3.83	3.58	3.95	3.90
	3.82				3.82				3.81				3.81				3.82							
Slovenia	3.89	3.82	3.95	3.94	3.89	3.82	3.95	3.94	3.89	3.82	3.95	3.94	3.87	3.82	3.95	3.94	3.88	3.82	3.95	3.94	3.88	3.82	3.95	3.94
	3.90				3.90				3.90				3.90				3.90							
Spain	3.95	3.76	3.97	3.97	3.95	3.76	3.97	3.97	3.95	3.76	3.97	3.97	3.95	3.76	3.97	3.97	3.95	3.76	3.97	3.97	3.95	3.76	3.97	3.97
	3.91				3.91				3.91				3.91				3.91							
Sweden	3.90	3.60	3.96	3.93	3.90	3.60	3.96	3.93	3.91	3.76	3.97	3.93	3.91	3.76	3.97	3.93	3.91	3.76	3.97	3.93	3.91	3.76	3.97	3.93
	3.85				3.85				3.89				3.89				3.89							
United Kingdom	3.77	3.64	3.96	3.97	3.77	3.64	3.96	3.97	3.77	3.64	3.95	3.97	3.77	3.64	3.95	3.97	3.77	3.64	3.95	3.97	3.77	3.64	3.95	3.97
	3.84				3.84				3.83				3.83				3.83							
EU average*	3.81	3.69	3.95	3.87	3.79	3.68	3.95	3.87	3.81	3.69	3.95	3.89	3.82	3.71	3.95	3.90	3.81	3.71	3.95	3.89	3.80	3.67	3.95	3.89
	3.83				3.82				3.84				3.85				3.84							

Political Competition 6/6

	2014				2015				2016				2017				2018				Rate of change (in %)**
	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	EFF (0-4)	EF CM (0-4)	EM (0-4)	EL (0-4)***	
Netherlands	3.86	3.84	3.95	3.93	3.86	3.84	3.95	3.93	3.86	3.84	3.95	3.93	3.84	3.80	3.93	3.91	3.84	3.80	3.93	3.91	-0.77
	3.90				3.90				3.90				3.87				3.87				
Poland	3.89	3.88	3.95	3.88	3.85	3.58	3.94	3.93	3.85	3.58	3.94	3.93	3.85	3.58	3.94	3.93	3.85	3.58	3.94	3.93	-1.73
	3.90				3.83				3.83				3.83				3.83				
Portugal	3.90	3.84	3.88	3.96	3.89	3.86	3.97	3.95	3.89	3.86	3.96	3.95	3.89	3.86	3.96	3.95	3.89	3.86	3.96	3.95	0.13
	3.90				3.92				3.92				3.92				3.92				
Romania	3.51	3.64	3.94	3.88	3.51	3.64	3.94	3.88	3.64	3.62	3.94	3.89	3.64	3.62	3.94	3.89	3.64	3.62	3.94	3.89	2.37
	3.74				3.74				3.77				3.77				3.77				
Slovakia	3.82	3.70	3.95	3.90	3.82	3.70	3.95	3.90	3.81	3.68	3.95	3.89	3.81	3.68	3.95	3.89	3.81	3.68	3.95	3.89	0.39
	3.84				3.84				3.83				3.83				3.83				
Slovenia	3.60	3.82	3.95	3.80	3.60	3.82	3.95	3.80	3.60	3.82	3.95	3.80	3.88	3.82	3.95	3.94	3.74	3.82	3.95	3.84	-1.60
	3.79				3.79				3.79				3.90				3.84				
Spain	3.95	3.76	3.97	3.97	3.83	3.80	3.96	3.96	3.83	3.80	3.96	3.96	3.83	3.80	3.96	3.96	3.83	3.80	3.96	3.96	-0.64
	3.91				3.89				3.89				3.89				3.89				
Sweden	3.91	3.66	3.97	3.93	3.91	3.66	3.97	3.93	3.91	3.66	3.97	3.93	3.91	3.66	3.97	3.93	3.89	3.34	3.95	3.91	-1.95
	3.87				3.87				3.87				3.87				3.77				
United Kingdom	3.77	3.64	3.95	3.97	3.72	3.62	3.95	3.97	3.72	3.62	3.95	3.97	3.92	3.46	3.95	3.96	3.92	3.46	3.95	3.96	-0.33
	3.83				3.82				3.82				3.82				3.82				
EU average*	3.79	3.63	3.93	3.89	3.78	3.62	3.93	3.88	3.78	3.64	3.94	3.87	3.78	3.63	3.94	3.87	3.73	3.54	3.94	3.88	-1.51
	3.81				3.80				3.81				3.81				3.77				

Monastery of San Nicolò
Riviera San Nicolò, 26
I-30126 Venice Lido (Italy)

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The present thesis - *Democratic Deficit Theory: A Reversed Approach. Why Radical Political Changes in Member States Affect the Quality of Democracy in the EU* written by Olivia Housais and supervised by Anna Unger, Eötvös Loránd University, Budapest - was submitted in partial fulfillment of the requirements for the European Master's Programme in Human Rights and Democratisation (EMA), coordinated by Global Campus Europe.



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Houssais, Olivia

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