



Understanding drivers of illiberal entrenchment at critical junctures: institutional responses to COVID-19 in Hungary and Poland

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Abstract

The present article aims to improve understanding of institution formation in (former) liberal-democratic polities characterized by autocratization tendencies. We examine how the critical juncture created by the COVID-19 pandemic was used, as well as the interplay between antecedent, structural conditions and the particular combinations of political agency and contingency. By comparing the two similar cases of Hungary and Poland – the two European Union countries that have progressed the farthest towards illiberal transformation – and using documentary and interview evidence, we conclude that: (1) whereas Hungary exhibited significant institutional changes, Poland did not; (2) these differences in institutional outcomes can be significantly attributed to differences in certain critical antecedent conditions; and (3) the ability of key political actors – Hungary’s Viktor Orbán and Poland’s Jarosław Kaczyński – to control their own political camp seems to have exerted an unmistakable effect as well.

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Points for practitioners

The build-up and entrenchment of institutions of illiberal rule in (previously) liberal-democratic contexts are encumbered by diverse political and institutional constraints. External shocks, such as the COVID-19 crisis, may offer an opportunity to bypass those constraints and to change institutions permanently. Our study concludes that the extent to which such historical windows of opportunity can indeed be used to achieve lasting institutional changes depends not only on the objective, historically given political and institutional constraints that illiberal reforms face, but also on their subjective ability to act in a controlled, coordinated and coherent manner.

Keywords

coronavirus, COVID-19, critical junctures, Hungary, illiberal democracy, institution formation, Poland

Introduction¹

Institutional transitions from more to less democratic polities are frequently attributed to individuals such as ‘(aspiring) autocrats’ or ‘dictators’ (Lührmann and Lindberg, 2019: esp. 1097–1098). In a similar vein, recent or ongoing illiberal or populist shifts in politics in the European Union (EU) – such as in Italy, Hungary and Poland (D’Alimonte, 2019; Donovan, 2015; Grzymala-Busse, 2018; Körösenyi and Patkós, 2017) – are usually perceived as the result of the purposeful actions of highly visible political figureheads (Sata and Karolewski, 2020). Clearly, however, structural features – such as the fragility of democratic institutions (Sata and Karolewski, 2020), shifts in contextual factors or in electoral preferences (Peters et al., 2005), and external shocks and geopolitics – may be at play too (Plattner, 2019). Historical-institutionalist theoretical perspectives – to which the present study intends to contribute – are particularly apt for studying the significance of historically given structural factors and their interplay with situational constraints or facilitators, on the one hand, and individual agency or contingency – that is, the combination of key actors’ purposeful actions and windows of opportunity opened up by critical junctions – on the other.

Governance responses to the COVID-19 pandemic seem to offer an excellent opportunity for studying these dynamics as the pandemic promises to be a true critical juncture, that is, a historical moment ‘of relative structural indeterminism when willful actors shape outcomes in a more voluntaristic fashion than normal circumstances permit’ (Mahoney, 2002: 7). In other words, it is a moment ‘in which a “common exogenous shock” affects a set of cases (typically countries), causing them to “diverge” as a result of the combination of the common shock and their different antecedent conditions’ (Capoccia, 2015: 157). Broadly speaking, our research aim is to improve understanding of the aforementioned dynamics in the context of the emerging illiberal regimes of Central and Eastern Europe.

We present a comparative case study of Hungary and Poland – two countries that are similar in many respects in terms of their antecedent conditions. They have not only embarked upon an illiberal transformation of their polities – sometimes also referred to as democratic deconsolidation (Foa and Mounk, 2017), democratic recession (Diamond, 2015) and autocratization (Lührmann and Lindberg, 2019) – but also progressed the farthest on this route within the EU (Bustikova and Guasti, 2017).

As highlighted by recent critiques of comparative historical analysis (Capoccia and Kelemen, 2007; Peters et al., 2005), antecedent structural conditions do not fully determine change:

Critical junctures are characterized by a situation in which the structural (that is, economic, cultural, ideological, organizational) influences on political action are significantly relaxed for a relatively short period, with two main consequences: the range of plausible choices open to *powerful political actors* expands substantially and the *consequences of their decisions for the outcome of interest are potentially much more momentous*. (Capoccia and Kelemen, 2007: 343, emphasis added)

The aforementioned conceptual and theoretical apparatus has been put into use to describe and understand diverse instances of institutional transformations of governance (Capoccia, 2015; Slater and Simmons, 2010). This study explores and uses its descriptive and explanatory power in a new empirical context, the outcome of key interest being lasting institutional changes significantly enhancing the illiberal features of two new EU member states: Hungary and Poland. The ambition of the study is to describe the divergent institutional transformations of the two countries, as well as to explore the role of antecedent conditions, political agency and contingency created by the COVID-19 crisis in shaping such transformations.

In the second section, we briefly describe the antecedent structural conditions – the historical pathways and the recent past – of the two countries. In the third section, we describe the critical junction created by the COVID-19 pandemic by reviewing the immediate policy and institutional responses. In the fourth section, we focus on the key outcome of interest: institutional and policy responses that extend beyond the scope of immediate crisis management (as described in the third section), being instead geared towards strengthening illiberal governance. The fifth section summarizes and discusses our findings. Brief conceptualizations of the key analytical categories used are provided at the beginning of each section.

Apart from the second section, where we could rely on relatively abundant academic sources, the empirical basis of our research is documentary analysis of relevant legal measures, news media and government reports. In addition, we conducted semi-structured interviews with three key Hungarian informants (government and military officials) and six key informants in Poland (epidemiology and public health experts, journalists, and academics) between May and June 2020 in Hungary and in Poland. The interviews were conducted in the Hungarian and

Polish languages, respectively, and lasted on average for about one hour. The time period covered by the study is the initial months of the COVID-19 crisis, that is, from its outbreak until June 2020.

Antecedent conditions

Hungary and Poland share many features, ranging from their geographical proximity to the level of their socio-economic development. In the following, we focus on two sets of antecedent structural conditions that are particularly important as constraints and facilitators of illiberal institutional changes: first, the long-term historical development of their state structures and state–society interplay; and, second, the illiberal turn in their recent development.

Historical pathways of Hungary and Poland

The process of developing democratic institutions and public administration in both Poland and Hungary has been characterized by a delayed and incomplete capitalist and democratic development scattered with autocratic interludes, as well as a shared communist past, including violent and disruptive anti-communist revolts (Bozóki and Simon, 2010; Grzymala-Busse, 2002). Until the end of the First World War, both countries were (at least partly) components of the Habsburg Empire. Historically, the lack of independent statehood has been a major obstacle to state development in Poland and Hungary for an extended period of time. Only after the First World War did Poland regain its statehood. Likewise, Hungarian state development was delayed for long periods by Ottoman and Habsburg occupations. It emerged as a fully independent and modern – though, even according to the standards of the time, only semi-democratic – nation state after the termination of the Austro-Hungarian Empire at the end of the First World War (Cohen, 2007; Harris, 2009).

Having experienced semi-autocratic decades of independent statehood in the interwar period, Soviet occupation and dictatorship were forcefully imposed on both countries after the Second World War. This included a total dominance of ideology, state and politics over society, the economy and rule of law, blurring the borders between politics and administration (Kornai, 1992).

Historical parallels continued after the system change of 1989/1990 (Randma-Liiv, 2009). Notwithstanding some noticeable differences, these similarities may be explained to a significant extent by a common communist past, as well as the radical elimination of the old ‘party-state’ structures and the creation of new ones practically from scratch. Frequently, however, these new structures drew inspiration from pre-war, semi-authoritarian history (Seleny, 1999).

The early post-transition years of Poland and Hungary have ‘long been touted as the single greatest success story of post-Communist transition to liberal democracy’ (Foa and Mounk, 2017: 11). Still, both Poland and Hungary continued to be characterized by weak institutions and formal rules (Bozóki and Simon, 2006),

resulting in policies serving special interests and governance through informal networks that had insufficient democratic and administrative accountability (Ágh, 2016: 277; Rupnik and Zielonka, 2013). Public administration was fragmented, which resulted in policy coordination problems at both the formulation and implementation stages (Zybała, 2017). Policymaking processes were not participatory, with very limited dialogue and a lack of involvement of expertise. Despite high levels of formal decentralization, policymaking was dominated by the central government (Rees and Paraskevopoulos, 2006). These features – still present today – operated as facilitators of increasingly autocratic and illiberal governance practices.

The recent past: illiberal transformations in Hungary and Poland

By slightly broadening the denotations of the now classic term ‘illiberal governance’ (Zakaria, 1997), we refer, first of all, to the strategic manipulation of democratic elections through such practices as ‘hampering media access, using governmental funds for incumbent campaigns, keeping opposition candidates off the ballot, hampering voter registration, packing electoral commissions, changing electoral rules to favor incumbents, and harassing opponents’ (Bermeo, 2016: 13). Another key feature of illiberalism is executive aggrandizement, referring to power-holders’ successful efforts at weakening the system of checks and balances on executive power (Bermeo, 2016; see also Bustikova and Guasti, 2017: 168).

By now, there is a broad consensus that both Hungary and Poland are among the forerunners of illiberal transformation, both in the so-called Visegrad (V4) Region (Bozóki and Hegedűs, 2018; Bustikova and Guasti, 2017) and in the broader Central and Eastern European context (Plattner, 2019). Given the abundance of literature, it is not necessary to delve into the details of this grand institutional transformation (Bozóki, 2015; Kornai, 2015). Less institutionalized practices whereby prominent party loyalists were nominated to lead key checks-and-balances institutions were another important vehicle of extending power (Bozóki, 2011; Enyedi, 2016; Rupnik, 2012). The transformation has affected most of the key economic sectors, the media landscape (Bogaards, 2018), civil society (Bartha et al., 2020), non-governmental organizations (NGOs) and churches, as well as the cultural scene (see Nyikos and Talaga, 2014), too.

Poland’s route to illiberal democracy started earlier but proceeded more slowly. During the first remarkable period of 2005–2007, attempts to centralize the state and push it in an illiberal direction were hindered by the Constitutional Tribunal (Bustikova and Guasti, 2017: 167). However, after the 2015 elections, the Law and Justice Party (PiS) could create a single-party government. The illiberal turn that has emerged since then is explicitly inspired by the Hungarian blueprint. The focal points of the illiberal takeover were the Constitutional Tribunal, public media and public administration apparatus (Rupnik, 2017), with the main instrument being highly and openly politicized nominations. Further areas of power accumulation

include attacks on independent media (Appel, 2019) and on NGOs (Polish Helsinki Foundation for Human Rights, 2017).

Today, both Hungary and Poland are, in fact, ruled by their charismatic leaders. In Poland, the PiS leader, Jarosław Kaczyński, who does not hold any official government position (though he is the PiS party leader and a Member of Parliament (MP)), still controls the government and the party's other MPs (Bustikova and Guasti, 2017). Viktor Orbán, by contrast, has been the prime minister and uncontested party leader throughout the entire period of illiberal transformation – having started with his landslide election victory in 2010.

Thus, it goes undisputed that Hungary and Poland constitute the most advanced instances of illiberal transformation in the EU – though Hungary's shift is somewhat more consolidated, whereas Poland's is still evolving (Bozóki and Hegedűs, 2018; Bustikova and Guasti, 2017). In 2017 and 2018, respectively, the European Commission activated, for the first time in the history of the EU, Article 7 of the EU against Poland and Hungary, thereby signalling strong political recognition of the countries' illiberal transformations. According to the Nations in Transit Report, since 2015, Poland's democracy score has continuously decreased, resulting in the country falling into the category of semi-consolidated democracy in 2020 (Freedom House, 2020: 3). Still, it is Hungary whose 'decline has been the most precipitous ever tracked in *Nations in Transit*' (Freedom House, 2020: 2), having fallen into the category of transitional/hybrid regime in 2020.

Immediate responses to the crisis

As the pandemic unfolded, governments reacted with measures aimed at controlling the spread of and the damage done by the disease, while also tackling the side effects of these measures. The need for a constant (re)assessment of the rapidly evolving and novel situation, and for the timely formulation of substantive policy responses, triggered the creation of new structural and institutional arrangements, as well as the modification of existing ones. In the second subsection, we shift our focus on measures masquerading as substantive policy or institutional responses, if not simply enabled by the extraordinary crisis circumstances. Nonetheless, these latter measures serve to strengthen the political power of the governing forces. They are important since they create new avenues for illiberal rule, allowing them to entrench their positions and continue to reap the benefits.

Immediate crisis management responses

In terms of ex ante conditions, the capacity of the health care and public health systems in both countries was limited. In Hungary, health expenditure is significantly below the EU average – not only in absolute terms, but also as a share of gross domestic product (GDP) (4.9% in 2016 and exhibiting a decreasing trend) (OECD, 2019b: 18). In Poland, health expenditure is 6.5% of GDP, slightly lower than the 6.85% mean value of new CEE Member States. The chronic under-

resourcing and overall neglect of the health care field over the past years have resulted in delays in the procurement of essential medical equipment and supplies. In Hungary, health care facilities are operated in a strictly centralized manner, with local governments basically playing no role in secondary health services and only a limited one in primary care. In Poland, however, local governments (of all tiers) are in charge. The quality of health care in Poland is low, with very long waiting periods for specialist outpatient care. Likewise, in Hungary, despite improvements since 2000, health outcomes still lag behind the other EU countries (OECD, 2019: 3). Moreover, both countries suffer from an insufficient number of medical professionals (OECD, 2019: 11).

Hungary's first major policy response to the pandemic was the declaration of a state of emergency on 11 March 2020. On 31 January, a central coordination body, the so-called Operational Group, was created. This special, ad hoc government body was responsible for prevention and the introduction of measures to slow the spread of the virus. On 30 March, the legislature adopted the so-called Authorization Act. This allowed the Cabinet to introduce significant restrictions, possibly superseding existing Acts, without any functional or time limitations, without any debate in Parliament, and without any guarantee of immediate and effective constitutional review. Over the course of the crisis, except for some very limited local variations regarding lockdown measures, policy responses were tightly centralized (for more details on immediate crisis management measures, see Bogaards, 2020: 34; Drinóczi, 2020; Hajnal and Kovács, 2020).

A key element of the immediate institutional responses is the (further) centralization and, indeed, militarization of administrative and policy responses, coupled with a radical weakening of parliamentary control and oversight. According to some critics (Chêne and Vrushi, 2020: 13–15; Helsinki Committee, 2020; Szente, 2020), the latter leads to irreversible and permanent damage in the democratic operation of the state. The Authorization Act, in particular, triggered highly visible international repercussions.² Albeit subsequently abolished by Parliament (on 16 June 2020), the coronavirus-related special powers (Lührmann and Rooney, 2020) are expected to have 'long-lasting consequences . . . as substitution bills are still in place' (Editorial Board, 2020). Specifically, the institution of so-called 'semi-extraordinary legal order' was introduced, providing the government with exceptional authority vis-a-vis Parliament (Mészáros, 2020: 8–10). Lührmann and Rooney (2020) call this phenomena 'autocratization by decree' and argue that some political leaders have recently abused the emergency situation by introducing excessive measures and keeping these provisions in place after the situation improves. Moreover, they mentioned the Hungarian Authorization Act as a relevant example. A largely unique feature of Hungary's crisis management was its militarized style. Military officers took command of 51 out of 108 hospitals in Hungary,³ and military presence was deployed to more than 200 private companies operating in strategically important areas, such as the food industry, info-communications and critical infrastructure.

In Poland, as the first structural response, a team in the Chief Sanitary Inspectorate was established to monitor the epidemiological situation on 9 January (Trzeciakowski and Zieliński, 2020). On 2 March 2020, its Parliament adopted the Act on Special Measures related to fighting COVID-19,⁴ which included not only substantive policy responses, but also institutional change. In short, it allowed the government to rule by decree during the state of epidemiological threat, without the formal introduction of a state of emergency.

Whereas the coordination of policy responses within the central government seemed to be effective and relatively smooth, political opponents and ombudsmen highlighted the problems in coordination between the central and local authorities, including a lack of information and support for local governments (Bodnar, 2020; Wroński, 2020). As in Hungary, the government reacted quickly to the domestic appearance of infections. On 14 March, it introduced a state of epidemiological threat,⁵ accompanied by a range of lockdown measures. On 20 March, the crisis level was raised to a state of epidemic. Although, according to our interview evidence, much of the substantive policy measures were strictly top-down, lacking even minimal consultations with relevant stakeholders (contrary to Hungary, where consultations with health experts and other scientists took place), we identified only one significant institutional change, namely, governing by decree.

Political uses of the crisis

Both countries stand out internationally with respect to the extent to which their governments used the unique opportunities the crisis offered to strengthen their own domestic political positions and weaken and delegitimize those of their opposition.⁶ Both governments used diverse instruments to this end. In the following, we highlight four broad clusters of them:

1. controlling the flow of (crisis-related) information;
2. creating a COVID-19-related political discourse to legitimize and support the illiberal political ambitions of the governing forces;
3. 'playing politics', that is, creating and pursuing political conflicts with the opposition to delegitimize them and weaken their popular support; and
4. capitalizing on the restrictions disabling organized political protests.

Whereas these measures fall outside the conceptual scope of (illiberal) institutional changes, they are crucial both as facilitators and as contextual conditions shaping them.

Controlling the flow of (crisis-related) information. Whereas keeping the public up to date with information is generally seen as essential for ensuring the effectiveness of government measures,⁷ the Hungarian government's communication was increasingly one-sided and filtered (see Serdült, 2020). Apart from the Prime Minister's weekly radio broadcast, government communication was taken over by the

Operational Group's lengthy daily live news conferences, televised through major national public service programmes where questions submitted by news media journalists were strongly filtered (see Drinóczy, 2020: 17). The flow of information to other policymakers, such as local governments, was severely constrained. Vital data on the occurrence of cases broken down by region and locality were consistently withheld. Health institutions were also sealed from any public scrutiny. The government legally prohibited medical staff and other officials from providing information of any sort related to the pandemic.⁸ The secretive approach to health care conditions was similar in Poland, where provincial epidemiology officials were ordered to refrain from making public statements on the epidemiological situation in medical institutions. Meanwhile, critical voices were suppressed with dismissals (Nowosielska, 2020).

Creating a COVID-19-related political discourse. Content-wise, government communication in Hungary insisted on embedding the pandemic issue into the accustomed anti-immigration theme,⁹ whereas in Poland, it was used to discredit the EU,¹⁰ thereby strengthening the ideological basis of illiberal aspirations. Despite being among the largest recipients of EU financial assistance (European Stability Initiative, 2020: 9–11), both governments' rhetoric emphasized that 'we are alone' because the EU does not help¹¹ (Pankowska, 2020) and only erects obstacles to fighting the pandemic.¹² Thus, both governments bolstered belief in the nation state and reinforced nationalism in general.

'Playing politics'. The most visible political 'game' played out in Poland in relation to the presidential election campaigns already under way. PiS, the governing party, attempted to ensure the re-election of its incumbent president by holding presidential elections in early May. To this end, a broad range of controversial legal measures and political steps were taken (Zajadło, 2020). However, due to severe technical problems and conflicts within the government coalition (Dąbrowska, 2020), the elections were finally postponed. Unsurprisingly, large-scale 'blame games' between the government and opposition forces frequently ensued in both countries. One highly visible instance occurred between the (opposition party) mayor of Budapest and the central government over who bore responsibility for a mass infection at an elderly care centre in the capital.¹³ In Poland, the opposition have castigated the government for its alleged initial passivity, while PiS politicians have accused the opposition of using the epidemic for political gains (Kubik, 2020).

Capitalizing on the restrictions disabling organized political protests. A key feature of the crisis was that it severely limited the opportunities for public demonstrations, and both governments enthusiastically used this excuse to oppress political protests of all sorts. In Poland, extraordinary police brutality and alleged abuse of power could be observed during the protests of entrepreneurs on 16 May (Siałkowski, 2020). In a similar vein, Hungarian demonstrators, even those respecting social

distancing regulations, were severely punished. A spectacular example of this was the ‘Car-Honking Protest’, where many protesters driving cars were stopped, checked and severely fined.¹⁴ On the other hand, far-right ultras were allowed to march in Budapest with anti-Roma slogans, echoing messages similar to those of the government, without any interference from the police.¹⁵

Institutional consequences

Comparative historical analysis (and thus the key element of our research) focuses on changes in formal institutions of governance, with the term ‘*institution*’ broadly referring to a:

single organization (for example, a political party, a union, or a corporation), to the structured interaction between organizations (for example, a party system or relationships between branches of government), to public policies, and to a political regime as a whole. (Capoccia and Kelemen, 2007: 349)

As previously noted, our key focus is a particular subset of institutional changes that: enhance the illiberal character of the regime; enable power-holders to exert tighter, more comprehensive and less counterbalanced rule over state and society; and allow them to entrench their long-term ability to do so. The first subsection focuses on these changes. The second subsection goes on to examine another novel set of institutional phenomena. These ‘Trojan measures’, as we have chosen to term them, are similar to the former cluster insofar as they are institutional changes and are also enabled by the crisis to a significant extent. In some instances, they not only capitalize on the opportunities created by the crisis, but even claim or pretend to be crisis management instruments themselves. Their effect, however, is not so much to enhance the illiberal grasp on power as to serve other – typically ideological or symbolic – purposes.

Expansion and entrenchment of illiberal institutions

As noted earlier, controlling the spread of information has been one of the major concerns of both governments. In Hungary, this aspiration quickly led to draconian legal changes. The Penal Code was modified on 31 March, whereby disseminating false or fact-distorting statements was made punishable by up to five years in prison – if said false information was capable of ‘hindering or derailing the effectiveness of the response effort’. According to its critics, the new provision – enthusiastically used against opposition politicians and pensioners posting on social media alike – disproportionately broadens the scope of criminal prosecution since it does not exclusively ban activities that are direct threats to public order, but any activities possibly limiting the effectiveness of government policies, ranging from health care to education, border control and economic measures. Within two months, a total of 131 criminal procedures were launched based on this

provision.¹⁶ In a context where the government and pro-government news media regularly declare battle against ‘fake news’ spread by opposition journalists, this modification was seen by some as seriously threatening media freedom (Bencze and Ficsor, 2020).

In another spectacular step, political parties’ state subsidies were reduced by 50%, allegedly to provide funding for the government-created Epidemiological Fund. Whereas the transferred sum amounts to less than 0.2% of the fund, the measure deprives opposition political parties of their single most important revenue source, thereby threatening to disable a basic institution of liberal democracy, namely, a multiparty and competitive political landscape.

Probably the most significant institutional change in Hungary, however, relates to local governments. After the drastic elimination of local autonomy throughout the 2010s (Hajnal and Rosta, 2016), these new measures further limited their financial and organizational capacity significantly. Whereas some measures hit all municipalities, the most important ones were selective, only hitting the larger cities and, most prominently, the capital city Budapest, that is, strongholds of opposition political parties or independent civic organizations since the 2019 local governmental elections. The main tool used to weaken them was depriving them of important revenue sources, including the vehicle tax (amounting from 1% to 5% of municipal revenues), car parking fees (6.5% of revenues) and business taxes, constituting the most significant revenue source (see Kovács, 2020).¹⁷ Furthermore, a number of local (typically, social) development projects were cancelled, predominantly in opposition-led municipalities.¹⁸ Frequently, these revenue sources constituted much of the local governments’ disposable income.

It is worth mentioning that, whereas actors considered non-government-friendly (such as local governments, opposition parties or large, sometimes international, retail and banking businesses) suffered serious losses, the Epidemiological Fund was used to finance investments that were unlikely to provide a strong economic stimulus. Such measures have included support to sports facility developments (amounts close to €1 million each devoted to such purposes as the yearly operation of a stadium or a club¹⁹). The allocation of funds to cronies may be seen as a means of extending power, partly through the creation or strengthening of pro-government clientele and oligarch groups.

Turning now to Poland, our main finding is that there are much fewer, if any, institutional changes aimed at consolidating the illiberal system. The only possibly area of change is more stringency in criminal policy. The Penal Code was amended to eliminate the possibility of imposing non-custodial penalties over incarceration, de facto limiting the statutory penalty to imprisonment for a range of offences (Małecki, 2020). Moreover, the Code of Petty Offences introduced penalties for disobedience of police officers’ requests or orders. Some argue that the penalties are disproportionate to the offences, including arrest and restriction of liberty, in addition to a fine (Rojek-Socha, 2020).

'Trojan measures'

Social distancing measures implied a restriction on mass gatherings. This created a window of opportunity for both governments to make legislative changes regarding some highly controversial issues that would normally trigger potentially politically damaging protests. While we overviewed many measures contributing to illiberal entrenchment in the previous subsection, we briefly focus here on measures seizing the same opportunity but serving different ends.

In Hungary, an omnibus Bill submitted on 5 May included measures preventing transgender people from registering under their chosen names that reflect their gender identity, as well as extending governmental control over theatres. (Note that both issues triggered demonstrations the previous year.) The government unilaterally and drastically changed the status quo in other highly salient and politicized issues, such as the Budapest City Park development project and the Budapest–Belgrade railway development project.²⁰ Furthermore, traditional churches – frequently seen as politically supportive of the government – received the ownership of more than 40 social care institutions free of charge through an overarching Act.

In Poland, the list of 'Trojan measures' is far shorter. The only institutional change worth mentioning is related to the area of reproductive rights. In late May, the Sejm adopted a government proposal further restricting women's reproductive rights,²¹ despite Poland having the most restrictive abortion laws in Europe.

Discussion and conclusions

Hungary and Poland – two countries with largely comparable historical experiences, traditions and socio-economic and state development – represent two prime instances of illiberal transformation. Nonetheless, institutional responses to the COVID-19 crisis in the two countries are markedly different. Hungary features a broad range of highly visible institutional changes extending and further entrenching illiberal rule, and debilitating alternative or opposition political forces. In addition, the crisis was used to introduce a broad array of 'Trojan measures' serving ideological and symbolic purposes, or merely serving the material interests of crony allies. In Poland, although there were widespread governmental attempts to reap short-term political benefits from the crisis, very few illiberal institutional changes took place, much less 'Trojan measures' or power-maximizing ones. In line with our research aims, this key difference in outcome spurs a need to reflect on the role and dynamics of antecedent structural conditions, political agency and the contingencies of the unfolding crisis.

Earlier, we argued that many of the antecedent conditions were similar in the two countries. Generally speaking, the political momentum created by the ensuing crisis created largely similar contingencies and opened up similar windows of opportunity for change. Further, the key agents' ambitions – those of Orbán and Kaczyński – to extend their illiberal rule are not significantly different, as

far as available evidence allows us to conclude. These similarities direct our attention to what Slater and Simmons (2010: 887) term ‘critical antecedents’: ‘factors or conditions preceding a critical juncture [that] combine in a causal sequence with factors during a critical juncture to produce divergent long-term outcomes’.

Notwithstanding the numerous similarities, the COVID-19 crisis found the two countries in significantly different initial positions in one respect. The Hungarian administration had been in office for a third consecutive term and, relying on its long-term parliamentary supermajority, had been able to fundamentally redesign the institutional landscape of the country to a practically unlimited extent, including the constitutional foundations of the state. At the same time, the structural conditions confronted by Poland’s illiberal regime seem to have constrained the illiberal push. First, Polish local governments are relatively strong, and the vast majority of bigger cities are governed by the opposition. They played a counterbalancing role, especially in the process of organizing the presidential elections (Gazetaprawna.pl, 2020). Second, last autumn, PiS lost the majority in the Senate to the opposition parties. Therefore, even if the lower-house Sejm, dominated by PiS, approves a legislative proposal, there is a significant chance that either it will be rejected by the Senate or the Senate will work on amendment proposals. Although the current power relations in the Sejm allow for relatively effortless overruling of the Senate’s possible vetoes, the Senate retains its constitutional right to make a decision within 30 days, which can be a significant hindrance in cases of legislation requiring fast processing. Finally, and importantly, the Polish administration does not have enough power to change the Constitution or undertake broad institutional reconfiguring, as was the case in Hungary.

Thus, it is reasonable to claim that these differences in antecedent conditions are critical since they placed fundamentally different constraints upon illiberal institutional change. Still, political agency also played an arguably important role in creating divergent institutional outcomes in our two cases. Hungary’s Prime Minister seems to have been able to secure continuous and full control over his party and government, enabling him to avoid difficult bargains, compromises or delays. Tellingly, at especially difficult points during the crisis when the government’s position took highly visible 180-degree policy turns, there was not a single instance where a key actor’s rhetoric or actions betrayed the slightest disagreement, not even in emphasis or tone. In contrast, the illiberal elite in Poland are much less tractable and homogeneous.

Kaczyński, unlike Orbán, has not been able to exert full control over different groups within the governing elite. When it came to the presidential election, the leader of one of the coalition parties, Jarosław Gowin, made a last-minute objection and ultimately doomed to failure Kaczyński’s endeavour to organize widespread mail-in voting by 10 May – the single most important political project of PiS during the period under observation. One reasonable interpretation is that whereas the Hungarian illiberal regime was able to actively exploit all the means available to it, the Polish illiberal regime was unable to seize its much more modest

structural opportunities due to its relatively limited agency. Thus, we may conclude that our comparative case study gives strong support to the descriptive and explanatory power of Slater and Simmons's (2010) concept of critical antecedents.

Declaration of conflicting interests


The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

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Notes

1. This article is part of a Special Issue on 'Testing the Crisis: Opportunity Management and Governance of the COVID-19 Pandemic Compared'.
2. See: <https://www.europarl.europa.eu/news/en/headlines/eu-affairs/20200423STO77706/covid-19-fundamental-rights-must-be-upheld-warn-meps> (accessed 20 March 2020).
3. Government Decree 72/2020 (III. 28).
4. See: <http://www.dziennikustaw.gov.pl/D2020000037401.pdf> (accessed 16 June 2020).
5. See: <http://www.dziennikustaw.gov.pl/D2020000043301.pdf> (accessed 16 June 2020).
6. See: <https://www.nytimes.com/2020/04/22/world/europe/poland-hungary-coronavirus.html> (accessed 8 May 2020).
7. See: <https://www.who.int/news-room/detail/30-03-2020-who-releases-guidelines-to-help-countries-maintain-essential-health-services-during-the-covid-19-pandemic> (accessed 28 May 2020).
8. See: <https://magyarnarancs.hu/belpol/nem-nyilatkozhatnak-a-korhazak-jarvanyugyikerdesekben-129197> (accessed 2 June 2020).
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10. See: <https://wiadomosci.tvp.pl/47294800/bruksela-bezradna-wobec-epidemii> (accessed 27 September 2020).
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14. See: <https://hungarytoday.hu/coronavirus-hungary-hospital-beds-protest/> (accessed 30 May 2020).

15. See: https://index.hu/belfold/2020/05/28/oro_mi_hazank_demonstracio/ (accessed 30 May 2020).
16. See: https://hvg.hu/itthon/20200615_remhirterjeszto_birosag_buntetoeljaras (accessed 10 June 2020).
17. Government Decree 92/2020 (IV. 6) on the specific rules of the 2020 state budget of Hungary related to the emergency situation.
18. See: https://www.napi.hu/magyar_gazdasag/elvonas-kormany-jozsefvaros-koronavirus.705792.html (accessed 18 May 2020).
19. See: https://nepszava.hu/3075804_a-koronavirus-jarvanyban-is-jutott-azert-300-millio-a-szombathelyi-haladastnak (accessed 10 June 2020) and <https://www.magyarhirlap.hu/sport/20200522-a-kormany-300-millio-forinttal-segiti-az-egri-vizilabdaklubot> (accessed 10 June 2020).
20. See: https://index.hu/gazdasag/2020/04/01/tiz_evre_titkositanak_a_belgardi_vasut_felu_jitasanak_reszleteit/ (accessed 2 June 2020).
21. Specifically, the Act Regulating the Medical Profession was changed in a way that lifted the obligation of doctors and health facilities that refuse to perform abortions in legally allowed cases to provide patients with information on facilities that do perform such procedures (see: [http://orka.sejm.gov.pl/opinie9.nsf/nazwa/172_u/\\$file/172_u.pdf](http://orka.sejm.gov.pl/opinie9.nsf/nazwa/172_u/$file/172_u.pdf) (accessed 15 June 2020)).

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