

Changing Patterns of Corruption in Poland and Hungary

1990-2010

by

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ABSTRACT

Political and economic competition, so goes the broad argument, reduce corruption because competition increases the cost of actors to engage in corrupt practices. It increases the risk of exposure, provides non-corrupt alternatives for consumers, and introduces non-corrupt practices into the political and economic domains. Why then, has corruption persisted in the Central Eastern European countries decades after the introduction of political and economic competition in the early 1990s?

This dissertation asks how and why the emergence of competition in the political and economic domains leads to a transformation of the patterns of corruption. I define corruption as an act involving a public official who violates the norms or regulations of their office, receives some compensation in return, and thus harms the public interest.

I argue that under conditions of a communist past and high levels of uncertainty, the simultaneous emergence of political and economic competition transforms the opportunity structures of actors to engage in corruption. The resulting constellation of powerful incentives for and weak constraints against corruption encourages political and economic actors to enter into corrupt state-business relationships. Finally, the resource distribution between the actors in the corrupt state-business relationship determines the type of corruption that emerges—legal corruption, local capture, or covert political financing.

To test the causal mechanism, I employ intensive process-tracing of the micro-causal mechanisms of eleven corruption cases in Poland and Hungary. Using paired comparisons of cases from the same business sector but at different points in time, the dissertation examines how corruption patterns transformed over time in Poland and Hungary.

The dissertation shows that the emergence of political and economic competition changes the opportunity structures of actors in favor of corruption. Moreover, the new constellation of incentives and constraints encourages political and economic actors to establish corrupt state-business relationships. Crucially, I find that the resource distribution within these corrupt relationships determines the type of corruption emerges—local capture where both sides have concentrated resources that balance each other out, legal corruption when a strong economic actor confronts a fragmented political actor, and covert political financing when a weak economic actor faces a strong political actor.

DEDICATION

Dla Babci, ponieważ od niej się wszystko zaczęło.

To all the anti-corruption fighters that keep fighting another day.

And last, to my first teacher Ms. Bartal, who was convinced I will never pass fourth grade.

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LIST OF ABBREVIATIONS

| | |
|---------|---|
| ÁPEH | Adóés Pénzügyi Ellenőrző Hivatal (Hungarian Tax and Financial Control Administration) |
| ÁPV Rt. | Állami Privatizációs és Vagyonkezelő Rt. (Hungarian State Privatization and Holding Company) |
| AWS | Solidarity Electoral Actions |
| CBA | Centralne Biuro Antykorupcyjne (Central Anticorruption Bureau) |
| CEE | Central and Eastern European |
| CEFTA | Central European Free Trade Agreement |
| CPI | Centrum Projektów Informatycznych (Center for IT-Projects) |
| EC | European Commission |
| EFTA | European Free Trade Agreement |
| ENEP | Effective number of political parties |
| EU | European Union |
| EUR | Euro |
| FATF | Financial Action Task Force |
| FCPA | U.S. Foreign Corrupt Practice Act |
| FIDESZ | Fiatal Demokraták Szövetsége (Alliance of Young Democrats) |
| FKgP | Független Kisgazda-, Földmunkás- és Polgári Párt (Independent Smallholders, Agrarian Workers and Civic Party) |
| GRECO | Group of States against Corruption |
| GVH | Gazdasági Versenyhivatal (Hungarian Competition Authority) |
| HUF | Forint |
| KDNP | Kereszténydemokrata Néppárt (Christian Democratic Peoples' Party) |
| KGP | Komenda Główna policja (Poland's National Police) |

| | |
|-------|---|
| KPN | Confederation for Independent Poland |
| KRRiT | Krajowa Rada Radiofonii i Telewizji (National Council of Radio Broadcasting and Television, also known as the National Broadcasting Council) |
| MDF | Magyar Demokrata Fórum (Hungarian Democratic Forum) |
| MP | Member of Parliament |
| MSWiA | Ministerstwo Spraw Wewnętrznych i Administracji (Minister of Interior and Administration) |
| MSZP | Magyar Szocialista Párt (Hungarian Socialist Party) |
| NACE | Nomenclature générale des activités économiques dans les Communautés Européennes (General Industrial Classification of Economic Activities within the European Communities) |
| NATO | North Atlantic Treaty Organization |
| NIK | Najwyższa Izba Kontroli (Poland's Supreme Audit Office) |
| OECD | Organisation for Economic Co-operation and Development |
| OCH | National Office of Cultural Heritage (Kulturális Örökségvédelmi Hivatal) |
| OECD | Organisation for Economic Co-operation and Development |
| OLAF | European Anti-Fraud Office |
| ORTT | Országos Radió és Telekizió Testület (Hungarian National Radio and Telecommunication Board) |
| PEP | Politically Exposed Person |
| PiS | Prawo i Sprawiedliwość (Law and Justice) |
| PKW | Państwowa Komisja Wyborcza (National Election Commission) |
| PM | Prime minister |
| PO | Platforma Obywatelska (Civic Platform) |

| | |
|-------|---|
| PSL | The Polish People's Party, also translated as Polish Peasants' Party (Polskie Stronnictwo Ludowe) |
| PZPR | Polska Zjednoczona Partia Robotnicza (Polish United Workers' Party) |
| SdPl | Polish Social Democracy |
| SLD | Sojusz Lewicy Demokratycznej (Democratic Left Alliance) |
| SO | Samoobrona (Self-Defense) |
| SOE | State-owned enterprise |
| SZDSZ | Szabad Demokraták Szövetsége – a Magyar Liberális Párt (Alliance of Free Democrats – Hungarian Liberal Party) |
| UD | Democratic Union |
| UOP | Urząd Ochrony Państwa (Polish Office for State Protection) |
| UP | Labor Union |
| UW | Freedom Union |
| UZP | Urząd Zamówień Publicznych (Polish Public Procurement Office) |
| WB | The World Bank |

CHAPTER 1

INTRODUCTION

Despite all the structural changes the Central and Eastern European (CEE) countries have experienced since their transition towards democracy and the process of acceding to the European Union (EU), these countries still experience far higher levels of corruption than the older member states of the EU, even 10 years after EU accession.¹ For instance, the corruption-perception scores of the CEE countries have seen little improvement despite the implementation of various direct and indirect factors supposedly constraining competition, as Figure 1.1 shows.

Scholars and policy-makers alike touted the benefits of competition, that is, the increase in the number of actors involved in a domain, as a cure to corruption. Competition, so goes the broad argument, breaks up old corruption patterns by shedding light on them and/or increasing accountability of these actors. A large body of research also supports the idea. They find that higher economic growth and/or democracy are closely associated with lower levels of corruption (Barth, Lin, Lin, & Song, 2009, pp. 361–388; Emerson, 2006, pp. 193–212; Escobar-Lemmon & Ross, 2014, pp. 175–188; Fisman & Gatti, 2002, pp. 325–345; Gerring & Thacker, 2004, pp. 295–330; Kunicova & Rose-Ackerman, 2005, p. 573)—both concepts representing the idea that an increase in actors (either in the market or in politics) reduce corruption. Such correlations are captivating, but commonly share two weaknesses.

¹ Despite the importance of finding an appropriate definition and the decades of research on corruption, no commonly accepted definition has yet emerged. I will go into the details of how I conceptualize corruption in this dissertation in chapter 2. Broadly, I follow the definition used by a majority of scholars and policy-makers: corruption as the abuse of entrusted power.

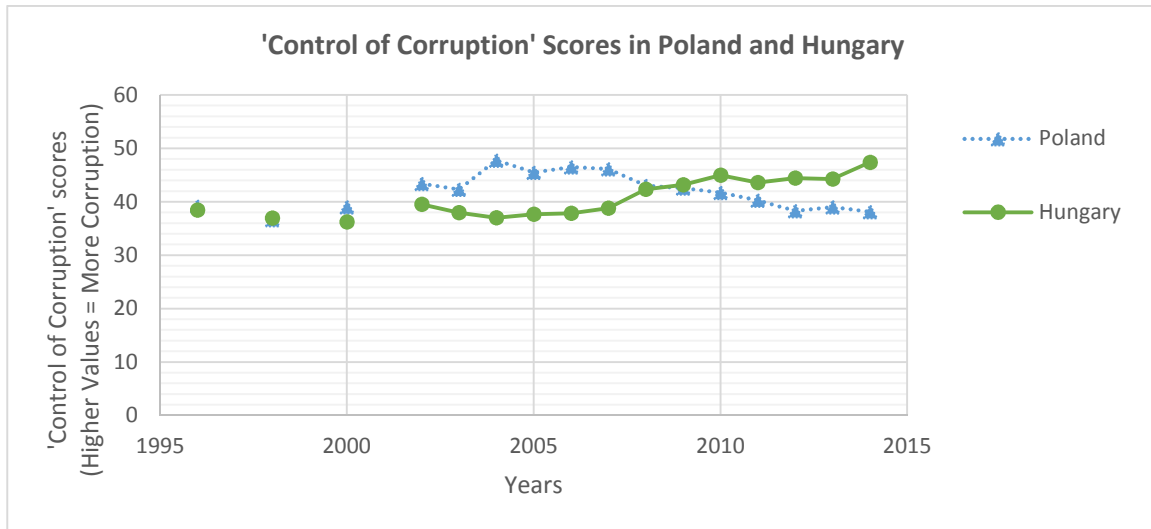


Figure 1.1: 'Control of Corruption' Scores in Poland and Hungary, 1990-2014

First, we still have little information available on how competition-oriented reforms across the areas of politics and the economy interact with each other and impact corruption. Research on competition and corruption focuses mostly on a single competitive process (Fisman & Gatti, 2002; Gerring & Thacker, 2005, pp. 233–254; Golden & Chang, 2001, pp. 588–622; Grzymała-Busse, 2003, pp. 1123–1147; Grzymała-Busse, 2007, pp. 91–110; O'Dwyer, 2006), thus neglecting to study their interactions. Such lack of information poses a significant problem for policy-makers as the impact on corruption by liberalizing reforms in multiple areas may not parallel those of liberalizing reform in a single area.

Second, political economy research on corruption also does not take into account the emerging literature in the social sciences arguing that corruption varies not just in amounts, but in kinds, from one country to the next (Johnston, 2005; Mungiu-Pippidi, 2015; Stephenson, 2015, pp. 92–133; Warner, 2007; Wedel, 2012, pp. 453–498). By implicitly assuming that all corruption is equal, previous studies did not consider the possibility of a transformation of corruption taking place (Bussell, 2015, 21-45), which in turn might explain the lack of research on the micro-causal mechanism that link competition to corruption (Beach & Pedersen, 2016; Yadav, 2011).

The dissertation therefore asks how and why the emergence of political and economic competition has transformed the patterns of corruption in the CEE countries? In other words, the dissertation seeks to establish that corruption patterns transform over time, and that competition transforms these patterns in a systematic manner. To address the first part, I develop a framework that allows me capture systematically change in corruption across time and country.² To answer the second part of the research question, I will illuminate the ‘black box’ that surrounds our understanding of how competition shapes corruption.

The Argument & Research Approach

I argue that the causal mechanism through which the emergence of competition transforms the patterns of corruption in a country occurs in three steps. The emergence of political and economic competition transforms the opportunity structures, that is the incentives and constraints, of actors in these domains to engage in corruption. The new constellation of incentives and constraints encourages the political and economic actors to form corrupt state-business relationships. And finally, the resource distribution between political and economic actors within the corrupt state-business relationship determines the type of corruption that emerges. Specifically, I suggest that the various arrangements that result from either a concentrated or fragmented political actor that interacts with either a concentrated or fragmented economic actor determine the specific type of corruption that emerges.

The research sets up a paired comparison where I compare the variation in corruption patterns in several matched corruption cases within two CEE countries. I

² Already Scott (1972) pointed out the inherent difficulty in comparing corruption across time and space. The challenges are also part of the reason for why scholarship has largely relied on one single measurement indicator for cross country comparisons,

select two countries from the CEE region to reduce the likelihood that findings in a single country are surprising outliers. Within each country, I examine multiple corruption cases characterized by varying business sectors and the time period they have occurred. This allows me to explore the transformation of patterns and the micro-causal mechanism through which competition impacts corruption, while holding key structural variables constant across space, and in some cases, over time. Specifically, I compare five pairs of closed corruption cases that have taken place in the same business sector but at different stages of the competitive processes.

To test the argument, I will use process tracing, a qualitative method which allows me to systematically uncover the inner workings of the causal black box that surrounds the link between competition and corruption.³ At its core, process-tracing, as employed in this research, has four steps. In the first step, I theorize the proposed causal mechanism and the individual causal claims within the mechanism in the form of entities and their activities. In a second step, I operationalize the various parts of the causal mechanism, making predictions about the evidence I expect to find if the causal mechanism worked as proposed. These propositions are, in essence, the process-tracing equivalent of operationalizing a concept, just that I operationalize the entire causal mechanism by specifying the activities of entities that move the causal force towards the outcome in question (Beach & Pedersen, 2013). These two steps occur in chapter 2. The third step clarifies the evidence that I expect to encounter as I describe the various forms the evidence can take and how it relates to the concepts of interests. In this step, I also present the evaluation criteria I use for the evidence to assess how well the collected

³ There is a rapidly expanding literature on process tracing, its strengths and weaknesses, and the various approaches that are emerging within (see, Kay & Baker (2015, pp. 1-21) for a recent review of the literature).

evidence supports the theorized causal mechanism. I describe this step in chapter 3. In the last step, I evaluate the collected evidence in light of whether it corroborates or invalidates the propositions derived from the causal mechanism, taking place in Chapter 4 and 5.

Contribution & Significance

The dissertation intends to contribute to social science scholarship and policy-making in several ways. First, it contributes to scholarship substantively by demonstrating that corruption patterns transform in a country, not disappear, and that such a transformation in corruption patterns is systemic, stemming from the underlying change in resource distribution between political and economic actors, and not from any industry-specific factors. Second, the dissertation also improves our methodological tool set as I refined process tracing to systematically trace the micro-causal mechanisms that links the emergence of competition to the transformation of corruption. In particular, I have adjusted existing approaches of process-tracing to deal with subject matters that thrive in the dark and where it is particularly important to systematically evaluate the evidence that appears in various forms and shapes. Corruption is difficult to study as it thrives on remaining unknown, and corrupt actors have incentives to distort the truth. Finally, the dissertation also contributes to a clearer understanding of how corruption operates. Corrupt actors are constantly adapting to changes in their environment and finding weaknesses in any anti-corruption system. As the study reveals, anti-corruption practitioners that place their hope in a single anti-corruption agency as the cure for to the problem will be disappointed. Any oversight institution can be subverted by motivated corrupt actors. The implications for policy-makers are therefore to focus on establishing a strong anti-corruption system instead of relying on a single agency to deter corrupt actors.

Outline of Dissertation

Chapter 2 discusses the major concepts of interests for this research, in particular the concept of ‘patterns of corruption’ and state-business relationships, before developing the theoretical argument. The chapter starts by presenting the attributes for an event or behavior to be considered corruption. It then introduces the concept of ‘patterns of corruption,’ where I deliberately distinguish between corruption types and activities, and discusses the causal attributes of the three main types of corruption that will be used to assess the transformation of corruption patterns in the CEE countries. The chapter also explains in more detail the first and second steps of process tracing to explain why the theoretical argument is presented in a slightly unorthodox format. Briefly, instead of following the traditional format of reviewing the full literature before deriving several hypotheses, I divide the theorized causal mechanisms into its three main components. I review the literature for each of these components, labeled causal claim 1, 2, and 3, separately before I derive testable propositions. This is one difference to the more traditional format. The second difference lies in how the three causal claims and the propositions are framed, that is in terms of entities and activities. Next, I develop the complete causal mechanism, its three components—causal claims 1, 2, and 3—and their propositions that I expect to observe in Poland and Hungary. The propositions are not only derived from a review of the literature, but they also take case specific contexts into consideration.

Chapter 3 describes the case selection process for Poland and Hungary and the corruption cases within each country. The chapter also covers the research design and how I intent to establish causality. The chapter then moves on to clarify how I identify the concepts of interests, including laying out clearly what indicators I use to distinguish

between the three types of corruption. Finally, I describe the data collection process and address the issues of reliability and validity of the sources.

Chapter 4 and 5 are the core of the dissertation as they explore the transformation of corruption patterns in Poland and Hungary. The chapters have an identical outline. In each chapter, I briefly describe the political and economic context in which these countries transitioned as well as discuss its baseline corruption. The first substantive part in each chapter examines how corruption patterns have transformed in each country. I take the selected corruption cases for each country, paired by sector, and categorize the corruption type and activities of each case. The findings provide a first answer to the larger research question of how and why competition has transformed the patterns of corruption in the CEE countries. The second part of the chapter then analyzes in-depth the causal mechanism that links the emergence of political and economic competition to the transformation of corruption patterns.

In chapter 4, I explore the transformation of the patterns of corruption in Poland. Six major findings emerge from the analysis. First, I find that the types of corruption, contrary to expectations, have not changed over time in Poland. I attribute this to particular features of the political system that encourage a fragmented political system, where political parties face extensive political competition from within their own ranks but also across parties. Second, despite this apparent lack of transformation, when probing the four corruption cases that resemble legal corruption, I find that they vary significantly in their micro-causal mechanisms, hinting at variation in the underlying resource distribution between political and economic actors in the relationship. Third, I find no variation in the patterns of corruption across industries, which is contrary what a number of other scholars have found. Fourth, process-tracing the causal mechanism that links the emergence of political and economic competition to a systematic

transformation of corruption patterns supports the theorized causal mechanism and the individual causal claims. Fifth, two corruption cases took place around the same time and involved the same political party. The cases differ however in the type of corruption. Tracing the underlying causal mechanism reveals clearly that the resource distribution between the political and economic actors differed, explaining the difference in the corruption type. Six, I find that corrupt actors were able to subvert or deactivate existing control mechanisms in place to deter corruption. This presents a worrisome implication as it reveals that even if strong anti-corruption agencies exist, they can be manipulated and so rendered ineffective.

Chapter 5 investigates the transformation of corruption patterns in Hungary. Five major findings emerge. First, the categorized cases display a variation in the types of corruption across time, in line with my expectations. All cases taking place in the early nineties resemble covert political financing corruption while the cases in the first decade of the twenty-first century classify as local capture types. Second, I again find no variation in the types of corruption across business-sectors, which corroborates the findings in Poland. Third, process-tracing the selected corruption cases also shows strong support for the theorized causal mechanism, supporting my previous findings. Fourth, one of the selected corruption cases enables me to explore how a change in the resource distribution between the same political and economic actors transforms the type of corruption. The case reveals that with a change in the resource distribution between the actors, the type of corruption transforms. Finally, as in the case of Poland, corrupt actors successfully deactivated several control mechanisms.

Chapter 6 discusses the main findings that have emerged for these two cases studies. The chapter also reviews the major contributions this dissertation makes as well

as highlights some of its limitations. It then concludes the dissertation by sketching out avenues of future research.

CHAPTER 2

THEORETICAL FRAMEWORK

The first step in answering the question of how and why the emergence of competition transformed the patterns of corruption present in a country is to define the key terms in more detail as well as lay out the causal mechanism and its individual parts. The first part of the chapter, therefore, focuses on the concepts of interests. Having a clear understanding of what the terms means is crucial to follow the logic of the causal mechanism, presented in the second part of the chapter. I conclude by discussing briefly the scope and limitation of the theory.

I will begin by examining the definitions of corruption before presenting the framework of 'Patterns of Corruption.' The introduction of the framework is vital as current typologies of corruption are static and ill-equipped to capture changes in the dynamics of corruption. Additional key concepts that I will discuss in this part are the state-business relationship, capturing the way political and economic actors interact, as well as political and economic competition.

The second half of the chapter focuses on presenting the causal logic of why and how competition transforms corruption patterns. Before I go into details, however, I briefly describe the process-tracing approach I use as it shapes how I frame the causal mechanism and present my claims. I then develop the theorized causal mechanism through which the emergence of political and economic competition transforms the opportunity structures of political and economic actors to engage in corruption. This new constellation of powerful incentives and weak constraints encourages political and economic actors to form a corrupt state-business relationship. The final step which determines the type of corruption that emerges is the resource distribution within these corrupt state-business relationships. I present the argument in its three separate

components by reviewing the existing literature and deriving case-specific propositions. I summarize the argument in the penultimate section, labeled 'Argument Roadmap'. The last substantive section of the chapter describes the scope and limitations of the argument.

Concepts of Interest

In order to understand how the emergence of competition in politics and the economy transforms corruption forms, it is instructive to clarify the concepts. Below, I, therefore, lay out how the key concepts of interests (corruption and patterns of corruption, state-business relationships, and political and economic competition) are defined and used in this dissertation.

Explanation of 'Patterns of Corruption'

In this section, I develop my conceptualization of corruption and what I mean with 'Patterns of Corruption'. Two important clarifications, however, need to be made upfront. First, while the framework 'Patterns of Corruption' could have been expanded to include far more corruption types and activities—its core dimensions—I have limited it to those forms that I expect, based on an extensive review of the literature, to occur most frequently in the CEE countries. All of these forms need to fulfill the key attributes of corruption. Second, I am focused on the (observable) behavior of actors rather than developing an all-encompassing terminology. Thus, while I follow the conventional understanding of each corruption form, for the sake of analytical clarity, I have refined their definitions as needed.

Definition of corruption

The majority of corruption definitions can be traced back to Nye's (1989) definition of corruption as "behavior which deviates from the formal duties of a public role because of private regarding (personal, close family, private clique), pecuniary or

status gains; or violates rules against the exercise of certain types of private regarding influence." (Nye, 1989, p. 966). Over time, however, a more popular view of corruption as an "abuse of entrusted power for private gain" emerged (Transparency International, 2009, p. 18).

Within these two versions, a host of interpretations exist, varying on such features as whether corruption needs to involve a public official (Della Porta & Vannucci, 2006, pp. 23–44; Fisman & Golden, 2017) or not (Schweitzer, 2005, pp. 16–39; Stephenson, 2015, p. 92), and whether an event or behavior needs to violate laws (Della Porta & Vannucci, 2006; Fisman & Golden, 2017; Stephenson, 2015) or only violate norms associated with an office or position (den Nieuwenboer & Kaptein, 2008, pp. 133–146; Lessig, 2011; Mulcahy, 2012, 2015; Transparency International, 2009, p. 18; Wedel, 2012). In addition, several conceptualizations of corruption also include the criterion of 'harming the public's interest' or something similar to it (Lessig, 2013, pp. 2–4; Wedel, 2012) or they highlight that it is less about the 'private gain' for an official and more about how she provided some benefit to a third party (Thompson, 1993, pp. 369–381). A final aspect on which definitions differ is whether it only involves individuals (Della Porta & Vannucci, 2006; Fisman & Golden, 2017; Stephenson, 2015) or whether groups or organizations can instigate corruption as well (Lessig, 2013; Teorell, 2007; Wedel, 2012; Yadav, 2011). Despite such a diverse set of views on what constitutes corruption, these interpretations share four core elements—an actor has been granted some kind of authority or power, there exist commonly accepted norms that regulate the way the actor ought to use her powers, the actor violates these norms, and such a violation benefits the actor in some form (Warren, 2004, pp. 328–343).

Given the difficulty of defining corruption, I want to lay out the key attributes of the concept as used in this research project. The aim is to increase the concept's

usefulness by connecting it to my causal argument. As such, I view the following four attributes as both sufficient and necessary for a situation or behavior to constitute corruption:

1. *Involvement of a political decision-maker*

The first attribute of corruption is that it involves a political decision-maker. This can be any public official, who is representing the state or a political organization in the course of fulfilling her duties and responsibilities, and either has decision-making power, can influence the outcome of a decision, or has set up expectations that she would be able to so.

2. *Who has violated the regulations or norms governing the public office*

Second, the public official has violated the laws or the social norms that govern the exercise of the official's position. By social norms, I mean the commonly accepted expectations and principles that society considers to be appropriate forms of behavior (Ostrom, 2008, pp. 819–848). It is less about establishing what these norms are, but about identifying whether, and if so how, any actor violates such norms. As a rule of thumb, if a reasonable person considers that a political decision-makers has violated these norms, a situation or behavior is corrupt, under the conditions that it also fulfills the three other attributes as well. Violating the norms of office, therefore, is broader than the legal criteria, as it also includes instances where no laws were broken (Thompson, 1993). Such violations are, for instance, excluding individuals or groups from processes or systems, despite them having a commonly accepted claim to be included in said processes or systems (Warren, 2004). In other words, the official's behavior violates one of the basic tenets of democracy—that laws and regulations are implemented impartially (Cupit, 2000; Rothstein & Teorell, 2008, pp. 165–190).

3. *The official receives some kind of compensation*

The third attribute that a situation or event needs to possess to constitute corruption is that the public official receives compensation for his behavior in some form, not necessarily financially. Especially in more established democracies, a direct exchange of goods or services for cash is rare (Johnston, 2005). Instead, benefits take on more indirect forms, such as campaign contributions, fully paid vacations or by increasing the public official's status or prestige (Nye, 1989, p. 966; Transparency International, 2009, p. 39).

4. *The situation or act harms the public's interest*

Corruption's fourth attribute is likely the most debated one since the 'public's interest' can be interpreted in a variety of ways. I follow Lessig's (2013) view that an act as having harmed the public's interests if it weakens the effective functioning of a state's entities. This notion is also closely related to Rothstein and Teorell's (2008) emphasis that the violation of the democratic principle of impartiality harms the society. Harming the public's interests can, therefore, also occur if an act or situation undermines the efficacy of the democratic process (Thompson, 1993; Thompson, 1995).⁴

While these four attributes provide some conceptual clarity, the problem of identifying changes in corruption still remains. Even though there exist a multitude of corruption typologies or almost typologies (see, for instance, Heidenheimer, Johnston, and LeVine (1989) and Søreide (2014) for an overview), they are not able to differentiate and categorize a larger variety of corruption forms, while simultaneously capturing changes in corruption dynamics in a country over time. One exception is Graycar's (2015) TASP-framework, which allows researchers to categorize any corruption case

⁴ Another reason for including this attribute is that corruption that affects the public utility sector or social welfare has particular pernicious effects on the public.

based on the *type* of corruption involved, the *activities* used to achieve it, the *sector* in which it took place, and the *place* where it occurred. However, the framework was developed to capture corruption at the lower levels of bureaucracy and not for corruption cases involving members of the national political and economic elites of a country. But in contrast to other typologies, by distinguishing between corrupt activities and corrupt outcomes, the TASP framework is suitable to get to the specific causal mechanisms through which actors operate. I take therefore Graycar's (2015) typology, in particular the distinction between types and activities, as a starting point, to expand the idea behind 'patterns of corruption'.

Identifying of 'Patterns of Corruption'⁵

'Patterns of corruption' refers to the *prevalent configuration of types and activities of corruption that actors (e.g., individuals, organizations, or institutions) employ in a place (e.g., market sector, federal government, municipality, or other state entities)*. To keep the research manageable and not overextend the usefulness of the concept, I only focus on corrupt activities that lead to corrupt outcomes, excluding situations where corrupt activities lead to non-corrupt outcomes and non-corrupt activities lead to corrupt outcomes. Moreover, 'patterns of corruption' focuses just on two fundamental questions: 'what happened?' and 'how was it done?'.⁶ Table 2.1 summarizes the definition of patterns of corruption.

⁵ The inspiration for framing my typology in terms of patterns comes from Gutiérrez-Sanín & Wood (2017).

⁶ While the questions of 'who is involved?', 'where?', and 'how long?' could have been included, adding any of these three dimensions would not have added enough theoretical clarity to offset the risk making the framework too complex. Take for instance of 'where?' a type of corruption has occurred. While some types of corruption are closely associated with a particular state entity or process, others are more general; if needed, such a distinction is therefore made captured in the definition of a particular type or activity. Similarly, several activities can be carried out by various actors in different circumstances.

Table 2.1: Explanation of 'Patterns of Corruption'

| Dimension | Definition | Examples^a |
|------------------|--|--|
| Type | What happened? What are the (desired) outcomes? The prevalent kind of corruption that occurs in a place. | Local Capture, Legal Corruption, Covert Political Finance, ... |
| Activity | How actor(s) carry out corruption. The means to an end. Asking 'how can you achieve intended outcomes noted above? (type of corruption)' | Patronage appointment, Perverting the course of justice, Extortion/ Solicitation of a bribe, Extortion/ Solicitation of campaign contributions, covert lobbying, providing information not intended for the recipient (insider information), ... |

Note: ^aI will explain more about the various types of corruption below.

Types of corruption refers to the desired corrupt outcome of actors. The attribute 'desired' is based on the assumption that actors are behaving mostly rationally.⁷ Actors choose the desired type of corruption based on several factors including the general political and economic environment in which they operate, their main objectives, and the opportunity structure they face. By opportunity structure, I mean the incentives and constraints that guides actors' behaviors by informing their cost-benefit calculation under conditions of uncertainty⁸. Last, the corruption types have different underlying dynamics and thus, various corrupt activities can lead to the same type, while the same activity can lead to multiple corruption types. The identification of an activity, therefore, makes no predictions about the type of corruption resulting from it and vice versa.

Actors select *corrupt activities* (i.e., the "how") based on their desired outcome (narrowly, the type of corruption, but more broadly their overarching objectives), the institutional environment surrounding them, and their resources. As such, while actors might have the same desired outcome and operate within similar environment, their means to achieve a desired objective might differ drastically, resulting in the selection of different corrupt activities.

⁷ I assume that actors are rational in the more informal sense of having a set of objectives that they want to achieve, and that they will follow the most efficient strategies to achieve them. For example, I assume that politicians are focused on their (re)election while economic actors' objective is to maximize income.

⁸ More on this in the section on 'State-Business Relationships'.

The variety of paths that link corruption types and activities complicates any attempts of making theoretical predictions. As the following presentation on the type of corruption and the likely activities leading to them shows, several corrupt activities can be used to achieve multiple corruption types. The definition, aims, and core attributes of each corruption type are summarized in Table 2.2.

Table 2.2: *Main corruption types and their activities*

| | Covert Political Finance | Legal Corruption | Local Capture |
|----------------------------------|---|---|--|
| Definition | a situation where political actors seek funding for some cause through intransparent channels. | established democratic channels and procedures are used to exercise undue influence on the policy-making process and so harms democratic procedures or principles (Lessig 2011; Mulcahy 2012, 10; Rothstein and Teorell 2008; Thompson 1993, 369). | the capture of either specific state procedures or organizations by actors. The former capture can result in political actors gaining control over a particular public procedure and so controlling the distribution of state assets. The latter refers to the situation where political or economic actors manage, or attempt, to get control over one or a few state entities. |
| Aim | To acquire resources (e.g. in cash or in kind) with as few commitments as possible in exchange, and where the acquisition remains hidden from the public and even other political or economic actors. | To operate within a country's laws and regulations to exercise their influence on the state's institutions and actions (Johnston 2005). | to subvert the effectiveness of a state agency or procedure so that it is beneficial to a selected group of actors |
| Attribute 1 | the political actor has the power to offer nothing or just a few general concessions in exchange for a contribution, | it is either legal or falls into the gray areas of the law, | it is done by political and/or economic actors that manipulate a state procedure or agency to work in their favor, |
| Attribute 2 | the financing of a political cause occurs through channels that disguise, or at least attempted to disguise, the origin of the resource and/or its recipient, | the public official receives his/her benefits indirectly, either through campaign donations or in the form of prestige or status increase, | the functioning of the captured entity is now violating either the principle of impartiality, in the case of state agencies or harms the public's interests, in the case of capture of a procedure. |
| Attribute 3 | the political actor refuses to, or at least makes it unnecessary difficult, to disclose the origins of its funding | the economic actor receives a benefit, or increases its chances of receiving a benefit, to which they have a claim anyway, | the capture benefits a few actors at the expense of other actors with a right of inclusion. |
| Attribute 4 | excludes others that have a right to know about such a transaction. | the way the exchange took place is considered to be illegitimate by a majority of people (Mulcahy 2012; Thompson 1993, 369). | it breaks with previously established regulations and norms for such processes, |
| Common Corrupt Activities | Covert lobbying, embezzlement, reliance on personal and/or professional connections, exploiting or soliciting a bribe, lack of implementation and/or enforcement of rules and procedures improving greater transparency and/or accountability | Covert lobbying, creating or exploiting conflict of interest situations; reliance on personal and/or professional connections, exploiting or soliciting a bribe, lack of implementation and/or enforcement of rules and procedures improving greater transparency and/or accountability | Patronage appointments, perverting the course of justice, covert lobbying activities, exploiting or soliciting a bribe, providing inside information, reliance on personal and/or professional connections. |

The first type of corruption in the framework is *covert political finance*, referring to a situation where political actors seek funding for some cause through nontransparent channels. The main objective of the recipient is to acquire resources (e.g., in cash or in kind) with as few commitments as possible in exchange, and where the acquisition remains hidden from the public and even other political or economic actors. Its key attributes are therefore that (a) the political actor has the power to offer nothing or just a few general concessions in exchange for a contribution, (b) the financing of a political cause occurs through channels that disguise, or at least attempt to disguise, the origin of the resource and/or its recipient, or (c) the political actor refuses to, or at least makes it unnecessary difficult, to disclose the origins of its funding, and that in either case, such corruption (d) excludes others that have a right to know about such a transaction. It is very closely connected to legal corruption and state capture but differs in its aim. Corrupt activities that lead to it are:

- Various activities that can be subsumed under the term Covert lobbying⁹
- Embezzlement
- Reliance on personal and/or professional connections
- Exploiting or soliciting a bribe¹⁰—the difference lies in the power balance between actors in an exchange.

⁹ Lobbying, in general, refers to any activity that is "carried out to influence a government or institution's policies and decisions in favor of a specific cause or outcome" (Transparency International, 2009, p. 29). Covert lobbying activities, however, focus on remaining hidden and unregulated (Mulcahy, 2012, p. 27) and so harm the democratic process as they hinder citizens and other interest groups to know *who* is influencing *how* the policy-making process on *what* issues (Mulcahy, 2015, p. 8). Examples of covert lobbying activities are 'revolving door', referring "to the movement of individuals back and forth between public office and private companies, in order to exploit their period of service to the benefit of their current employer" (Mulcahy, 2012, p. 30) or influence-peddling, where private interests use their larger financial power to shape the institutional framework in their favor (Fisman and Golden, 2017, p. 44).

¹⁰ In contrast to the aforementioned 'covert lobbying activities', the emphasis in this activity is on a one-time exchange, where monetary resources are exchanged for goods or services the bribe-giver would otherwise not receive.

- Lack of implementation or enforcement of rules and procedures that would provide greater transparency to interested citizens and interest groups
- Lack of implementation or enforcement of rules and procedures that would require greater accountability of political actors to interested citizens and interest groups

The second corruption type is *legal corruption* where established democratic channels and procedures are used to exercise undue influence on the policy-making process and so harms democratic procedures or principles (Lessig, 2011; Mulcahy, 2012, p. 10; Rothstein & Teorell, 2008; Thompson, 1993, p. 369). Legal corruption is, for instance, what happened around the 2012 World Cup hosted by Brazil. Before then, Brazil had a strict no-alcohol rule in its football stadiums, knowing that football and alcohol is a bad combination, especially as Brazil had the highest number of football related deaths of any nation between 2001 and 2010 (Chappell, March 7, 2012). FIFA, the international football association that holds the World Cup, pressured the Brazil government to legalize alcohol consumption in the stadiums during the Word Cup (Sanders, June 11, 2014). Or as one of the FIFA top-officials put it brazenly: "Alcoholic drinks are part of the FIFA World Cup, so we're going to have them. Excuse me if I sound a bit arrogant but that's something we won't negotiate" (Chappell, March 7, 2012).

The aim of actors is not to intentionally violate a nation's laws, even though this might happen, but to operate within a country's laws and regulations to exercise their influence on the state's institutions and actions (Johnston, 2005).¹¹ What matters is that (a) it is either legal or falls into the gray areas of the law, (b) the public official receives

¹¹ But as the example of FIFA and Brazil's alcohol ban shows—such an influence might just be about changing laws so that actions will not further violate laws.

his/her benefits indirectly, either through campaign donations or in the form of prestige or status increase, (c) the economic actor receives a benefit, or increases its chances of receiving a benefit, to which they have claim anyway, and (d) the way the exchange took place is considered to be illegitimate by a majority of people (Mulcahy, 2012; Thompson, 1993, p. 369). The issue is, therefore, one of lack of accountability or even impunity of the involved actors (Kaufmann & Vicente, 2011, 195-219; Wedel, 2014) and less of a clearly identifiable violation of laws. Examples of common activities that result in legal corruption are:

- Covert lobbying
- Creating or exploiting conflict of interest situations
- Reliance on personal and/ or professional connections.
- Lack of implementation or enforcement of rules and procedures that would provide greater transparency to interested citizens and interest groups
- Lack of implementation or enforcement of rules and procedures that would require greater accountability of political actors to interested citizens and interest groups

The third type of corruption is *local capture*, referring to the capture of either specific state procedures or organizations by actors. The former capture can result in political actors gaining control over a particular public procedure and so controlling the distribution of state assets. The latter refers to the situation where political or economic actors manage, or attempt, to get control over one or a few state entities. The aim of both modes is to subvert the effectiveness of a state entity or procedure so that it is beneficial to a selected group of actors by allowing them to either shape the creation or at least the implementation of laws and regulations.

Consider the U.S. Security and Exchange Commission (SEC), which has a steady exchange going on between its employees and the senior members of the firms the commission is tasked with regulating. When in 2012, the chair of the commission pushed for a tighter regulation of the money market funds, a move strongly supported by several former chairmen of the commission as the money market funds were one of the major triggers of the 2008-2009 financial crisis, former SEC employees played a crucial role in lobbying the SEC to withdraw the proposal. One of these former employees was Laura Unger, a past SEC commissioner who even held the position of acting chairman of the commission for a short time. By 2012, however, she was a special adviser to the consulting firm Promontory Financial Group, which in turn, worked for Fidelity Investments, one of the dominant players in the industry (Project on Government Oversight, 2013).

The case highlights one of the major danger of local capture; namely, the potential of violating the democratic principle of impartiality by undermining agency's independence in the impartial fulfillment of its duties. Thus, among the key characteristics of local capture are that (a) it is done by political actors to manipulate a state procedure or agency to work in their favor, (b) the functioning of the captured entity is now violating either the principle of impartiality, in the case of state institutions, or harms the public's interests, in the case of capture of a procedure, and (c) the capture benefits a few actors at the expense of actors with a right of inclusion, and (d) it breaks with previously established regulations and norms for such processes. Some of the corrupt activities that can lead to local capture are:

- Patronage appointments
- Perverting the course of justice
- Covert lobbying

- Exploiting or soliciting a bribe
- Providing inside information
- Reliance on personal and/or professional connections.

In addition to these three main types of corruption, established research on corruption in the CEE countries also revealed three additional types of corruption—*Corruption involving the Sale of Public Assets*, *Public Procurement Corruption*, and *State Capture*. The first two involve corruption in the process of selling or purchasing of public goods. The third type is about a far more excessive capture of policies, procedures, and state agencies. While these are common types of corruption in the CEE countries, I consider them all subtypes of local capture because they are either specify what procedure or state agency has been captured or are a larger, more far-reaching version of local capture. In the case of state capture, the main distinction is the number of state agencies that have been captured. The moment at which local capture evolves into state capture is fluid; what matters is that at some point all of the key agencies of the state apparatus have been captured by a group of actors for their own benefits. In the case-studies, I will note in the case of local capture, whether one of these three types has occurred.

To summarize, I view a situation or behavior as corruption when it fulfills all four attributes: a) involves a political decision-maker, b) the behavior violates established norms norms and/or formal laws and procedures, c) the official receives some kind of remuneration and d) the actions harmed the public interest. As current typologies on corruption are not well suited to capture *changes in the forms of corruption*, I then present the framework of ‘Patterns of Corruption.’ Here, I differentiate corruption forms by examining whether they achieve a particular outcome, that is, are a *type of corruption* (What happened?), or whether they are a channel to generate an outcome, that is, are an

activity of corruption (How did it happen?). Based on a survey of the existing theoretical and empirical research on corruption in the CEE countries, I identified three common types of corruption (Covert Political Financing, Legal Corruption, and Local Capture), established their causal attributes, and discussed some of the likely activities that generate a particular type of corruption.

Explanation of ‘State-Business Relationships’

State-business relationships encapsulate a broad spectrum of ties between a diverse set of actors. Broadly, I refer to the longer-term connections between political and economic actors. Actors are the main agents in the political and economic dimensions.¹² The particular interactions of interest are any exchange of resources between political and economic actors that allows them to pursue their particular interests at the expense of the public over a longer period. The exchange does not need to occur every time they interact, nor does it occur on a direct quid-pro-quo basis.

The core attributes of such state-business relations are the elements that shape the patterns of corruption in a country and are both necessary and sufficient to consider links between political and economic actors as corrupt state-business relations. First, as the term ‘relationship’ implies, the interaction refers to the complex interactions that go on over a longer period of time. While the particular time span is difficult to narrow down, I can say what is definitely excluded: a one-off interaction between political and economic actors in a highly structured, coordinated, and regulated environment.

¹² With political actors I mean individuals or organizations with the legal mandate to represent the interests of the public, such as current or former politicians at the national and local levels in the parliament, ministers and prime minister, the president, political parties and their factions, patronage appointees, and senior bureaucrats in state organizations. Economic actor includes any individual or entity that operates in the private sectors, such as firms, corporations, self-employed individuals, and state-owned enterprises. In short, the main distinction lies in the source of the actors’ power.

Second, the relationship is about the exchange of resources. This exchange does not need to occur every time they interact, nor does it occur on a direct quid-pro-quo basis. Also, the resources exchanged go beyond money, but can include access to state assets, the ability to introduce legislation or circumvent a regulation, provide knowhow and expertise, or entry to financial markets. Third, through this exchange the actors gain access to resources which are either restricted or the way they have been acquired has excluded actors that would had a right of inclusion. This element ensures that I focus only on relationships that involve corruption as viewed in this dissertation.

What shapes now the corrupt interactions between power and wealth? Assuming that the overall aim of actors is the driving force behind their behavior, economic actors will want to reduce uncertainty (Collins, Uhlenbruck, & Rodriguez, 2009, pp. 89–108; Markus & Charnysh, 2017, pp. 1632–1665; Winters, 2011), gain a competitive advantage through (almost) any means possible (Sadrieh & Annavarjulia, 2003, pp. 465–502) or a combination of both. Political actors will also want to reduce uncertainty about their future. They can minimize uncertainty by aiming to gain access to economic capital to finance their political campaigns and, in many newer democracies, to gain control over the state apparatus (Innes, 2014, pp. 88–104; Johnston, 2005; Mungiu-Pippidi, 2015; Yadav, 2011). In either case, under certain conditions that I will explain when presenting my argument, these aims create mutual interests between political and economic actors. Other factors shaping their interactions are the actors' opportunity structures, that is the incentives and constraints they face, which shape the actor's cost-benefit assessment, as well as the distribution of means between them.

With *incentives*, I refer to anything that motivates an action to behave in a particular way and are the product of an actor's environment and the behavior of its fellow actors in the field. For instance, incentives to form a state-business relation are

shared interests as either side can offer the other something of value, while incentives for corrupt behavior could be competitive pressures or access to a cash-cow, that is, a financially lucrative situation where actors have control over or access to valuable public resources. *Perverse incentives* are incentives that have unintended and undesirable consequences for the incentive makers contrary to their interests, such as it happened with the introduction of unconstrained competition in the CEE transition countries.

Incentives for political and economic actors to join forces and gain from a situation takes on various forms. One major incentive is the behavior of other actors in a market or an institution. Several business surveys found that managers deliberate about their competitor's behavior when deciding whether to employ corruption. Martin, Cullen, Johnson, and Parboteeah (2007), for instance, analyzed 3,769 firms operating in 38 countries and found that corruption by a firm's competitors has a significant positive impact on a firm's own propensity to employ corruption. Søreide's (2006) survey of Norwegian firms support these findings. In another survey done in 2006, out of 350 senior decision-makers at or near board level of international companies from Brazil, France, Germany, Hong Kong, the Netherlands, the United Kingdom, and the United States, 43 percent thought that they have lost new business opportunities to competitors in the last five years because of bribe payments by said competitor (Control Risks Group Limited & Simmons & Simmons, 2006). Incentives can also come in the form of a major influx of foreign aid and investments or the access to valuable public resources (said cash-cows). Having the right connections is another way incentives show up, as is having the right personal or professional connections, which increase the size of an actor's and so increases their options. As multiple studies have highlighted, an individual rarely has all these resources and powers under their control (see, for instance, Cartier-Bresson, 1997, pp. 463–476; Della Porta & Vannucci, 1999; Gambetta, 1993; Heilbrunn, 2005,

pp. 277–296). As a result, networks form where the participants take on the various roles that need to be filled. This may be one reason for political and economic actors to join forces and establish longer-term relations.

In contrast to incentives, *deterrents* refer to those elements in an environment that constrain actor's behavior (North, 1992). In short, they are the specific elements in an actor's environment that determine the actor's expectation of success by shaping the cost-part of the cost-benefit equation. Notice that just because an actor has the incentives to employ corruption, depending on the deterrents in place, it might be impossible for them to succeed.

Common formal constraints are oversight agencies responsible for holding political and economic actors accountable, such as law enforcement, audit offices, civil society, media, and an independent judiciary. Having alternative options available, such as being able to report on a corrupt actor to the authorities, reduces the likelihood that economic actors will enter in a corrupt relationship with political actors significantly (Chen, Yaşar, & Rejesus, 2008, pp. 231–244). Also, regulations and their enforcement can be potential deterrents for corrupt behavior as studies on conflict-of-interest regulations, freedom of information laws, and lobbying regulations show. Informal deterrents are among others the prevailing social norms surrounding an actor (see, Fisman and Golden (2017) for an overview of recent works), but also include the behavior of fellow actors in a market. These actors are likely to profit from reporting any wrongdoings by a corrupt competitor to reduce the number of actors in their market (Heller, Kyriacou, & Roca-Sagales, 2016, pp. 681–701).

Means refers to the possible rent-generating resources each side has available.¹³ For political actors, their dominant rent-generating resource is their political capital that increases with their political power. Political actors that managed to concentrate their political power in the legislation can then deliver their promises they made to their donors (Yadav, 2011) or can shape the political processes by passing laws, appointing personnel, and approve budgets for state agencies. This goes beyond having a monopoly status over a resource, such as private information or policy-making decision-power (Johnston, 2005; Mungiu-Pippidi, 2015), but also include the ability to control the distribution of public assets or to deactivate the ability of oversight institutions to function properly (Jancsics & Jávör, 2012, pp. 62–99).

Economic actors' main resource is ownership which they utilize to accumulate economic power and increase their market share. Such market concentration in turn generates rents for the actor as it enables them to concentrate their efforts to influence the other side in the state-business relationship. Interlocking ownership structures between economic actors are an especially powerful resource:

Whenever one firm buys a stake in another firm or one individual owns two firms, ownership creates networks of firms. [...] 'Who owns what' links with 'who knows whom' to create a structure through which some individuals and organizations wield much more influence than others. (Schoenman, 2014)

Another major resource, especially for economic actors, and which strongly correlates to corrupt state business relations, is the existence of previous ties to political actors. Such ties represent political capital which those that have it will likely use, as Hellman, Jones, and Kaufmann's (2003) study of 22 transition economies found. Additional studies in transition economies (see, for instance, Collins et al. (2009) for

¹³ In broad terms, rents are a form of profit where actors do not produce any additional wealth.

India, Holtbrügge, Berg, and Puck (2007) for China, India, and Russia, and Malesky, Gueorguiev, and Jensen (2015) for Vietnam) support these findings. The relationship also holds in cross-national studies (Campos & Giovannoni, 2007, pp. 1–21) and even helps businesses in established democracies (Amore & Bennedsen, 2013, pp. 387–402) to substantially increase revenues.

Being able to draw on existing connections to policy-makers is such a valuable resource that it can even replace bribery payments (Campos & Giovannoni, 2007; Harstad & Svensson, 2011, pp. 46–63; Hellman et al., 2003). Economic actors that do not possess such an asset are likely to engage someone who has them, as the myriad of consultants, lawyers, lobbyists, or other intermediaries that are politically active on a firms' behalf suggest (Bayar, 2005, pp. 277–298; Drugov, Hamman, & Serra, 2014, pp. 78–99; Moody-Stuart, 1994). The benefit from such ties—even if through intermediaries—makes them a favorite rent-generating resource, as a host of studies on the lobbying industry in the United States and cross-nationally show (Bray, 2005, 112–137; Enns, Kelly, Morgan, Volscho, & Witko, 2014, pp. 289–303; Hacker & Pierson, 2010; Page, Bartels, & Seawright, 2013, pp. 51–73).

Political & Economic Competition

While competition refers broadly to the idea of a struggle between actors over scarce resources, to be of use in this research it requires more clarification. First, both political or economic competition refers to the ongoing struggle between actors that are operating within an environment. Second, the focus is on the increase in the numbers of *credible* opponents—that is, not the sheer number of actors matters but how credible they are in threatening the position of the leader. Third, political and economic competition are both broad terms for more specific phenomena.

Economic competition subsumes privatization and market liberalization.

Regarding privatization, it is difficult to explicitly define what privatization is in the case of the many transition economies (Zijlstra, 1997, pp. 3–4). It can refer to the narrow idea of a state off-loading its assets or broadly how much of the economic activity is controlled by the state. For this project, I consider as privatization:

any material transaction by which the state's ultimate ownership of corporate entities is reduced. This definition includes direct divestment by the state, divestment of corporate assets by government-controlled investment vehicles as well as the dilution of state positions in SOEs by secondary share offerings to the non-state shareholders. (Organisation for Economic Co-operation and Development [OECD], 2009b, p. 5)

Market liberalization then refers to those reforms that focus on removing restrictions on competition or are otherwise considered pro-business. Overall, I view economic competition as the space where economic actors compete against each other in a credible manner. Their relative power can be captured by the size of the market that an actor occupies as well as the number of credible competitors that also compete in the sector.

Studies of *political competition* have variously conceptualized it as the number of active political parties that compete with each other over votes. Others have pointed out that number of actors are not enough, but the relative power they have and whether they can establish themselves as credible alternatives matters as well (Alfano, Baraldi, & Cantabene, 2013, pp. 1–10). The idea of relative power is commonly captured by measuring the 'effective number of political parties' (Laakso & Taagepera, 1979, pp. 3–27), that is, those actors that actually pose a credible threat to the incumbent. And while this idea is a popular way to define political competition, several scholars have pointed out that it underestimates the role of small political parties that do not pose a credible threat but nevertheless play a major role in a stable democracy (Scarrow, 2006, pp. 619–639). Hence, Grzymała-Busse (2007), for example, emphasizes the inclusiveness of the

political system. Despite the justifiable criticism of underestimating the number of small political parties, the idea of ‘effective number of political parties’ (ENEP) still captures the causal attributes that are relevant for my argument. Political competition, both interparty and intraparty, then, is understood as the space where multiple political actors, posing a credible threat to each other, compete against each other. Both, their relative power as captured by parliamentary seat distribution and votes, and the overall number of political parties, thus, are the main characteristics of political competition.

Collectively, existing theoretical and empirical findings lead me to reassess the conceptualization of corruption, present the framework of ‘Patterns of Corruption’, and clarify what I mean with state-business relations. In the rest of the chapter, I will first discuss briefly the requirements for theory development to ensure the proper application of process tracing, before I delve into the details of the causal mechanisms through which the emergence of political and economic competition transforms the actors’ opportunity structures and thus determines the variation in corruption patterns.

Explanation of Process-Tracing

Process-tracing is not simply telling a good story, but an approach to systematically evaluate whether the evidence supports the theorized causal mechanism (Bennett & Elman, 2006, pp. 250–267; Checkel & Bennett, 2014, pp. 260–275; Collier, 2011, pp. 823–830; George & Bennett, 2005). One way this comes through is by identifying clearly the *entities* and their *activities* that drive a causal force along the path (Beach & Pedersen, 2013). Another way is its emphasize on *causal homogeneity*. Causal homogeneity refers to the assumption in process tracing that all cases in a population share the same causal mechanism (Beach & Pedersen, 2013). Due to this assumption, I

do not need to rely on a single corruption case or country to investigate the causal mechanism—allowing me to expand the universe of cases.¹⁴

As most causal theories in social science do not clearly specify *who* is doing *what*, the first step is to reconceptualize any causal theory into a testable causal mechanism, specifying clearly the entities in question and their behavior. Next, I disaggregate the proposed causal mechanism into its constituent parts. Each component is again theorized in terms of entities and their *activities* (labeled causal claims 1 to 3). In the following step, I derive propositions about what I should observe if the proposed causal mechanism operates as theorized.

The phrasing of the propositions and their larger causal claims allow me to clearly identify instances where the argument or parts of it are wrong in a case. However, two caveats are in order. First, disconfirming parts of the causal mechanism does not necessarily undermine the entire causal mechanism as the mechanism consists of several components. Second, process-tracing as employed in this dissertation follows an informal Bayesian logic “where we can never absolutely confirm or disconfirm a theory because of the uncertainty of the empirical world” (Beach & Pedersen, 2016, p. 170). In other words, finding disconfirming evidence for a proposition does not fully disconfirm the theory; instead, it drastically reduces our confidence in the theory. For the same reasons, however, I cannot be 100 percent confident in the causal relationship even if I find confirming evidence. This is why fully falsifying the theory will not be possible as confidence is not 0 or 100 percent but is found somewhere in-between.

In addition to the phrasing of the propositions and the causal claims, I am addressing potential concerns about falsifying the causal mechanism also by discussing

¹⁴ In chapter 3, I will discuss the process of case selection and justification in detail.

the kinds of evidence I should find. If I do not find the expected evidence for each proposition, the confidence in the proposition has been weakened.

As can be seen from the description, I am not engaging on a theoretical level with alternative explanations for the outcome in interest, even though methodologists have promoted process tracing's capacity to deal with competing explanations (George & Bennett, 2005). Despite the high likelihood that alternative explanations for social science phenomena are not mutually exclusive, a majority of these scholars still advocate creating mutually exclusive explanations. For example, Fairfield and Charman (2017) provide explicit guidelines on how to transform a set of nonrival explanations into mutually exclusive hypotheses (2017). Such an approach, however, would expand the number of testable hypotheses *ad infinitum* when applied for the various steps in a longer causal chain. Therefore, I will limit myself to considering only alternative explanation for key pieces of *evidence* and not for the *outcome* in question. This approach allows me to side-step the challenge of identifying and fairly treating all plausible alternative explanations, especially as they are likely to not only not be mutually exclusive (Zaks, 2017, pp. 344–362), but also that they can at various points in the mechanism overlap with my own explanation.

My Argument

Having clarified how I conceptualize political and economic competition and corruption patterns, I can now theorize about the mechanisms through which the causal force moves. As I explain in more depth below, I argue that the emergence of competition in the political and economic domain had unintended consequences. Instead of constraining opportunities to engage in corruption, their emergence transformed the actors' opportunity structures to engage in corruption. Political and economic actors now faced powerful incentives for and weak constraints against

corruption, encouraging them to form corrupt state-business relationships. Ultimately, the resource distributions within these corrupt relationships led to a change in the patterns of corruption. This change, however, did not occur by chance. Instead, they were the result of a systematic transformation in how political and economic actors engage with each other, specifically, how power is distributed in their relationship.

After discussing briefly the contextual conditions in which the theorized causal mechanisms takes place, I illustrate the argument in more detail by presenting the causal logic in three separate components. The first component, causal claim 1, draws on the existing literature to theorize how the emergence of competitive processes in politics and economy transformed the opportunity structure of actors to engage in corruption. Causal claim 2 then explores how this change in the opportunity structures of actors encourages them to establish corrupt state-business relations. Causal claim 3, the final part of the causal mechanism, draws on existing scholarship to probe deeper into the characteristics of these relations and establishes how the distribution of power between political and economic actors in a corrupt state-business relation determines the type of corruption that emerges. For each causal claim, I derive three propositions that take the case-specific context into consideration.

Contextual conditions

At this point, it is relevant to address briefly the contextual conditions in which the transformation of corruption patterns occurs. In essence, these are the main environmental elements in which the emergence of competition took place, and which triggered the shift in corruption types and activities. I do not, however, propose that they are either necessary or sufficient for my causal mechanisms to take place. These factors will be addressed in the section on 'scope conditions' further below.

The first distinctive feature of the countries of interest are their shared communist past—whether institutional or cultural. First, the ‘shortage economy’ (Kornai, 1992) that existed during communism in the CEE countries fostered particular corrupt practices. As the term implies, shortage economies are characterized by an extensive shortage of goods and services across sectors that occurs repeatedly and shapes the behavior and actions of the people in the economy (Kornai, 1992, p. 233). Under these conditions, citizens developed their own informal networks that allowed them to circumvent regulations to acquire the necessary goods and services. By relying on personal and professional connections, instead of state institutions, the participants became socialized in some forms of corrupt practices and learned to circumvent official rules and procedures. Second, communism as a cultural legacy also shaped these societies.

A large body of research has documented the strong impact that culture has on corruption—whether captured through ethnicity, language, religion, geography, or historical legacy. These studies vary in their use of indicators for corruption and at the level of analysis (for a comprehensive overview see Fisman and Golden (2017), Marquette (2015), and Mungiu-Pippidi (2015)). Despite the extensive research on the link between culture and corruption, no conclusive answer has yet emerged on the topic apart from the knowledge that such a link exists. For the argument it is also not of such an importance; what matters is that by including a shared communist past, I control for a number of features that these countries shared, such as a one-party rule and a state-controlled market economy that is characterized by shortages.

The second contextual condition focuses on the change in the aims that actors experienced with the fall of communism and the introduction of inclusive institutions (Acemoglu, Johnson, Robinson, & Yared, 2008, pp. 808–842; North, 1990). One of the

foundational principles of democracies is the continuous contest among rival political actors to realize their interests. For political actors in these new democracies, this meant acting as (symbolic) representatives of groups of peoples and to compete over votes and resources. Their aims, therefore, shifted from fulfilling the communist party line to the hunt for votes. Economic actors went through a similar experience. The main aim of firms and their owners, as quintessential economic actors operating in a market society, is to maximize revenues (North, 1992, p. 10). This changed from fulfilling production quotas in a controlled economic market, to succeeding in open markets with an increasing number of competitors.

The third condition was the high levels of uncertainty associated with the transition. In such an environment, the emergence of intensive competition will affect corruption differently than when competition emerges in markets that are part of a stable regulatory framework with effective oversight agencies that provide the necessary security for actors to plan ahead. For instance, economic actors experienced a rapid increase in competition driven by extensive market liberalizations in the CEE countries and the ongoing privatization campaigns (Borish & Noel, 1996). And despite reforms having started already in the eighties in some of the countries, the countries still possessed weak economic institutions in the early nineties (Berg, 1994, pp. 165–188), especially surrounding property rights security, tax and customs enforcement, and access to credit lines, all of which were desperately needed by domestic economy actors, including state-owned enterprises (Li & Ferreira, 2011, pp. 371–376). Political actors experienced similarly high degrees of uncertainty as their linkages to society were weak, resulting in high electoral volatility (Bielasiak, 2002, pp. 189–210; Birch, 2003; Mainwaring & Zoco, 2016, pp. 155–178; Sikk, 2005, pp. 391–412; Tavits, 2005, pp. 283–298). And while high political competition, fostered by insecurity, is supposed to

constrain corruption (O'Dwyer, 2006; Vachudová, 2006), high levels of insecurity also shortened the time-horizon of actors and thus, increased the chances of them 'raiding' state resources as quickly as possible (Rose-Ackerman, 1999). In the end, insecurity and political competition have a significant impact on corruption, whether positive or negative depends on additional elements, which I will discuss in the following section.

Causal Claim 1

In this section I present my propositions for how the emergence of competitive processes in politics and economy transformed the opportunity structure of actors to engage in corruption. I suggest that the emergence of competition in politics and the economy has created considerable incentives for actors to engage in corruption, while it has done little to constrain them. For this, I draw on the relevant literature to investigate the channels through which competition transforms the incentives for and deterrents against engaging in corruption for political and economic actors, before presenting my propositions and the expected evidence.

The first channel focuses on the actors' incentives to engage in corruption. Existing research on the topic of competition and corruption identified two broad reasons for how and why the emergence of competition reshapes actors' incentives to engage in corruption: first, it motivates actors to violate established rules or norms, and second, competition might drive out actors that are unwilling or unable to participate in corruption.

In highly competitive markets, economic actors face tremendous pressure to succeed. Economic actors are therefore far more likely to circumvent the rules regulating a market when they believe that the costs of getting caught are low but the costs of not engaging in corruption are high. A large body of research, predominantly cross-sectional

studies, has identified competitive intensity as a major driving force for economic actors to employ corruption (e.g., Martin et al., 2007; Beesley, 2015; Clarke and Xu, 2004).

Another group of scholars reasons that firms that are unwilling or unable to participate in corruption are driven out (Bliss & Di Tella, 1997, pp. 1001–1023). Empirical support for this argument comes from Karlinger (2009), who finds in her empirical study on 45 OECD, transition, and developing countries from 1995 to 2000, that firms move into the underground economy when faced with intense market competition, especially in countries with low taxes, high corruption, and a poorer public service system.

Similar with intense political competition: political actors are more likely to engage in corruption when confronted with intense political competition as the pressure increases to collect more and more funds. Moreover, winning early elections means that the winner is able to set the ‘rules of the game’ and thus institutionalize rents.¹⁵

For one, one of the foundational principles of democracy is the continuous contest among rival political actors to realize their interests. In most democracies, this requires political parties to compete for votes and resources to gain these votes. An increase in political competition also means that more actors require even more funds to sustain their activities. Political actors need to establish themselves among a wide field of other possible candidates—all of them competing for votes, and this struggle for votes requires resources. This leads to a rise in the demand for more funds for electoral campaigns and the expenses related to the day to day functioning of parties (Austin & Tjernström, 2003; Bryan & Baer, 2005; Warner, 2007). Research on electoral behavior

¹⁵ A common example of institutionalizing rents in the postcommunist countries was the introduction of electoral reforms that favor the incumbents at the expense of the opposition Smilov and Toplak (2007, p. 24). Another example of institutionalizing political rents can be the way public funding for political parties are distributed (van Biezen, 2004, pp. 701–722).

suggests that in newly emerging democracies, electoral volatility is especially high (Mainwaring & Zoco, 2016; Powell & Tucker, 2014, pp. 123–147; Tavits, 2008, pp. 537–555), raising the stakes of the electoral arms-race even more.

Furthermore, with the emergence of a multiparty democracy in transition countries, political actors have the major task of creating a stable and inclusive political and economic environment. Political actors, or at least the electoral winners, controlled the creation of the legislative framework that would set the new rules of the game for many years to come. And with this came the risk of entrenching political or economic rents (Hellman, 1998, pp. 203–234; Innes, 2014; Vachudová, 2006, p. 14). The risk was especially high when countries started market liberalization slightly apart from transitioning to a pluralistic democracy (Grzymała-Busse, 2003; Tavares, 2007, pp. 1053–1076).

The second channel through which the emergence of competition transforms actors' opportunity structures occurs by transforming actors' constraints and thus their propensity to engage in corruption. Previous studies have identified three broad mechanisms through which competition can constrain an actor's ability to engage in corruption: (a) by increasing the risk of exposure, (b) by actors willingly self-constrain themselves, and (c) either by introduce best practices of corporate governance (in the case of economic actors), or by creating viable electoral alternatives (in the case of political actors).

Economic competition might deter corrupt behavior of an actor as its competitors would benefit from exposing it. Competition acts as a 'light beam' shining light on any wrong doings by competitors. The reasoning behind this is that economic actors would have incentives to expose any criminal activities of their competitors as such an exposure would weaken the competitor and might even allow a firm to gain market shares.

However, empirical studies find exactly the opposite—firms are unlikely to report suspicions of corruption by their competitors, even if they lost a business opportunity. For instance, in a survey of Norwegian exporters, Søreide (2006) found that while two-thirds of firms believed they have lost business because of corruption, the majority of them were unwilling to report it. In another survey of senior executives of 350 firms across seven countries, the majority of respondents reported that they would unlikely take any recourse in such cases of corruption, doubting the ability of the local law enforcements to adequately deal with such cases (Control Risks Group Limited & Simmons & Simmons, 2006). The same reasons were provided by respondents from the newer EU member states in a Special Eurobarometer on Corruption (European Commission, Directorate-General for Home Affairs, 2014). The respondents from the newer member states, in contrast to respondents from the old member states, were far more likely to believe that the main reasons why instances of corruption were not reported was that one does not want to get into trouble with law enforcement and that it hardly matters as such cases are already known (2014, p. 107).

In addition, actors' might willingly constrain themselves, recognizing that corruption costs them more than they are willing to pay. Firms might form business associations to represent their interests and protect them from extortion by the state (Doner & Schneider, 2000, pp. 261–288; Markus, 2007, pp. 277–304), or informally vow to not employ corruption.¹⁶ For instance, Collins et al. (2009) find that in India, firms whose managers belong to business associations, are less likely engaged in corruption than those firms where managers do not belong to any association. Despite

¹⁶ One famous example of economic actors coming together voluntarily comes from the extractive industry. The Extractive Industries Transparency Initiative (EITI), launched in 2003, works to implement global anti-corruption standards by, among others, the full publication and audit of company payments and government revenues from oil, gas and mining.

these positive findings, there are some indications that business associations in the CEE countries have not established themselves as strong anti-corruption mechanisms.

Third, a potential mechanisms through which increased market competition can deter corruption is through the entry of foreign firms and their introduction of best corporate governance practices (Kwok & Tadesse, 2006, pp. 767–785; Malesky et al., 2015). One line of argument suggests that foreign firms, especially those from OECD countries, are less likely to engage in corruption because of stricter anti-corruption regulations in their home countries. Circumstantial evidence for this argument comes also from the robust findings in the IPE literature that ownership of firms, especially whether foreign owned, de novo, or former SOE enterprises, plays a significant role in the extent to which economic actors engage in corruption (see, for instance, Clarke & Xu, 2004; Hellman et al., 2003).

Two CEE-specific features, however, make the third mechanism an unlikely candidate for deterring corruption in the countries in question during the early nineties. For one, at that time there existed only one major anti-corruption legislation with international reach (the American Foreign Corrupt Practice Act, prohibiting any firm that operates on U.S. soil to bribe a foreign official). In addition, while the political economy literature found that variation exists in the propensity of firms to engage in corruption depending on their ownership structure, these works viewed corruption as equal to bribery. The studies thus, neglected to examine whether these firms were engaging in other corrupt activities, such as bid-rigging, collusion, or price-fixing (see, for example, Campos & Giovannoni, 2007; Kaufmann & Vicente, 2011).

Turning again to competition and actors in politics, we find that while there is the potential for similar constraints, these constraints were again ineffective due to context-specific features. Previous research suggests several reasons for why political

competition—within or across political actors—is supposed to constrain actors’ behavior (Dahl, 1966). First, with the emergence of more political actors, the risk of exposure of wrongful activities by political actors increases (Balán, 2011; Emerson, 2006, p. 195). An increase in political competition therefore allows parties to monitor each other’s behavior (Bauhr & Nasiritousi, 2012, pp. 541–566; Berliner, 2017, pp. 641–661). Because of wanting to win votes and resources, political competitors have reasons to monitor the actions of other political parties and so deter each other from institutionalizing a rent-seeking system (Vachudová, 2006, p. 15). Another way that political parties can constrain their own, and their competitors’ corrupt behavior is by strengthening the capacities and powers of oversight agencies. One panel study on the U.S. finds a strong positive relationship between the resources available to the public prosecution and the number of corruption convictions (Alt & Lassen, 2014, pp. 306–338). It is therefore not surprising that increasing the available resources of the public prosecution, judiciary, law enforcement, and others state agencies is a commonly proposed anti-corruption initiative (Austin & Tjernström, 2003; OECD, 2009b; Speck & Baena Olabe, 2013). The situation in the early years of the transition, however, did not indicate that oversight mechanisms and agencies were a priority. What little legislation relevant to corruption existed was rarely enforced (Berg, 1994, p. 166; Zijlstra, 1997), following the communist tradition of strict anti-bribery laws but little enforcement (Hankiss, 2002, pp. 243–259).¹⁷

¹⁷ Of course, there is the potential that political competition does constrain actors but we might not know about it. For one, parties could be more likely to collude with each other in the distribution of political rents, or, that even if they monitor the corrupt behavior of their opponents, they do not publicize any potentially damaging material they have about each other and instead might use it as campaign munition (Heller et al., 2016, pp. 681–701; Ledeneva, 2006).

Second, an increase in political competition also constraints actors as it offers voters electoral alternatives, giving them the option to elect non-corrupt political parties (Schleiter & Voznaya, 2012, pp. 1–20; Shleifer & Vishny, 1993, pp. 599–617). This is especially likely when linkages between political parties and voters are not yet strong, as is the case in young democracies, where political parties have not yet established their credibility (Keefer, 2007, pp. 804–821). Except in the CEE countries, political parties were hardly able to offer a plausible alternative as they were limited in what they could offer programmatically, and instead had to compete over operating styles (Innes, 2002, pp. 85–104). Combined with the higher levels of distrust and skepticism in political parties by citizens (Mishler & Rose, 1997, pp. 418–451; Rose, 1994, pp. 18–30), and the repeated claims of corruption that occurred throughout the transition, voters had little faith that any one party could act as a plausible alternative.

Third, with an increase competition, political actors in power might willingly constrain themselves, in order to constrain future government's ability to act corruptly. For instance, Berliner and Erlich (2015) examined the passing of access to information laws in 31 Mexican states from 2001 to 2007. The authors find that political actors are more likely to pass such laws when they faced more intense political competition, *ceteris paribus*. Their study is part of a larger literature that argues that under conditions of intense political competition, actors are more likely to introduce reforms that constrict their own powers (Alt, Lassen, & Rose, 2003, 30-57; Geddes, 1994). Why? Because such self-restricting reforms also restrict the actions of their political opponents, limited their ability to abuse their powers. In a comparative study of nine postcommunist countries, robust political competition turned out to be the deciding factor for whether political parties willingly constrained their actions and established oversight institutions (Grzymała-Busse, 2006, pp. 271–300).

Overall, the larger theoretical and empirical literature suggests that competition should have had a deterring effect on corruption. This stands in sharp contrast to the continued presence of corruption in the CEE countries, despite the dramatic increase in competition in these countries after the transition (also see figure 1.1). The experiences of these countries hints instead at a much darker picture where the emergence of competition has created strong incentives for engaging in corruption while simultaneously undermining existing constraints for such behavior.

To explain this discrepancy, I propose that the emergence of political and economic competition at the national level transforms the opportunity structure of actors in favor of actors engaging in corruption. From this causal claim 1, derive three case-specific propositions. In other words, I suggest that the emergence of competition in the political and economic domain (a) transforms the opportunity structures of actors in favor of corruption, (b) undermines the effectiveness of existing deterrents against corruption, and (c) develops few new deterrents against corruption.¹⁸ These three propositions are presented in table 2.3.

¹⁸ I have not included a proposition about any effective deterring impact that the emergence of competition had on corruption in the countries as this is not part of the theorized causal mechanism. This does not mean that such positive effects did not occur, just that they are not part of the causal story for now.

Table 2.3: Presentation of Causal Claim 1 and its three propositions

Causal Claim 1: Emergence of competition transforms opportunity structures to engage in corruption for political and economic actors

- P1 Emergence of Competition encourages political and economic actors to engage in corruption, or more broadly, violate established norms and regulations.
- P2 Emergence of competition weakens existing constraints on corruption.
- P3 Emergence of competition develops few new constraints on corruption.

To support my first proposition about the increased incentives to engage in corruption and other deviant behavior, I would ideally find accounts in interviews and other sources emphasizing that actors were willing to engage in corruption and that political actors also desperately searched for funding. Evidence for the second proposition about competition weakening existing corruption deterrents should show up in the historical accounts and statements about a limiting of powers and reduction of resources for existing oversight institutions. For my third proposition about competition not introducing new deterrents, I expect to encounter only a few traces about the introduction of constraints to the corrupt behavior of actors. And even if I find such initiatives, I expect to find that they have rarely been implemented. In the case of political actors, such evidence would come in the form of laws and regulations focusing on reforming the larger party system.

In line with existing literature, I therefore suggest that the emergence of competition transformed the opportunity structures of actors. Competition, I suggested, generated far more incentives for actors to engage in corruption than it created deterrents. Given the contextual conditions of high insecurity and the transition of the political and economic domains, the emergence of competition created a situation where incentives for corruption far outweighed the effect of any deterrents, thus, tilting the favor towards corruption.

The counterfactual to the first claim about the emergence of competition at the national level in politics and the economy transforming the actors' incentives for and constraints against engaging in corruption would then be the continued absence of said competition. Without the emergence of competition in both areas, the existing corrupt practices would have continued as competition triggers the needed change in the actors' opportunity structures.

Causal Claim 2

With the change in the opportunity structures of actors (claim 1), political and economic actors are encouraged to establish corrupt state-business relationships. Causal claim 2 now focuses on how the constellation of incentives and constraints encourages actors to enter into corrupt state-business relations. In particular given the contextual conditions of high uncertainty, communist past, and a change in the actors' aims, I predict that in the emerging arrangement of incentives for and deterrents against corruption, the former outweigh the latter dramatically, thus encouraging actors to form corrupt relationships. Just as before, I first review the relevant literature for this claim before presenting my propositions: (a) political and economic actors have mutually compatible interests, (b) they face few constraints for their corrupt activities, and (c) the existing control mechanisms are not able to deter the formation of corrupt state-business relationships. At the end, I briefly describe the kinds of evidence I expect to encounter.

Economic actors, driven by a change in their constraints and incentives, have several options available to them to achieve their aim of revenue maximization. They can expand into other markets, go underground (Karlinger, 2009), or strengthen their hold over their market positions or property rights. The latter especially can be achieved by focusing on political decision-makers, who have the power to change the legislative framework or its enforcement (Boehm, 2007, p. 3). Such corporate political activities are

a strategic tool in a firm's arsenal on 'weapons' to employ. They are a common tactic in established market democracies and in transition economies and can take on multiple forms, not all of which are legal and/or legitimate.

Another reason for economic actors to form state-business relations with political actors are pre-existing ties to policy makers. Such connections form another 'tool' and can be viewed as a kind of political capital of economic actors that lowers transactions costs (Boehm, 2007). In their seminal study of 22 transition economies, Hellman, Jones, and Kaufmann (2003) find that the firms' use of existing political connections replaces bribe payments to policy-makers.

Such business connections also benefit political actors (Smilov & Toplak, 2007, pp. 17–18) as new political parties in the transition countries needed resources to attract voters. Funding sources for political actors can be broadly grouped into three categories: state subsidies, membership dues, or campaign contributions. But for the new political parties in the transition countries, most of these funding sources did not provide enough income, leaving them heavily reliant on a highly-limited pool of funding sources (Austin & Tjernström, 2003, pp. 75–77).

Consider, for example, the income from membership dues. Income from membership fees has been declining across the established democracies (van Biezen & Kopecky, 2001, pp. 401–429), and never really established itself as a reliable income source for parties in transition countries (Austin & Tjernström, 2003, pp. 75–77; Walecki, 2007, pp. 123–142). Moreover, while most of the postcommunist countries introduced some form of state subsidies (van Biezen & Kopecký, 2007, pp. 235–254), they are often not enough to cover parties' expenses (Smilov & Toplak, 2007, pp. 24–25). In addition, campaign expenses for political parties went up but state subsidies remained largely the same. Political actors, therefore, had to cover a larger and larger share

through campaign contributions, which generally ends up coming from economic actors (NDI, 2005, p. 10; Smilov & Toplak, 2007, p. 10). But even if state subsidies would be able to keep up with rising expenses, any political actor knows that their competitors have access to largely the same amount of funding, or at least is able to roughly estimate the amount the other side receives given eligibility criteria and allocation formula. To be able to outspend their opponents, political actors will look for additional funding (Pinto-Duschinsky, 2002, pp. 69–86).

Having new political parties turn to campaign contributions as their main source of income is in itself not corruption; as long as these contributions are transparent, regulated, and come from a large enough number of sources that the political actor is not dependent on a single contributor (Austin & Tjernström, 2003; Speck & Baena Olabe, 2013, p. 41). The issue is that this is not the case in the CEE countries where economic actors end up being the main funding source for political parties (Smilov & Toplak, 2007, p. 10). These contributions are rarely fully transparent, given the lack of oversight in place, and also not well-enough regulated to deter covert funding.

One additional issue with party financing from economic actors relates to the use of hidden channels. In many new democracies, expenses for elections have gone up, including illegal expenses such as vote buying, bribing officials, etc. As these expenses around illegal political tactics have gone up, so has the demand of political parties for more funds; and often parties prefer these funds to be covert so as to avoid having to declare them and account for their spending (Smilov & Toplak, 2007, pp. 16–17; Yadav, 2011).

Bringing these two sides together shows that when faced with increasing competition in their respective markets, political and economic actors develop mutually compatible incentives. Political actors' main concern, in particular at the early stages of

the transition, is to secure funding, as only with adequate funding the actors are able to strive to fulfill their larger aims, whether voter maximization or control over the state apparatus. What they can offer in return is direct access to policy makers. In contrast, economic actors have strong incentives to circumvent enforcement of existing regulations if they consider them cumbersome for business, introduce more beneficial policies, or gain access to credits and loans. To achieve any of these objectives, access to policy-makers becomes crucial. In return, they can offer political actors funding. Thus, parallel emerging competitive processes in politics and economics create mutually compatible interests for political and economic actors, summarized in table 2.4.

Table 2.4: Mutually compatible interests between political & economic actors

| Actors | Aims | Resources Exchanged | |
|---------------|---|---|---|
| | | Supply | Demand |
| Political | Maximize chances of (re-)election; Personal enrichment | Access to political decision-making process | Financial or non-financial resources |
| Economic | Maximize revenue | Resources, especially financial | Access to political decision-making process |

I want to stress that even though both sides having mutually compatible interests in establishing a corrupt state-business relationship, it does not necessarily mean that both sides equally gain from it. When one actor dominates the corrupt relationship, it might coerce the other side to participate in the corrupt exchange, especially if the weaker actor's alternative option is to exit its domain entirely.

Last, in addition to developing mutually compatible interests to establish a corrupt state-business relationship and potentially gaining from it, the corrupt actors face few effective deterrents. Political actors, for one, need to fear little from their competitors, as they experience similar pressures to acquire funds. When these competitors also engage in corruption to increase their funds, the likelihood increases

that both sides will tacitly accept each other's corrupt practices to continue their own corrupt activities (Heller et al., 2016). Such collusive agreements among political actors are one of the unintended side-effect of establishing party competition in these countries.

Second, several studies found that after first one or two elections, the winners of elections in former communist countries often tended to establish a pseudo-competitive electoral environment, where the country would continue to have elections, but the outcome would often be pre-determined. Through collusion in the background, these reform winners were able to manipulate the reform process for their benefits (Hellman, 1998; Hellman et al., 2003). Third, neither the civil society sector nor the media were effective deterrents for corrupt actors in the CEE countries in the nineties (Holmes, 2006; Mungiu-Pippidi, 2010). Civil society was not yet well-developed, at least, if measured by membership in voluntary organizations (Nałęcz & Bartkowski, 2005, pp. 163–187; Uhlin, 2010), and those that existed, paid little attention to corruption (Mudde & Kopecky, 2002). The media faced similar limitations. Broadcasting media, for one, remained state property for several more years (Lyman, November 27, 2014, A12; Örnebring, 2012, pp. 497–515). Meanwhile, print media became independent, but it had to compete for revenues in a tight market, just as any other economic actor (Jakubowicz & Sükösd, 2008). Moreover, both media sectors were still subject to political interference (Bajomi-Lázár, 2008, pp. 73–84), which means that reporting on such sensitive subjects as corruption involving the higher echelons of politics and the economy would have been discouraged.

Another major oversight mechanism that was ineffective in deterring corrupt actors from entering in a corrupt state-business relationship, has been the executive and

judicial authorities in the CEE countries.¹⁹ For one, the legal system underwent its own transformation. Law enforcement agencies and the judiciary both had their own problems. The transition countries faced a dramatic rise of organized crime groups in the nineties (Los, 2003, pp. 145–169). Several region-wide surveys and anecdotal evidence from that period suggest that both entities were themselves involved in corruption on a large scale and so could not be relied upon to constrain corruption in an adequate manner. Summarizing the results of several World Bank surveys as well as his own surveys in the region, Holmes (2006) concludes that law enforcement was perceived as highly corruption in nine out of the eleven post-communist countries investigated during the nineties (and moderately corrupt in the remaining two countries). Trust in the judiciary was only slightly better. Out of the eleven countries, in seven court officials, including judges, were perceived to be highly corrupt; again, in the remaining countries, they were considered to be moderately corrupt. This suggests that neither oversight agency would have been well-suited to deter political and economic actors from entering into corrupt relationships.

Because of their mutually compatible interests, political and economic actors had strong incentives to form state-business relations. Moreover, because of the lack of efficient control mechanisms, these actors had few deterrents that would have kept them from forming corrupt state-business relations. In other words, the resulting arrangement of incentives and deterrents encouraged political and economic actors to enter into corrupt state-business relations.

¹⁹ While in causal claim 1 I examine how the emergence of competition in the political and economic domain weakened existing constraints and hampered the development of new constraints against actors engaging in corruption in general, causal claim 2 examines how oversight mechanisms and agencies were ineffective in deterring political and economic actors from establishing a corrupt state-business relationship.

Under these conditions, political and economic actors confronted with powerful incentives for entering into corrupt relations and few constraints, it is hardly surprising that these actors established corrupt relations. Combining the findings of the theoretical and empirical works leads to the conclusion that the specific constellation of incentives and constraints encourages political and economic actors to form corrupt state-business relationships—the argument of causal claim 2. From this, I derive three propositions to test the claim: (a) the existence of mutually compatible interests among actors encourages them to form state-business relations, (b) that at least one side in the exchange benefits substantially from their corrupt relationship²⁰, and (c) control mechanisms are ineffective in deterring actors from entering into corrupt state-business relationship.²¹ Causal claim 2 and its three propositions are listed in Table 2.5.

Table 2.5: Presentation of Causal Claim 2 and its three propositions

| | |
|--|---|
| Causal Claim 2: The constellation of incentives and constrains encouraged political and economic actors to enter into corrupt state-business relations. | |
| <hr/> | |
| P ₁ | Mutually compatible interests encourage political and economic actors to enter into state-business relations. |
| P ₂ | At least one of the actors in the state-business relationship benefits substantially from their relation. |
| P ₃ | Control mechanisms are unable to deter actors to form corrupt state-business relations. |

In the absence of memorandums by actors recording their reasons for entering in a corrupt state-business relation, I should observe a combination of elements to substantiate the three propositions of the second causal claim. The first proposition

²⁰ Recall that in certain situations, the more powerful actor might coerce the other side to participate in the corrupt exchange, especially if the weaker side considers participation as the lesser of two evils (e.g., exit from a domain would be the alternative).

²¹ Proposition 1 suggests that actors have *interests* that encourage to work together. Propositions 2 and 3 then provide the conditions under which actors will *act upon* these interests.

requires evidence that actors from the political and economic domain enter into state-business relations, which are viewed as a long-term exchange of resources that are either restricted or the acquisition of these resources excludes actors that would have a commonly accepted right of inclusion. Evidence for the second proposition comes ideally from accounts about the profitability of said relationship but also by examining the resource exchange in the case studies and references in secondary sources. For the third proposition I should observe only a few attempts of constraining corruption through effective preventive or punitive anti-corruption measures. Such measures could be the introduction of effective new conflict-of-interest regulations or party financing legislation in the case of prevention or increasing the cost of getting caught by strengthening the laws and regulations related to corruption and investing in law enforcement and the prosecution by increasing their resources.

What remains is the question of how the corrupt relationship between political and economic actors now determines the type of corruption. To understand the internal dynamics of the corrupt exchange and how it determines the type of corruption, we have to look at the power distribution between actors next.

Causal Claim 3

In this section, I present the last part of the theorized causal mechanism. Causal claim 3 concentrates on how the distribution of power between political and economic actors in a corrupt state-business relationship determines the type of corruption that emerges. First, I develop causal claim 3, where I argue that the resource distribution between political and economic actors, especially the concentration of power each actor holds in their area, plays a crucial role in their (corrupt) exchange. Second, I present my propositions for causal claim 3 and the rationale for them. In essence, I suggest that covert political financing, local capture, and legal corruption are the result of a particular

arrangement of concentrated (or fragmented) political and economic power. Finally, I describe what kind of evidence I should find if the theorized causal claim holds.

When I previously explained my conceptualization of corrupt state-business relationships, I noted that political power concentration is a major resource for actors, but only hinted at the various advantages that can be achieved through it. As mentioned, gaining legislative control allows political actors to institutionalize their rents, meaning that it can create laws and regulations that favor the incumbent, among other ways.²² Another major asset that political actors gain by dominating the legislative making process is the control over the distribution of state assets (or purchase of goods or services for the state). Both areas can easily be abused as cash-cows, where those in control over the agency or procedure profit from their positions significantly. To ‘translate’ these cash-cows into personal gain, two additional steps are indispensable. For a political actor, having power allows it to influence the legislative-making process, have control over the distribution of state assets (and their purchase), as well as control oversight agencies and procedures tasked with keeping abuses of power in check. Concentration of power comes in degrees, thus, the more concentrated political power an actor has, the less other political actors can interfere with using this power for personal gain, thereby violating the democratic principles of impartiality and inclusion.

First, corrupt actors need to deactivate any internal and external control mechanisms that protect their targeted cash-cows. This can be achieved by taking over policy-making process and constructing a political system with in-built biases favoring

²² Admittedly, such behavior can be expected from any rational self-interested actor, and political actors act in accordance with their assumed larger aim to acquire votes and resources. Shaping the surrounding environment within one has to act to one’s benefit is not only common behavior, but it is, under certain conditions, also legal. But as discussed above, legal corruption is not about breaking the law but about exercising undue influence on the democratic process.

the incumbent (Smilov & Toplak, 2007, p. 24). Or actors can undermine the ability of such state agencies by manipulating appointments, cut budgets, or reduce their personnel (Jancsics & Jávör, 2012, pp. 89–90; Yadav, 2011, p. 48). On a smaller scale, deactivating controls can also focus on circumventing or manipulating the standard operating procedures set in place to constrain corruption.²³

Second, even once the political actors deactivate the control mechanisms, they still require additional actors with complementary skill sets to translate these resources into personal gains. These actors are economic actors, which have the necessary knowledge and capabilities to siphon off or launder money, avoid taxes, and generally keep any personal gains from being discovered by state authorities.

Here bargaining power comes into play—in situations where the economic actor is weak (e.g., enough other economic actors are able to provide the same goods or services) and has little ability to ‘walk away from the exchange’, the political actor can easily take advantage of their dependence. Weak economic actors are then in essence ‘tools’ for the political actors, open to exploitation. If the economic actor, however, has bargaining power, for instance by dominating a market to such an extent that the other side has no similarly capable alternative, it then can demand something in return for their goods or services. The concentrated economic power of the actor allows it to leverage it against any pressures coming from the political actor.

²³ Political power concentration does not necessarily mean that all political actors belong to the same party - they can also belong to a social network, unrelated, or not fully determined by party affiliation. Nevertheless, if the social network is coordinated enough, they still have the ability to translate state assets into personal benefits and circumvent or subvert oversight institutions. Heilbrunn (2005) provides an excellent illustration of such subversion of oversight agencies in his study on corrupt networks in France He analyzes how a corrupt network of political and economic actors can, under the guise of a respectable alliance, undermine the state agencies tasked with controlling the actors.

But what about a situation where the political actor is weak or fractured?²⁴ So far, I have theorized about the political actor as a political party but when the party has little concentrated political power, the individual politician within the party gains in relative strength. Once the political actor loses its political power, it move into a lower bargaining position in its relationship with the economic actor as it cannot provide the same levels of services anymore. Firms are then confronted with a situation where no political actor has enough political power to control the legislative-making process or deactivate control-mechanisms. The economic actor's options are therefore to enter into relationships with one or a few legislators and ask for a change in the *details* of policies, something a small number of legislators are far more likely able to deliver. Chances for success are especially high if the policies in question focus on issue-areas that are not of interest to anyone but those directly affected and/or are about complex and obscure issue-areas.

In summary, for causal claim 3, I suggest that the key factors determining the type of corruption that emerges is the distribution of resources, and therefore their power, between actors in a state-business relationship. Table 2.6 shows the three ideal resource distributions that can occur in a corrupt state-business relationship. While these are ideal scenarios which ignore that the resource distribution is in reality a matter of degrees, they do highlight the core element of the final part of my argument—depending on who holds concentrated power in their relationship has a significant impact on the type of corruption that will emerge.

²⁴ Weak political actor means either that the political actor is confronted with more competition, as it becomes one among many, or that there is an internal fracture or little internal cohesion implying that the political party cannot translate their formal political power into informal power (e.g., when individual legislators are not voting according to the party line).

Table 2.6: Presentation of Causal Claim 3 and its three propositions

| | | Political Power | |
|----------------|--------------|---|-------------------------------|
| | | Concentrated | Fragmented |
| Economic Power | Concentrated | Local Capture ^a | Legal Corruption ^b |
| | Fragmented | Covert Political Financing ^c | X ^d |

Note: ^aRepresenting proposition 2; ^cRepresenting proposition 1; ^bRepresenting proposition 3; ^dThe fourth quadrant remains empty as the constellation has not appeared in the CEE countries.

Each cell, therefore, indicates the predicted type of corruption given the distribution of power between political and economic actors. First, when political power is concentrated but economic power is weak, I expect to encounter examples of covert political financing. As a reminder, covert political financing takes place when the political actors are in the position to exploit the economic actor. In this situation, the economic actor is also unlikely to benefit substantially from the corrupt state-business relationship. Alternatively, when both actors have concentrated power in their domain, the likely outcome will be local capture, or one of its sub-types. Local capture requires the most resources as the political actor has to control a state entity, while the economic actor has to have the resources to entice the political actor to make use of its political power to the benefit of both sides. Finally, when political power is fragmented, but economic power is concentrated, the final type will be legal corruption.²⁵ Legal corruption aims to change the details in policies; a task that can be achieved by a small group of legislators. Enticing a few legislators likely requires fewer resources and is less costly than local capture, as individual politicians cannot counter the economic actors' power.

²⁵ The lower right quadrant remains empty as the arrangement of resource distribution has not been observed in the CEE region; in particular under conditions of weak political and economic power within an uncertain environment that has a cultural-historical legacy of communism and corruption.

What are some of the expected observable manifestations of these propositions? For the first proposition about covert political financing, I should find evidence highlighting the dependency of economic actors on political actors, that is evidence emphasizing the existence of a power-asymmetry in their relation. Moreover, the references will need to showcase that corrupt actors intentionally obscured, or at least attempted to obscure, the sources and final destination of their funding.

Evidence for the second proposition about the emergence of local capture, should ideally come in the form of accounts of capture as a valid political objective. Other observable manifestations that I should encounter if this proposition holds are the occurrence of significant number of patronage appointments at the highest and even middle management in state agencies once a political actor has accumulated a majority in the legislative-making body. Another indicator for local capture are accounts of formal oversight institutions criticizing state agencies for failing in their tasks or duties. In addition, I expect to find traces of a fruitful exchange between political and economic actors, that is an exchange where both sides obviously gain from their relationship.

To support the third proposition of fragmented political power confronted with concentrated economic power leading to legal corruption, I should ideally find accounts of other state agencies criticizing particular changes in the details of policies as benefiting a few economic actors or a particular industry, at the expense of the majority. In addition, evidence in support for this proposition can also come by tracing the language of a bill resembles the language put forward earlier by the economic actor or a business association in their reports or white papers.

Argument Roadmap

Together, the individual parts of the causal mechanisms provide me with nine testable case-specific propositions. In addition, I have also discussed the kind of evidence

that I should encounter if the causal mechanism and its individual parts have occurred as theorized.

The causal mechanism takes place under conditions of social-historical communistic legacy and high insecurity, where the large-scale regime transformation changed the aims of actors. In causal claim 1, the emergence of political and economic competition in such an environment transformed the incentives and deterrents for corruption of political and economic actors. The new arrangement of powerful incentives and weak constraints encouraged these actors to enter into corrupt state-business relationships, the argument of causal claim 2. Causal claim 3 focuses on the characteristics of such corrupt relationships and states that the distribution of power within the relationship determines the type of corruption that emerges. Table 2.7 illustrates the causal mechanism, including the nine propositions.

Table 2.7: Argument Roadmap

Causal Mechanism: Emergence of competition in politics and the economy transforms the opportunity structure of actors, resulting in changes in their interactions, leading to a shift in the Patterns of Corruption.

Contextual Conditions:

(a) communist legacy, (b) shift in the aims of actors, and (c) high levels of uncertainty

Causal Claim 1: Emergence of competition in politics and the economy transforms the opportunity structure of actors to engage in corruption.

P1 Emergence of Competition encourages political and economic actors to engage in corruption, or more broadly, violate established norms and regulations

P2 Emergence of competition weakens existing constraints on corruption.

P3 Emergence of competition develops few new constraints on corruption.

Causal Claim 2: The constellation of incentives and constraints encouraged political and economic actors to enter into corrupt state-business relations.

P1 Mutual compatible interests encourage political and economic actors to enter into state-business relationship.

P2 At least one of the actors in the state-business relationship benefits substantially from their relationship.

P3 Control mechanisms are unable to deter actors to form corrupt state-business relationships.

Causal Claim 3: The distribution of power between political and economic actors in a corrupt state-business relationship determines the type of corruption that emerges.

P1 Concentrated political power combined with weak economic power results in covert political financing.

P2 Concentrated political and economic power results in local capture.

P3 Weak political power combined with concentrated economic power leads to legal corruption.

The mechanism is obviously limited in its application, given the contextual conditions in which it takes place. This leads me to the last point in this chapter: the scope and limitations of my argument.

Limitations & Scope Conditions

The claims of the theorized causal mechanism should apply in countries experiencing regime transitions that meet three scope conditions ²⁶, based on the emphasis on causal homogeneity²⁷: (1) in a post-communist country, where (2) competition emerged in the political and economic domains, and (3) within a few years.

The causal mechanism is not expected to operate in post-conflict or post-colonial countries, or even in those post-communist countries that experienced more violent transitions (Bunce, 1999) as in these transitions, larger cleavages between the elites and mass population or even within the elites exist. In these situations, the emergence of competition is more likely to result in other kinds of corruption than those theorized here (see, for instance, Hale (2015) and Radnitz (2010)).

As in any research, some limitations apply. My attention on the why and how the emergence of competition determines corruption patterns in the CEE countries leaves several equally interesting questions unanswered. For instance, I am not addressing whether the patterns of corruption have changed in a similar direction at the subnational level, across all sectors in each country, or even across the CEE countries. Furthermore, given the scope and initial starting conditions laid out above, the argument does not travel well to countries outside a narrow set of nations. Despite that limitation, a thick explanation of a few cases contributes more to theory and especially policy-creation than a broader explanation of a larger number of cases. In particular, given the few success

²⁶ This is in contrast to the above discussion about the contextual conditions that described the conditions that trigger the causal mechanism.

²⁷ Causal homogeneity refers to the assumption in process tracing that all cases in a population share the same causal mechanism (Beach and Pedersen, 2013). Naturally, this assumption limits the number of cases in a population drastically; however, a trade-off that has its benefits.

stories of anti-corruption in comparison to the large number of failed anti-corruption efforts.

Conclusion

The chapter began with a discussion of main concepts of interests, particularly their definitions and causal attributes. In the case of corruption, I presented the framework of 'Patterns of Corruption' on which the subsequent case studies rely, as well as described the causal attributes based on which I can identify each type. I then discussed the definition of a corrupt state-business relationship and mentioned the resources each side has available to shape the relationship. I then briefly described how I employ process tracing in this dissertation before moving on to illustrate the causal mechanism.

To answer my research question of how and why competition transforms corruption patterns, I theorize a causal mechanism, which I split into three components for easier testing. Based on a review of existing literature, I specified each of the causal claims as well as derived several propositions for each claim. First, the emergence of competition in the political and economic domain transformed the opportunity structures, that is the incentives and deterrents, of actors in both domains to engage in corruption. Second, the new constellation of powerful incentives combined with a lack of effective deterrents lead to the formation of corruption state-business relations between political and economic actors. Third, the distribution of resources between the actors in such relations then altered the types of corruption. In the following chapter, I will discuss the research design used to test the proposed causal mechanism, describe how I can identify a phenomenon that is hard to define and even harder to observe, as well as present the data collection and analysis process.

CHAPTER 3

METHODOLOGY

The previous chapter began with specifying the concepts of interests that play a fundamental role in answering the research question of how and why the emergence of competition in the political and economic domain transformed the patterns of corruption in the CEE countries. For each of the key concepts—types of corruption, state-business relationships, and political and economic competition—I also presented their causal attributes for identification purposes.

At the end of the previous chapter, I developed an argument in answer to the research question. The emergence of competition transformed the opportunity structures of political and economic actors, which in turn encouraged actors to form corrupt state-business relationships. The actors' resource distribution within these state-business relationships then determines the type of corruption that develop. However, as this argument is not readily testable, I separated the argument into three parts, labeled causal claim 1, 2, and 3, framed in terms of *entities* and their *activities*. And while this approach is not yet common in political science, it does allow me to better trace the micro-mechanism that links the emergence of competition to a change in corruption patterns. How I trace the causal mechanisms is the subject of this chapter.

Chapter 3 starts out with a discussion of the case selection process—both at the country level and at the corruption case level. The section describes the reasons for why Poland and Hungary were selected. Political economists have labeled these two countries repeatedly as top performers in the CEE region, and expected a dramatic decline in the countries' corruption levels. As such a decline in corruption has failed to appear, these two present therefore exemplary test-cases. The section also describes the rigorous selection process for the corruption cases in each country. Following the case

selection discussion, I then explain how the data is analyzed. Specifically, I describe the research design, which aims to first establish that a systematic transformation of corruption patterns took place and second, trace the causal mechanism that links the systematic transformation of corruption patterns to the emergence of political and economic competition. In this section on the data analysis process, I also explain in detail how process tracing allows me to test the three parts of the causal mechanism. The chapter ends by outlining the data collection process employed. In particular, it describes how to recognize the key concepts in the real world, discusses the data sources utilized, and ends by addressing issues that arose during the data collection process.

Case Selection and Justification

Case selection occurs on two levels.²⁸ First, I select two countries from among the CEE countries. Second, I select from the corruption cases that have occurred within each country.

Country case selection.

My argument is about the impact the emergence of political and economic competition has on the transformation of the patterns of corruption in a country under conditions of high uncertainty with a historical-cultural communist legacy. For this, I

²⁸ In this thesis, I follow Beach and Pedersen (2016, p. 5) who define a case as "as an instance of a causal process playing out, linking a cause (or set of causes) with an outcome." This differs from Gerring's (2004) definition of 'case' as "a single unit" that belongs to "a larger class of (similar) units" as the focus is more on the underlying causal process that links the cause with the outcome. Beach and Pedersen (2016) point out that their definition of case "in practical terms of temporal and spatial scope and unit of analysis is then contingent upon the theoretical claim we are making. The scope of a case determines the bounds of what one is making a causal inference about. Therefore, the definition of 'case' is the unit in which a given causal relationship plays out, from the occurrence of the cause to the theorized outcome." (Beach and Pedersen, 2016, p. 5). The individual corruption cases are, therefore, my main units of analysis, whose transformation I am studying over time (by comparing selected corruption cases from different points in time) as well as across sectors. As the focus of the study is not on *how much* corruption has transformed, but *how competitive processes shaped it*, I am purposefully examining only instances where corruption cases have been discovered. I, therefore, focus more on the causal mechanism that shape a country's corruption dynamics—the comparative method being most suitable for this (Tarrow, 2010, pp. 230–259).

require countries that experienced a rapid transformation in their political and economic domains within the same narrow period. The region of Central and Eastern Europe (which I narrowly define as Hungary, Poland, Slovakia, and the Czech Republic)²⁹ provides an excellent test-case for my research question. Multiple countries rejected their communist rulers just a few months apart and began the difficult process of establishing market-democracies. The countries have had a similar historical relationship with their communist neighbor Russia, and now share similar political and economic trajectories with the EU and the NATO.

Last, and especially pertinent for the case analysis, are the similar party-financing models in the four countries as well as their baseline corruption. All CEE countries established party-centered party financing models where the political party is the dominant political actor in the political domain (Ikstens, Pinto-Duschinsky, Smilov, & Marcin Walecki, 2002, pp. 21–39).³⁰

The details of the corruption forms and practices that existed in the CEE countries in the early nineties have been elaborated in detail in several works (Holmes, 1993; Holmes, 2006; Jancsics, 2012; Karklins, 2005). What is important for our purpose is the following. During communism, the shortage economy led to a formation of informal networks among its citizens (Holmes, 2006; Sajó, 2002, pp. 1–21). The informal networks among the general population

were fluid groupings of friends and family members, neighbors, co-workers, and other social contacts. Goods were exchanged informally, at times on an

²⁹ I am aware that several different conceptions of Central Eastern Europe exist; I want to be explicit as to what countries belong in this group for this research. The main reason for such a narrow selection is to ensure ‘causal homogeneity’ within the sample of possible corruption cases.

³⁰ The main difference between party-centered and candidate-centered models of party financing are who “are the main political actors in terms of political financing”, i.e., who is mainly responsible for raising funds, receives state subsidies and decides over expenses Smilov and Toplak (2007, pp. 3–4).

immediate *quid pro quo* basis, at times with an implied promise of future reciprocity (Karklins, 2005, p. 78).

In contrast, the informal networks that flourished among the elites resembled patron-client relations, where career advancements and other benefits depended largely on the power of one's patron (Tarkowski, 1991). Both kinds of networks, however, fostered a culture of informality and a disregard for laws and regulations.

With the transition to a democracy then, the old informal networks that relied on personal connections were disrupted as the network's enforcement mechanism stopped working. The promise of reciprocity did not matter anymore if the other side had nothing to offer to an actor. Those that could sought out other actors with valuable resources, leaving behind those participants that could not leave.

Because of the strong similarities in the CEE countries' historical-cultural past combined with their parallel political and economic developments since then, I can plausibly assume causal homogeneity within these four countries. Causal homogeneity is one of the prerequisites for case-selection for the kind of process-tracing employed here.

All four countries are parliamentary republics that are predominantly Roman Catholic and held their first free parliamentary elections in 1990/1991. They all eventually adopted a party-model financing system (Smilov & Toplak, 2007, pp. 3–4) and joined the EU together in 2004. Moreover, the four countries also show great similarities across a host of indicators, as seen in table 3.1. Most of the indicators in the table are standard indicators to illustrate a nation's political, economic, and social health that scholars have found to impact corruption. When possible, I provided the values of these indicators at the start of their transition in 1989/1990 and 2010, the endpoint for this study. Last, to better frame these indicators, I also provided the averages of the 12 EU member states in 1990. This helps to establish that it is reasonable to expect these

four countries to have a similar causal mechanism at play in the transformation of their patterns of corruption, that is, the countries are likely to show causal-homogeneity.

Table 3.1: Comparison of CEE countries and EU-12 averages

| Indicator | Year | Poland | Hungary | Czech Republic^a | Slovakia^a | EU-12^b |
|--|--------------|---|----------------------------------|---|-----------------------------|--------------------------|
| <i>Legislative System^c</i> | | Bicameral | Unicameral | Bicameral | Unicameral | NA |
| <i>Electoral System^c</i> | | Proportional Representation for Lower House; First-Past-The-Post voting for Upper House | Mixed Member Proportional System | Proportional Representation for Lower House; First-Past-The-Post voting for Upper House | Proportional Representation | NA |
| <i>Quality of Government (0 to 1)</i> | 1990 2010 | 0.69 0.64 | 0.79 0.64 | 0.79 (1993) 0.67 | 0.82 (1993) 0.61 | 0.85 0.82 |
| <i>Privatization Strategy</i> | | Shock therapy | Gradual Approach | Shock therapy | Shock therapy | NA |
| <i>Freedom to Trade Internationally</i> | 1990 2010 | 4.97 7.42 | 3.90 7.95 | 7.9 (1995) 7.79 | 6.81 (1995) 8.06 | 8.28 8.20 |
| <i>Population (in million)^e</i> | 1990 2010 | 38.2 38.6 | 10.4 10.0 | 10.3 (1993) 10.5 | 5.3 (1993) 5.4 | 19.1 45.2 |
| <i>Human Development Index^d</i> | 1990 2010 | 0.712 0.829 | 0.703 0.821 | 0.761 0.861 | 0.738 0.829 | 0.775 0.885 |
| <i>GDP per capita (in current US dollar)</i> | 1990 2010 | 1,727.38 12,425.80 | 3,563.88 13,006.53 | 3,912.84 19,703.43 | 2,577.76 16,553.12 | 19,083.85 45,184.33 |
| <i>Ethnic Fractionalization</i> | | 0.12 | 0.15 | 0.32 | 0.25 | 0.21 |

Source: Quality of Government Datasets (2018) unless otherwise noted.

^aCzech Republic and Slovakia separated in 1993.

^bEU values are the average of the EU-12: Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, and the United Kingdom. Averages are own calculations.

^cThe Inter-Parliamentary Union Parline database (Inter-Parliamentary Union, P., 2018).

^dUnited Nations Development Programme, Human Development Reports (2018)

Of those four countries, Poland and Hungary have often been hailed as the top performers, not only among the CEE countries but the new democracies of 1990 in general. As these two countries are commonly compared in similar research, I select Poland and Hungary as countries from which I will select the corruption cases. I want to emphasize, however, that I do not to make any cross-country comparisons, which is not the aim of this research.

The study focuses on corruption cases that have occurred between 1990 and 2010. While 1990 is an obvious starting point, I chose to end with 2010 as the focus of this research is on the causal relationship between the introduction of multiple competition-oriented reforms and corruption in a climate of high uncertainty and rapidly changing state institutions. While 2010 might seem like an arbitrary cut-off point, Hungary's political trajectory after 2010 would have altered any with-in case comparisons too much; its current corruption dynamics require their own explanation.³¹

Corruption case selection.

What is a 'corruption case'? As I rely on a broader definition of corruption that does not view corruption as a necessarily illegal act, the universe of possible corruption cases includes several cases that have not resulted in a corruption-related conviction for some of the involved individuals. Instead, the emphasis is on cases that may not have been illegal but were still harmful to the proper functioning of public institutions (Lessig, 2013, p. 2; Transparency International, 2009, p. 39; Warren, 2004, p. 334). Such a broader scope of corruption allows me to capture corruption types that are not viewed as corruption as defined by the law of a country but are still considered as corrupt by the public. These forms of corruption are commonly known as cases of 'institutionalized' (Lessig, 2011, 2013; Teorell, 2007) or 'mediated' (Thompson, 1993) corruption.

To isolate the impact of competitive processes from that of many other potential factors that shape corruption dynamics, I compare corruption cases that have occurred at different points in time, but within the same business sector. This approach is a

³¹ When the current ruling party Fidesz won the absolute majority in the parliamentary elections in 2010, it ushered in a new phase of corruption, where the emergence of political and economic competition has been replaced by the activities of the ruling party, specifically its prime minister Victor Orbán, as main driver of corruption patterns.

combination of Tarrow's (2010) 'Strategy of Paired Comparison' and George and Bennett's (2005) 'Method of structured, focused comparison.' I focus on examining the same broad features of each corruption case (e.g., the corruption type and activities, and how my explanatory factors have shaped it) in cases that have been paired based on three criteria: public officials involved (actors), the industry sectors in which these actors operated (sector), and when the case occurred (period).

Actor: The United Nations Convention against Corruption (UNCAC) as well as the Financial Action Task Force (FATF) and other international organizations have identified particular groups of individuals as being at a higher risk of participation in corruption, money laundering, terrorism financing, or similar criminal activities. They emphasize that high-ranking public officials (both appointed and elected), due to their influential position, face a higher risk of being involved in corruption, money laundering, and other similar criminal offenses (FATF, 2013, p. 3). The FATF defines such a "politically exposed person (PEP) [...] as an individual who is or has been entrusted with a prominent public function." (FATF, 2013, p. 3). Examples of such PEPs are, among others,

individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials (FATF, 2013, p. 5).

I selected based on this criterion as it allows me to focus on those individuals that actually have the opportunity to abuse their entrusted powers, not just the incentives, – as the latter group will always be larger than the former.

Sector: For corruption cases to be paired together, they will have to have occurred within the same sector. Numerous studies have shown that particular economic sectors, for instance, public utilities, energy, or construction, are especially at risk of

corruption.³² In these sectors, economic actors are often subject to stricter regulations, which in turn increases their incentives to engage in corruption. To classify economic actors, I employ a slightly modified version of the Industry Classification System of the European Union, called NACE, *Nomenclature générale des activités économiques dans les Communautés Européennes* (General Industrial Classification of Economic Activities within the European Communities).³³ I categorize economic actors, and therefore the corruption cases, into following broad sectors:

- Agriculture, Forestry, and Fishing
- Energy
- Manufacturing
- Utilities (such as electricity, water supply, waste management, etc)
- Construction
- Trade (Wholesale and Retail)
- Accommodations and Food Services
- Real Estate Activities
- Financial and Insurance Activities
- Professional, Scientific, and Technical Activities
- Education and Health Care;
- Arts, Entertainment, and Recreation
- Information and Communication (incl. broadcasting, telecommunications, and IT-related activities)

³² See, for instance, Søreide (2014) for an overview.

³³ The use of NACE is mandatory within the European statistical system and therefore offers a useful categorization of businesses that corresponds with quantitative data.

- Other service-related activities
- Public Administration (see category ‘Actor’)

Period: The third criterion focuses on when the cases took place. The first corruption case in any pair needs to have occurred at the beginning of the transition process where the competitive processes have not yet gained momentum or have not yet even emerged. The second corruption case has to have occurred in the late 2000s, preferable after 2004 (the year of EU accession). At this point in time, I assume that enough time has passed to observe a transformation in corruption patterns caused by the emergence of competition and its impact on the actors’ opportunity structures. I am able to observe any consequences of interaction among the competitive processes. In the ideal case, the first corruption case would have occurred between 1990 to 1995, the second between 2005 to 2010. However, as I rely on uncovered cases with enough publicly available material, which have been already selected based on political actors involved and sectors, only a few cases fit this last criterion ideally. I therefore selected corruption cases as close as possible to the ideal scenario.

To get a full list of major corruption cases for each country, I examined media reports, corruption cases mentioned in documents by the EU Accession Monitoring Program, the anti-corruption evaluations by international organizations, reports by Transparency International and its local chapters, a review of recent dissertations on corruption in Hungary as well as by contacting several experts working in the field. Based on this information, I ended up with 44 corruption cases in Poland and 17 in Hungary. When filtering these cases by whether they have involved PEPs (28 in Poland, 11 in Hungary), in what business sectors they took place in and whether I can pair them up with a second corruption case, as well as the time period, I end up with three

corruption pairs in Poland and two and a half in Hungary. The selected corruption cases are presented in table 3.2.

Table 3.2: Selected Corruption Cases in Poland & Hungary

| | Name | Period | Sector |
|---------------------------|------------------------------------|---------------|----------------------|
| Poland | | | |
| <i>Pair 1</i> | Concession for Polsat | 1994 | Arts & Entertainment |
| | Rywingate | 2002 | |
| <i>Pair 2</i> | Afera Automatowa | 2002-2003 | Gambling |
| | Afera Hazardowa | 2008-2009 | |
| <i>Pair 3</i> | Afera InterAms | 1994-1995 | IT |
| | Infoafera | 2008-2010 | |
| Hungary | | | |
| <i>Pair 1</i> | Tocsik Affair | 1996 | Real Estate |
| | Hunvald Case | 2003-2004 | |
| <i>Pair 2</i> | BKV/ Metro 4 | 2003-2006 | Construction |
| | Rise of Lajos Simicka ^a | 1990-2010 | |
| <i>Pair 3^b</i> | Energol Kft | 1993-1995 | Energy |

Note: The names of corruption cases generally come from its most prominent actor(s) involved or another striking characteristic. Unless otherwise noted, I have kept the name of the corruption case with which it is commonly referred to.

^aThe case of Lajos Simicka, who for a long time had been a close associate of Hungary's current Prime Minister Victor Orbán, presents two types of corruption as the duration of their relationships allowed me to explore a change in the resource distribution between actors.

^bThe final corruption pair in Hungary lacks a counterpart as there was not enough data for a third pairing. The case of Energol Kft., nevertheless, highlights the lack of variation in types of corruption across industries.

While I only ended up with two pairs in Hungary, one of the cases included creates special conditions through which I can test my argument of political and economic competition transforming systematically the corruption patterns over time. When investigating the details of one of the corruption cases in the construction sector in Hungary—the rise of the construction firm Közgép while the rest of the construction sector barely survived the economic crisis of 2008—I have found that the same political

and economic actors were involved in two other cases on the list. I therefore consider the relationship of these two actors—Lajos Simicska and Victor Orbán—as the corruption case under investigation. Because their relationship spans the entire period examined, it allows me to test the argument over time and involving the same actors but across multiple sectors. This contrasts well with the other corruption pairs, where I hold the sector constant but not the actors involved or period. I was not able to collect enough data for a second corruption case in the energy sector to form a third pair. Nevertheless, I briefly discuss this last corruption case as it offers the opportunity to test whether there exists any variation across industries, as conventional arguments suggest that we should.

Within the class of known corruption cases there is little reason to assume that these cases are atypical. For one, the cases have been uncovered through various means, such as through investigations of law enforcement investigations or journalists, sometimes even in the course of another investigation, or because one of the involved actors came forward. Moreover, the environments in which these corruption cases took place suggest that the individuals that have operated within them were driven by the same overarching aims—profit maximization or maximizing votes and/or resources.

Polish Corruption Cases.

Corruption Pair 1: Arts & Entertainment Sector.

Concession for Polsat: The case is about how Polsat (a private television company) received its broadcasting license in late January 1994. The National Council of Radio Broadcasting and Television (Krajowa Rada Radiofonii i Telewizji, KRRiT) allegedly showed favoritism when granting the first and only nationwide TV-license to Polsat, in return for bribery payments. Investigations by the Office for State Protection (Urząd Ochrony Państwa, UOP) found evidence of previous criminal wrongdoings by the owner of Polsat, Zygmunt Solorz-Żak. The regional prosecutor, however, declined to

investigate the allegations further, citing lack of evidence. What makes this case interesting is that Zygmunt Solorz was at that time already one of the wealthiest individuals in Poland, having made his fortunes in the seventies and eighties abroad under dubious circumstances. The KRRiT, established in the early nineties, is responsible for issuing national broadcasting licenses and regulating the public media. Through these duties, its decision had an immense impact on shaping the Polish media landscape for the next decades.

Rywingate: In several meetings taking place in July 2002, Lew Rywin—a Polish movie producer with international acclaim—apparently offered senior members of Agora, a Polish media conglomerate, the inclusion of a profitable provision in a new law on broadcasting. In particular, he promised that Agora would be able to buy Polsat, which the present version of the law prohibited. In return for his service, he asked for a substantial donation to a ‘powerful group of people close to the government.’ During the meetings, Rywin implied that the group consisted of high-ranking members of the then-ruling SLD (Sojusz Lewicy Demokratycznej, Democratic Left Alliance) government, who had the discretionary power to remove an anti-monopoly-clause in the new law, thus allowing Agora to purchase Polsat. In return, it would need to pay USD 17.5 million, 5 percent of the estimated market value of Polsat. The offer became public when one of those present in the meetings published the recordings of Rywin’s offer. Despite lengthy investigations, including a parliamentary inquiry committee, only Rywin ended up in jail.

Corruption Pair 2: Gambling Sector.

Afera Automatowa: In 2002, during the introduction of a new bill to restrict gambling further, allegations arose that the SLD's representatives in the Sejm³⁴ proposed several provisions that would work contra that aim—for instance, businesses that had gambling machines on their property would need only pay a EUR 50 gambling fee instead of EUR 200. Several investigations later (including a parliamentary inquiry) the full story has only gotten more interesting. It turned out that senior MPs of the ruling Civic Platform (Platforma Obywatelska, PO) also made such suggestions during the preparation stage of the bill. Any documents that would have supported these investigations were destroyed, including minutes of the parliamentary committee meetings.

Afera Hazardowa: In this case, several allegations of corruption were made, including that the office of then-Prime Minister Donald Tusk leaked information about an ongoing investigation by the Central Anticorruption Bureau (Centralne Biuro Antykorupcyjne; CBA) to the targets—members of the prime minister's (PM) own party, the PO. In fall 2009, the head of the CBA informed the prime minister in a secret meeting that the agency suspected that several high-ranking party members colluded with representatives of the gambling industry to eliminate certain restrictions in a new gambling law that was about to be passed in Parliament. The head of PO's parliamentary club and the Minister of Sport and Tourism met with Ryszard Sobiesiak, an entrepreneur, in secret to discuss the potential of changing specific provisions in the law, including levying new taxes on gambling. The additional income would go the Ministry of Sports that was already preparing for the EURO 2012. Apart from these two PO

³⁴ The Sejm is the lower house in Poland's bicameral legislative, the upper house is the Senate.

politicians, also Grzegorz Schetyna, then Deputy Prime Minister and Minister of the Interior and Administration (Ministerstwo Spraw Wewnętrznych i Administracji, MSWiA), were among the accused and dismissed from their positions. The head of the CBA Mariusz Kamiński, was also dismissed from his position.

Corruption Pair 3: IT-Sector.

Afera Interams: During his premiership from 1994 to 1995, Prime Minister Waldemar Pawlak and leader of the Polish People's Party (PSL), allegedly helped a long-term friend to win several large public procurement contracts for the computerization of multiple state-owned enterprises by organizing meetings between his friend and the directors of these firms. The accusations were levied at him because the firm Interams won these contracts against the recommendations of the tender committee and was almost bankrupt at the time of the tenders. Pawlak apparently also was a shareholder of Interams. Later, the Supreme Audit Office investigated and found several irregularities in how the contracts were awarded. Pawlak resigned a few months later.

Infofera: Between 2008 and 2010, several IT companies, including IBM and HP, bribed high-ranking government officials, such as the Director of the Centrum for IT-Projects of the MSWiA. The director apparently stood at the center of a large-scale corruption case involving public procurement contracts worth billions of zloty. The CBA and the Public Prosecution Office eventually arrested over 40 persons connected to the case, including the Directors of Sales of IBM and HP, as well as multiple public officials from the Centrum.

Hungary Corruption Cases.

Corruption Pair 1: Real Estate Sector.

Tocsik Affair: In 1995, Hungary's state agency for privatization (Állami Privatizációs és Vagyonkezelő Rt., ÁPV) hired the lawyer Márta Tocsik to negotiate the

ÁPV's outstanding payments to the municipalities in return for having privatized their lands. Tocsik received 10 percent of the money saved for the agency. When the details of this scheme became public, local authorities started investigating. They found out that she was approached by two men—László Boldvai and György Budai. Boldvai was the treasurer of the Hungarian Socialist Party (Magyar Szocialista Párt, MSZP) while Budai was a businessman close to the Alliance of Free Democrats, (Szabad Demokraták Szövetsége, SZDSZ). At that time, a coalition government between the reformed ex-communist party MSZP and the liberal SZDSZ ruled the country. Tocsik confessed (but later withdrew it) that to keep her assignment, she was forced to pay a significant amount of the money into the budget of the MSZP and the SZDSZ. In 1996, after the scandal became public, the Minister for Privatization, Tamás Suchman, and the leaders of the ÁPV had to step down.

Hunvald Case: Several major figures of the local government of the VII district of Budapest, including its mayor György Hunvald, participated in a corrupt real estate scheme between 2003 and 2005.³⁵ With the aid of a real estate developer, the president of the district's economic council and the mayor organized the sale of several valuable and publicly-owned buildings. They managed to sell the buildings below their market values, despite that the district has been declared an UNESCO World Heritage site and most residing tenants had a pre-emption right.³⁶ Overall, the actors sold 17 buildings below their market value by subverting the oversight mechanisms in place to prevent

³⁵ Every city district in Budapest has its own mayor in addition to the 'chief mayor' of the whole city. The VII. district is the famous Erzsébetváros district, a major tourist attraction. The historic Jewish quarter of Pest, including the Dohány Street Synagogue, which is the largest functioning synagogue in Europe, are located in the VII. district.

³⁶ A pre-emption right means that existing tenants had the first right to acquire ownership over their apartments. It also includes a clause about eviction procedures, "which require landlords to find alternative housing for those they want to evict" (Borish and Noel, 1996, p. 4).

exactly such corruption. The police eventually arrested over a dozen members of the city's government and several economic actors and charged them with various corruption-related crimes.

Corruption Pair 2: Construction Sector.

BKV/ Metro-4: The BKV Zrt., Budapest's public transportation company, began with the planning of the construction a fourth metro line in early 2000. The construction evolved into the largest case of corruption and fraud in Hungary in recent times. The entire project was worth around EUR 1,747,313,606, of which around EUR 1,053,372,541 were affected by irregularities and fraudulent contracts. As the construction involved several European-wide tenders, multiple European firms participated in the construction. The beneficiaries in this public procurement corruption scheme were thus the international and national firms that won the contracts fraudulently and on the other hand several political actors that helped these companies win the contracts, including the former Prime Minister Péter Medgyessy.

Lajos Simicska: Throughout the nineties and 2000s, the businessman Lajos Simicska was a close friend of Victor Orbán, head of the right Fidesz (Fiatl Demokraták Szövetsége) and current prime-minister of Hungary. Their names have shown up in several corruption cases on the full list of cases. The earliest case was the dubious sale of Fidesz' Headquarter organized by Simicska in 1992. Orbán covered up where the money from the sale went. In the late 1990s, they were implicated in a tax-evasion scheme involving 14 companies who allegedly owned the Hungarian tax authorities over HUF 400 million.³⁷ By the late 2000s, Simicska's economic fortunes again gained media

³⁷ The case of 'Kaya Ibrahim and Josip Tot' took place in 1996 but only became public knowledge in 1999. Kaya Ibrahim and Josip Tot were the names of the new owners of the firms. However, neither of these two individuals was in Hungary at the time of the purchase. Copies of their passports were apparently enough to

attention. His construction company Közgép managed to make significant profits at a time when the rest of the construction sector barely managed to survive the economic crisis. Investigative reports revealed that Közgép made most of its money from public contracts.

Because of the links among these various corruption cases, I will not analyze the case of Közgép alone. Instead, I consider it part of the larger corruption case that centers around Simicska and Orbán's relationship from 1990 to 2010. The case also expands to include other sectors as well. As such, it offers an excellent test case to study whether the changes in the patterns of corruption hold across time and sectors.

Corruption Pair 3: Energy Sector.

Energol: When Hungary liberalized its oil-sector in 1990, the oil prices soon came close to world market prices. As Hungary went through an economic crisis at that time, it subsidized heating oil as otherwise its population would have been unable to afford it. The heating oil was in substance very similar to gasoline, which was higher priced and also more highly taxed. Because of these price differences between the subsidized heating oil and the gasoline, a large smuggling network soon sprung up. While at the beginning, a lot of small time corruption entrepreneurs took part, by 1994 the firm Energol became one of the economic actors that controlled the distribution of the oil within Hungary. On the political side, several major political figures were accused of having profited from the corruption scheme. Overall, the Hungarian government lost several billion forints in tax revenues before the legal loophole that created the price differences was closed in 1995. Despite several investigations, including a parliamentary investigation, the full corruption case was never fully resolved.

legally transfer ownership of these companies. The real owners remain unknown.

There was not enough publicly available data to pair Energol with a second case in the energy sector. I will still examine Energol, to investigate whether Energol shares the corruption patterns of the other corruption cases occurring in the nineties or whether we observe any variation across sectors.

Drawing Causal Inferences

How do the selected corruption cases help answer the research question? I now turn to the research design used and how the research design, combined with detailed process-tracing, allows me to establish the causality between the emergence of competition in the political and economic domain and a transformation of corruption patterns.

Research design setup.

The fundamental assumption that underlies the research question of why and how the emergence of political and economic competition transformed the ‘Patterns of Corruption’ is that such a change in a country’s corruption pattern take place. To fully investigate the research question, I, therefore, first need to establish that such variation in corruption patterns exists, before delving into the causal mechanisms leading to said changes. The setup of the two case study chapters reflect this requirement. The first part of each case study examines the changes in corruption patterns across time in each country. For this, I start with categorizing the types of corruption involved in each case based on whether the core attributes, established in chapter 2, are fulfilled. I then move on to investigate the variations in the types and activities of corruption within each country. Through this approach, I can establish that corruption not only has not been constrained over the years, but also that a transformation of its types and activities has occurred.

In the second part of the case analysis, I move towards examining the causal process that links the emergence of competition in the political and economic domain to a shift in the corruption patterns in a country. In chapter 2, I presented the three causal claims that I expect to observe if the proposed causal mechanism manifests as expected. While I draw mostly on secondary sources for the analysis of the first claim, to investigate the second and third causal claims, I take the second corruption case in each pair and test whether the collected evidence supports the causal claims. In this way, I can trace the causal force that moves from the emergence of competition in politics and the economy to a transformation in the opportunity structures of actors (causal claim 1), which in turn encourage actors to form corrupt state-business relations (causal claim 2). These developments, in turn shape the balance of power within the relations, and thus determines the patterns of corruption (causal claim 3). Table 3.3 provides a visual representation of my research design.³⁸

³⁸ The research design is not about testing if one or more alternative hypotheses are better or worse in explaining an outcome, but concentrates on rigorously testing *one* causal mechanism and whether it has occurred as expected.

Table 3.3: Research Design

| Question answered | How? (Analytical Strategy) | Where in the dissertation? |
|---|---|--------------------------------|
| How have 'Patterns of Corruption' changed over time in each country? | For each country: <ul style="list-style-type: none"> - Identify the 'Patterns of Corruption' for each corruption case - Compare them within each sector | First part of each case study |
| Why has the emergence of political and economic competition transformed the 'Patterns of Corruption'? | For each country: <ul style="list-style-type: none"> - Select the second corruption case (case having occurred in the 2000s) - Trace the outcome back to the causal factors, i.e., emergence of competition | Second part of each case study |

In chapter 2, I developed a theoretical argument of why the emergence of political and economic competition transforms a country's patterns of corruption. As the proposed causal mechanisms is too complex to examine it in one piece, I separated it into three parts, labeled causal claims 1, 2, and 3. To test whether a causal claim manifested as expected, I derived several propositions for each claim. The causal claims and propositions are framed as entities that take an action, in contrast to the covariational approach of presenting propositions in terms of variation of the independent and dependent variables. The difference in these two ontological approaches becomes even more visible in how evidence is presented and evaluated.³⁹

First, the examination of the propositions, and thus, of the causal claims, follows more the logic of a criminal trial, where the prosecutor first presents the individual observations, before explaining how they all connect together and combined provide evidence of a subject having committed a crime. In a similar fashion, I will first describe all the observations relevant for a proposition, before I evaluate the evidence and present

³⁹ A note on terminology: while *data* refers to the information that I have collected on the topic, it still includes both signal and noise. *Signals* are those elements of the information that are relevant for answering the research question, i.e., the sum of the individual *observations* that are presented in support of a proposition are labeled *evidence*. *Noise* refers to those elements that are irrelevant and are more of a distraction.

my inferences. While this approach is unusual, it is not entirely unique. Fairfield (2013) combines the more traditional causal narrative format with a rigorous application of process tracing in the format of observations and inferences in her appendix. And while some might find the causal narrative format easier to read, it is ill-suited for explicitly evaluating evidence in support of a proposition (Bennett & Checkel, 2014, 3-37). I, therefore, privilege the presentation of clearly stated propositions about the underlying causal mechanism and the evidence in support of them at the expense of reading flow. My apologies to the reader.

Second, evidence is systematically evaluated along two dimensions: uniqueness and measurement accuracy (Beach & Pedersen, 2013, p. 167).⁴⁰ *Uniqueness* assesses whether plausible alternative explanations can explain the evidence for one of the propositions. *Measurement accuracy*, as the term implies, refers to the reliability of the evidence, such as whether the sources are unbiased.⁴¹ I combine these two dimensions to evaluate the inferential weight of the evidence which comes from multiple sources with varying degrees of accuracy.

The ideal kind of evidence, and which provides the strongest support for a proposition, is *direct evidence*. Such evidence does not require additional assumptions to support a proposition and also has a high degree of uniqueness. *Circumstantial* or *indirect evidence*, in contrast, requires additional inferences to support a proposition

⁴⁰ The dimensions create a table very close to the by-now famous four ideal tests for causal inferences in process-tracing - straw-in-the-wind, hoop, double decisive, and smoking gun tests (some recent works that give a throughout explanation of these four tests of causal inferences are Bennett and Checkel (2014), Collier (2011), and Mahoney (2012)). Fairfield (2013) provides an excellent example of how to employ these tests in practice. While I will not employ these four tests, the idea behind them is useful to establish general guidelines on how to weight the various observations and thus the evidence put forth in favor of a proposition.

⁴¹ When describing the data collection process below, I also explain how I ensure the reliability of the data sources.

and has a lower degree of uniqueness, meaning that plausible alternative explanations exist for why we could have observed the evidence. The adjectives *weak*, *moderate*, or *strong* then refer to the level of measurement accuracy of the evidence. In short, by stating in advance how I will evaluate evidence, I can clearly identify when evidence does (not) support a proposition or causal claim.⁴²

Discussion of data sources & operationalization.

The last section concentrates on the data collection process, in particular, how I identify the key concepts of interests, as well as what data sources I use. The section covers also the crucial question of how I intent to ensure measurement accuracy.

Keeping the definitions of the key concepts from chapter 2 in mind, I now turn to the issue of how to operationalize them. To operationalize competition and opportunity structures, I follow the conventional approach.

Identifying concepts of interest

Multiple indicators exist to capture competition, especially when assessing the variation in the number of actors within the political or economic domain. For instance, in the case of political competition, the number of effective party competition (ENEP, referring to the number of parties that are strong enough to impact the political decision-making process), but also voter concentration, and electoral volatility can all provide information about changes in the competitive environment. I operationalize economic competition also in multiple ways. The number of enterprises in a market, introduction of competition-oriented reforms, and also financial openness to foreign investments, are

⁴² The risk of falling prey to confirmation bias, i.e., overestimating the weight of evidence that supports one's theory while underestimating the value of evidence that weakens said theory, is a major challenge for process tracing researchers. By making it clear how I intend to evaluate evidence, I hope to mitigate the risk to a certain degree.

among some of the indicators that are employed to analyze the level of competition in a market. To capture the actor's opportunity structures, that is the actor's incentives and constraints, I follow the two approaches common in social sciences—examining the legal framework that surrounds them and observing the actor's patterns of behavior.

The concept of state-business relations is harder to operationalize. In chapter 2, I presented the five causal attributes that need to be present for a relationship to be of interest. Each of these attributes, however, can manifest itself through various indicators, depending on the context. In table 3., I present an overview of the attributes and their possible indicators. First, long-term relationships can either occur through personal or professional ties between the actors, such as related to each other by blood or by marriage or by being connected through business ties (FATF, 2013, p. 5). Second, the resources exchanged between the actors can be categorized into material and non-material resources. Estimating the value of the latter, however, is far harder as these kinds of resources need to be first transformed.⁴³

⁴³ Imagine a stockbroker receiving inside information about an upcoming dismissal of the CEO of a firm; the information has no value unless the stockbroker also acts on this information.

Table 3.4: Causal Attributes and Indicators of corrupt state-business relations

| Causal Attributes | Indicators |
|---|---|
| <i>Long-term relationship between political and economic actors</i> | <ul style="list-style-type: none"> • Personal connections through familial ties or friendships • Professional ties through some formal connections between actors or their businesses. E.g. Sitting on the Board of Directors, senior positions in a company or state agency, or having shared ownership over businesses, |
| <i>Political and Economic Actors</i> | <ul style="list-style-type: none"> • Official source of power of an actor |
| <i>Resources exchanged</i> | <ul style="list-style-type: none"> • Material resources such as money or goods • Non-material resources, or those that will need to be transformed into money such as access to privileged information, expertise, favoritism, or access to policy-makers. |
| <i>Element of corruption in the relationship</i> | <ul style="list-style-type: none"> • Violation of laws and regulations • Exclusion of other actors that also would have had a right of inclusion. • Criticism of exchange by other relevant authorities, such as state audit offices, or the European Union. |

Third, the element of corruption in the actors' state-business relationship concentrates on how the exchange of resources took place. Did the exchange follow the standard channels commonly used for such an exchange, either regulated by laws or through social norms, or have actors circumvented these channels? Last, to establish whether a state-business relationship involves corruption, several indicators are useful. The most obvious indicator of such corrupt state-business relations will therefore be any violations of legislation as stated in court documents or similar reports. Another manifestation can take the form of violating social norms and procedures that are not always formally acknowledged. In these cases, a strong indicator is criticism of the exchange by other governmental agencies, such as the Ministry of Finance or the European Audit Office. The element of corruption in a state-business relationship also requires that the exchange has excluded actors that had a right of inclusion. An example

of such an exclusion can be a public procurement where only one actor is invited to submit a tender and automatically wins it, while the official (or standard) procedures require that a specific number of firms are invited. These other economic actors, thus, have been excluded even though they had the right of inclusion. If combined with a judgment by an arbitration court, for instance, suggesting that the process was not in accord with the rules, it provides an even stronger indicator for corruption.

All forms of corruption are notoriously difficult to investigate empirically. Chapter 2 developed the three main types of corruption and their causal attributes: covert political finance, local capture, and legal corruption. Now, I describe some of the expected empirical manifestations of the three types of corruption, that is, I explain how the causal attributes of each corruption type can be identified in the selected cases (also illustrated in table 3.5).⁴⁴

⁴⁴ The following discussion differs from what I have described in chapter 2. In the previous chapter, I have described *what* kinds of evidence I ideally expect to find if the argument is true. Here, I describe *how* I identify, based on the data collected, each concept.

Table 3.5: Empirical Manifestations of the three Types of Corruption

| Type of Corruption | Causal Attributes | Indicator(s) |
|-------------------------------|--|---|
| <i>Covert Party Financing</i> | Political actor provides little in return | Absence of information that mutually beneficial exchange took place Presence of signs that stress the asymmetrical exchange between political and economic actor |
| | Political actor hides origins of payment | Use of complex transfer structure without any feasible explanation Involvement of offshore accounts or other means to disguise source of income Not revealing origins of money when questioned |
| | Political actor fails to disclose additional political contributions | Clear signs that political actor spends more than it lists in its annual financial disclosures |
| | Exclusion of other actors with a right to know | Income not listed in the annual financial budget reports of the political actor, Statements highlighting that internal or external oversight institutions were not informed about income |
| <i>Local Capture</i> | Political actor subverts functioning of state agencies, policies, or procedures for own benefit | Significant deviation from established standard procedures |
| | Functioning of state agency or procedure now violates the principle of impartiality and/ or is harmful to public's interests | Statements made by other official agencies about harmful effects on public or violation of impartiality principle Media from both sides of ideological spectrum criticize transaction as unfair, illegitimate, etc. |
| | Capture of agency, procedure, or policy by few actors at the expense of others (with established right of inclusion) | Signs of exclusion of actors, who have an established right of inclusion, based on illegitimate reasons |
| <i>Legal Corruption</i> | Exchange is legal or falls into the gray area of law | Exchange is explained as 'constituency service' by political actor Possible that political actor's duties to a single constituent conflict with their duties to their organization or majority of constituencies |
| | Benefits for political actor are weak/ limited/ (in)direct Economic actor receives benefits, or improves their chances of receiving benefits, to which they have a claim anyway The way the exchange took place is considered illegitimate | Benefits for political actors are hard to identify as they depend on several factors; most importantly, the political actor's time horizon and the services provided in exchange (Della Porta & Vannucci, 1999; Rose-Ackerman, 1999) Receiving a license or permit under unusual circumstances Economic actor has a commonly accepted right to the benefit Existence of formal channels to access the benefit. Once public becomes aware of exchange, it decries it as illegitimate and unfair Manner of exchange is not illegal per se but atypical and not confirming with established practices |

Covert political financing is likely to exist when we can observe that the political actor is the main beneficiary in the exchange and the sources of the contributions are hidden from outsiders to the organization but might even be hidden from internal oversight mechanisms. Strong indicators for this type of corruption are the presence of complex transfer structures, especially when it involves offshore accounts or otherwise entities that ensure anonymity, the absence of records indicating that the income has been reported to the relevant oversight institutions, as well as signs that the exchange mainly benefited the political actor.

Local capture is characterized by state agencies, policies, or procedures being manipulated to benefit a few actors at the expense of many, and such a manipulation harms either the public's interest or violates the principle of impartiality. Major signs that local capture has taken place are when the captured entity deviates from its standard behavior in similar instances, and when other official agencies critique the entity for its behavior, especially criticizing it for violating the principle of impartiality or harming the public's interests. In addition, actors that have a commonly accepted right of being included in a procedure, for instance, are excluded for fraudulent reasons. An example of this would be when a company gets excluded from a bidding process despite having fulfilled all the requirements. Evidence that their exclusion was for fraudulent reasons might then come in the form of an arbitration court ruling their exclusion invalid.

Legal corruption is a particular fuzzy concept to capture as the corrupt behavior is by definition legal or at least falls into the gray areas of the law. What matters is that the manner of the exchange is viewed by the majority of people as illegitimate. Such signs of an illegitimate exchange can then be that the public, once it becomes aware of the transaction, decries it as unfair or unethical, or that the manner in which the

exchange took place is atypical and does not confirm with standard procedures. The benefits for the economic actors, or at least the higher chances of securing the benefits, are achieved because of the economic actor's access to the political actor. The political actor in turn, receive some kind of gain but these depend on several factors, in particular on the time horizon of the political actor and the services involved in the exchange. For instance, in case the political actor believes they will continue holding a political office, it can be paid through campaign contributions but it might prefer to be paid in form of "private resources that have particular value for the corrupt political: influence over the mass media or votes for example." (Della Porta & Vannucci, 1999, pp. 61–62).

Data sources & validity and reliability concerns.

While corruption is a sensitive topic to research, it is not impossible. One of the key challenges of studying corruption is finding enough data to test one's argument. I therefore use a combination of pre-existing material and in-depth interviews. Examples of such pre-existing material are economic and political data sets, produced by international organizations such as the World Bank (WB) or national state agencies, reports by media, non-governmental organizations, and foreign governmental investigative bodies, as well as government records and other official documents produced by state agencies.

Seventeen interviews were collected during field work in Poland and Hungary in June and July 2017. I selected the participants based on their knowledge about and experience with relevant corruption cases in the country. Their professional background included scholars from various disciplines, investigative journalists, civil sector, and public officials in the state administration. As such, the interviewees were not selected because of their (alleged) involvement in a corruption case but based on their knowledge about the 'nuts and bolts' of already closed corruption cases. Journalists were particular

helpful in adding knowledge about the nuances that they often had to leave out when reporting on corruption cases that they have uncovered. Moreover, the interviewees often provided crucial information about the context in which cases occurred. For instance, media would report on how corruption in the public procurement process took place, but rarely would the accounts include information on how such procedures generally operate. To obtain such information, I interviewed individuals familiar with the public procurement process and were able to place the events in context. Last, when referring to interviewees, I do not include details that would make it possible to identify individuals, due to the nature of the research topic.

While corruption is a sensitive topic to research, it is not impossible. Two major challenges that any researcher on corruption faces are that sources provide biased or even false information, or the data needed to confirm a proposition is unavailable. Regarding the first problem of people 'mis-remembering' certain events, I corroborate any relevant material through other sources, independent of the first. For instance, statements made in a media report can be verified in official records (e.g., court documents or parliamentary inquiry reports) or other reliable material (e.g., reports published by non-government or international organizations).

To address potential reliability issues in sources, I draw mostly on sources that have distinguished themselves by providing a factually accurate picture. Especially in instances where I rely on the reports of one or two investigative journalists, I previously checked their reputation. One sign for high quality journalism, for example, is when the reporters or their employers have won international awards for investigative journalism.

In addition to the above-mentioned challenge of dealing with bias in sources, another problem that can occur during the data collection process is not being able to

collect enough data.⁴⁵ Three possible explanations for such a situation come to mind. First, and the most obvious one, is that not finding the expected evidence for a causal claim or one of its propositions invalidates parts of the proposed causal mechanism. But there are two alternative explanations for not finding the expected evidence.

One possibility is that the lack of evidence that I have encountered, without finding any obvious explanation (e.g., an authoritarian regime or major political events), is in itself a sign of a hitherto unknown phenomena. The logic follows what Defense Secretary Rumsfeld once called the ‘unknown unknowns’ in a 2002 interview.⁴⁶ Another possibility is that the lack of data can be in itself evidence, especially if I can reasonably expect to find an empirical manifestation of my theory and there are obvious reasons for why the data cannot be collected (Beach & Pedersen, 2016, p. 191), such as not gaining access to an archive, material classified as national security, corrupt actors are actively hiding potential evidence, and so forth. Given the research questions, the latter option is likely to occur.

There are two approaches I have developed to deal with such a lack of data. First, I look for alternative empirical footprints that the causal claims could have left behind. In other words, it challenges me to think creatively about other data sources that can help me answer the research question (Kapiszewski, Maclean, & Read, 2015). Second, if

⁴⁵ In Poland, for instance, I was confronted with an unexpected lack of willing interviewees. While it is not entirely surprising that I have encountered the problem given the research topic, the extent to which interviewees were unavailable is unexpected. And while this lack of interviewees has had some negative effect on my ability to collect data, it does not necessarily refute the entire argument. It only meant that I have to look for data elsewhere.

⁴⁶ At a press conference, Rumsfeld made the following memorable statement: "Reports that say that something hasn't happened are always interesting to me, because as we know, there are known knowns; there are things we know we know. We also know there are known unknowns; that is to say we know there are some things we do not know. But there are also unknown unknowns—the ones we don't know we don't know. And if one looks throughout the history of our country and other free countries, it is the latter category that tend to be the difficult ones." Rumsfeld (2002).

the first solution does not prove adequate, I state explicitly *what* kind of evidence I expect to find (as previously) but also add *where*, given the case-specific context, I expect to find it. Through this, I want to clarify why the lack of evidence is not yet a sign to reject a proposition or the larger causal claim; instead, it leaves open the option to verify the proposition once access to the material is granted.

In this chapter I have described how I trace the micro-mechanism that links the emergence of competition to a change in corruption patterns. I have started out by discussing the logic behind my case selection of the two countries and of the corruption cases. While the selection of Poland and Hungary has been straight-forward, the selection of the corruption cases was more complex, as it required me to filter the cases based on the PEP involved, the business sector, and the time period, before pairing them up. As a result, I ended up with three corruption pairs in Poland and two-and-a-half in Hungary. In the data analysis section that followed I presented first the research design, before explaining in more detail how I use process-tracing to trace the causal mechanism through its separate parts. In the final section I explained the data collection process employed. Specifically, I discussed the indicators used to identify the key concepts of interests, which are patterns of corruption, corrupt state-business relations, opportunity structures, and political and economic competition, and the data sources used in this research.

The next two chapters explore how the causal mechanism—split into three causal claims—played out in Poland and Hungary. Chapter 4 is a case analysis of how the emergence of political and economic competition transformed systematically the corruption patterns in Poland. Chapter 5 is a case analysis of the transformation of Hungary's corruption patterns. Both chapters follow the outline discussed in the research design section in this chapter. The first part of each case study chapter

categorizes the corrupt types and activities of each corruption case. The second part of each case study then traces the micro-causal mechanism through which the transformation of corruption patterns occurred. Consistent with the theoretical framework from chapter 2, where I have explained the constituent claims of the causal mechanism, I test each causal claim individually before assessing the validity of the entire causal mechanism.

CHAPTER 4

CASE STUDY: POLAND

In the last chapter, I presented my research design and described the method and data sources that I will use. One of the major conclusions of the third chapter was that I will need to unpack my research question about how and why the emergence of competition in politics and the economy transformed the corruption patterns in the CEE countries. For this, I have selected six corruption cases for Poland and Hungary, based on three criteria: the involvement of a PEP⁴⁷, the business sector, and the time period. For Poland, I ended up with pairs of corruption cases in the Art & Entertainment sector, the Gambling sector, and the IT-sector.

In chapter 2, I argued that the emergence of competition in politics and the economy transforms the opportunity structures of actors in a form that encourages them to enter into corrupt state-business relationships. The resource distribution within these corrupt state-business relationships will in turn determine the type of corruption that emerges. Chapter four now explores how well the theorized causal mechanism--split into its three causal claims--holds up when examining the case of Poland. Underlying this argument is, however, the assumption that such a transformation of patterns has indeed taken place. The first part of the research question therefore concentrates on *how* the corruption patterns differ. To answer the question, I will identify the corruption type and activities for each of the selected corruption cases.⁴⁸ With these findings in hand, I can turn to the second part of the research question, where I ask *why* the emergence of

⁴⁷ Recall from chapter 2 that a PEP, i.e., a political actor, is not necessarily an elected official, but someone with decision-making authority at the higher levels of the state administration.

⁴⁸ I have discussed the causal attributes for the three main corruption types and the most common activities that will be employed in each type in chapter 2.

political and economic competition has transformed Poland's patterns of corruption. As I have separated the causal mechanisms into its three main components—causal claim 1, 2, and 3—I can examine each of these claims individually. This approach enables me to investigate the underlying micro-causal mechanisms that link competition to corruption.

The chapter begins with a brief review of the political and economic situation in Poland in the nineties. I also sketch out the baseline corruption forms that have existed to highlight the emerging differences. The substantive body of the chapter are its two parts: the categorization of the corruption cases and tracing the causal mechanism between competition and the type of corruption that emerges. The chapter ends by discussing the key findings and a preliminary review of how well the theorized causal mechanisms has held up when confronted with the conundrum of human behavior.

Background information

In June 1989, Poland initiated a chain reaction that transformed the political landscape in over a dozen countries. After long-winded negotiations between the ruling communists and the opposition group Solidarity lasting throughout 1988, the parties finally agreed to allow open elections for one-third of the seats to the Sejm, the lower house, and all seats of the reestablished Senate, the upper house. In the elections of 1989, the Solidarity movement won most of the open seats and eventually ended up in government, headed by Tadeusz Mazowiecki. A few months later, the country then held its fully free presidential elections, where Lech Wałęsa, one of the leaders of the Solidarity movement, received the majority of votes and became president. In October 1991, Poland then held its first free parliamentary elections, and a coalition government formed between different factions of the Solidarity movement.

When Mazowiecki's government took over in September 1989, its main priority was to improve the country's economic situation. The previous communist government

had already introduced several liberalizing reforms and privatizations programs. The main contribution of the last communist government was to make it simpler for individuals to establish new firms and provided a legal basis for transforming state-owned enterprises (SOE) into private entities (Błaszczuk & Dabrowski, 1993). These efforts, however, were too little too late, and Poland's economy continued to decline (Borish & Noel, 1996, p. 151). Mazowiecki's government, therefore, introduced a new and radical economic program, later dubbed the 'Balcerowicz Plan', which concentrated on rapid privatization (Błaszczuk & Dabrowski, 1993, p. 14). The program received its name from its creator, finance minister Leszek Balcerowicz, a technocratic economist from the Solidarity movement (Innes, 2002, p. 94). Over the next years, Poland's economy opened up to foreign economic actors, experienced further privatizations, and became one of the largest economies in Europe, its GDP rising from USD 65.98 bln in 1990 to USD 142.14 bln in 1995, and USD 171.89 bln in 2000 (World Bank, 2018).

In contrast to the country's economic transition, its political transition was less steady. The political landscape has been characterized by a certain 'stable electoral volatility', or what Grzymała-Busse (2003) termed 'robust party competition'. Two main features stand out. First, throughout the years, Poles would constantly be confronted with new electoral options as political actors kept changing their names and alliances (Fidrya, 2013, pp. 95–104; Holmes, 2006, p. 188). Second, similar to Hungary, it also experienced a repeated ideological turnover in government, moving from a post-Solidarity right government in 1991, to a post-communist left coalition between the SLD and the PSL (Polskie Stronnictwo Ludowe, in English: Polish People's Party) in 1993, back to right government led by the Solidarity Electoral Action (Akcja Wyborcza Solidarność, AWS), whose leaders had their roots in the Solidarity movement, and back to a post-communist left coalition of the SLD and the PSL in 2001. Despite these political

tumultuous times, however, Poland did manage to slowly stabilize their political party system (Sikk, 2005, p. 396).

Just as the political and economic regimes transformed, so did Poland corruption dynamics. And while there exists no systematic analysis of the changes in the country's corruption during that time, the few studies that exist provide some insights.

One illuminating study, addressed already the changes in corruption dynamics that took place with the introduction of economic reforms in the 1980s. It finds that before reforms were introduced, the most common forms of corruption were either 'legalized corruption', that is, the privileges granted to the communist elites that included access to highly valuable goods and services, and the illegal abuse of power by these elites.⁴⁹ During the reform era, corruption changed to a more symbiotic relationship between the growing private sector and public officials. What has not changed through these phases was graft—horizontal exchanges, commonly barter exchanges, to procure additional resources (Tarkowski, 1989, pp. 51–62).

Kamiński (1997) examined more closely the differences in the kinds of corruption practices by the various elites, both communist and the opposition, in the late eighties and early nineties. He argues that while communist nomenklatura relied on its privileged status to concentrated on redistributing state assets into their own accounts, the anti-communist Solidarity movement, in contrast, practiced a more opportunistic form of corruption where they used the privatization process to strengthen their power-base and showed a willful ignorance of conflict-of-interest situations (see also Holmes 2006).

Holmes (2006) adds that political actors continued attempting to build up patron-client

⁴⁹ The establishment of Solidarity and other opposition movements was, in fact, in response to the elites' excessive corruption (Garton Ash, June 13, 1991; Holmes, 1993; Holmes, 2006).

networks as “as a form of self-protection in uncertain times”. In sum, these studies suggest that corruption in Poland was typical to what took place in the other CEE countries as well. Citizens participated in everyday graft, that is, bribery, to obtain necessary resources and services, while they also relied on horizontal and vertical informal networks, to receive additional resources but also to obtain protection.

Categorization ‘Patterns of Corruption’

Before exploring how competitive processes transformed the patterns of corruption in Poland, I need to establish that such a change in patterns has indeed occurred. Hence, in the following section, I identify the corruption type and the activities involved for each of the selected corruption cases. The section presents each pair separately, starting with the pair of corruption cases in the Arts & Entertainment sector, followed by the second pair of cases in the gambling sector. The last pair of cases takes place in the IT sector.⁵⁰

Corruption Pair 1: Arts & Entertainment Sector

Concession for Polsat.

Case Summary: Two days after the private TV-station Polsat won the first nationwide broadcasting license on January 28, 1994, President Lech Wałęsa publicly announced that the head of the National Broadcasting Council KRRiT took a bribe from Polsat’s owner Solorz-Żak. While Polsat’s competitors did not immediately claim that bribe payments were involved, they did claim that the tendering process involved

⁵⁰ As will become clear in the following pages, Poland exhibits some interesting features when it comes to the types of corruption that have been identified. Out of the six cases, four have been categorized as instances of legal corruption, the remaining two have both taken place in the IT sector. Without going into details here on the underlying reasons, I attribute the dominance of legal corruption to particular institutional features that prevent political actors from accumulating too many resources. The lack of resources, in turn, placed the political actors in a weaker position in the corrupt state-business relationship with the economic actors.

favoritism. Marek Markiewicz, the Head of KRRiT, denied these accusations vehemently. What makes the president's charges particularly interesting is that Wałęsa himself appointed Markiewicz as Head of KRRiT. The KRRiT consists of nine members, who are in theory apolitical. Because three are appointed by the Sejm, by the Senate, and by President, respectively, the council is viewed as a political body. Wałęsa ordered then the Office for State Protection UOP to investigate the matter.⁵¹ But before the UOP could report on their findings, Wałęsa removed Markiewicz from his position an hour after the latter signed the concession agreement with Polsat on March 1, 1994. Wałęsa claimed that by signing the agreement, Markiewicz violated Article 36 of the Broadcasting Act, which states that no concession should be granted to anyone that intends to broadcast programs that threaten Poland's culture, do not exhibit good manners or harm the country's interests. As the dismissal was heavily disputed it was brought in front of the Constitutional Court. In May the Court declared the removal as unauthorized and allowed Markiewicz to return to his position. He was, however, unavailable. He had already taken a new job with Polsat.⁵²

⁵¹ While the UOP's investigation were kept confidential, a few findings became public. The agency's investigation revealed that Solorz helped launder money for Nicoli Grauso, the owner of the illegally broadcasting TV-station Polonia 1. Unfortunately, I could not find any explanation for why Solorz would help one of his competitors in such a manner.

⁵² While the actual 'corruption' is difficult to identify, the case fulfills all the necessary attributes of corruption: (a) it involves an political decision-maker in the form of Markiewicz, the Head of KRRiT, (b) who violated the norms or laws regulating his office, as he took a position within Polsat a month after leaving his office, (c) the official receives some kind of competition, again in the form of new position, and (d) the official's decision harms the publics interests, as the granting of a nationwide broadcasting license to a businessman whose past suggests highly criminal activities and who lied on his broadcasting application. Intensive media investigations revealed that Solorz-Żak owned four different ID-licenses with different ID-numbers as well as ten passports, with various names. In several in-depth articles the conservative-liberal newspaper Rzeczpospolita explained how Solorz not only acquired these documents over the years but also traced the criminal origins of his early fortunes. In one of the articles, the newspaper revealed how Solorz managed to intentionally overestimated Polsat's capital and so mislead KRRiT.

Corruption Type & Activities: The case provides an illustration of legal corruption. For one, it falls within the gray zones of law. When the UOP's report about Solorz' criminal past appeared in May 1994, the prosecution started to investigate. But just a few days later it closed its investigation again, due to an apparent lack of evidence of any criminal activities. Second, the public official, in this case the head of KRRiT Markiewicz, received his compensation indirectly—perfectly symbolized by him receiving a job with Polsat, while the Constitutional Court was still deciding on whether his removal as head of KRRiT was legal. The third attribute of the legal corruption type requires that the economic actor either receives a benefit or at least manages to increase its chances of receiving a benefit to which the actor has a right to anyway. Solorz, as the owner of a TV-station, had the right to bid for the national broadcasting concession. Last, the way the exchange took place was illegitimate and showed signs of favoritism. Such favoritism became even more apparent when Polsat received the concession and was allowed to keep it despite serious irregularities in Solorz' application as the UOP report showed.

That the entire situation symbolizes legal corruption becomes even clearer when we consider the corrupt activities that took place. As theorized in chapter 2, the case involved instances of covert lobbying, creating conflict-of-interest situations, relying on personal and political connections, and the lack of implementing existing regulations to foster accountability. Covert lobbying as well as creating a conflict-of-interest situation are visible in Markiewicz taking a job at Polsat a month after his dismissal from KRRiT. He had signed the concession agreement with his future employer. At this time, the Constitutional Court was still considering whether his dismissal from his position as head of KRRiT was legal. Several of Solorz's close associates at Polsat and in the TV branch were politically connected persons. For instance, there were Piotr Nurowski,

former propaganda secretary of the Central Committee of the PZPR in Warsaw, and Andrzej Majkowski, former secretary and vice-president of the Union of Socialist Youth. There was also Wiesław Walendziak, the general director of Polsat responsible for the program who has been linked to the far-right. On January 1, 1994, Walendziak became the head of the Polish state-TV TVP.

Rywingate.

Case Summary: During two weeks in July 2002, Lew Rywin, a famous Polish movie producer involved in Oscar-winning movies such as *Schindler's List* and *The Pianist*, met with the president of the Polish media and publishing empire Agora. During these meetings, Rywin proposed to lobby on Agora's behalf. At that time, a bill overhauling the existing Media Law made its way through the legislative process. In the current version of the bill, the anti-monopoly provisions were so strict that they would have prevented Agora from purchasing Polsat, which it has been wanting to do since 2001 Polsat (Siemieniec & Makarczyk, November 7, 2001). In exchange for Rywin's lobbying activities for Agora, the firm was supposed to pay USD 17.5 million to his firm Heritage Film, which he would transfer to 'People in Power'⁵³. He implied during these meetings that he was representing the top of the government, even hinting that he spoke for Prime Minister Leszek Miller (SLD).

The meetings and the lobbying offer were just the latest attempts to manipulate the bill. Already in its early drafting stage at the KRRiT, some of KRRiT's members showed unusual interest in the anti-monopoly provision. In January 2002, fellow KRRiT members became suspicious when Włodzimierz Czarzasty not only criticized each draft of the provision that a legal scholar drafting the rest of the bill proposed. Czarzasty even

⁵³ In Polish: „grupy trzymającej władzę”.

went so far to write the final draft himself. The KRRiT passed his version only due to a loophole in their decision-making procedure. When the draft then moved to the government, the Deputy Minister for Culture started to show a remarkable interest in the bill, again concentrating most of her attention on the sections pertaining to the anti-monopoly phrasing. By the time Rywin made his offer to Agora, several other individuals not formally involved in the legislative processes have participating in amending the bill, among others the President of TVP.

When Rywin met with Agora's president mid-July, she emailed afterward the editor-in-chief of *Gazeta Wyborza*, a national daily newspaper and Agora's crown jewel, informing him of the offer.⁵⁴ They concluded that offer was a trap. To find out more about the organizers behind Rywin's offer, they invited Rywin to Michnik's office, where the Editor tried to elicit the names of the 'people in power'. Rywin did not explicitly mention the Prime minister's involvement, but he continued to persist that the 'people in power' could make the appropriate changes to the law. The editor recorded the entire conversation. In the next months, *Gazeta Wyborza* concentrated their efforts on exposing these 'people in power', but their investigations failed to uncover any evidence. By December 27, they published their recording of Rywin's attempt to solicit a major bribe payment. Soon afterward, a parliamentary inquiry commission started to investigate the affair. In the end, Rywin went to jail for two years, and several political actors such as Czarzasty and the Deputy Minister also faced criminal charges. The prime minister also ended up resigning in May 2004, in part for his lack of handling the matter.

⁵⁴ *Gazeta Wyborza*'s editor-in-chief is Adam Michnik, a leading figure during the Solidarity movement and member of the Round table. Ironically, Michnik has always been an outspoken critic of corruption, and even was jailed for his criticism of the communist regime in the eighties.

Corruption Type & Activities: The case is unique in this sample of corruption cases as it presents a *failed* case of corruption. Agora did not take up the offer of Lew Rywin, who had been acting on behalf of several members of the ruling SLD. It seemed that idiosyncratic factors predisposed Agora to not take part in the corrupt exchange, such as the past of Gazeta Wyborza's editor-in-chief, and less any outside deterring factors, such as the authorities.

While the case falls under legal corruption, it exhibits features making it analogous to local capture. The difference lies in what one considers to be the center of the case, either the continuous attempts within the SLD to manipulate the bill or the outright involvement of economic actors. As the focus of the research is on the interaction between political and economic actors, I will concentrate on the latter aspects of the case.

The first attribute of legal corruption requires the most comprehensive explanation. Rywin's offer explicitly called the USD 17.5 million that Agora ought to pay a bribe. The entire setup of the transfer, however, falls more in line with what we can observe whenever a firm lobbies a political actor. The reason for the label bribe is likely because by 2001, Poland had outlawed any campaign contributions of legal entities, such as Agora, to political parties.⁵⁵

The second attribute of legal corruption requires that the exchange between the political and economic actor is illegitimate. Any exchange between Agora and Rywin, acting on behalf of a group of political actors, would have fulfilled the criteria. The case sparked one of the largest public outcries about corruption in Poland and subsequently lead to the introduction of several tough anti-corruption measures (Corruption in

⁵⁵ I will go in more depth on the topic of political financing in second part of chapter four.

Poland, April 17, 2003; PL 001, personal communication, 2017, Jun 19. Location: Warsaw, Poland; PL 002, personal communication, 2017, Jun 27. Location: Warsaw, Poland). The case also possesses the third attribute, as Agora's chances of receiving a more favorable legislation would have undoubtedly improved if they would have participated in the deal. In summer 2002, the SLD formed together with the UP and the PSL a coalition government. As the largest partner in the coalition, SLD occupied the most significant positions in the government and state administration, such as the prime minister's office, the deputy prime minister's office, the Ministry of Interior (MSWiA), and the Ministry of Culture. The fourth attribute, demanding that the political actor receives their rewards indirectly is also fulfilled. The plan was for Agora to transfer the money to the accounts of Rywin's firm, who in turn would transfer the money to the SLD. Not only would Agora not directly transfer the money to the party, but the money would also not be transferred to a few individuals within the party.

As to the involved corrupt activities, several of those mentioned in chapter 2 occur here as well. Rywin emphasized his close professional and personal connection with the prime minister to illustrate to Agora's president how he would lobby on the firm's behalf. Rywin also attempted to create a conflict of interest situation as he wanted, in addition to the financial remuneration he would receive as intermediary, the position of president of Polsat once Agora took over the TV station. Last, the entire scheme would have involved covert lobbying activities at several key points in the legislative process, in addition to those that apparently already existed.

Corruption Pair 2: Gambling Sector.

Afera Automatowa.

Case Summary: From Fall 2002 to Winter 2003, the Sejm debated a new bill on gambling. At the center of the scandal stood Maciej Skórka, owner of Nowapool and a

major player in the gambling industry, and Jerzy Jaskiernia, the head of the SLD's parliamentary faction in the Sejm.⁵⁶ The story broke with the publication of a strange testimony of a mafioso and the statement of an independent member of parliament (MP) who has overheard the conversation between the head of the National Prosecution Service and a Dutch lobbyist. Both stories claimed that Jerzy Jaskiernia received bribe payments in the summer of 2003. Further investigations by the media revealed that Maciej Skórka had almost unlimited access to the MPs in the Sejm and its various subcommittees as he was registered as a voluntary assistant (*społeczny asystent*) for the SLD during the previous year. In addition, several amendments that had been introduced by various SLD members while the bill passed through the legislative committees had been written by Nowapol's lawyer. Skórka also seemed to have paid over USD 50 thousand to ensure that the new gambling law would not harm Nowapol's business activities. Apart from Jaskiernia, reports also mentioned that thirty other SLD MPs had been supportive of Nowapol's endeavors. However, the investigations could not establish any direct link between these MPs and Nowapol. While the prosecution launched several investigations, they were soon shut down again due to 'lack of evidence'. The only visible consequence was Jaskiernia's resignation as head of the SLD's parliamentary faction in 2004.

Corruption Type & Activities: The four causal attributes of legal corruption are all present in the corruption case. First, we can observe the issue of legality and how even law enforcement was not always certain that any laws have been broken—especially when it came to Maciej Skórka's access to MPs. Second, while most of the political actors

⁵⁶ In Poland, the representatives of a given party in the Sejm or Senate form themselves into a parliamentary faction. This group assumes responsibility for implementing the party's program in the Sejm and translating the party's program into state policies.

have received only indirect benefits, Jerzy Jaskiernia apparently also received direct bribe payments.⁵⁷ Third, the economic actor Nowapol had increased their chances of receiving a particular benefit, such as the passing of a favorable gambling law, through their corrupt behavior. Last, the way the exchange took place has been viewed as illegitimate. When investigations revealed the unlimited access that Skórka had to Jaskiernia and the other MPs, the Marshal of the Sejm introduced a major overhaul of the regulations dealing with voluntary assistants in February 2004.

Most of the common corrupt activities surrounding legal corruption have been present in this corruption case. There were the close personal and professional ties between Skórka and Jaskiernia that *Gazeta Wyborza* traced back to the mid-nineties. Already then, these two already worked together on gambling regulations. Additionally, we find covert lobbying activities by several lobbyists from the gambling industry, foremost by Skórka and the Dutch lobbyist.

Afera Hazardowa.

Case Summary: The second case surrounding Poland's gambling legislation took place during the government of Prime Minister Donald Tusk (PO) in 2008 to 2009. At its center stood the allegations that the head of PO's parliamentary faction Zbigniew Chlebowski and several other senior members of the PO had been intentionally manipulating the drafting of the new gambling bill. One of the issues was the removal of a highly disputed provision requiring an additional gambling tax. The additional revenue through this gambling tax would go to the Ministry of Sports which was already preparing for the EURO 2012. Zbigniew Chlebowski had close ties to Ryszard Sobiesiak,

⁵⁷ While bribe payments rarely occur in legal corruption (see chapter 2 for more on this), they do take place on occasion.

a former football player and entrepreneur in the sport and gambling sector, whose family businesses had a tendency to be at least unethical if not fully illegal.

Poland's Anti-Corruption Agency CBA had recorded a conversation between Sobiesiak and Chlebowski in July 2008,⁵⁸ where they discussed how Chlebowski could block unfavorable amendments in the draft of the new gambling bill. Over the next few months, the CBA continued investigating the matter and discovered that apart from Chlebowski, several other high-ranking government officials were involved, among others the Minister of Sports Mirosław Drzewiecki and the Minister of the Interior Grzegorz Schetyna. Schetyna was also the deputy prime minister at that time. On the business side participated also the lobbyist Jan Kosek. He was the deputy head of the Union of Employers of Lottery Games and Mutual Betting. Sobiesiak and Kosek had been discussing blocking unfavorable provisions in the bill with each other and the political actors' numerous times in the Spring and Summer of 2008. Several of the later activities by the politicians appeared to be in line with what they discussed with the two lobbyists.

The case became even more complicated as it became the playground for the intense political rivalry between the PO and its main political opponent, the party of Law and Justice (Prawo i Sprawiedliwość, PiS). The head of the CBA, Mariusz Kamiński, has been a close associate of the PiS, and soon after the allegations became public in October 2008, PO supporters accused the CBA of being politically driven. The CBA in turn accused the prime minister's office of having leaked information about their investigation to Sobiesiak and Chlebowski, after Kamiński informed PM Tusk about the first findings in August 2009. By January 2010, Chlebowski, Drzewiecki, and Schetyna

⁵⁸ The agency had been investigating Sobiesiak in connection to another corruption case.

were dismissed from their positions, but Tusk emphasized that the dismissal was not due to them being in any way guilty. Instead, they were dismissed because their activities had harmed the reputation of the party. Tusk also dismissed Kamiński from his position as head of the CBA. The Sejm launched a parliamentary inquiry committee in November 2009 into the entire affair. The committee sat until August 2010 and concluded that Kamiński's allegations against PM Tusk's office were unfounded, that Drzewiecki did not know what he was doing⁵⁹, and that there was not enough evidence of any criminal activities by the other PO politicians being accused. In their official report, the commission admitted that Chlebowksi had acted unethically in his dealing with Sobiesiak. The prosecution, whose also had started an investigation into the case, discontinued their investigations in 2011. The new Gambling Act of 2009, replacing the Gambling Act of 1992, came into force on January 1, 2010, with an even stricter regulation of the gambling sector than anticipated.

Corruption Type & Activities: Afera Hazardowa represents another case of legal corruption, fulfilling all causal attributes established in chapter 2. First, the activities of Chlebowski and the other politicians appear to fall within the gray zones of the law. Neither their peers within the PO and the members of the parliamentary inquiry committee nor the prosecution had found signs of violating any laws. Chlebowski himself excused his behavior in front of the parliamentary inquiry committee as just having represented his constituencies, in line with his responsibilities as an elected MP. Second, the benefits for the involved political actors are difficult to establish as the media did not uncover any financial relationship to the political actors. They have only found some

⁵⁹ Despite his Ministry being the main beneficiary of the additional gambling tax, he had sent a letter to the Ministry of Finance, which was drafting the bill, that he agreed to the removal of the disputed provision. Previously he had been against the removal. His excuse was that he did not know what he was signing.

earlier campaign contributions to Chlebowski by Sobiesiak and Kosek in 2005 and 2006. Benefits such as status increase and prestige are harder to identify and tie them to the political actors' activities on behalf of the lobbying industry. Nevertheless, most of the political actors experienced career advancement soon after their dismissal of their office. For instance, by Summer 2010, the former Ministers of Sports and the Interior, Drzewiecki and Schetyna, already sat in the Sejm for the PO. Schetyna even got elected as *Marshalek* (Speaker of the Sejm, the most powerful position in the Sejm).

The third causal attribute requires that the economic actor receive a benefit, or at least increase their chances of receiving a benefit, to which they have a right anyway. Sobiesiak and Kosek's activities were within the law insofar that they were acting as representatives of the lobbying industry, which naturally was opposed to additional taxes on their business. Fourth, the way the exchange took place was considered to be illegitimate by a majority of the people. This criterion is visible in several instances. Not only did the parliamentary inquiry commission concluded that Chlebowski's behavior was not in line with standard conduct of a MP, but also the PO's image and reputation had suffered as a result of the scandal. Their popularity had taken a dramatic hit when the news about the scandal came out in 2009 (Pytlakowski, October 13, 2009). Last, even though the political actors occupied senior positions within the party or the government, including that of the deputy prime minister, they did not have the full backing of the political party. The lack of organization by the party's top leadership is visible in the quick dismissal from their position, but also that several other key positions in the legislative process apparently were not involved. For instance, the powerful position of the Speaker of the Sejm had been entirely left out. Similarly, the PO was confronted with a strong opposition in the form of its main rival PiS and predecessor in

the government. Some of the key positions in the state administrations were still occupied by PiS people, including the CBA.

In line with my expectations, the case involved the most common corrupt activities associated with legal corruption. At its center is the use of covert lobbying activities by Sobiesiak and Kosek, including influence peddling. But they also made some campaign contributions to Chlebowski, an accepted and legal activity. In addition, Sobiesiak also had personal connections to Chlebowski and the other political actors.⁶⁰ He used these connections extensively to further his own the business interests and those of his son, exploiting several times existing conflict-of-interest situations.

Corruption Pair 3: IT-Sector.

Afera Interams.

Case Summary: Between 1993 and 1994, the computer company InfoAms II had signed multiple lucrative contracts with some of Poland's largest SOE as well as several state agencies, including the Office of the Council of Ministers, that is the Polish government.⁶¹ The catch? The company had made losses since 1992 and even ended up filing for bankruptcy in November 1994 (Gazeta Wyborcza, November 15, 1994, p. 3). The firm had been IBM's Polish representative and one of the top ten computer

⁶⁰ Among those ties that neither side denies were Sobiesiak's and Schetyna's business cooperation in the early 2000s, which they apparently continued to have even in 2009. One of Drzewiecki's close associates at the Minister of Sports intervened on the behalf of Sobiesiak's daughter to the Ministry of Finance for a position at the state-owned Totalizator Sportowy. Then there is the personal friendship between Sobiesiak and Chlebowski, which goes back to the nineties and included spending holidays together. The names of Chlebowski and Drzewiecki also show up in connection to two other business dealings of Sobiesiak - both having been investigated by the regional prosecution for suspicion of corruption. The two politicians allegedly used their high-ranking positions to pressure local politicians or state officials to favor Sobiesiak's firm in a tender or grant it a construction permit.

⁶¹ State agencies that signed improper contracts with InterAms II were, among others, Ministry of Education, Bank Gospodarki Żywnościowej (BGŻ), Social Insurance Institution, Agricultural Social Insurance Fund, the Agricultural Property Agency, and the State Treasury (Nowakowska, June 22, 1995; Wielowieyska, August 30, 1995).

companies in Poland in the late eighties and early nineties (Gazeta Wyborcza, November 15, 1994, p. 3). During that time, Poland invested heavily in upgrading its outdated technology, including placing computers in public offices and schools.

InfoAms would buy computers and other equipment from IBM Polska, IBM's local subsidiary, and equip its customers with the necessary hardware and software. The problem was, however, that it had to pay IBM Polska in US Dollar, whereas its customers paid in Polish Zloty. The president of InfoAms, Paweł Zdunek, claimed that when the Zloty devalued several times in 1991 and 1992, he had difficulties repaying IBM and so incurred substantial losses. He failed to mention, however, that tax authorities had identified major mismanagement by Zdunek and others in InfoAms II, including fraudulent loans and high-risk financial investments (Kęsicka & Nowakowska, December 2, 1994, p. 3; Nowakowska, December 3, 1994, p. 3; Wielowieyska, August 30, 1995, p. 3). The scandal burst open when journalists published that then-Prime Minister Waldemar Pawlak (PSL) arranged for Zdunek to meet with the heads of state-owned enterprises or state agencies. Pawlak was at that time head of a coalition government between the SLD and the PSL. Pawlak's party, the PSL, was the junior partner in the coalition, just occupying 7 out of the 20 cabinet positions (excluding the post of prime minister). Surprisingly, all of the state agencies that had signed a dubious contract with InfoAms II were under the control of the PSL.

Once the media had revealed these irregularities, prosecutors and the national supreme audit office Najwyższa Izba Kontroli (NIK) started to investigate these contracts. It turned out that the state agencies that had signed these improper contracts with InfoAms—which the firm never ended up completing—had have paid a large part of the contract sum in advance. NIK's investigation also revealed that the state agencies had failed to follow the proper public procurement procedures and conduct a basic due

diligence about InfoAms financial health (Wielowieyska, August 30, 1995, p. 3). In the end, the investigations into Zdunek's business were dropped, while Prime Minister Pawlak had to resign from his position in March 1995. While doubts remained about the corruption element in the case, it meets the elements of corruption set out in chapter 2.

Corruption Type & Activities: The case fulfills the causal attributes of local capture. First, Pawlak apparently abused his informal authority as prime minister to provide favors for his personal friend Zdunek by arranging meetings between Zdunek and heads of state agencies and pushing them to sign large contracts with Zdunek's firm. Second, as the final report by NIK concludes, a lot of these contracts ended up wasting tax payers' money. For instance, in the case of providing computer equipment for schools, a contract that InfoAms signed with the Ministry of Education, the ministry had to pay 20 percent of the contract value upfront. Once InfoAms showed them the bills of having bought the equipment from IBM, the ministry had to transfer another 60 percent to InfoAms. Despite having paid 80 percent of the value—there were still no computers in school. The total value of the contract: USD 1,200,000; computers delivered: zero (Wielowieyska, August 30, 1995, p. 3).

The third attribute concerns the benefits for a few actors at the expense of others that have a right of inclusion. In several cases, other computer firms, such as Dell and Computerland, had both been selected as best choices by public procurement committees. Both companies had provided better offers at lower costs. However, in each case, the head of the agency had overruled the decision of the public procurement committee and signed the contract with InfoAms (Wielowieyska, August 30, 1995, p. 3). Fourth, while Pawlak rightly pointed out that the Public Procurement Act had only entered into force on January 1, 1995, the NIK had identified several instances were

existing public procurement procedures had been subverted, as the example above shows (Wielowieyska, August 30, 1995, p. 3).

The main corrupt activities that can be identified in this corruption case, have been the reliance on personal connections and perverting the due process. Direct benefits for the involved political actors could not be identified, but the absence of evidence is not evidence of absence.

Infoafera.

Case Summary: The second case in the IT-sector centers around on the Center for IT Projects (Centrum Projektów Informatycznych, CPI), part of the MSWiA. At the end of October 2011, the CBA arrested seven individuals, among others the former director and deputy director of the CPI, on suspicion of corruption during their tenure at the center from 2008 to 2010.

In 2008, former Minister of MSWiA Grzegorz Schetyna (PO) established the CPI under the supervision of his deputy minister Witold Drożdż (PO). The CPI's main task was to coordinate the public procurement of Poland's largest IT-projects, such as:

- PESEL 2—modernizing the existing national ID-cards system
- ePUAP 2—developing a nationwide platform that allows citizens to do basic public administration tasks online
- OST 112—establishing a national telecommunication operating system to support the EU's 112 emergency telephone number
- Digital radio communication system—developing a nation-wide rescue and crisis service to allow different emergency organizations to better communicate with each other in crisis situations
- SIS II—the project relates to the integration of Poland into the Schengenzone

- e-Uslugi—building an online platform to allow the public to communicate with the police
- E-posterunek—developing an internal platform for the police

The total estimated value of these projects—over PLN 2 billion (Czubkowska, March 4, 2014; Krawczyk, October 10, 2011; Socha, 2013).

The problem? The director of the CPI Andrzej Machnacz had abused his position in the CPI and previously as Head of Office of Communications and Technology at the National Police Headquarter (Komenda Główna Policji, KGP). He enriched himself and those close to him by extorting (according to the statement of one of the other individuals convicted in the case) or of accepting bribe payments (according to the indictment presented by the prosecution) of almost PLN 5 million. The bribe-givers were several IT-companies, including the international IT-giants HP, IBM, and Oracle, and IBM's largest representative in Poland, Netline Group. In exchange, Machnacz would manipulate the tenders for the IT-projects in the companies' favor by splitting them into smaller projects and so being able to use single-bidding or by 'forgetting' to acquire the source codes of a software, or at least the right to change any software they had acquired (Czubkowska, March 4, 2014; Engelberg & Socha, March 20, 2013; Jałoszewski, July 2, 2015). By 2014, over 40 individuals have been arrested in connection with the corruption case; the most important ones on the side of the political actors were the former director Andrzej Machnacz and his deputy director at the CPI, as well as the deputy-minister Witold Drożdż at the MSWiA. From the business side, the directors of sale from HP and IBM as well as the vice-president of Netline Group have also been charged (Czubkowska, March 4, 2014; Engelberg & Socha, March 20, 2013; Socha, 2013). Moreover, U.S. law enforcement agencies also investigated IBM and HP on suspicion of violating the U.S. Foreign Corrupt Practice Act (FCPA). While the investigations into IBM's activities in

Poland were closed in Summer 2017, HP ended up paying USD 108 million to settle with the authorities (Czubkowska, March 4, 2014; Darrow, July 27, 2017; Engelberg & Socha, March 20, 2013; Krajewski & Viswanatha, April 4, 2014; Northern District of California, 2014, pp. 1–44).

Corruption Type & Activities: The case meets the four causal requirements of local capture, specifically the capture of the public procurement process. First, Machnacz, together with several other corrupt actors, had manipulated the function of the CPI to work in their favor. Second, the functioning of the CPI had been subverted to ensure that favored economic actors would win the public procurement contracts. In this way, the capture of the agency did not only violate the principle of impartiality, but the agency also acted against the public's interest as these contracts would often include provisions that were harmful to the state. In the case of the e-posterunek, the program even had to be dropped due to irregularities with the contracts and subsequent supervision of the vendors. By that time the state had already invested several millions zloty into the design and implementation of the program (Najwyższa Izba Kontroli, 2013; Zawadka & Kacprzak, January 8, 2014; Zieliński, November 25, 2011).⁶²

Third, the capture of the CPI benefited a few actors at the expense of others by excluding firms from tenders that had similar qualifications as the recipient of the tender. In the case of PESEL 2, for instance, Machnacz had split the contract worth around PLN 71 million. Machnacz decided to split the tender into four lots—the first one was valued at around EUR 14.000, well below the value at which he was required to initiate an open tender. CPI conducted a restricted tender, where they invited only five

⁶² In the second part, I examine in-depth how the actors violated the principle of impartiality and harmed the public's interest.

firms to submit their bids. Only two responded and the CPI selected IBM after only 20 days—an unusual short time considering the complexity of the project at stake. And as the CPI failed to secure the copyrights for the program, IBM ended up being the only ‘valid’ vendor for the remaining three lots of the tender—worth PLN 71 million (Czubkowska, March 4, 2014). In this way, the CPI had prevented other IT-firms to compete for the full project.

Last, the capture of the CPI resulted in several clear violations of established regulations. The UZP as well as NIK have identified multiple occasions where the CPI violated the law. For instance, in the case of PESEL 2, the UZP found that the CPI had no basis for their decision to split the contract into four lots (Czubkowska, March 4, 2014; Jałoszewski, November 24, 2014).

I find indications for several common corrupt activities that have been employed by the actors. Machnacz as well as several other individuals have relied on their personal and professional connections within the MSWiA and several other state agencies. Machnacz had also provided the firms with inside-information, and together with other political actors used of bid-rigging to manipulate tenders. In contrast to the previous case of local capture, I also find extensive use of bribe payments by economic actors to at least one political actor.⁶³

In the first part of this chapter, I have identified the types of corruption that each corruption case resembles. I find that out of the six cases, four cases exhibit the causal attributes of legal corruption, whereas the third pair of corruption cases both resemble local capture, summarized in table 4.8.

⁶³ It is likely that also other political actors received some form of compensation for their ‘services’, however, I could not find adequate information about this. For a variety of reasons, among others the lead up to the EURO 2012 and other major ongoing political issues, at that time the case received not the attention it ought to, given the financial harm it had caused for Poland.

Table 4.8: Results of categorizing Poland's Corruption Cases

| | Pair 1 | | Pair 2 | | Pair 3 | |
|---------------------------|-----------------------|------------------|------------------|------------------|----------------|---------------|
| <i>Name</i> | Concession for Polsat | Rywingate | Afera Automotowa | Afera Hazardowa | Afera InterAms | Infoafera |
| <i>Period</i> | 1994 | 2002-2003 | 2002-2003 | 2008-2009 | 1994-1995 | 2008-2010 |
| <i>Sector</i> | Arts & Entertainment | | Gambling | | IT | |
| <i>Type of Corruption</i> | Legal Corruption | Legal Corruption | Legal Corruption | Legal Corruption | Local Capture | Local Capture |

The early findings challenge the main argument about a transformation of corruption patterns taking place when political and economic processes are introduced in parallel. As table 4.8 reveals, there has been no transformation of corruption patterns in any of these industries. But rejecting the argument would still be premature. The categorization of the corruption cases also has uncovered a major element that speaks to the causal argument presented here.

Recall that *Rywingate* and *Afera Automotowa* had taken place at the same time, under similar conditions: it involved an organized economic actor—either a major corporation or a large business association—and a disparate group of politicians that have attempted to coordinate legislative amendments. I find that in both cases, the result has been legal corruption, regardless of industry. Similar conditions existed in the cases of *Afera Hazardowa* and *Infoafera*: the same political party at the same time but different industries. This time, however, the two corruption cases exhibited different types of corruption. *Afera Hazardowa* resulted in legal corruption whereas *Infoafera* had all the signs of local capture. So what lead to these different outcomes?

Afera Hazardowa involved a group of political actors, each with their own political power center. The major political actors, while all belonging to the PO, had their own power centers by standing on top of a major institution, either as Marshal of the Sejm, or as ministers. Internally, the political side was fragmented. In contrast, the

events of *Infoafera* all took place within one ministry. For the political actors, this meant that they had more resources, at least so far as the economic actor did not have an alternative—if they wanted to win a public tender for any of the major IT-projects, they would have to deal with the MSWiA, in particular with the CPI.

These differences at the micro-level of the cases hint at a feature that so far has received little attention by scholars—the role that the resource distribution in the corrupt state-business relationship plays. I will take this point up again in the second part of the chapter. But before I examine the resource-distribution within the corrupt state-business relationship, I first investigate how the emergence of political and economic competition has transformed the opportunity structures of actors (causal claim 1). I then examine how the particular constellation of powerful incentives and weak constraints encouraged political and economic actors had encouraged them to form corrupt state-business relationship (causal claim 2). And only then will I analyze the role of resource distributions in the corrupt state-business relationship, and how it impacts the transformation of corruption pattern (causal claim 3).

Linking Competition to the Transformation of Corruption Patterns

Above, I have examined *how* patterns of corruption have transformed, by categorizing the six selected corruption cases according to their corruption type and activities. The results diverge from my expectation about the transformation about corruption patterns. Four out of the six cases fulfilled the causal attributes of legal corruption. The remaining cases, both taking place in the IT-sector, were classified as examples of local corruption, specifically corruption in the public procurement process. To explain these findings, I hinted that institutional features particular to the Polish political system might have biased the resource distribution in favor of the economic actors. I will pick up the role that resource distribution between political and economic

actors has played in shaping the patterns of corruption that emerge in causal claim 3. Moreover, I have also identified that the same actor will not always resort to the same type of corruption—visible in the comparison of *Afera Automatowa* and *Infoafera*. Such a finding is suggestive of a more complex relationship that ties competitive processes and corruption together.

The second part of chapter 4 aims to probe this complex link in more depth, by answering the question *why* the emergence of political and economic competition shaped the patterns of corruption in a systematic fashion? The chapter therefore focuses on evaluating the validity of the causal mechanism that I proposed in chapter 2. As the causal mechanism has several moving elements, I have divided the mechanism into its three constituent parts. Each part, represented by the three causal claims, presents the specific process that I expect to observe if my theory holds. Specifically, to examine how the emergence of competition in politics and the economy has transformed the patterns of corruption, I first examine the impact that the emergence of competition in both domains had on the opportunity structures of actors in these domains (causal claim 1). I suggest that the opportunity structures will evolve so that actors have strong incentives for and only weak deterrents against forming corrupt state-business relationships (causal claim 2). The last element moves to the core of my argument as it probes the resource distribution within these corrupt state-business relationships. In essence, I suggest that the emerging types of corruption are not random but follow predictable patterns, depending on actors' resource distribution within a corrupt state-business relationship (causal claim 3). In table 4.2, I present a visual reminder of the complete argument, containing the causal claims and their propositions.

Table 4.2: Argument Roadmap

Causal Mechanism: Emergence of competition in politics and the economy transforms the opportunity structure of actors, resulting in changes in their interactions, and so leads to a shift in the Patterns of Corruption.

Causal Claim 1: Emergence of competition in the political system and the economy transforms the opportunity structure of actors to engage in corruption.

- P1 Emergence of competition encourages political and economic actors to engage in corruption, or more broadly, violate established norms and regulations.
 - P2 Emergence of competition weakens existing constraints on corruption.
 - P3 Emergence of competition develops few new constraints on corruption.
-

Causal Claim 2: The constellation of powerful incentives and weak constraints encouraged political and economic actors to enter into corrupt state-business relationships.

- P1 Mutual compatible interests encourage political and economic actors to enter into state-business relationships.
 - P2 At least one of the actors in the state-business relationship benefits substantially from their relationship.
 - P3 Control mechanisms are unable to deter actors to form corrupt state-business relationships.
-

Causal Claim 3: The distribution of power between political and economic actors in a corrupt state-business relationship determines the type of corruption that emerges.

- P1 Concentrated political power combined with weak economic power results in covert political financing.
 - P2 Concentrated political and economic power results in local capture.
 - P3 Weak political power combined with concentrated economic power leads to legal corruption.
-

The following section follows the outline described in chapter 3. Specifically, I examine the separate parts of the whole argument in a similar manner as a criminal trial.⁶⁴ I present the observations for each proposition before drawing any inferences.

⁶⁴ This also includes how I deal with alternative explanations. I focus not on alternative explanations for the

While causal claim 1 will only be examined from with national level data, the propositions in causal claims 2 and 3 are examined with micro-level data. Specifically, I contrast them with the three selected corruption cases. The inferences drawn from these examinations are then aggregate these inferences from a causal claim to evaluate how well the claim holds up in light of the presented evidence. In the last step, presented in the conclusion of this part of the chapter, I combine the results for each causal claim to assess the validity of the full causal mechanisms. In this manner, I hope to answer the question set out at the beginning—why the emergence of political and economic competition shapes a country’s corruption patterns.

Causal Claim 1: Transforming the actors’ opportunity structures.

The emergence of political and economic competition transforms the opportunity structure, that is the incentives and constraints, of actors to engage in corruption. The causal claim examines in-depth how the introduction of competitive processes transformed the opportunity structures and thus encouraged them to participate in corruption by analyzing its three proposition. To support the first proposition about the emergence of competition encourages actors to violate established norms and procedures, and more importantly, to engage in corruption, I ideally find sources that emphasize the willingness of actors to engage in corruption and that they were driven to it by the developments in their respective domains. The second proposition concentrates on how competitive processes have weakened already existing control mechanisms, especially established oversight agencies. The evidence for the proposition should be visible in the historical accounts and statements about the limited resources that these agencies had. The third proposition analyzes how competition had hindered the

outcome in question but on alternative explanations for the presented *observations*.

establishment of new deterrent of corruption. The ideal evidence that I can encounter for it comes in the form of only a few traces of anti-corruption initiatives by actors—largely due to the competition these actors encounter.

Proposition 1.

The emergence of political and economic competition encouraged actors to engage in corruption. The first five observations deal with the emergence of political competition and how it created incentives for political actors to engage in corrupt behavior. Observations 6 to 8 address the emergence of economic competition and its impact on economic actors. The last two observations present how corrupt behavior, in general, became more noticeable after the transition. Overall, I find strong and direct evidence in support of the first proposition.

Observation 1: At the first fully free parliamentary elections in October 1991, voters could choose among 111 political parties and electoral coalitions.⁶⁵ Of these, however, only 29 received a seat in the Sejm.⁶⁶ At the parliamentary elections in 1993, only 35 parties had registered, of which only 6 received at least one seat.⁶⁷ This trend in fewer and fewer parties or political alliances standing in the elections continued for the next few years until 2005, where 22 political parties entered into the parliamentary elections. Despite the large number, only 6 parties managed to win representation in the Sejm. Columns 1 to 5 in table 4.3 summarize this description.

⁶⁵ The Political Party Act of 1990 allowed any political group to register when they had collected 15 signatures (1990; Szczerbiak, 2001, p. 12).

⁶⁶ The Sejm is the lower house with 460 seats. The upper house is the Senate with 100 seats. In contrast to the U.S., the power between these two houses is not equally distributed as the Sejm is the main legislative body in Poland.

⁶⁷ The main reason for this dramatic fall in registered party was the introduction of the Law on Elections of 1993, which set the electoral threshold to 5 percent (Szczerbiak, 2001, p. 29).

Table 4.3: Dynamics in Polish Party System (1989-2010)

| Year of Election | Number of Contenders | Stood in Previous Election | New Formations | Number of Winning Parties^a | Won Seats in Previous Elections |
|-------------------------|-----------------------------|-----------------------------------|-----------------------|--|--|
| 1991 | 111 | - | - | 29 | - |
| 1993 | 35 | 26 | 9 | 6 | 4 (SLD, PSL, UD, KPN) |
| 1997 | 21 | 12 | 9 | 5 | 3 (SLD, PSL, UW) |
| 2001 | 14 | 8 | 6 | 6 | 2 (SLD-UP ^b , PSL) |
| 2005 | 22 | 8 | 14 | 6 | 6 (SLD, PSL, PO, SO, LPR, PiS) |
| 2007 | 10 | 7 | 3 | 4 | 3 (PSL, PO, PiS) |

^a Poland has a German Minority Party that stood at every election but not as a political party. It has been therefore included in the 1991 election count.

^b The SLD was the dominant partner in this coalition. While the UP stood in the 1993 election, it failed to gain any seats in the 1997 election.

Sources: own calculations and table 3 from Millard (2009)

Observation 2: Column 6 in table 4.3 illustrates the extensive political party volatility in the political landscape over the years. Of those political parties that participated in the 1991 elections, only 12 reappeared in the 1993 elections. And only four of them had won seats in the Sejm. When we compare the number of parties that had won at least one seat in the 1993 parliamentary elections with the parties of 1997, only three parties managed to reenter the Sejm—the Labour Union (UW)⁶⁸, SLD (the communist successor party), and the PSL. By 2007, none of these political parties gained a seat in the Sejm anymore—they have either disappeared, merged with other parties, or otherwise transformed themselves to such an extent that they are viewed as new political parties.

Observation 3: As mentioned in the background section, Poland’s only constant in their selection of government was their repeated turnover in government from post-solidarity to post-communist parties (Baylis, 2007, pp. 81–106; Vachudová, 2006, pp. 59–60). In addition to no party being reelected, no party has managed to win a

⁶⁸ UW is a merger of the UD and the Liberal Democratic Congress KLD, both post-Solidarity parties. Scholars generally view the UW as their successor and not as a new political party (Millard, 2009, pp. 781–798).

majority, thus, being forced to form coalition governments. And while these coalitions ran along ideological lines, where post-Solidarity governments would enter only into coalitions with each other and so leaving the SLD and the PSL to form coalitions when needed, these coalitions rarely were stable (Millard, 2008, pp. 367–393; Millard, 2009, p. 793).

Observation 4: Legislative instability, that is, “the proportion of amendment laws in the total legislative output” (Goetz & Zubek, 2005, p. 8), has been another characteristic of the first two decades after Poland’s transition. When exploring the annual legislative output of the Sejm between 1998 and 2004, Goetz and Zubek (2005, p. 8) find that almost 60 percent of all laws passed in a term have been amendments to existing legislation, in contrast to the Czech Republic and Hungary where the proportion of amendments to new legislation was significantly less.

Observation 5: Between 1991 to 2001, political actors experienced an exponential rise in their expenses. As figure 4.1 indicates, parties had to lead increasingly costly campaigns to remain competitive. And only in 2001, with the adoption of the Statute on Elections to the Sejm and to the Senate of 2001, a campaign expenditure ceiling of PLN 29 million has been introduced (Fuszara, Kopińska, & Kurczewski, 2002, pp. 393–450; Group of States against Corruption [GRECO], 2008, p. 11).⁶⁹

⁶⁹ Unfortunately, I could neither update nor expand the figure to include the expenses of other political actors for several of reasons: (i) before 1997, the financial reports by political parties were rather unreliable as they faced no sanctions for misreporting their finances (Walecki, 2007, p. 124); (ii) the financial reports of this period are also not available online from the National Election Commission; and (iii) I have tried to contact the author numerous times over the last eight months, but apart from an early correspondence about an interview, to which he agreed, I was never able to either set up a time for the interview or get the exact numbers presented in the figure.

A political candidate's expenses did not only rise because of an increasingly

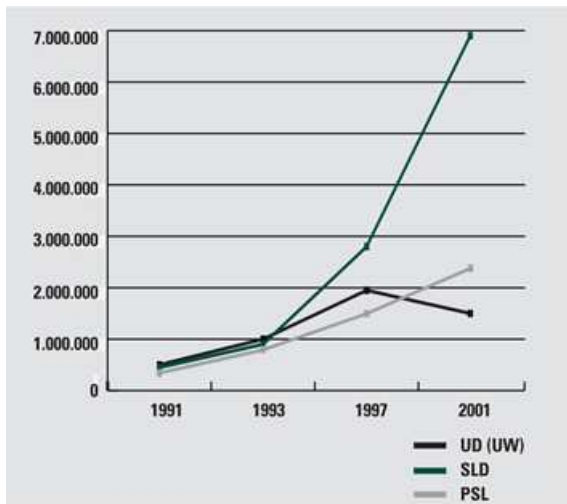


Figure 4.1: The Cost of Parliamentary Elections in Poland, 1991-2001 (in USD)

Note: Poland introduced an election expenditure ceiling of PLN 29 million in 2001

Source: figure from Walecki (2003, 72)

sophisticated campaign process but also because they needed to outspend their competitors from their own political parties (Walecki, 2007, p. 125, 2007, p. 124). While the Polish electoral system is party-centered, it nevertheless maintains a strong focus on candidates as well through the use of personal votes. Candidates within the same party, thus, will attempt to outspend each other to gain a seat in the Sejm or

Senate (Walecki, 2007, p. 126).

Observation 6: Until 1997, Poland's party finance system forbade direct public funding. Parties were therefore reliant on membership fees, campaign contributions, and what they could earn from selling their assets (Jacuński, 2012, pp. 43–63). As in other CEE countries, the income from membership fees was almost negligent, and so most parties focused on acquiring contributions from private citizens and economic actors. In 1997, with the entry into force of the new Law on Political Parties of 1997, a major change in how parties fund themselves took place. Parties now received the majority of their income from direct and indirect public funds (Szczurbiak, 2001, p. 221).

Observation 7: Poland passed its first policies to liberalize and privatize parts of its economy already in the late 1980s. These regulations largely focused on providing a legal basis for transforming SOE into private entities as well as transferring the SOE's assets (Błaszczuk & Dabrowski, 1993, 24, 83). In 1989, already 1,300 new state-owned

enterprises were established, which almost doubled the number of firms under government control (Tarkowski, 1991, pp. 6–7).⁷⁰ Ultimately, despite Poland’s intention to rapidly privatize its SOE, the privatization of its state assets had been rather slowly implemented (Schoenman, 2014; Zijlstra, 1997, p. 12).

Observation 8: Another feature of the early economic reforms was making it simpler for individuals to establish new firms (Błaszczyk & Dabrowski, 1993, 24, 83). As a result, within six months the number of private firms increased from 572.000 to 700.000, or almost 25 percent in 1989 alone (Tarkowski, 1991, pp. 6–7). In total, the private sector share of GDP has risen steadily, from only 28 percent in 1989 to 58 percent in 1994 (Borish & Noel, 1996, p. 100). At that time, Poland had around 4.6 million micro-enterprises and 22,000 private firms that employed between 21 to 500 individuals. In addition, several hundred firms with foreign investments and around 5,000 SOE also operated in the private sector (Borish & Noel, 1996, p. 104). Scholars have attributed this explosion of firms in the private sector to the early regulatory reforms still in the eighties, a liberal foreign trade regime, low taxes for private investments, and the survival of private property during communism (largely in the agricultural sector that has never been fully collectivized) (Błaszczyk & Dabrowski, 1993, pp. 9–11).

Observation 9: In 1991, Poland went through a deep recession and ended up having to devalue the Zloty several times. As the recession continued, the country continued with its currency devaluation in the early months of 1992—all to keep its economy competitive in the world market (Borish & Noel, 1996, pp. 151–152).

⁷⁰ These state-owned companies were called *nomenklatura* companies, already pointing to their hidden function (Błaszczyk and Dabrowski, 1993, p. 31).

Observation 10: Despite its market size, Poland was not a leader in attracting foreign investments. By 1994, it has only attracted a cumulative FDI of USD 1.8 bln, which is less than half what Hungary attracted in the same time (Lipton & Sachs, 1990, p. 301). Most FDI is concentrated in small-scale investments averaging a little bit less than USD 50,000. The larger-scaled FDIs focused on the automotive industry, food processing sector, telecommunications and engineering (Borish & Noel, 1996, p. 109). Despite the small absolute amounts of foreign investments into Poland, those that came in hurt Polish workers and firms, as they were not competitive, lacking the requisite intellectual and financial capital (Dunn, 2004).⁷¹

Observation 11: Poland divided its state bank into 9 separate entities to simplify the subsequent privatization in the sector, which it accomplished in 1993, when it privatized its first bank successfully (Borish & Noel, 1996, p. 150, 154). The total number of banks increased to 90 in 1992 and 73 in 1995. Despite these early successes in the banking sector, the small and medium-sized private enterprises that mushroomed had major difficulties receiving credits and bank loans (Borish & Noel, 1996, p. 105). The unwillingness to extend credit to private enterprises decreased even with a raise in GDP in the early nineties. As calculations by the World Bank show, credit to private enterprises constituted 29.3 percent as a share of total credit in 1990 but had declined to 26.2 percent by 1994. In addition to a lack of supply of credit, enterprises, especially micro-enterprises, also faced lending rates between 33 to 57 percent at that time (Borish & Noel, 1996, p. 105).

⁷¹ This assessment differs from the assessment of two leading economic advisers, who suggested in 1992, that Poland's industry is highly competitive and there was little risk of monopolies developing because of extensive international competition (Lipton and Sachs, 1990, p. 301).

Observation 12: During the early nineties, the first signs of strong interactions between the political and economic sector became visible. Interlocking directorates quickly developed, or more often a public official would appoint themselves as director of a newly privatized company (PL 002, 2017, Jun 27). As scholars found, these tight connections between economic and political actors continued work well into the first decade of the new century (McMenamin, 2004, pp. 657–676; Schoenman, 2014). One common method evolved from the need to place state officials on the board of directors of companies that were either partially or fully under the control of state (Schoenman, 2005, pp. 40–75). Appointments to the board of directors were also a common path to create interlocking directorates—with firms appointing senior managers or owners to each other’s board of directors, ensuring their cooperation and create alliances among firms (Schoenman, 2014, pp. 111–113).

Observation 13: While the early economic reforms encouraged rapid liberalization and privatization, they came at a high cost. Several areas, such as conflict-of-interests situation, remained unregulated, which created legal loopholes that economic and political actors exploited for their personal benefit (Holmes, 2006, pp. 192–193; Tarkowski, 1991, pp. 4–5)—a sentiment that Polish scholars and entrepreneurs echo (PL 001, 2017, Jun 19.; PL 002, 2017, Jun 27). As a result, corruption related to privatization exploded. But other areas did not remain untouched as accusations of corruption levied against leading politicians abounded.

Observation 14: Leading scholars of corruption in Poland agree that with the transition, a rise in corruption incidents had taken place (Tarkowski, 1991). These scholars identified the loss of power the communist regime experienced, as the initiator for this increase as the regime was unable to avert corruption incidents at this stage (Pleines, 2005, p. 10). Between 1992 and 1998, for instance, the number of reported

bribe-offenses increased by 54 percent, while the number of power abuses by public officials increased by 65 percent (Pleines, 2005, p. 9). The largest increase, however, took place within the police, where the numbers of reported police corruption rose by 300 percent. This explosion in corruption among those that were supposed to uphold the laws, prompted the EU as well as national agencies to warn successive Polish Governments multiple times about the high degree of corruption in the police (Fuszara et al., 2002, pp. 47–48).

Inference: Observation 1 points towards a stabilization of the party system in Poland, where only the most successful parties survive. However, the next few observations fully destroy any hope of party institutionalization in the Polish party system—competition was excessive within political parties (observation 5) and across parties (observations 2 and 3). Competition also swapped into the legislative area—with an increasingly chaotic legislative output (observation 4) as parties rarely received enough votes to pass a new law, they settle for making amendments to existing laws and so bypassing the need for a majority decision. Political actors also faced a tough financial situation (observations 5 and 6). Economic actors faced similar uncertain times. Across sectors, they encountered strong competition from (former) SOE (observation 7), newly emerging firms (observation 8), and foreign firms (observation 10). What made matters worse, firms had to deal with a devaluation of the zloty (observation 9) and difficulties obtaining credits and bank loans for any investments (observation 11).

The situation provides both sides with a strong motivation to seek out each other. Observation 12 corroborates this conclusion, describing how rapidly state-business relationships formed. Economic actors gained access to political actors, potentially hoping to receive an early warning about changing legislation. Political actors, in comparison, gained access to another potential income source as campaign expenses

increased exponentially (observation 5). Not all of their interactions took place through such interlocking directorates. A large part also in unregulated and covert channels (observation 13). Furthermore, it appeared that corruption incidents increased at all levels and business sectors (observation 14). In light of the evidence presented, I conclude that there is *strong* and *direct* evidence for the proposition that the emergence of political and economic competition encouraged actors to engage in corruption.

Proposition 2.

The second proposition of causal claim 1 probes how the emergence of competition has affected the ability of existing oversight agencies to deter corruption. The evidence portrays a rather bleak picture, where control mechanisms such as law enforcement, prosecution, the judiciary, and the state audit office are ill-equipped to deter corruption.

Observation 1: In an assessment by the World Bank of the first few years of the transition, the police has been identified as lacking the necessary skills and resources to conduct criminal investigations (Borish & Noel, 1996, p. 120). The assessment has not changed over the years. GRECO's peer-evaluation, for example, stressed that law enforcement authorities lack the specialized skill-set to deal with corruption cases (GRECO, 2001, p. 7), especially as it did not develop a specialized anti-corruption unit until 2006. In addition, there are high levels of corruption among the police itself (Holmes, 2006). Based on official police statistics, the number of criminal cases initiated against police officers has risen from 80 in 1998 to 110 in 2001; similarly, the number of officers under investigation increased from 102 to 157 during the same time (Fuszara et al., 2002, p. 438).

Observation 2: Scholars and anti-corruption experts have stressed the formal and informal subjugation of the public prosecution services to the government. From the

beginning, Poland had combined the position of Prosecutor General with that of the Minister of Justice and instituted a tight hierarchical structure (Polak & Nelken, 2010, pp. 219–253). The institutional design has also been heavily criticized by several anti-corruption experts as enabling the politicization of the prosecution (Fuszara et al., 2002; GRECO, 2001; Kobylińska, Makowski, & Solon-Lipiński, 2012, pp. 98–102). Interviews with prosecutors have also exposed the strong informal pressure exercised on their investigations (Polak & Nelken, 2010). Apart from such pressure from above, a lack of appropriate training in how to handle corruption cases further limits the prosecution's capacity to deal with corruption cases (Borish & Noel, 1996, p. 120; GRECO, 2001, pp. 21–22; Kobylińska, Makowski, & Solon-Lipiński, 2012, pp. 98–102).

Observation 3: Evaluations of the judiciary's ability to deal with corruption cases have been negative at the turn of the century—mostly due to the lack of relevant legal training (Fuszara et al., 2002, pp. 427–428; GRECO, 2001, pp. 21–22). In 2009, 42 percent of respondents in a large-scale public survey viewed the judiciary as corrupt (European Commission, Directorate-General for Home Affairs, 2012). An assessment that the U.S. Ambassador to Poland, Victor Ashe, shared in his leaked memo to the US State department. He, however, suggests that what the public considers as corruption in the judiciary, can also be attributed to a lack of funding, staff, and experienced judges (Ashe, 2009).

Observation 4: A final institution that has been a left-over of the communist regime is the Supreme Audit Office NIK. The agency has continuously received praise by anti-corruption experts for its work in revealing irregularities and corruption in state institutions (Fuszara et al., 2002, p. 410, 2002, pp. 411–412; GRECO, 2001; Kobylińska, Makowski, & Solon-Lipiński, 2012, p. 16). Its auditors work independently in their assessment of the state entities' accounts, and the agency's reports are published

regularly on its website since 1998. These reports highlight instances of irregularities or other wrongdoings that their audits revealed. The agency is also formally required to forward any suspicions of criminal wrongdoings to the prosecution. While its president is appointed by the Sejm, the office's tenure is longer than that of the parliament, resulting in the President of NIK having been appointed by the former government and so having even few informal ties to the current government (Fuszara et al., 2002, p. 410).

Inference: The first two state agency's that would deal with potential corruption cases—the police and the prosecution—have neither the skill-set nor the incentives to investigate such cases properly (observations 1 and 2). The police itself has been repeatedly accused of corruption among their own ranks, which their own statistics corroborate (observation 1). And the risk of political pressure on the prosecution (observation 2) indicates that especially in major corruption cases, these agencies are not a major deterrent. Even the judiciary has been fighting with corruption, in addition to dealing with a significant lack of resources for handling their caseloads (observation 3). The only state agency that has received high praise in its handling of corruption has been NIK (observation 4). But despite its ability to uncover potential corruption cases, it is not enough to deter corruption. The results of the agency's reports need to be followed by the prosecutions (observation 4), which leads back to the conclusion that the existing oversight agencies that were in place already before the transition are not able to deter corruption in any meaningful way.

Two caveats, however, need to be mentioned. First, the simultaneous position of Prosecutor General and Minister of Justice is not unique to Poland. The majority of common-law countries have combined the position of Attorney-General and Ministry of the Interior or its equivalent. But rarely has the Prosecutor General such extensive formal and informal powers to direct the investigations of their subordinates. What is

worse, it undermines the faith of the public in due process. The second caveat relates to this lack of faith. As the dispatch of then U.S. Ambassador points out, what the general public views as corruption, might only be the result of lack of adequate resources (observation 3). But while the origins of this inefficiency can be disputed, the outcome remains the same—the existing agencies were not able to effectively deter corruption. I, therefore, conclude that there is at least a *moderate* and *direct* evidence supporting the second proposition of causal claim 1.

Proposition 3.

Moving now to the third proposition of causal claim 1, I concentrate on examining the ability of competition, specifically the emergence of political and economic competition, to establish deterrents for corrupt actors. The following observations describe the political, economic, and social conditions that limited the chances for competitive processes to create adequate constraints. I find *strong* and *direct* evidence to support the last proposition of causal claim 1.

Observation 1: The first two decades after the transition, Poland’s parties had been weakly institutionalized (Nalepa, 2016, pp. 353–372). During the round table discussion, both sides wanted to ensure that the capture of either the government or the parliament would be difficult to achieve. They designed the system therefore with a focus on creating an individualized legislature, which, in turn made it easy for parliamentarians to switch party-affiliations even during a parliamentary term (Millard, 2009; Shabad & Slomczynski, 2004, pp. 151–176) and their capacity to block or amend laws (Millard, 2009; Szczerbiak, 2001).

Observation 2: In contrast to Western governments, the core executive has not only been “constrained by presidential veto powers and parliamentary activism” (Zubek, 2011, pp. 911–932) but it also had been subjected to the demands of its coalition

partners, whose support was ambiguous. Scholars agree that throughout the first two decades, “coalitions proved quarrelsome and unstable” (Millard, 2009, p. 793; Zubek, 2011, pp. 172–192).

Observation 3: Poland’s political financing system can be divided into two phases. In the first seven years, party financing was largely unregulated and influenced by a *laissez-faire* mindset (Walecki, 2007, p. 133). The few provisions about party financing in the Act on Political Parties of 1990 concentrated on prohibiting parties from accepting foreign donations. The act also did not introduce public subsidies, expected parties to finance themselves from membership fees, income from assets, donations, and bank loans (Jacuński, 2012, p. 52; Szczerbiak, 2001, p. 221). In 1997, Poland introduced the Act on Political Parties of 1997 and so triggered the second phase began. The country’s political financing system became now increasingly regulated and resembled that of Western European Countries. It introduced generous direct public subsidies while tightening restrictions on acceptable income sources (Fuszara et al., 2002, p. 38; GRECO, 2008, p. 3; Walecki, 2007, p. 123).

Despite these restrictions, several scandals surrounding illicit party financing occurred. The public outcry triggered further restrictions on acceptable income sources to safeguard political parties from becoming the instrument of special-interest groups donations (Casal Bértoa & Walecki, 2012). To ensure transparency and the independence of political parties, the Act on Parliamentary Elections of 2001,⁷² which required parties to make their financial statements publicly available and introduced sanctions for parties that did not submit their statements annually to the National Electoral Commission (GRECO, 2003). Last, the act disallowed campaign contributions from legal entities,

⁷² Parliamentary Election Act of, 2001.

such as firms and business associations, as well as anonymous donations (Casal Bértoa & Walecki, 2012, p. 11; GRECO, 2001).

Observation 4: Shortly before Poland's EU Accession, GRECO's anti-corruption experts positively evaluated the efforts of the civil society, including academics and media, to pressure the government to be more pro-active in its anti-corruption approach (GRECO, 2001, p. 19). By the end of the decade, civil society, however, had largely turned away from the issue. One explanation, provided by a lecturer at the University of Warsaw, suggest that corruption has become a too politicized topic and studying it constitutes 'career suicide' (PL 001, 2017, Jun 19).⁷³

Observation 5: At the end of the nineties, Poland had passed several legislations that established the basis for its anti-corruption framework (Fuszara et al., 2002, p. 406, 2002, p. 405). But doubts remained about the intentions behind many of these initiatives (GRECO, 2003, pp. 13–14). For instance, when the ruling AWS introduced a proposal to establish an anti-corruption agency, its coalition partner as well as the then-opposition parties of the SLD and PSL rejected the proposal. When it came time for the Parliamentary Elections in 2001, the SLD however campaigned on an anti-corruption platform (Fuszara et al., 2002, p. 406, 2002, p. 405). It turned out that the prominence of corruption on the political agenda ended up being the reason for the lack of effective anti-corruption measures. The intense political competition between parties meant that no party's anti-corruption initiative managed to receive cross-party consensus (Fuszara et al., 2002, p. 406).

Observation 6: Eventually, Poland established an anti-corruption agency. PiS founded the Central Bureau for Anti-Corruption after the party's electoral win in 2005

⁷³ Which might explain why he only holds a non-tenured position at the University.

(Associated Press International, July 24, 2006).⁷⁴ The Central Anti-Corruption Bureau is Poland's main agency in fighting corruption. It has extensive intelligence and law enforcement authority to control privatizations and public procurement proceedings, and asset declarations and can initiate administrative as well as criminal proceedings (European Commission [EC], Migration and Home Affairs, 2014b, p. 5). The agency has been contested from the beginning, especially the institutional design that fortify its lack of impartiality (EC, 2014b). The prime minister appoints the head of the agency and also supervises its work. The agency also reports annually to the Sejm on its activities. The head of the agency serves a four-year term during which removal is only possible after the prime minister conducted a "non-binding consultation with the President, Special Services Committee and Parliamentary Committee for Special Services" (EC, 2014b, p. 5). The European Commission, in their 2014 report on the anti-corruption measures in each member states, explicitly warned of the risk of the agency becoming a political tool (EC, 2014b, p. 5). The report also noted that the design of the CBA concentrates the power in the hands of the agency's head and combined with its highly hierarchical setup, opens the agency to the risk of the head of the agency misusing their powers for political reasons (EC, 2014b, p. 5).

Observation 7: A representative of the U.S. Chamber of Commerce noted that when foreign firms encounter corruption, they generally turn to the Chamber of Commerce or their embassies (PL 002, 2017, Jun 27). These organizations would then try to work on the firms' behalf to resolve the issues, most often by issuing a reprimand.

Observation 8: Domestic firm, when confronted with corruption and intent to report such behavior can either turn to the general police or the public procurement

⁷⁴ Act on the Central Bureau of Anti-Corruption of 2006.

authority (Urząd Zamówień Publicznych, *UZP*), if the corruption happened during the public procurement process. The UZP had been established in 1995 and tasked with publishing the Public Procurement Bulletin, auditing the public procurement proceedings in the various state entities, and coordinating appeal proceedings. Poland's highly decentralized public procurement system means that the UZP's ability to audit public procurement projects have been limited. In 2002, for instance, the UZP had only been able to examine only 1.8 percent of tenders announced in the public procurement bulletin (GRECO, 2001, p. 22).

Inference: During the first two decades after the transition, intense political competition has prevented successive governments from introducing effective anti-corruption mechanisms. The design of the political system required that political parties were internally cohesive enough to ensure that their parliamentarians support their agenda. However, such party cohesion had been lacking for most of the time (observation 1). Moreover, larger initiatives called for the support of all governing parties (observation 2) if not even inter-party consensus with opposition parties, which was even harder to obtain (observation 5). Under such condition, even if any political party wanted to initiate reforms that would have constrained their own behavior and that of its opponents, it needed to overcome internal fragmentation and foster cross-party consensus. Either one was already difficult to achieve, achieving both seems almost impossible. Extensive political competition, I therefore conclude, did little to constrain corruption but made it actually harder to introduce any anti-corruption mechanisms.

Contrary to popular perception about civil society pushing for anti-corruption reforms from below, I find that civil society's influence had been inconsistent over time. While it has been active in the early years of the new century, by the end of the decade,

its interests have largely disappeared (observation 4).⁷⁵ Finally, economic competition also played only a negligible role in deterring corruption. Any economic actor, whether foreign or domestic, willing to report suspicions of corruption to the authorities, faced the problem of where to report. There were only a few viable options available to report corruption in the nineties, all with their own share of issues (observations 6,7 and 8). The evidence presents me with strong and direct support for my third proposition. In other words, I find that neither the political nor the economic and social conditions were helpful in constraining corruption and have likely even encouraged actors to participate.

Overall, the analysis of the three propositions illustrate well how the emergence of competition in politics and the economy transformed the actors' opportunity structures and thus encouraged them to engage in corruption. I have found traces of the ideal evidence laid out in chapter 2 for all three propositions. The first proposition found strong and direct evidence that political actors developed an interest to engage in corruption and would find a willing partner for it on the economic side. The second and third proposition investigated the ability of constraints to deter these actors from engaging in corruption. The evidence for both propositions demonstrates how competition in politics and the economy reduced the chances that the existing oversight agencies or any potentially new control mechanisms would be able to deter these actors. I find that existing oversight agencies had only limited resources available, while new deterrents were difficult to establish as excessive political competition would kill any anti-corruption initiative proposed by another political actor. The evidence for the second proposition is, however, only moderate and direct, as a few caveats to my

⁷⁵ I suspect that I had difficulties obtaining interviews for largely the same reasons that lead civil society moving away from corruption.

interpretation remain. The evidence for the third proposition is again strong and direct. As any argument is only as strong as its weakest link, I conclude that the presented evidence provides only *moderate* but *direct* support for causal claim 1.

Causal Claim 2: Entering into a corrupt state-business relationship.

Causal claim 2 focuses on the constellation of incentives and constraints that political and economic actors face and argues that the specific constellation of powerful incentives and weak constraints encourages the actors to enter into corrupt state-business relationships. To test the claim, I derived three propositions: (a) the actors have mutually compatible interests to enter into a corrupt state-business relationship, (b) at least one of the actors in the relationship earns substantially from it, and (c) control mechanisms are ineffective deterrents for the actors.

In this section, I examine how well the three corruption cases that have occurred in the later half of the period investigated—*Rywingate*, *Afera Hazardowa*, and *Infoafera*—support these three propositions. In an ideal case, I should encounter evidence in each of the three corruption cases that causal claim 2 occurred as theorized. As laid out in chapter 3, I expect to find supportive evidence in each case for each of the three propositions in a particular form. For the first proposition, for instance, I, ideally, encounter records and other accounts about the political and economic actors having mutually compatible interests to entered into a corrupt relationship. For the second proposition, I hope to find accounts that highlight the significant benefits that at least one side in the exchange gets. And for the third proposition, I ought to find that there existed only a few attempts to constrain actors, either because only a few deterrents had been in place or because those control mechanisms that are in place are not effective.

Rywingate

The *Rywingate* corruption case requires special attention as it represents a *failed* attempt to enter into a corrupt state-business relation. As the failure was the result of idiosyncratic factors, and not effective institutional deterrents, the case still allows me to test the second causal claim. The analysis, however, relies in some instances on ‘what-if’ scenarios that will be clearly marked as such. The first proposition that I will test on the *Rywingate* corruption case states that actors developed mutually compatible interests that encouraged them to form corrupt state-business relations.

Observation 1: In fall 2001, Polsat’s owner Solorz-Żak announced that Agora was a potential investor into his TV-station Polsat (Siemieniec & Makarczyk, November 7, 2001). Polsat was at that time the largest nationwide private TV-station, with an audience share of 16.2 percent in 2004. The next closest nation-wide private TV-station was TV Wisla with 14 percent (EC, n.d., p. 71). Polsat’s audience share remained around 15 percent throughout the first decade of the twenty-first century (Lara, February 2, 2018).

Observation 2: The two TV channels with the largest audience share belong both to TVP, a state-owned broadcasting company. In 2004, for instance, they had a combined audience share of 45 percent, and over 55 percent if one adds the regional third channel of TVP to it (EC, n.d., p. 71).

Observation 3: Agora is the only large Polish publisher in the press market (Lara, February 2, 2018; Peruško & Popović, 2008, pp. 166–190). Its flagship daily newspaper *Gazeta Wyborza* has been the leading national newspaper throughout the 1990s (Cohen, November 7, 1999; Lara, February 2, 2018). In 2004, for instance, *Gazeta Wyborza* had a daily circulation of 171.000, second place after *Fakt*, another daily owned by the German Alex Springer publisher, with a circulation of 241.000 newspapers (EC,

n.d., p. 71). Even in 2009, Fakt maintained only a small lead with a market share of 14.79 percent to Gazeta Wyborcza's 14.35 percent (Lara, February 2, 2018).

Observation 4: In 2004, the top three publishing companies were the German Alex Springer Press, Norway's Orkla group, and Agora (EC, n.d., p. 71). In 2009, Agora's market share was only 18.3 percent, the remaining 80 percent are shared between several large foreign owners (Lara, February 2, 2018).

Observation 5: The main revenues for companies in the broadcasting market are advertisement revenues (Peruško & Popović, 2008). A similar dependence on advertisement revenues due to pressure from intensive competition also exists in the press market (Sparks, 2008, pp. 44–72).

Observation 6: At the parliamentary elections in September 2001, the SLD-UP electoral bloc won 41.04 percent of votes (results of the election presented in table 4.9). The second placed PO and third placed Samoobrona only managed to get 12.68 and 10.28 percent of the votes. The SLD-UP formed a coalition government with the PSL, who won 8.98 percent of the votes. The SLD-UP-PSL government thus achieved a majority of 50.02 percent and 258 out of 460 seats in the Sejm. It gained a substantially larger majority in the Senate, where it gained 75 out of 100 seats, with 4 additional seats through its coalition with the PSL (Millard, 2003, pp. 69–86).

Table 4.9: Results of 2001 Sejm Elections

| Party | Votes | Percent of Votes | Seats |
|---|--------------|-------------------------|--------------|
| Democratic Left Alliance – Labor Union (SLD-UP) | 5,342,519 | 46.5 | 216 |
| Civic Platform (PO) | 1,651,099 | 12.7 | 65 |
| Self-Defence of the Republic of Poland (Samoobrona) | 1,327,624 | 10.2 | 53 |
| Law and Justice (PiS) | 1,236,787 | 9.5 | 44 |
| Polish People's Party (PSL) | 1,168,659 | 8.9 | 42 |
| League of Polish Families | 1,025,148 | 7.9 | 38 |

Source: Piasecki and Michalak (2016).

Observation 7: The 2001 election featured three new contenders: the PO, founded by former AWS and UW members, the Law and Justice party (PiS), and the League of Polish Families. All of which had only been established a few months before the elections (Millard, 2003, p. 72; Szczerbiak, 2003, pp. 729–746). Meanwhile, the incumbent AWS was in such a disarray that it failed to gain representation in the Sejm at all (Millard, 2003, p. 71). As a result, the PSL and the SLD had been the only two parties that have managed to win enough votes in each election to sit in the Sejm since 1993.

Observation 8: In the 2002 local elections, the SLD-UP did not manage to maintain their lead from the national elections (Jasiewicz, 2008). While it still secured first place, it had only received 24.7 percent of the total votes, in contrast to 31.83 percent of the total votes in the previous local elections, when it came second place after the AWS with 33.32 percent.

Observation 9: The SLD's expenses for the 2001 parliamentary elections met the PLN 29 million spending ceiling established in a major revision of the Political Parties Act of 1997.⁷⁶ The party's expenses have risen exponentially since 1991.

Inference: While Polsat has been one of the major players in the broadcasting market it was not the largest as the public broadcasting station TVP still reaches over 50 percent of Poles (observations 1 and 2). And while Agora similarly has not been the top player in the press market, the leaders are two foreign companies, it still controlled almost 20 percent of the market (observation 3 and 4). Polsat and Agora thus faced tough competition from national and international media firms. The entire media sector has been heavily reliant on advertisement revenue (observation 5), which corroborates

⁷⁶ No exact figures were available online as the National Election Commission has not yet made the political parties annual expense reports from the previous decade available online.

the conclusion about Agora facing intense competition. Combining these observations suggest that Agora had strong financial interests in establishing reliable ties with a political actor. On the political side, a few candidates showed potential (observation 7). The win of the SLD in the 2001 parliamentary elections (observations 6 and 7) indicated that the party continued to be a major political force. But as observation 7 and 8 highlight, the public appeared to have voted for the SLD more because of a lack of viable alternative options than because they believed in the party's vision. This suggests that the SLD had only a narrow lead and was facing strong competition from other, newly emerging, political actors. When adding observation 9 and observation 5 of the first proposition in claim 1, both pointing to the exponential increase in the SLD's expenses over the years, I conclude that the SLD had a large financial interest in securing an economically strong partner in the media sector.

While these observations do not provide smoking-gun evidence for the proposition, neither do they support alternative interpretation. Faced with fierce competition, actors will strive to secure their position in a market through various means—either by expanding to other markets, or by establishing alliances with partners that are also confronted with tough competition in their respective domains. And given their respective resources in their domains, Agora and the SLD were the most likely partners for establishing a corrupt state-business relation. I, therefore, infer that there exist *strong* and *direct* evidence to support the first proposition about the existence of mutually compatible interests of economic and political actors to enter into a corrupt state-business relationship.

Causal claim 2, the second step in the causal mechanism, concentrates on political and economic actors establishing a corrupt state-business relationship. To test it, the first proposition above focused on the mutually compatible interests to enter into

such relationship on both sides. The second proposition demands that to validate the causal claim, the corrupt exchange between the actors has to have benefited at least one side. So, while the first proposition requires that both sides have an *interest to enter* into a corrupt relationship, the second proposition requires that both sides *act on this* interest and *enter* into a relationship.

As I have noted above, in the Rywingate case the actors ultimately did not enter into a corrupt state-business relationship. As the reason for this are idiosyncratic factors related to Agora and its leadership, and not effective control mechanisms, the case does not invalidate my theory. To test the proposition, despite its outcome, I will treat the following analysis of the second proposition as a ‘what-if’ case.⁷⁷

Observation 1: If Agora had expanded diagonally into the broadcasting market by purchasing Polsat, it would have established itself as Poland’s largest domestic media company. In the first decade of the twenty-first century, Agora was the largest domestic publisher in Poland’s press market, ranked third behind two foreign publishers (Lara, February 2, 2018). At the same time, Polsat had the largest audience share among private broadcasters (EC, n.d., p. 71).

Observation 2: The SLD-UP faced a disintegrating AWS at the 2001 parliamentary elections and has been considered the dominant party in the elections. And while they won the election (see table 4.9 in proposition 1), they did not achieve a majority and so formed a coalition government with the fifth-ranked PSL. In the subsequent years, the party system soon devolved into an unstable system with intense

⁷⁷ While the evidence in this case does not consist of actual *observations* and instead are *suppositions*, for the sake of consistency I will continue using the term *observation* to list the individual data points.

electoral competition (Piasecki & Michalak, 2016, pp. 321–327; Stojarová, Šedo, Kopecek, & Chytilék, 2007, p. 8).

Observation 3: The public broadcasting sector has been under strong political influence since the transition. And the degree of its politicization got larger as political competition intensified over the years (Fuszara et al., 2002, p. 449; Sparks, 2008, pp. 52–54).

Observation 4: If the SLD would have managed to form an alliance with Agora, it would have had received a major financial contribution of around USD 17.5 million (Lepszy Michnik niż Murdoch, December 27, 2002; Włosy stają dęba, December 27, 2002; Smoleński, December 27, 2002, p. 3). In their 2003 annual report to the national election commission, the party's election committee reported expenses of almost PLN 29 million, coming close to reaching the expense ceiling set for the elections (Austin & Tjernström, 2003, p. 72).

Observation 5: If the SLD would have managed to form an alliance with Agora, they also would have won indirect access to the largest Polish media company. The alternatives in the media market either did not have the same reach as Agora would have had if they had purchased Polsat or they were foreign owned corporations. Neither one would have been suitable partners for the SLD.

Observation 6: Poland grants each party, proportionally to votes received at the last parliamentary elections, media access. While each party is guaranteed a certain amount of media time, the body responsible for the allocation of time slots is KRRiT. Moreover, media access is only guaranteed to public TV and radio stations (Szczurbiak, 2001, pp. 229–240).

Inferences: Observations 1, 4, 5, and 6 identify the major benefits that both sides would have gained in the exchange. In addition, the media's dependency on

advertisement revenues (see observation 5 in the previous proposition) would have given Agora another reason to enter into an alliance with the SLD. By supporting the SLD it would have increased its chances of gaining lucrative state advertisement contracts. Considering the environment in which the actors operated (observations 2 and 3), it is plausible to assume that both sides would have benefited significantly from establishing a corrupt state-business relationship.

Even though the inference is a speculation as I had to base it on a likely ‘what-if’ scenario, it finds support in existing research on the ties between political actors and media firms. Examining the globalization of the media market in the CEE region, Stetka (2012) finds that "mainstream media organizations are increasingly facing the risk of getting woven into the local political-economic networks and power structures" (Stetka, 2012, p. 450). She concludes that the heated competition for revenues and the slow takeover of media outlets by local owners, reduces the media’s journalistic independence. Örnebring (2012) goes even further and suggests that across the CEE countries, the media slowly evolved into a clientelistic resource for the various elite networks. These findings echo previous works on corruption that emphasize the importance of media access for actors as a political tool (see, for instance, Della Porta & Vannucci, 1999, pp. 61–62) and research specifically on Poland (Gallina, 2008; Schoenman, 2014).

The evidence for the second proposition in causal claim 2 of *Rywingate* has only moderate accuracy as I needed to substantiate it with secondary research. In addition, to properly assess the proposition, I had to theorizing about the most likely ‘what-if’ scenario that provides only indirect evidence. Combined, I find that events in *Rywingate* provide *moderate* and *indirect* evidence for the second proposition of causal claim 2.

The third proposition concentrates on the inability of existing control mechanisms to counter the corrupt state-business relationship. In the *Rywingate* case, I uncover that there were few control mechanisms in place that could have prevented the corrupt exchange. And as previously mentioned, while the corrupt relationship ultimately did not emerge, the reasons for it were not strong oversight agencies or mechanisms but idiosyncratic factors.

Observation 1: The Parliamentary Election Law of 2001 bans legal entities, such as corporations, from donating to political actors.⁷⁸

Observation 2: The top public prosecutor, that is, the Prosecutor General, is simultaneously also the Minister of Justice and thus a politically appointed office holder. In 2002, the Minister of Justice and Prosecutor General was Grzegorz Kurczuk, a member of the SLDSee relevant observation in proposition 2 of causal claim 1.

Observation 3: Interviews with several current and former prosecutors emphasized that prosecutors are highly attuned to the moods of their political masters. And while prosecution experienced at least informal independence from politics in the nineties, by 1997 political pressure slowly crept back into their professional work (Polak & Nelken, 2010).⁷⁹

Observation 4: Before news about the failed corruption attempt exploded, the public paid little attention to such corruption as they viewed it as a part of living in a post-communist democracy. At that time, political actors were considered to be above the law (PL 001, 2017, Jun 19). The investigations by an international expert team

⁷⁸ See relevant observations in Causal Claim 1.

⁷⁹ More on this in proposition 2 in causal claim 1.

echoed these concerns when they advised the Polish government to raise public awareness of the dangers of corruption (GRECO, 2001, p. 20).

Observation 5: A prime minister has formally full authority to appoint the ministers and state secretaries. Several sources, however, note that these positions are highly sought after by party members, which often leads to intra-party competition among potential candidates (Jasiewicz, 2008; Raciborski, 2007, pp. 17–40).

Observation 6: The prosecution has charged the vice-minister of culture Aleksandra Jakubowska, the senior legal advisor in her ministry, as well as the director and deputy director of KRRiT's legal department. All four were eventually found guilty on charges of falsifying documents, as they orchestrated the removal of the phrase “and magazines” from the bill after the Council of Ministers had already approved the gambling bill (*Zarzuty za aferę "lub czasopisma"*, September 29, 2004; Wróblewski, December 21, 2007; Wróblewski, June 26, 2012, p. 8).

Observation 7: Table 4.5 presents the nine individuals and their party affiliations that sat on the KRRiT at the time of events. The head of KRRiT from July 1999 to March 2003 was Juliusz Braun, a member of the UD/ UW. His deputy at that time was Jan Sęk, a member of the PSL. Secretary to the Council was Włodzimierz Czarzasty (SLD), who served in this position from March 2000 to August 2004. Out of the remaining six KRRiT members, three more belonged to the SLD and two to the PSL. This meant that two-thirds of the council members had party affiliations with the ruling government.

Table 4.5: Members of KRRiT in 2001

| Name | Tenure | Party Affiliation* | Position (in 2001) | Appointed by |
|-----------------------|-----------------------------|--------------------|--------------------|-----------------------|
| Marek Jurek | May 1995 – May 2001 | PR/ PiS | | President of Republic |
| Waldemar Dubaniowski | September 1998 – April 2003 | Independent/ SLD | | President of Republic |
| Włodzimierz Czarzasty | May 1999 – January 2005 | SLD | Secretary | President of Republic |
| Danuta Waniek | May 2001 – December 2005 | SLD | | President of Republic |
| Adam Halber | April 1997 – July 2003 | SLD | | Sejm |
| Juliusz Braun | April 1999 – May 2005 | UD/UW | Chairperson | Sejm |
| Jarosław Sellin | April 1999 – May 2005 | PK/PiS | | Sejm |
| Aleksander Łuczak | April 2001 – December 2005 | PSL | | Sejm |
| Jan Sęk | April 1997 – May 2003 | PSL | Deputy Chairperson | Senate |
| Lech Jaworski | April 2001 – December 2005 | AWS/PO | | Senate |
| Witold Graboś | April 1995 – April 2001 | SLD | | Senate |
| Michał Strąk | April 1995 – April 2001 | PSL | | Sejm |

Source: KRRiT (2018).

Observation 8: Czarzasty was able to manipulate the first draft of the new bill already at the KRRiT. His continued criticism of any proposals by the legal expert meant that the expert eventually resigned from his position. While Braun assigned Czarzasty a fellow KRRiT member as partner, when the former asked to draft the bill himself, the partner also eventually despaired. This allowed Czarzasty to create a first draft of the bill in his liking. While not all KRRiT members agree with Czarzasty's draft, due to an absent member at the voting and a legal loophole, was the bill accepted by the council and forwarded to the Government for their input (tan, October 8, 2008).

Inference: The probably reason for why Rywin intended to channel the money through his firm was the total ban of campaign contributions by legal entities

(observation 1). Other control mechanisms that had failed along the way were the relevant authorities, especially the prosecution, and the public. The prosecution likely paid little attention to the signs as they are subjugated to the Minister of Justice. Because of the formal and informal control over the prosecution, the political actors unlikely viewed the prosecution as a major deterrent (observations 2 and 3). The conjecture finds further support when considering that the public tended to be resigned to corruption by political actors and paid little attention to it (observation 4). The political actors also did not face a lot of party internal deterrents to their corrupt activities. First, despite vehement critique from some of his KRRiT peers, Czarzasty managed to get his version of the new media bill accepted by the council (observation 8). It probably helped that two-thirds of the KRRiT members were affiliated with the government, four even had affiliations with the SLD (observation 7).

Another potential oversight mechanisms that could have deterred the actors was PM Miller. But even though Miller was the head of the government and also head of the SLD at that time, his formal and informal authority over the other individuals was limited. In fact, he needed to balance the varying interests within the party and across the coalition (observation 5). The political actor also managed to circumvent the council of minister's decision on the media bill by making changes after it the bill had already been approved by the government (observation 6). This further corroborates the proposition as it meant that the actors' reach even extended beyond the confines of the KRRiT, which presented the first draft of the bill, into the government. In sum, I find *moderate* and *direct* evidence that supports the third proposition of causal claim 2. Multiple formal and informal control mechanisms failed constraining the corrupt actors.

Overall, investigating the conditions under which *Rywingate* took place and tracing the steps undertaken by the political and actors has provided a first assessment

of causal claim 2. The claim suggests that the constellation of powerful incentives and weak constraints encouraged political and economic actors to form corrupt state-business relationships. Its first proposition expects to find evidence that the actors have mutually compatible interests to enter into a state-business relationship. In the case of *Rywingate*, I found strong and direct evidence for such mutually compatible interests. But not all individuals base their decisions on a cost-benefit analysis alone, and the attempt of establishing such a corrupt relationship was soundly rejected by Agora. I, therefore, had to resort assuming the likely benefits the political and economic actors would have derived, had they entered into a corrupt relationship. Because of the guesswork involved, I assessed the support for the second proposition only as moderate and indirect. The final proposition, discussed above, highlighted the failure of control mechanisms to deter the corrupt actors. The evidence for the proposition was moderate and direct. *Rywingate*, therefore, provides only *moderate* and *indirect* support for causal claim 2.

Afera Hazardowa.

The main episodes of *Afera Hazardowa* took place at the intersection of the gambling sector and the legislative process between 2008 and 2009. In the case lobbyists from the gambling industry used their political connections to influence the drafting of a new gambling bill, in particular thwarting any legislative efforts to introduce an additional tax on the proceeds of slot machines.

The first proposition of causal claim 2 states that the political and economic actors have mutually compatible interests that encouraged them to enter into a corrupt state-business relationship. Observations 1 to 5 reveal the various ties between these actors, while observation 6 highlights first, Sobiesiak's willingness to engage in corruption, and second, Chlebowski's and Drzewiecki's likely involvement in at least

some of these cases. Based on the here presented evidence, I find *strong* and *indirect* support for the first proposition of causal claim 2.

Observation 1: In their testimonies in front of the parliamentary inquiry committee Sobiesiak and Chlebowski, Head of the PO's Parliamentary Klub and Chair of the Public Finance Committee, both admitted that they have been friends since the nineties, including spending holiday's together (Afera hazardowa. O co chodzi?, October 1, 2009; Czuchnowski & agko, February 11, 2010). The tape recordings of several telephone conversations by the CBA also highlight the actors long-standing personal friendship and Chlebowski's willingness to talk to Drzewiecki and Schetyna on Sobiesiak's behalf. Further investigations by the media revealed that Chlebowski had made an appointment with Schetyna at the end of September (Walczę Rysiu, załatwimy, October 1, 2009; Wprost, October 7, 2009).

Observation 2: Sobiesiak had strong personal ties to then Minister of Sports, Mirosław Drzewiecki and their acquaintance goes back between 10 to 20 years—their accounts about the exact duration differ.⁸⁰ Both own residencies in Florida but apparently, they could not remember if they have met there in November or December after the scandal broke. Sobiesiak first testified in front of the committee that he met with Drzewiecki in Florida but later rescinded his testimony—claiming he and his family only met with Drzewiecki's wife (Sobiesiak zmienił zeznania na korzyść Drzewieckiego, April 25, 2010; Kacprzak, Kałucki, Haszczyński, Szczepaniak, & Nisztor, February 2, 2010; Stenogramy, August 9, 2011).

⁸⁰ Sobiesiak and Drzewiecki have contradicted each other in their various testimonies to the parliamentary inquiry committee and the Prosecution office Informacyjna Agencja Radiowa [IAR] (2010). They also contradicted each other on whether they have meet each other after the entire scandal became public.

Observation 3: Ryszard Sobiesiak had been a professional football player throughout the eighties, where he spent most of his time playing for various football clubs in Austria.

Observation 4: Sobiesiak and his family have been operating in the Polish gambling industry since the early 1990s. Sobiesiak established his first casino with help of Novomatic—the Austrian gambling company and distributor of slot machines (Kacprzak et al., February 2, 2010). He or his family fully or partially own several companies in the gambling industry: Casino Polonia, which owns seven casinos across Poland, Golden Play, and Golden Play Bis. In addition, the family is also active in the sports and real estate sectors through Winterpol, the company for which Sobiesiak apparently already bribed judges and had Chlebowski help him win the necessary permits and licenses to construct a ski lift on protected land, including arranging for a rezoning of the land (Kałucki, Haszczyński, & Szczepaniak, January 14, 2010).

Observation 5: The Gambling Act of 1992, and its amendment of 2003, treated slot machine games as a separate category from other games of chance and mutual bets (1992; Law on Gambling and Slotmachines of, 2001). Slot machine games are divided into games with regular and low-pay machines. The former can only stand in game arcades or casinos and the operator requires a license. Low-pay machines, however, can be placed on any commercial and service premises, with a maximum of three machines in a room. The difference between regular and low-pay machines lies in a technicality—low-paying slot machines have been programmed to allow a maximum payout of EUR 15 per game with a betting limit of EUR 0.07 (Pytlakowski, October 13, 2009). Of course, players have no restrictions on how long they want to play.

Observation 6: The contested provision in the gambling bill would have introduced additional payments to all slot machines owners or operators (Pytlakowski,

October 13, 2009). Just like any other entrepreneur, these economic actors would have transferred the additional taxes to their clients. Experts from the Gdańsk Institute for Market Economics predict that after the introduction of these additional taxes, the number of players would drop, and the revenues of the industry and, consequently, the state budget would decrease dramatically. Their estimates show that income from games and income tax in the low-pay segment would decrease in 2010-2014 by PLN 1.7 billion, and for the entire industry by over PLN 2.3 billion (Polskie kasyna przeciw 10% dopłacie, October 21, 2008).

Observation 7: At the end of June 2009, the head of Drzewiecki's cabinet Marcin Rosół, sent one of several emails to the Deputy Minister of Finance, recommending Magdalena Sobiesiak, the daughter of Ryszard Sobiesiak for a position at the state-owned gambling firm Totalizatora Sportowny (Pytlakowski, October 13, 2009; Leszkiewicz: rekomendacja Magdaleny Sobiesiak była niestandardowa, August 9, 2011; Rosół, August 9, 2011). On July 15, she resigns from her position as Vicepresident of the family's gambling company Casino Polonia. And at the end of August, she meets with Marcin Rosół to discuss her qualifications for a position at the board of Totalizatora. But just a day after their meeting she rescinds her application. Statements by several individuals familiar with the family and the affair, suggest that the entire application and later withdrawal had been orchestrated by her father. While he first wanted to have a family member at Totalizatora to split the lottery market between Totalizatora and Sobiesiak's firm, he later changed his opinion, believing that the board was full of 'KGB, CBA' (Kacprzak et al., February 2, 2010; Knysz, October 8, 2009; PAP, January 14, 2010; Zawadka, Kałucki, & Stróżyk, October 2, 2009).

Observation 8: While Sobiesiak's firms have been investigated on several occasions for possible corruption, money laundering, and tax evasion, two are particular

relevant for now. First, Sobiesiak's attempts to block unfavorable provisions in the new gambling bill were first discovered when the CBA recorded his conversations in connection to their investigation into wide-spread corruption among local politicians in Lower Silesia (Kacprzak et al., February 2, 2010; Kałucki, Haszczyński, & Szczepaniak, January 1, 2010). In October 2009, the Krakow Regional Prosecution even begins their investigation into possible bribe payments by Ryszard Sobiesiak to members of the Civil Chamber of the Supreme Court to secure a favorable sentence for one of Sobiesiak's firms involved in the corruption in Lower Silesia (Zieliński, May 9, 2012).

The second instance of corruption relates to the construction of a ski lift in Zieleniec in the early 2000s. Sobiesiak received a 10-month suspended sentence with a two year probation, payment of PLN 2.000 for bribing an a local official (Knysz, October 8, 2009). In addition, he had to divest official of his interests in the gambling sector, which he did by handing over his controlling shares in several companies to his three children (Kacprzak et al., February 2, 2010). When the former head of the CBA testified to the committee, he also referenced several times Sobiesiak's willingness to engage in corruption. Two other names, however, also appear in this case. Several media reports highlight Chlebowski's and Drzewiecki's pressure on local politicians and state officials to grant Sobiesiak's firm the necessary permits and licenses, without doing the required due diligence (Kto dał gazecie "kwity" o Sobiesiaku, June 7, 2010).

Inference: Observations 1 and 2 reveal the strong personal and professional ties that exist between Sobiesiak and the Head of the PO's Parliamentary Klub and chair of the Public Finance Committee Zbigniew Chlebowski and the Minister of Sports Mirosław Drzewiecki. While they do not provide direct information about the interests of Chlebowski and Drzewiecki, this is also not to be expected in the case of legal corruption. As mentioned before and clarified in chapter 2, one of the characteristics of legal

corruption is how the benefits are rarely overt and direct, especially benefits for the political actors.

My argument is based on the assumption that political actors are driven by vote-maximization. Taking this assumptions as the motivation for individuals such as Chlebowski and Drzewiecki, I can infer that they are motivated by career advancement. Based on this underlying assumption about career-advancement, I can make two plausible conjectures about their interest in working with Sobiesiak. First, their cooperation had likely reputational benefits for both political actors as they were friends with a former football player who later became a successful entrepreneur (observations 3 and 4). Second, there might have been the option, if either political actor ever retired from politics, for a position at one of Sobiesiak's firms.

The interests of Sobiesiak are much clearer. He and his family had strong business interests in the gambling sector. And regardless of the specific size of his business interests, Sobiesiak and his family had enough of a financial stake in the gambling market that any changes in the Gambling Act would affect their fortunes (observation 4). According to the statement of a research institute, would have been hurt had the additional tax on slot machines been introduced (observations 5 and 6). Sobiesiak also apparently attempted to situate a close family member in the state-owned lottery company, with the intention of dividing up the lottery sector (observation 7).⁸¹ The last observation exposes Sobiesiak's willingness to engage in corruption if it benefits

⁸¹ While it is possible that Sobiesiak's daughter planned the move alone, her testimony in front of the parliamentary committee does not suggest that. However, she also did not outright say that she acted on behalf of her father. But then, she did not have too - as vice-president she would have been aware of the situation and the benefits for the family's business if they could divide the market up between their gambling firms and the SOE.

his businesses (observation 8). Together, observations 5 to 8 portray Sobiesiak as an economic actor, who is driven by profit maximization.⁸²

Hence, I find strong evidence that the actors had mutually compatible interests in working together, I also find indirect evidence of them being willing to ‘bend the rules’ in their favor.⁸³ Especially observation 8 explicitly points towards Sobiesiak’s willingness to engage in corruption, including the likely involvement of Chlebowski and Drzewiecki in at least some of Sobiesiak’s dealings. As such, these observations provide *strong* and *indirect* evidence that the political and economic actors had mutually compatible interests to entered in a corrupt state-business relation.

The following observations provide strong direct evidence for the second proposition—at least one side benefited significantly in the corrupt exchange. As the exposure of the case lead to Prime Minister Tusk pushing for a far tighter regulation of the gambling market than the first draft of the new gambling bill intended, I will again resort to considering the ‘what-if’ scenario—What if Sobiesiak’s and Kosek’s lobbying efforts had remained unknown?

Observation 1: Sobiesiak had already previously used his ties to politicians to ‘get things done’. In one of the better-known cases, Sobiesiak’s company Winterpol constructed a ski lift and a Winter resort on state protected land in 2008. To obtain the necessary licenses and permits, including rezoning parts of the land, Sobiesiak got

⁸² Sobiesiak’s behavior thus supports the underlying assumptions made about this group of actors in chapter 2.

⁸³ I evaluate the evidence only as indirect, as I had to that make several explicit assumptions about the political actors’ interests.

Chlebowksi to help him (Kacprzak, Nisztor, & Kubiak, October 8, 2009; Kałucki et al., January 14, 2010).⁸⁴

Observation 2: Sobiesiak and Jan Kosek, the second lobbyists investigated in the affair, have both made significant donations to the PO's Electoral Fund, among others to help a Sejm candidate who was considered as a right-hand man of Schetyna, in 2005 and 2006 (Kacprzak et al., February 2, 2010; Knysz, October 8, 2009). Kosek also admitted that he knew Chlebowski personally, having met him on several occasions throughout the years (Knysz, October 8, 2009; Manys, March 13, 2010). Sobiesiak and Kosek have also known each other for several years, even owning at least one gambling company together (Knysz, October 8, 2009).

Observation 3: A Regional District Prosecution Office also investigated Jan Kosek for corruption connected to establishing a casino in Przemyśl, a city in the south-east of Poland. The District Prosecutor's Office examined to what extent Kosek, another gambling operator, and politicians of the PO, especially Zbigniew Chleboski, influenced the decision of the city councilors. While previously against a casino in their city, on September 3, 2009 they voted to open the first casino in the city with slot machines (Kacprzak et al., October 8, 2009; Matusz, March 13, 2010). While the prosecution was eventually stopped because of lack of evidence, Przemyśl does feature now a casino.

Observation 4: In the mid to late 2000s, Sobiesiak and Kosek focused on establishing new casinos, where a majority of the slot-machines are located, in the smaller towns and cities in Poland. When interviewed by journalists, a city council member from Zabrze noted that they have voted on establishing a Casino in Zabrze now

⁸⁴ The Wrocław District Prosecutor's Office charges several State Forestry officials with failure to fulfill their duties in March 2010. In October, the NIK also reported on the fraudulent activities by several State Forestry officials (Pitera, 2010; Kacprzak, Kałucki, Haszczyński, and Szczepaniak, March 4, 2010; "NIK zawiadamia prokuraturę ws. wyciągu Sobiesiaka," October 5, 2010).

for several times, until they came to a favorable decision for Sobiesiak. A hitherto unprecedented event in the town. The council member blames the lobbying efforts by the national PO politicians on these developments (Kacprzak et al., October 8, 2009).⁸⁵

Observation 5: Drzewiecki admitted in his statement to the parliamentary inquiry committee that he had occasionally received small tokens from Sobiesiak over the years, such as golf clubs or similar items (Stenogramy, August 9, 2011). Chlebowksi revealed that he spent the 2008 New Year at Sobiesiak's Winter Resort in Zielience—the same resort he has been accused to help get built on protected land. Chlebowksi stressed that he paid for the stay was not financed by Sobiesiak (IAR, 2010; Wprost, October 7, 2009).

Inference: Observations 1 and 3 illustrate two explicit examples of the economic actors have used their political connections to Chlebowksi and other PO politicians for their own benefit on previous occasions. Observation 2 highlights how strongly the two economic actors are connected to each other. And combined with observation 3, they both corroborate the general trend of Sobiesiak and Kosek's gambling companies expanding into smaller towns and cities (observation 4). If the provision about additional taxes on slot-machines would have passed, Sobiesiak and Kosek's existing and future investments would have suffered a major hit (see observations 5 and 6 in the previous proposition).

Establishing the benefits for the political actors is far harder, which is not surprising given the type of corruption the case exemplifies. Legal corruption is characterized by how exchanges tend to be subtle and outright bribery rarely happens. Any monetary transactions are more likely to benefit the entire political party or the

⁸⁵ The town in the south-west of Poland is remarkable only because it so unremarkable.

campaigns of an individual politicians, and not their own personal pursue. Instead, most of these benefits for the political actors likely come more in the form of status and prestige increase. With this in mind, observation 5 is in line with my expectations. Neither prosecution nor the media have discovered any direct financial transaction between Sobiesiak and the PO politicians (apart from an early campaign contribution to the PO's local electoral fund described observation 2). The obvious benefits that the political actors received have been minor given their help (observation 5). But they nevertheless continued to associate with Sobiesiak, even in their spare time, despite him having been previously convicted of corruption and continuing to be under investigation. These long-term friendships therefore reveal that they have at least benefited on a personal level from the relationship.

Measurement accuracy of these observations is relatively high, as the sources were cross-checked where possible and in general have a high reputation for qualitative journalism. Overall, the evidence for the second proposition of causal claim 2 is direct. While I again have to consider partially a what-if scenario (i.e. what if the specific provision had been passed) as the lobbying efforts by Sobiesiak and Kosek had been discovered before they have been fruitful, and the benefits for the political actors have been discrete and difficult to trace, it is hard to identify alternative explanation for the combination of observations, especially observations 1, 2, and 5.⁸⁶ I therefore conclude that there is *strong* and *direct* evidence that both sides in the corrupt exchange have benefited.

I now turn to the last proposition of causal claim 2. As a reminder, causal claim 2 focuses on the establishment of a corrupt state-business relationship between the

⁸⁶ I also only suggest that at least one side benefits from it.

political and economic actors. The previous two propositions established that the political and economic actors in *Afera Hazardowa* have mutually compatible interests to engage in a corrupt exchange (proposition 1), and that they benefit significantly once they enter into the corrupt relationship (proposition 2).

The final aspect that I will investigate is the ability of control mechanisms to deter the corrupt relationship between these actors (proposition 3). Specifically, I examine the ineffectiveness of oversight institutions with a particular focus on how political and economic competition has undermined the effectiveness of these control mechanisms or at least limited the effectiveness of those mechanisms that still worked. The CBA is a prime example of the former, while the role of the media shows that a few functioning control mechanisms are not enough to effectively deter the formation of a corrupt relationship between actors.

In the present case, the CBA uncovered the covert lobbying efforts by Sobiesiak and Kosek, which could be interpreted as a challenge to my argument. However, I argue that the work of the CBA had not been enough of a deterrent for the corrupt actors, visible in how Sobiesiak exploited his relationship with the political actors on multiple occasions. On basis of the here presented observations from the case of *Afera Hazardowa*, I therefore conclude that there exists *strong* and *direct* evidence in support of the third proposition.

Observation 1: The head of Poland's first anti-corruption agency, the CBA, was Mariusz Kamiński ("Anti-corruption office starts work in Poland," 2006). Kamiński had been a PiS parliamentarian for two terms who, upon his appointment as Head of the CBA, resigned his party membership. He reactivated it again after his dismissal by PM Tusk in 2009 (EC, 2014b, p. 5). By 2011, Kamiński became Chair of the Special Services Committee, i.e. national security coordinator.

Observation 2: On September 9, 2009, a regional district prosecutor charged Kamiński with abuse of power for his agency's investigation of another major corruption case in 2007 (Piasecki & Michalak, 2016, p. 355; Wprost, October 7, 2009).⁸⁷ The prosecution suspected Kamiński had abused his powers as head of the CBA during the investigation. In March 2015, a court sentenced him to three years in prison and a ten-year ban from holding any public office (Casey, March 31, 2015). He was pardoned by then-President Duda, another PiS member, just a few months later (Poland: Ex-Chief of Anti-Graft Agency Is Pardoned in Abuse-of-Power Case, November 18, 2015). The Supreme Court recently ruled that the pardon had been premature, as Kamiński had been still appealing his sentence (Polish News Bulletin, June 8, 2017, p. 26).

Observation 3: In October 2009, after the case about covert lobbying by Sobiesiak and Kosek became public, PM Tusk consulted with the President and the relevant committees to initiate Kamiński's removal as Head of the CBA. PM Tusk dismissed Kamiński from his position as head of the CBA on October 14, 2009 (Krawczyk, Flint, PAP, & tvn24.pl, October 13, 2009).⁸⁸

Observation 4: Sobiesiak's relationship with the Minister of Interior Grzegorz Schetyna can be traced back to at least 2003, when they were both shareholders in two sports club in Silesia. When Sobiesiak's football club encountered some financial difficulties, it asked the region's basketball club for help—one of its shareholders was

⁸⁷ The case, known as *Afera Gruntowa*, revolves around the rezoning of state land by two businessmen, who the CBA wanted to catch in a sting operation. In the course of the CBA's investigation, it ended up accusing then-deputy minister and minister of agriculture Andrzej Lepper of having been involved. Lepper was the Chair of Samoobrona, a coalition partner of PiS at that time (Piasecki and Michalak, 2016, p. 355; Wprost, October 7, 2009; Piasecki and Michalak, 2016, p. 355).

⁸⁸ When the Sejm questioned Tusk about it, he stated that the CBA had been abused as a political tool by the PiS through Kamiński, who is also facing charges of abusing his powers in connection to *afera gruntowa*. Kamiński, in turn, claims his dismissal was an act of revenge as he revealed the connections between Sobiesiak and senior members of the PO (Krawczyk et al., October 13, 2009; "Kamiński stanął przed komisją hazardową," August, 9, 2011).

Schetyna. According to Schetyna's testimony to the commission, their business relationship ended in 2005 (Knysz, October 8, 2009; PAP, January 14, 2010; Polskie Radio). In his testimony Schetyna admitted that he continued meeting with Sobiesiak throughout the years, generally at some sport events as it was their shared passion. He claimed that his last meeting with Sobiesiak was in May 2009, but later remembered that he met Sobiesiak twice more—at the end of September 2009 (Szuldrzyński, February 4, 2010). *Rzeczpospolita*, a national Polish newspaper, would reveal the entire affair just a few days later on October 1, 2009.

Observation 5: PM Tusk dismissed the Minister of Justice and Prosecutor General Andrzej Czumę for his involvement in the corruption case. Czumę was also one of the few individuals that PM Tusk openly admonished for his “unethical behavior” (Polskie Radio, February 10, 2010).⁸⁹

Observation 6: After more than two years, Poland's first lobbying law came into effect in 2006.⁹⁰ The law lays out what it considers to be lobbying⁹¹, who professional lobbyists⁹² are and that such professional lobbyists must register their interactions with a public authority in a publicly-accessible registry, which the Ministry of Interior and Administration administers (OECD, 2009a, pp. 148–150). In addition, the law stipulates that the individual ministries introduce internal regulations on the proper conduct with

⁸⁹ I could not yet identify clearly what part Czumę played in the case as the sources glossed over his involvement.

⁹⁰ The Law on Lobbying of 2005 was signed into law in August 2005, but its date of entry into force was March 2006.

⁹¹ Article 2 Par 1 defines lobbying as “any legal action designed to influence the legislative or regulatory actions of a Public Authority” (Organisation for Economic Co-operation and Development [OECD], 2007, June 1, p. 3).

⁹² Professional lobbyists are any individuals or entities that lobby on behalf of a third party in exchange for money (Organisation for Economic Co-operation and Development [OECD], 2009a, p. 148).

lobbyists, including registering each contact with a lobbyist (GRECO, 2012, p. 12; OECD, 2009a, pp. 158–160).

Observation 7: A representative of the U.S. Chamber of Commerce in Poland, academics, as well as national and international experts agree unequivocally that the existing regulations about lobbying are ineffective (EC, 2014b, p. 4; GRECO, 2012, p. 12; Kwiatkowski, 2016; Olejnik, 2011; PL 001, 2017, Jun 19.; PL 002, 2017, Jun 27). For one, only a few lobbyists have been registered, and even a fewer of those are reported as actively lobbying (Olejnik, 2011), suggesting that most of the influence-seeking is conducted covertly through personal connections (GRECO, 2012, p. 12).

Observation 8: In addition to the parliamentary inquiry committee in the Sejm, PM Tusk also ordered an investigation into the drafting of the gambling bill, in particular all contacts between public officials and economic actors. He tasked his State Secretary of State Julia Pitera, the former President of the Board of Directors of the Polish chapter of Transparency International, with the investigation. In her final report, Pitera identifies several wrongdoings that took place during the drafting of the bill. Among others, she clearly notes that representatives by the Ministry of Sports, Ministry of Economy and Ministry of Finance failed to publish their contacts with lobbyists from the gambling industry (Pitera, 2010, pp. 85–89).

Observation 9: Polish legal experts identify several critical actors in the law-making process⁹³ in the executive and in the legislative, who have a substantial impact on

⁹³ A bill can be introduced to the Sejm in several ways - most commonly either by the government, 15 MPs, or a Sejm committee. If done through the government, it will have passed an interministerial coordination process that also includes consultation with non-executive actors. Once a bill has been submitted to the Marshal of the Sejm, i.e. the Speaker of the Sejm, it again goes through a consultation and coordination process involving non-legislative actors and several (sub)committees. Most bills require only a simple majority to pass and be sent off to the Senate and then the President of the Republic, who would sign a bill into law (Goetz and Zubek, 2005).

the drafting of a bill. For instance, in an examination of the legislative process in the early 2000s, Goetz and Zubek (2005) find that in the executive individual ministers have extensive leeway in shaping a bill. And while a bill, before being passed on to the Sejm, undergoes interministerial consultation, these rarely impact the substantive matter of a bill. Once a bill has been submitted to the Sejm, it is largely out of reach of the government (Zubek, 2008, pp. 147–161). The main players are now the various committees and subcommittees, especially their chairs, and the the chairs of the Parliamentary Clubs, who can introduce amendments to any bill (Goetz & Zubek, 2005; Zubek, 2008). The last veto-player in the Sejm is the Marshal, who has several tools at its disposal to manipulate what bills get passed in what form (Nalepa, 2016, pp. 357–358; Zubek, 2008).

Observation 10: While PM Tusk had been a founder of the PO, his authority over the behavior of fellow party members is limited. For one, the internal organization of the PO has few internal control mechanisms in place that would allow its party leader, in this case PM Tusk, to influence other party members (Hartliński, 2014, p. 1165). Second, the design of the law-making process empowers individual ministers and members of parliaments at the expense of government and party cohesion (Millard, 2008; Nalepa, 2016; Zubek, 2011). Third, even before PO members receive a position in the government or in the parliament, they already face intensive intra-party competition. Several studies have stressed the high levels of intra-party competition that takes place, whether it is for ministerial positions (Raciborski, 2007), campaign contributions (Walecki, 2007), or a place on the party's list through personal votes (Nalepa, 2016, p. 359)

Observation 11: There are no indications that PiS, the PO's main political rival, had been aware of the covert lobbying efforts by the gambling industry, or, if they knew about it, that they considered it a criminal act and thus useful for public condemnation.

Observation 12: Several national media outlets picked up on the corruption case and continued to report on the events extensively. Rzeczpospolita and a few other newspapers also started their own investigations into the covert lobbying activities by the gambling industry.

Inference: The first few observations illustrate how the main oversight agency failed to deter Sobiesiak's and Kosek's covert lobbying attempts. In causal claim 1, I discovered how the institutional design of the CBA predisposed it to be politicized. Observation 1 now reveals that such a politicization indeed took place. Observations 2 and 3 further solidify the idea that the CBA has been acting with a political bias at that time.⁹⁴ But also, the other law enforcement authorities and prosecution services showed signs of having been compromised. For one, Sobiesiak had a friendly relationship with the Minister of MSWiA, the head of Poland's law enforcement agencies (observation 4). And there are some indications that also the Minister of Justice and Prosecution General had been implicated (observation 5). While neither observation provides clear evidence of the actors' involvement, they cast doubt on the impartiality of either minister.

Another control mechanism that had failed to deter the corrupt actors was the lobbying legislation (observation 6). Observation 7 presents the initial negative evaluations of the legislation, while observation 8 reveals how the political actors had violated the regulations. Together, the observations corroborate the preliminary conclusion that existing control mechanisms failed in deterring Sobiesiak and Co from engaging in a corrupt exchange.

⁹⁴ While the relationship between a government and its anti-corruption agency is often adversarial and might even end in the removal of the agency's head - it is rare to see such a blatant political bias as with Mariusz Kamiński's allegiance to PiS, visible in the early CBA investigations and Kamiński's post-CBA career choices.

Observation 9 is especially relevant for the third proposition and comes closest to the ideal evidence of finding a ‘smoking gun’. All of the identified major political actors with whom Sobiesiak and Kosek have been in contact occupied key-positions in the law-making process. In the executive, Sobiesiak had close ties to Mirosław Drzewiecki, then-Minister of Sports, and Grzegorz Schetyna, then-Minister of Interior and Administration. In the legislature, Sobiesiak and Kosek’s main contact was Zbigniew Chlebowski, who occupied two of the critical positions in the Sejm—he was Chair of the PO’s Parliamentary Club as well as Chair of the Committee of Public Finance. And these political actors were hardly deterred from becoming involved with Sobiesiak, despite his prior convictions.⁹⁵ The actors also had little to fear from within the PO. As observations 10 shows, a combination of institutional features, both external and within the PO, limited PM Tusk’s ability to form a unified party with him at the center and so supervise the activities of other party members, and, if necessary, discipline them.⁹⁶

Other oversight agencies or control mechanisms that failed to deter Sobiesiak and his political associates from engaging in a corrupt exchange were the political opposition parties (observation 11), and investigative media (observation 12). The lack of actions by the opposition prior to the scandal becoming public could be attributed to a variety of

⁹⁵ One of the few key-positions in the legislative process that had not been involved in the corruption scheme was Bronisław Komorowski (PO), the Marshal of the Sejm at the time of the events. There have been no signs that the political actors attempted to introduce him to their idea of the gambling bill.

⁹⁶ The change in position of Grzegorz Schetyna from Minister of Interior to Chair of the Parliamentary Club and later Marshal of the Sejm can be interpreted as a lack of full control by Tusk within the party. Tusk could not remove Schetyna entirely and so needed to place Schetyna in an equally prestigious position. An anecdote supports the interpretation: in 2014, Tusk became President of the European Council and the new PM Ewa Kopacz had to deal with Schetyna. She appointed him as new Minister of Foreign Affairs, a position for which he was not qualified. When a journalist asked one of Kopacz’ advisers about this unexpected placement, they responded: ‘Well, we obviously could not give him the Ministry of Interior, we are not suicidal. And we also could not give him the Ministry of Infrastructure and Development - this is where the money is. So, the Ministry of Foreign Affairs it is.’ ‘But doesn’t that allow him to build strong connections abroad?’ ‘Yes, if he would speak English’ (Majewski and Burzyńska, September 22, 2014; Dialog has been translated and slightly paraphrased for brevity by author).

reasons—they might not have known about it, took part in a similar exchange with other players and thus considered it as ‘normal’, or they wanted to wait for an appropriate time when they would publish it. Whatever their motivations were, Sobiesiak and Co apparently were not deterred. Also, the media played a minor role for the majority of the case—they only became active after one of them had published a transcript of recordings. But while this triggered future investigations, none of the media outlets had uncovered the corrupt exchange—the CBA did.

The observations are largely based on highly reliable sources, such as investigative reports, official documents, and scholarly works. The evidence also addresses the question about the (in)effectiveness of the oversight mechanisms in deterring the corrupt actors from engaging in a corrupt exchange.⁹⁷ Identifying plausible alternative explanations for the presented observations is difficult due to their overwhelming number. For instance, while Schetyna had personal connections to Sobiesiak, one cannot automatically deduce that the national police would have been compromised. But when considering this item in the larger context of a politicized CBA, a compromised Prosecutor General, and the active involvement of several senior PO politicians that occupied key positions in the legislative process, the number of alternative explanations decrease drastically. I, therefore, conclude that there is *strong* and *direct* evidence in favor of the third proposition of causal claim 2. In the case of *Afera Hazardowa*, existing oversight agencies and other potential control mechanisms did not manage to deter the actors from engaging in a corrupt exchange.⁹⁸

⁹⁷ I do not suggest that the oversight mechanisms *failed to detect* the actors from engaging in corruption. My point is that the corrupt actors were *not deterred* by the control mechanisms in place.

⁹⁸ While I do not focus my research on *why* these control mechanisms failed beyond establishing that (a) they failed, and (b) how competition affected the failure, the likely reason was the nature of the corrupt exchange. The CBA and other oversight entities were concentrating on clearly identifiable acts of corruption - such as bribery of a judge for a favorable judgment - while neglecting to look for more subtle forms of

Overall, the case of *Afera Hazardowa* illustrates exceptionally well causal claims 2, which argues that the constellation of powerful incentives and weak constraints transforms the opportunity structure of political and economic actors in such a way that they will enter into a corrupt state-business relationship. To test the causal claim, I first examined how politically and economic actors, once they discover their mutually compatible interests, enter into a corrupt state-business relationship (proposition 1). I then moved on to analyze whether at least one side benefited from the corrupt exchange (proposition 2). While the benefits from the political actors are difficult to identify as they, in line with the conceptualization of legal corruption, rarely take the form of overt bribery, the benefits for the economic actor would have been substantial had they succeeded in excluding the provision about the additional taxation of slot machines.

The final proposition in causal claim 2 investigated whether existing control mechanisms had deterred the actors from their corrupt exchange. While one can rightly argue that the control mechanisms ultimately succeeded in uncovering the corrupt relationship, these control mechanisms did not deter the actors from engaging in a corrupt state-business relationship. The distinction seems minor, but it stresses that the corrupt actors had evaluated the risk of engaging in corruption, given the potential benefits they could derive from it, as acceptable. As such, I argue that the actors did not view the control mechanisms that were in place as a considerable threat for their corrupt relationship. This may be also in part because the actors themselves did not consider their actions as corrupt.⁹⁹ In this corruption case, the collected evidence in support of all

corruption, which are the hallmarks of legal corruption and make it so insidious. The results presented in proposition 2 highlight this ability of legal corruption of appearing to be legitimate behavior. The benefits for the actors can rarely be outright identified and can come in many non-monetary forms, such as paid vacations or a post-political-career-position. In such circumstances, attempting to identify benefits with a 'follow-the-money' approach is largely pointless.

⁹⁹ For instance, Chlebowski's defended his actions in front of the parliamentary inquiry committee as

three propositions of causal claim 2 had shown a high degree of measurement accuracy. But as I assessed the evidence only as indirect, I conclude that *Afera Hazardowa* provides *strong* and *indirect* support for causal claim 2.

Infoafera.

Infoafera is the final corruption case on which I examine how the constellation of incentives and opportunity structure has encouraged political and economic actors to enter into a corrupt state-business relationship—causal claim 2.¹⁰⁰ As a reminder, the case centers around the irregularities around the coordination of introducing several significant IT-projects that were intended to modernize Poland’s ailing IT-infrastructure in the state administration. The main events that I will analyze took place at the MSWiA between 2008 and 2010, but on occasion I will draw on earlier events as they become relevant.

The first proposition in the causal claim examines how the mutually compatible interests of political and economic actors have encouraged them to enter into a (corrupt) state-business relations. The observations provide moderate and circumstantial evidence in support of the proposition.

Observation 1: The prosecution has noted in its indictment of Andrzej Machnacz, the former director of the CPI at the MSWiA, that the IT-firms were interested in him because he had made a good career in the state administration (Jałoszewski, July 2, 2015).

‘constituency service’. The subsequent events, however, show that neither PM Tusk nor his peers in the committee shared his understanding of ‘constituency service’.

¹⁰⁰ Recall from chapter 2 that the label ‘political actor’ can also include state officials that have significant resources at their disposal.

Observation 2: At the beginning of 2010, the new Minister of the MSWiA¹⁰¹ dismissed first Deputy Minister of the MSWiA and responsible for implementing the e-administration projects, Witold Drożdż. Journalists and industry-insiders voiced their surprised as Drożdż was considered highly competent and the driving force behind the introduction of e-government projects in Poland. Moreover, because did not consider Drożdż to be one of Schetyna's allies. He, therefore, was not expected to be part of any personnel changes (Poznański, February 25, 2010; Zieliński, February 25, 2010). In July, the new minister also suddenly dismissed Machnacz as director of the CPI.¹⁰² Employees and business-insiders were surprised as Machnacz, in cooperation with Drożdż, had been considered as highly effective and fast in implementing CPI's IT-projects, several of which he had managed to get funded by the EU (Zieliński, February 25, 2010).

Observation 3: In October 2007, the European Union approved an Operational Programme for Poland for the period 2007 to 2013. The program, titled 'Innovative economy', had a total budget of EUR 9.71 billion (of which Poland would contribute less than EUR 1.5 billion) and aimed to modernize, among others, Poland's ailing information and communication technologies in the state administration (European Commission, Directorate-General for Regional and Urban Policy, 2018). 29 IT-related projects ended up funded by the EU, out of which five were coordinated by the CPI: PESEL 2, OST 112, digital radio system for emergence services, ePUAP, and the internal police platform (Czubkowska, March 4, 2014).

¹⁰¹ Prime minister Tusk had dismissed Grzegorz Schetyna from his position as Minister of the MSWiA, that is Minister of the Interior, due to the latter's involvement in *Afera Hazardowa*. Schetyna's successor was Jerzy Miller.

¹⁰² His dismissal was likely the result of suspicious findings in the internal audit of the MSWiA that the new Minister had initiated.

Observation 4: According to HP's deferred prosecution agreement (DPA), the IT-company had failed to uphold its internal anti-corruption policies and controls and implement them adequately at its Polish subsidiary (Northern District of California, 2014, § 11). IBM has a long history of violating, or at least being investigated for violating, the FCPA. While US authorities eventually dropped their investigations into IBM's involvement in *Infoafera*, the company had settled with the authorities over alleged violations of the FCPA in several other subsidiaries across the globe between 1998 and 2009 (Ciszak, October 19, 2017).

Observation 5: Various journalists as well as US law enforcement reported that the charged directors of IBM and HP profited from their relationship with Machnac professionally. For instance, HP's director led the department of Public Sales. Between 2006 and 2010, the department had been responsible for around 50 percent of the subsidiaries gross revenue (Northern District of California, 2014, § 6). IBM's director also occupied a privileged position within the Polish subsidiary due to profitable connection into the CPI (Jałoszewski, July 2, 2015). And in his interview with an reporter, the former Vice-president of Netline Group admitted that his status within the firm increased dramatically due to his connection to Machnac (Socha, 2013).

Inference: Machnac as well as Drożdż had been considered to be highly competent by their colleagues at the MSWiA and by business-insiders (observations 1 and 2). These evaluations corroborate the impression that both actors were had been competent enough for their positions as they had dealt with IT-projects worth billions of złoty. While neither observation addresses directly the actors' interests, they suggest that both individuals were not only driven by greed but also prestige or status gains. However, it is necessary to note that at least in Machnac's case, material interests played a major role. Hence, these two observations only provide circumstantial support

for the proposition about actors having mutually compatible interests, as the observations did not directly address the interests of the actors.

As to the interests of the economic actors, I find that some of the IT-projects that Machnacz coordinated were funded the EU (observations 2 and 3). The earmarking of such significant amounts of funding for modernizing Poland's IT-infrastructure (observation 3) likely led to intense competition among IT-companies to win at least some of the resulting public procurement contracts, given the assumption about their aim as wealth maximization. HP signed a deferred prosecution agreement with US authorities regarding the company's violation of the FCPA (observation 4). And while investigations into IBM's Polish subsidiary were eventually stopped, the company had settled previously with authorities regarding alleged violations of the FCPA in multiple countries. Their violations had taken place during the same time period (observation 4). The behavior of both economic actors, therefore, suggests that the companies were either endorsing or at least not actively safeguarding against their employees using corruption to win contracts. In combination with observation 3, I, therefore, infer that the economic actors were likely to be more concerned about their bottom-line than about upholding any legal and ethical requirements. This conclusion is substantiated by observation 5, revealing that the three charged individuals from HP, IBM, and the Polish Netline Group all profited professionally from their connection with Machnacz (observation 5).

Observations 3 to 5 provide direct evidence that the firms, and their employees, had an interest in forming a corrupt relationship. Observation 3 also illustrates how Machnacz exploited his position as head of the CPI, which had acted as a cash-cow to him. In addition, the evidence is also strong as the number of observations indicate that plausible alternative explanations are hard to find given the available information. However, observations 1 and 2 only circumstantially address the interests of the political

actors, which also leads to a low degree of uniqueness. As such, these observations provide only moderate and indirect evidence. A conservative assessment of the evidence presented for the first proposition, therefore, is that there exists only *moderate* and *indirect* evidence that actors had a shared interest in establishing a corrupt relationship.

The second proposition of causal claim 2 concentrates on the benefits that the actors derive from their corrupt relationship. In this corruption case, I find direct and strong evidence that the political and the economic side have benefited substantially from their corrupt relationship.

Observation 1: In July 2016, the Warsaw Regional Court convicted Andrzej Machnacz for his part in the corruption case. The prosecution had charged him, among others, with accepting over PLN 1.7 million in cash payments as well as another PLN 3.1 million in gifts from HP's director (Pasałowski, February 16, 2016; Zieliński, December 31, 2011). This sum corresponds broadly with what US authorities have noted in their DPA with HP (Northern District of California, 2014, §§ 1–24).¹⁰³ Investigations by journalists and the CBA revealed that the most notorious gifts that Machnacz had received included a paid wedding in Sri Lanka and honeymoons in the Maldives, a Nissan Qashai, the furnishing of two apartments, a BMW motorcycle, a home TV theater, and over a dozens of laptops, computers, printers, iPads, and other electronics (Jałoszewski, July 2, 2015; Northern District of California, 2014, §§ 1–24; Socha, 2013).

Observation 2: Neither available media reports nor publicly available official documents have revealed any financial benefits for the other involved political actors,

¹⁰³ The sums listed in HP's DPA total to around USD 616.000, which convert to PLN 1.8 million using the average 2011 exchange rate.

especially benefits that the either the former deputy director of the CPI or the deputy minister Witold Drożdż might have received.

Observation 3: The convicted vice-president of Netline Group stated in an interview with an investigative report that Netline benefited immensely from participating in the corrupt exchange. While the firm had been active in the domestic IT-market since 1997, it had not been able to compete in larger IT-contracts as the firm was fairly unknown. In his view, the firm therefore did not only benefit financially from the corrupt exchange, but their prestige also profited (Socha, 2013). In 2009, Computerworld, a Polish IT-journal that releases an annual Top 200 list, had declared Netline Group the company with the largest increase in revenues in the previous year. The firm's revenue increased by more than 440 percent from less than PLN 10,000,000 to almost PLN 54,000,000 (Jadczyk, June 6, 2009).¹⁰⁴

Observation 4: The DPA notes that HP had won at least seven public procurement contracts connected to KGP-related IT-projects between 2006 and 2010. The total value of these contracts had been estimated to be around USD 60 million (Northern District of California, 2014, §§ 1–24).

Observation 5: In 2008 and 2009, CPI had awarded IBM four contracts related to the design the necessary software for PESEL 2. The total value of these contracts is estimated to be around PLN 71 billion. The UZP found in their audit that Machnacz had rigged the tenders in IBM's favor. And while the parliament considered rescinding on these contracts, the MPs eventually decided that it would be too costly for Poland due to the substantial fees it would have to pay to IBM. However, the contract did not include a

¹⁰⁴ Incidentally, in 2007, the vice-president had established contact with Machnacz at a business trip to the US, organized by an US IT-corporation Socha (2013); (Engelberg and Socha, March 20, 2013).

transfer of the source code for the software, which meant that the state from now will need to order any updates from IBM (Czubkowska, March 4, 2014).

Observation 6: The Polish subsidiaries of HP and IBM had been ranked in the Top 10 in the market in terms of revenues throughout the first decade of the twenty-first century (Jadczak, June 6, 2009; Jadczak & Maciejewski, June 15, 2010). In 2008, IBM ranked first in sales to the public administration (Jadczak, June 6, 2009).

Inference: Observation 1 illustrates in detail how Machnacz had benefited from the corrupt exchange. I even go so far to suggest that purchasing any one of the ‘gifts’ that he received would have been difficult on his salary as a public official. Nevertheless, while other political actors have also been charged, if not convicted, in connection to *Infoafera*, there exist no information on any benefits that these political actors have received (observation 2).

Observations 3 to 5 explicitly point towards the substantial gains that all three economic actors have made through their relationship with the CPI. Observation 6 corroborates the view that HP, but especially IBM, had benefited from the corrupt exchange, as the firm were the winner in the category ‘Sales to the Public Administration’ in 2008. Substantiating these observations is also observation 5 in the previous proposition, where I have outlined the benefits for the individual directors of HP, IBM, and Netline.

In sum, all observations apart from observation 2 present *strong* and *direct* evidence in support of the second proposition. And even though observation 2 does not support the proposition, it also does not weaken in any way.¹⁰⁵

¹⁰⁵ I will take up the question of what the other political actors received in the corrupt relationship when investigation claim 3.

The third proposition of causal claim 2 centers around the failure of control mechanisms to deter actors from engaging in a corrupt exchange. In the case of *Infoafera*, I find an overwhelming amount of evidence that supports the proposition. The following observations are therefore grouped by the kind of oversight that had been deactivated—starting with control mechanisms that directly impacted Machnacz with the CPI, followed by the failure of his superiors to identify and report any suspicious activities. I then move on to observations covering other state agencies that had failed uncovering irregularities with the IT-public procurement projects, such as the Agencja Bezpieczeństwa Wewnętrznego (ABW), the Internal Security Agency, the public procurement agency UZP, and the CBA. The last two observations focus on the lack of attention paid by the media as well as the long history of corruption in the IT-sector.

Observation 1: In 2013, the weekly news magazine published excerpts from a secret business report from 2012 on the IT-sector. After Polish authorities have made the first arrests, one of the involved international IT-companies commissioned the report to assess the situation in the IT-procurement sector. The study relied on several dozen interviews with CPI employees and other public officials as well as industry-experts. Wprost's journalists had managed to verify the accounts of two of these interviewees. According to the study, Machnacz led the CPI in a highly autocratic manner, going so far as to prohibit the use of private phones in the office (Majewski & Bielakowski, 2013).

Observation 2: Machnacz apparently maintained a large network of personal and professional ties to individuals across ministries and in potentially senior positions. The uncovered business report cites CPI employees saying that Machnacz would often come into the office and present them with particular requirements for a tender. He would state that he had gotten these requirements from someone at the MSWiA and that they would need to be incorporate in the relevant tenders (Majewski & Bielakowski, 2013).

The vice-president of Netline, one of the first who had been arrested in the case, emphasized that Machnacz often bragged that he had connections to high-ranking officials and he was 'protected' (Engelberg & Socha, March 20, 2013). This again echoes the experience of CPI employees who noted that any audit or control of the CPI's tenders would always come back positive. They also felt that Machnacz had a 'special protection umbrella over him' (Majewski & Bielakowski, 2013; Zieliński, May 25, 2013).

Observation 3: Reports about Machnacz's relationship with his direct superiors, deputy minister Witold Drożdż and Minister Gregorz Schetyna vary. While some suggest that he was close with the deputy minister and hardly had any contact with Schetyna or his cabinet, other sources claim that Machnacz had been friendly with Schetyna but had a barely civil relationship with the deputy minister (Jałoszewski, July 2, 2015; Majewski & Bielakowski, 2013; Zieliński, February 25, 2010). Schetyna denied that he knew Machnacz, stating that he had met the man only once, when he appointed him as head of the newly established CPI (Majewski & Bielakowski, 2013).

Observation 4: The prosecution charged Machnacz's direct supervisor, the deputy minister Witold Drożdż, for failure of duty as he did not adequately supervise his subordinate. The prosecution also charged him with bid-rigging as he allegedly ordered Machnacz to ensure that Infovid-Matrix, a Polish IT-firm, would win one of the tenders (Infoafera.; Bitner, February 16, 2016; Zieliński, November 25, 2011).

Observation 5: Before the CPI took control over the IT-project e-posterunek, i.e. creating an intranet for the police, a group of programmers within the police had already been working on a prototype for two years. Machnacz had been the head of this group of police officials. When he transferred to the CPI, he took the codes and material with him (NIK, 2013, pp. 16–17; Zieliński, October 31, 2011). At the beginning of 2009, the CPI initiated a tender for the project, and one of the invited firms was Netline. Soon

afterward, several of the IT-specialists had submitted a statement to the Head of the Police in which they accused Machnacz of having provided Netline with the project's original source code so that the firm would win the tender. The Head of the Police, Andrzej Matujek, conferred with Minister MSWiA Schetyna and deputy-minister Adam Rapacki. Matujek then forwarded the report to another police department for further inquiries. In July, Schetyna apparently had changed his opinion and reported the suspicious similarities in the source codes to the prosecution. But it was too late, the CPI had already awarded the project to Netline a few months before (NIK, 2013, p. 21; Pieńkowski, May 29, 2012; Zieliński, October 31, 2011).

Observation 6: The Criminal Code of Procedure requires that heads of state agencies report any suspicion of corruption and other criminal activities to the prosecution (GRECO, 2003, pp. 12–13).

Observation 7: One of the first investigative journalists to report on the wrongdoings in the IT-sector, noted that the Agencja Bezpieczeństwa Wewnętrznego, the internal security agency, had failed extraordinarily in their duty to uncover corruption in the sector. He stressed that the signs had been visible for a long time (Pieńkowski, May 29, 2012).

Observation 8: While the UZP is Poland's highest regulatory agency for public procurement proceedings (GRECO, 2001, p. 15), public procurement is highly decentralized in Poland (European Commission, Directorate-General for Regional and Urban Policy, 2016, p. 163). The UZP therefore has to conduct checks on public procurement proceedings of around 14,000 contracting authorities that are spread out across various state agencies (European Commission, Directorate-General for Regional and Urban Policy, 2016, p. 163).

Observation 9: When asked about why the CBA did not act sooner, Zieliński, the investigative journalists that first reported on the suspicious activities in the IT-market, noted that the CBA likely had to first sort out their internal issues (Pieńkowski, May 29, 2012).¹⁰⁶

Observation 10: The internal control mechanisms of the three main economic actors—Netline Group, IBM, and HP had not been properly implemented or were completely lacking. In the case of Netline, for instance, the vice-president stated in an interview that he had often paid for Machnacz’s ‘gifts’ out of his own pocket (Socha, 2013). The prosecution, on the other hand, suspected that IBM provided the firm with the necessary cash to pay Machnacz from one of their off-book accounts (Engelberg & Socha, March 20, 2013). As to HP, the DPA specifically states that while the US company had the necessary regulations in place during the relevant years:

those policies and controls were not adequate to prevent the conduct described herein and were insufficiently implemented at HP Poland. This allowed one or more HP Poland employees to circumvent HP Co.'s internal accounting controls and falsify its books and records (Northern District of California, 2014, § 11).

In contrast, investigations into the extent of IBM’s involvement in the case were closed due to lack of evidence (Ciszak, October 19, 2017). However, the firm had settled in a similar case just a few years prior—then IBM had been investigated for bribing foreign officials in South Korea and China (U.S. District Court for the District of Columbia, 2011, pp. 1–11). Moreover, Polish authorities had arrested the director of sales at IBM Polska for bribing Machnacz on several occasions (Engelberg & Socha, March 20, 2013).¹⁰⁷

¹⁰⁶ Recall that the first Head of the CBA had been dismissed by PM Tusk in the Fall of 2009. In recent years, several of the CBA’s early operations had been called into question, which had tarnished the reputation of Poland’s anti-corruption agency.

¹⁰⁷ I could not establish whether IBM Polska’s director has already been charged and convicted. It is

Observation 11: The largest economic competitors of HP and IBM—such as Oracle, AB, Dell, Microsoft, and Asseco—have all either themselves been implicated in the case (for instance, Oracle) or they also had been awarded contracts related to CPI’s IT-projects (Jałoszewski, July 2, 2015; NIK, 2013).

Observation 12: The IT-market as well as Poland’s Public Procurement system have both been considered as areas with a high risk of corruption (European Commission, Migration and Home Affairs, 2014c; Fuszara et al., 2002; Pieńkowski, May 29, 2012; World Bank, 1999). Moreover, Machnac’s himself admitted to having already accepted favors in exchange for bid-rigging while he still was at the KGP (Jałoszewski, July 2, 2015).

Inference: Observations 1 and 2 reveal how any potential deterrents within the CPI had been effectively eliminated. CPI employees observed regularly how Machnac would elude existing oversight mechanisms—neither regular audits nor his superiors objected to his activities. While observation 3 indicates that sources are not entirely consistent in *who* Machnac’s protector was, they emphasize that he must have had some higher-level protection (more on this in the causal claim 3). Despite the secrecy surrounding his protectors, observation 4 shows how his direct superior, whether friend or only professional acquaintance, would have been an unlikely candidate to report Machnac to the authorities.¹⁰⁸ In Drożdż, another control mechanisms broke down as a constraint. But much larger failure had happened at the level of Minister Schetyna and the General Director of the Police, when they neglected to report their suspicions, or at

possible, given the long time that court cases take, that no decision has yet been reached.

¹⁰⁸ In the early reports on the investigations, Drożdż claimed that he never had any suspicions of corruption. However, this seems implausible given that the media, and those that interacted with Machnac in the case, have consistently highlighted Machnac’s pomposity and self-conceit.

least the suspicions of their subordinates, to the prosecution (observations 5 and 6). I consider it plausible that at least Schetyna had some idea of malfeasance at the CPI, as he eventually ended up reporting his doubts about the tender for e-posterunek to the prosecution (observation 5). Apart from oversight mechanisms within the MSWiA, the three state agencies tasked with detecting such corruption schemes had also overlooked the signs (observations 7 to 9).

When we now look at the constraints that could have come from the economic side, we also find several failed control mechanisms. There is for one, the complete breakdown of oversight within the three economic actors (observation 10). Neither economic competitors, who theoretically might have had some financial incentives to report these firms, were likely candidates. They either were themselves implicated in the corruption case or they had strong financial interests to avoid creating a negative press for their contracting partner, the CPI (observation 11). And even if a competitor would have felt ethically obliged to report their suspicions to the police, it is unlikely that they expected to see a change in how the system worked. Corruption in the procurement system, in particular connected to the largest IT-projects, apparently had deep roots (observation 12).

In sum, there have been several instances where the corrupt actors could have been detected earlier, but despite multiple control mechanisms in place, the corrupt state-business relationship continued to prosper. I therefore conclude that there exists *direct* evidence of a failure of control mechanisms to deter the actors from engaging in the corrupt exchange.

The reliability of the sources varies. The most doubtful ones are presented in observation 1 and 2 as the CPI employees and other individuals cited have reasons to put their own spin on events when claiming that Machnacz was friendly with high-ranking

officials in several ministries. Without obtaining confirmation from his alleged connections, Machnacz' alone might have just deluded himself about the extent of supporters that he had in various places. But any confirmation would be hard to obtain, once Machnacz had been arrested and his corrupt activities had come out. By that time any associate would attempt to distance themselves from Machnacz as much as possible.

Given this impasse, I assume that Machnacz had these connections across ministries—even if the help these connections provided appears to have been weak as it eventually failed to protect him.¹⁰⁸ Until new facts arise that contradict this assumption,¹⁰⁹ I will consider the presented evidence as having a strong overall degree of reliability and conclude that there exist *strong* and *direct* evidence supporting the third proposition of causal claim 2 in the case of *Infoafera*.

In conclusion, the developments in the case of *Infoafera* support causal claim 2, which argues that the particular constellation of powerful incentives and weak constraints encouraged political and economic actors to establish a corrupt state-business relationship. Even though the case only provides moderate and circumstantial evidence for the first proposition about the mutually compatible interests of the corrupt actors, I find strong and direct evidence for the second and third proposition. However, as the support for the causal claim can only be as strong as its weakest link, I consider causal claim 2 to find only *moderate* and *indirect* support in the case of *Infoafera*.

¹⁰⁸ Ideally, there would have been legal documentation that would outline any such connections, or at least correspondence indicating a high level of familiarity between the individuals.

¹⁰⁹ Contradictory evidence could be schedules of Machnacz' alleged associates, in particular whether they would have been present at the time Machnacz claimed to have met them. While this might not outright contradict Machnacz, it would undermine his claim substantially. Machnacz's claim of powerful friends would also be weakened, if the prosecution would need to establish that Machnacz had obtained the dubious tender specifications not through his superiors at the MSWiA.

I have tested the three propositions that I have derived from causal claim 2 against three corruption cases. Each proposition added one of the pieces to the question on how the constellation of opportunity structures encouraged political and economic actors to form a corrupt state-business relationship.

Rywingate presented a particular puzzle, as I had to consider a ‘what-if’ scenario. The case therefore only provides indirect evidence for causal claim 2 as the interpretations are based largely on suppositions, that is, suppose that the movie-producer had been successful in forming a corrupt exchange with the publisher Agora, what would have been the benefits? And what control mechanisms would have been ineffective? The evidence presented had largely been assessed as moderate reliable, as I had to draw on secondary sources to corroborate some of the inferences. However, the case provided a first glimpse at how the specific constellation of powerful incentives and weak constraints can encourage actors to enter into a corrupt relationship. In contrast, the case of *Afera Hazardowa* provides strong and direct support for propositions 2 and 3 about the significant gains made by actors in the relationship and that any existing control mechanisms have been ineffective in deterring actors for engaging in their corrupt exchange. As the case had been further along until it was uncovered, the actors had already time to exchange any benefits and it illustrates the insidious nature of legal corruption.

Legal corruption cases, such as *Rywingate* and *Afera Hazardowa*, are difficult to discover as the benefits for the political actors are rarely overt. Rather, the gains take the form of paid vacations or employments in the private sector once a political actor retired from politics. Oversight agencies, such as law enforcement and the prosecution, are therefore especially ineffective as they focus on identifying criminal wrongdoings.

Activities that take place in the gray-zones of the law are rarely what these oversight agencies look for.

Last, *Infoafera* has been the only case of local capture of these three cases. I find that it supports all three propositions of causal claim 2. Also in this case, several existing control mechanisms had failed to deter the corrupt relationship. However, it also highlights another important aspect—that even though control mechanisms exist that are specialized on corruption with a clearly identifying criminal element, they are still not an effective deterrent. Along the way, the corrupt actors have deactivated or subverted several oversight agencies and procedures. Hence, even if one or two oversight mechanisms, such as the media, remained untouched, they do not exist in a vacuum. Instead, the various control mechanisms depend on each other to provide an effective system of deterrents.

In sum, causal claim 2 established why the political and economic actors had formed a corrupt state business relationship—their opportunity structures had presented them with powerful incentives for and only a few constraints against forming a corrupt state-business relationship. Causal claim 3 now concentrates on why the specific type of corruption emerged from their corrupt exchange. The last causal claim provides therefore the crucial link in my argument about why the emergence of competition in politics and the economy has led to a systematic transformation of corruption patterns.

Causal Claim 3: Emergence of Patterns of Corruption.

In causal claim 1, I demonstrated how the emergence of political and economic competition has led to a transformation of the actors' opportunity structures. Causal claim 2 then highlighted how actors developed a particular constellation in their opportunity structures—powerful incentives for and few constraints against—which encouraged them to enter into corrupt state-business relationships. Causal claim 3 now

examines the resource distribution within these corrupt state-business relationships to uncover the systematic transformation of patterns in the type of corruption emerges.

In part one of chapter 4, I categorize three cases as representing either legal corruption or local capture. For legal corruption, as in the cases of *Rywingate* and *Afera Hazardowa*, I expect to find that the power of political actors was fragmented and weak, while the economic actor's power was concentrated (proposition 3). In the case of *Infoafera*, which represents local capture, I expect to find a balance in the relative resource distribution among the political and economic actors (proposition 2).

Rywingate.

The third causal claim examines the resource distribution between the political and economic actors. In part one of this chapter, I have categorized *Rywingate* as legal corruption. Based on the corruption case's type, I, therefore, expect to observe a power imbalance in favor of Agora, the economic actor. Even though Agora did not enter into a corrupt relationship with Rywin and his political associates, I can still determine the actors' resource concentration from that time. The third causal claim, especially proposition 3, can therefore be tested. And I find moderate and indirect evidence that the political actors' power was fragmented, in contrast to the concentrated power of the economic actor, in line with proposition 3 of causal claim 3.

Observation 1: Michnik and several others founded the media company Agora S.A. in 1989, at the same time as its premier daily *Gazeta Wyborcza* emerged from the underground press that had existed throughout the eighties (Sparks, 2008, p. 53; Stetka, 2012, p. 450). The firm went on the Warsaw Stock Exchange in 1999 (Agora SA, February 15, 2018; Company Overview of Agora S.A., February 15, 2018).¹¹⁰

¹¹⁰ Adam Michnik, as editor-in-chief and co-founder of Agora, would have had a right to its shares, but he

Observation 2: The company owns fully or partially two dailies, Gazeta Wyborcza and Metro, several magazines, radio stations, Internet news portals, as well as cinemas, print companies, and the company AMS, an outdoor advertisement firm (Agora SA, February 15, 2018; Company Overview of Agora S.A., February 15, 2018).

Observation 3: Shortly after the 2001 Parliamentary elections, PM Miller was the leader of an internally well-organized party (Nalepa, 2016, pp. 359–360) and his own position seemed secure as he had brokered the electoral alliance between the SLD and the UP (Raciborski, 2007, pp. 25–26).

Observation 4: In a detailed empirical study on the changes in the legislative organization of Poland's Sejm, Nalepa (2016) finds that the SLD had not been an ideologically cohesive party. Instead, the party faced the risk that its MPs would switch to another party, if they believe it would increase their chances of reelection. One of Nalepa's interview partners stressed that many if not most of the party's members were more interested in the SLD because its capacity to win seats than any ideological commitment to the party and its political programme (Nalepa, 2016, pp. 359–360). The findings follow the conclusion of an earlier study which examined the kinds and forms of party-switching in Poland. Shabad and Slomczynski (2004) argue that party switching provides MPs with high benefits (seats in the Sejm) at a low cost, as Poland's open list electoral system means that candidates get elected more because of their reputation than their party affiliation.

Inference: Observations 1 and 2 depict Agora as a financially strong company. And while its origins laid in the publishing market, it has since then expanded into other markets as well. Combined with observations 3 and 4 from the first proposition in Causal

refused (Cohen, November 7, 1999).

claim 2, where I have described Agora's market size, I reason that Agora has been a major player in the media sector. In comparison, the resources of the political actors from the SLD had been much weaker. While PM Miller stood atop of a well-organized party (observation 3), looks can be deceiving as observation 4 suggests. That the formal rules of the Sejm strengthened the rights of individual MPs and smaller political factions, and so favored the political opposition and undermining party discipline within the majority further corroborates the conclusion. It appears that while Miller was leading a strong electoral alliance, the underlying basis of the party as an organization was weak. Neither the individual political actors, such as the KRRiT member Czarzasty and the deputy minister of culture Jakubowska, nor the SLD had full control over the legislative process.

The observations addressing Agora's resources came from several industry-specific resources. However, references addressing the strength of the political actors have been drawn largely from previous scholarship and neither has directly addressed the issue of resources of the political actors. The evidence for causal claim 3 therefore only provides *moderate* and *indirect* support, at least in the case of *Rywingate*.

Despite several drawbacks, the case illustrates well how the distribution of resources among political and economic actors imposes particular constraints on actors that impact what type of corruption they can engage in. *Rywingate* reveals that the political actors, despite the mysterious reference to 'people in power', did not have enough control over the legislative process to ensure that the relevant provisions would have remained in acceptable form in the bill. Especially as the political actors did not occupy key positions within the state apparatus. This further undermined their ability to deliver on their promises. As such, even if Agora would have participated in the corrupt exchange, the company would have only *increased their chances* of received the

beneficial legislation but there was no guarantee. The following case study underscores the difficulty of ‘guaranteeing’ a beneficial legislation in the highly decoupled political system.

Afera Hazardowa

Afera Hazardowa provides a second test case for the third proposition about concentrated economic power combined with fragmented political power resulting in legal corruption. Observations 1 to 3 portray the concentrated resources of the economic actors, whereas observations 4 to 6 depict the more fragmented power of the political actors. The evidence provides *strong* and *direct* support for the third causal claim.

Observations 1: Sobiesiak had established ties with local and national politicians. And as one of his competitors remarked to a newspaper—his ties to politicians, especially the SLD and PO, were Sobiesiak’s competitive advantage (Kacprzak et al., October 8, 2009).

Observation 2: Investigations by Rzeczpospolita revealed that Sobiesiak and Kosek’s businesses practically had a monopoly on high-stakes gambling, a particular niche in the industry that requires special permits from the Ministry of Finance and the tax authorities (Kacprzak et al., October 8, 2009).

Observation 3: Kosek has been the deputy head of the Union of Employers of Games of Chance and Mutual Betting. He also owns either alone or with others, including Sobiesiak, several firms in the gambling industry (Kacprzak et al., October 8, 2009; Kacprzak et al., February 2, 2010). Kosek has also acted as the Polish representative of the Austrian gambling company Novomatic (Pytlakowski, October 13, 2009).¹¹¹ Thomas Graf, the oldest son of the owner of Novomatic, is also an shareholder

¹¹¹ Novomatic Group produces slot machines, video poker games, video lottery, multiplayer games and electronic table games and is one of the largest gambling conglomerates in the world (Flechl et al., October

in Kosek’s PRU Filmtechnik company, one of Kosek’s firm in the gambling sector (Kacprzak et al., February 2, 2010; Pytlakowski, October 13, 2009).

Observation 4: Table 4.10 shows the results of the 2007 parliamentary elections. The PO had won 41.5 percent of the votes, which translated into 206 seats of 460 in the Sejm. As coalition talks with the second-placed PiS failed, the PO ended up forming a coalition with the fourth-placed PSL, which had gained less than 9 percent of the votes. The PO-PSL coalition ended up with a small majority in the Sejm (Piasecki & Michalak, 2016, p. 360).

Table 4.10: 2007 Parliamentary Election Results

| Political Group | Percent of Votes | Number of Seats |
|----------------------------|-------------------------|------------------------|
| Civic Platform (PO) | 41.51 | 209 |
| Law and Justice (PiS) | 1.11 | 166 |
| Left and Democrats (LiD) | 13.15 | 53 |
| Polish Peasant Party (PSL) | 8.91 | 31 |
| German Minority | 0.20 | 1 |

Source: Państwowa Komisja Wyborcza [PKW] (October 21, 2007).

Observation 5: Poland’s political system accommodated individual members of parliament and ministers at the expense of the government and the party.¹¹²

Observation 6: PO’s internal organization also favored a decentralized decision-making process and offered few disciplinary measures for non-confirming party members (Hartliński, 2014).

Inference: While the value of Sobiesiak’s political capital through his political ties is hard to quantify, observation 1 as well as findings from the first proposition of causal claim 2, indicate that these personal connections played a major role in Sobiesiak’s business endeavors. Observation 2 further corroborates this conclusion. Additionally,

13, 2017; Forbes, April 17, 2018).

¹¹² Recall the decentralized law-making process in Poland, explained in proposition 3 of causal claim 2.

Kosek was head of a business association representing the major companies in the gambling industry (observation 3) on whose behalf he was lobbying the Polish lawmakers. Hence, even if Sobiesiak was not a ‘shark’ in the gambling industry, i.e., a major player, he still had all major economic actors in the industry behind him.¹¹³ The most reasonable assumption about Sobiesiak’s and Kosek’s role in their partnership is that the former provided access to political actors in the ruling party, while the latter coordinated the actors in the gambling industry—ensuring that they all acted in accord to the industry’s best interests. Based on this assumption, it hardly matters whether Sobiesiak controls a large segment of the gambling sector or not, as he major asset were his political connections.

As to the power of the political actors, I find that the PO as a political party did not have enough power to push for a favorable gambling law. As such, even if Sobiesiak and Co would have had the necessary connections and good-will of the party’s leadership, it would not have been possible. Observation 4 illustrates the small majority that the PO-PSL coalition held in the Sejm. And observations 5 and 6 reveal that none of the participating political actors had significant political power—at best they were able to control the activities within their own ministries or committee. I therefore infer that the combination of concentrated economic power and fragmented political power results in legal corruption.¹¹⁴

As new facts arise, the interpretation of these events might change. For instance, as I could not verify the number of firms and their market shares that Kosek’s business

¹¹³ Sobiesiak, in his testimony to the parliamentary inquiry commission, defended himself by stating that his family only owned around one hundred slot-machines. He therefore had few reasons to get involved in lobbying the gambling bill ("Stenogramy," August 9, 2011; Knysz, October 8, 2009; Kacprzak et al., February 2, 2010; Kałucki et al., January 14, 2010).

¹¹⁴ Earlier in this chapter, I already identified *Afera Hazardowa* as an example of legal corruption.

association represented in the late 2000s, I assumed that the majority of firms are likely to either be active members or at least benefit from the elimination of the contested provision. If, for instance, it would turn out that the business association did not represent a large number of gambling firms and that these ‘unrepresented’ firms somehow would not be financially hurt by the introduction of the provision, the conclusions drawn here would have to be reassessed. In sum, I deduce that the events in *Afera Hazardowa* provide *strong* and *direct* evidence in support of the third proposition of causal claim 3.

Infoafera

In contrast to the previous two corruption cases, *Infoafera* represents a local capture type of corruption, specifically the capture of the public procurement process. In chapter 2, I derived the proposition that such a corruption type is the result of strong political power meeting strong economic power. To make it easier to follow the analysis, I have split the observations into whose power they address—the political actor’ or the power of the economic actor in the corrupt relationship. As the inferences require more extensive discussion, I have split the analysis into two parts. Observations 1 to 4 relate to the resources that Andrzej Machnac, the main political actors controlled, followed by drawing the first inferences.¹¹⁵ Observations 4 to 8 cover the resources of the corrupt economic actors.

Observation 1: At the CPI, Machnac had the authority to decide what procurement mechanisms, such as open or restricted tendering, a negotiated procedure,

¹¹⁵ Recall that Machnac was the director of the CPI, the IT-center that operated within the MSWiA. The CPI was responsible for coordinating the procurement of all major IT-projects in Poland. And Machnac had abused his position by circumventing control mechanisms that were in place to deter exactly these kinds of corrupt activities.

or even just a single-source procurement procedure, would apply to a particular IT-project (Law on Public Procurement of 2004; Zieliński, December 31, 2011).¹¹⁶ As the contracting authority, the CPI also set the terms of the tender—such as deciding on the time span for the bidding process and the project specifications. After the CPI awarded a project, it continued supervising the implementation of the project and coordinate the payment of the vendor (2004).

Observation 2: Machnacz had multiple opportunities to influence the procurement process before and after a project had been awarded. At least once, he substantially changed the award specifications to favor a particular firm. And when dealing with Netline, the charged vice-president alleged that Machnacz would often delay payments until he had received another ‘gift’ (Socha, 2013).

Observation 3: Industry-analysts and some investigative journalists doubt that Machnacz had been the ‘brain’ behind the corruption scheme. They argue that Machnacz only occupied a middle-management position within the MSWiA. In the position, he would not have had sole authority to decide to whom to award a contract, especially not contracts involving millions of zloty (Pieńkowski, May 29, 2012; Zieliński, October 31, 2011).

Observation 4: Together with Machnacz several other individuals have been charged for their parts in the case—the deputy-director as well as the head of promotion at the CPI and four close family members. His wife, sister, father, and mother-in-law have all admitted to their crimes—mainly laundering the proceeds of Machnacz’s corrupt

¹¹⁶ Open tendering refers to the tender being open to all bidders, while in the case of restricted and negotiated tenders, bidders have been shortlisted by the contracting authorities. The main difference between restricted and negotiated tenders is the number of bidders: between 5 to 20 in the case of restricted tenders and at least 3 bidders in the case of negotiated tenders (Article 10 of the 1994).

activities (Jaloszewski, July 2, 2015). Information about the specific charges against the deputy director and the head of promotions could not be clearly established.

Inference: In contrast to the previous two corruption cases, the political actor is here a state official. As a reminder, in chapter 2, I had suggested that under these conditions, the official's main resources are less likely derived from political issues. Instead, state officials obtain most of their power from their influence over a decision-making process, including access to or control over a cash-cow, as well as their ability to deactivate control-mechanisms. Observation 1 supports the proposition that Machnacz had a strong influence over the public procurement process. At the very least, Machnacz had been able to alter the procurement mechanisms used and set the project specifications in some tenders (observations 2 and 3). This authority provided him with ample opportunities to manipulate tenders, for example, by splitting larger contracts into smaller lots, and allowed him to misuse the CPI as a cash-cow.

Observation 3 contradicts this first impressions slightly as it points out that Machnacz may have had substantial influence over the procurement procedure used for each contract, but it is less likely that he had sole authority to award the largest contracts. This is where his ability to deactivate control mechanisms comes into play. As observation 4 reveals, Machnacz had several close allies that helped him cover up his illicit proceeds. While the ultimate activities by his deputy and the head of the promotions department could not be identified, several observations in causal claim 2 corroborate the conclusion about Machnacz' skill.¹¹⁷ The analysis of the third proposition

¹¹⁷ Specifically, observation 2 in proposition 1, observation 2 in proposition 2, as well as observations 2 to 6 in proposition 3.

of the causal claim 2 further corroborate the conclusion, as I found that several control mechanisms around Machnacz had failed in detecting his corrupt activities.

The following observations describe the resources of the economic actors. They highlight the impressive power the IT-firms had, in particular HP and IBM.

Observation 5: HP Polska had been the largest IT-corporation in Poland for 9 consecutive years between 1997 to 2016. And together with IBM Polska it had been under the Top 10 IT-firms in Poland since their establishment in 1991 (Jadczyk, June 6, 2009; Jadczyk & Maciejewski, June 15, 2010).¹¹⁸

Observation 6: Netline, IBM's main representative in Poland, had been established in 1998. Over the years, the firm had managed to win larger and larger contracts. And in 2008, at a time when the entire market had been in decline, Netline had managed to increase their revenue by more than 440 percent (Jadczyk, June 6, 2009). Despite the firm's growth, it still remained only a medium sized IT-firm, ranking in the second half of the top 200 IT-firms.

Observation 7: The NIK as well as a few journalists have indicated that on several occasions the firms would keep the original source codes for their programs or not sign over copyrights for the programs—in such instances, the recipient would have to contract the firm again if they need to make any updates or modifications to the program (NIK, 2013; Socha, 2013; Zieliński, October 31, 2011).

Observation 8: There exist some indicators that at least the larger firms had access to higher-ranked individuals than Machnacz in the state administration. The vice-president of Netline, in his interview with the report, mentioned that he was certain that

¹¹⁸ The annual reports are available only to subscribers, so a detailed presentation of either firms' market share was not possible.

the larger firms had contact with someone higher up. He noted that in the IT-industry, very often the IT-firms would set the tender requirements as they are the experts on this topic.¹¹⁹ In addition, during his confession, Machnacz implicated his direct supervisor Drożdż—claiming that he would occasionally order Machnacz to award contracts to a particular firm. He provided at least one concrete example that the authorities have investigated in more detail.

Inference: Observation 5 illustrates the strength of IBM and HP in the Polish IT-market. Their market size provided the firms with leverage in any negotiations with the CPI. In contrast, Netline did not have such a strong position (observation 6). Netline's weaker position would also explain observation 8, where the firm's representative stressed that at least IBM had higher-level contacts that went above the CPI and Machnacz. And while Netline apparently did not had such extensive political connections as IBM and HP, it shared their ability to keep the original source codes (observation 7). This secured the economic actor future contracts with the state.

Before assessing the degree of uniqueness of these observations, I need to address the matter of Machnacz' power in the relationship once more. Observations 3 and 8 hint at the existence of a larger corruption network between political actors and selected IT-firms. Following this line of argument, Machnacz was not at the center of the corruption scheme. Instead, he might only have been the most brazen one, flaunting his illegally acquired rewards. This more conservative interpretation is highly plausible. Nevertheless, the interpretation does not negate the proposition as the larger point about the concentration of political and economic power leading to local capture still holds. But

¹¹⁹ While Poland's and the EU's procurement procedures allow for this, the same firm is not allowed to bid for the tender it helped draw up.

it raises the question whether political power needs to be purposefully coordinated to achieve its purpose. When following the more conservative assessment about Machnac's place in the corruption scheme, his resources had been access to and substantial influence over a cash-cow and the ability to circumvent at least some control mechanisms. For the economic actors, this was apparently enough to make him a valuable partner.

In sum, the observations leave little room for an alternative explanation about the relative distribution of power within the corrupt state-business relationship. Furthermore, they also address the issue of how the power distribution shaped their relationship in an adequate manner. I, therefore, conclude that the evidence provides *strong* and *direct* support for proposition 3—the combination of concentrated political and economic resource distribution leads to local capture.

Causal claim 3 argues that the arrangement of resources between political and economic actors determines the type of corruption that emerges from their corrupt state-business relationship. As the selected cases only included legal corruption and local capture, I have only analyzed two out of three propositions. The inferences drawn from these examinations provides strong and direct support for the both propositions.¹²⁰

Rywingate and *Afera Hazardowa* have both represented legal corruption and I have found strong and direct support for proposition 2, which suggests that legal corruption is the result of a political actor with fragmented power forming a corrupt state-business relationship with an economic actor, whose power is highly concentrated. The last corruption case *Infoafera* is an example of local capture. In line with

¹²⁰ Rywingate, because of its particular circumstances, only provided moderate and indirect support for proposition 3. However, Afera Hazardowa corroborated the initial findings.

proposition 2 of causal claim 3, I found that local capture emerges when concentrated political power and economic power meet in a corrupt state-business relationship.

In this part of chapter 4, I have traced in detailed the causal mechanism that links the emergence of competition in politics and the economy to the systemic transformation of patterns of corruption. The evidence for causal claim 1 has been moderate but strong, where I have investigated the impact of the emergence of competition in politics and the economy in the actors' opportunity structures about participating in corruption in general. I found that political and economic actors, as a result of the emergence of political and economic competition, face powerful incentives for and weak constraints against engaging in corruption in general.

In causal claim 2, I probed the opportunity structures for corruption of the political and economic actors deeper to examine how actors go from being willing to engage in corruption in general to entering in a corrupt state-business relationship. When now political and economic actors meet, they have mutually compatible interests that inclines them to enter into such corrupt relationships. And when now at least one actor has the potential to gain substantially from the corrupt exchange (representing incentives) combined with a lack of effective control mechanisms to deter actors (representing constraints), political and economic actors will enter into a corrupt state-business relationship. Recall, for instance, the substantial benefits that the political and economic actors received in *Infoafera*—a BMW Motorbike, furnishing of flats, paid vacations in Sri Lanka, for the political actor and contracts worth millions of US dollars, with the guarantee of future contracts for IBM and HP. While the evidence has not fully supported each proposition in every corruption case, no proposition has been rejected or significantly weakened.

Causal claim 3 now revealed how the resource distribution within the corrupt state-business relationship determines the type of corruption that emerges. I have found that in both cases of legal corruption, the political actor was in a significantly weaker position than the economic actor. However, when both sides have enough resources to balance each other out—the result is a local capture type of corruption, illustrated in the case of *Infoafera*. This suggests that the type of corruption that emerges from the interaction between political and economic actors is not random but follows the logic of resource distribution.

Conclusion

Chapter 4 set out to test the theorized causal mechanism, separated into three components, against selected corruption cases in Poland. Given that the corruption cases are only a small sample, the findings present only an initial investigation into how and why the emergence of competition transforms the patterns of corruption in a country in a systematic fashion.

In the first part of the chapter, I have categorized the six corruption cases into one of two types of corruption—legal corruption or local capture.¹²¹ Four out of the six cases fulfilled the criteria for legal corruption. While this first finding challenges my argument about a transformation of corruption pattern taking place, in the second part, I find that the political system in Poland predisposed it to legal corruption. Poland's political system features several elements that keep the various political actors weak, which fosters political competition. However, in the case of Poland, these features have led to such intensive political competition that for a long time no single political actor was able to amass enough resources and thus power to counter the pressure from

¹²¹ No case fulfilled the criteria of the third corruption type - covert party financing.

economic actors. The two cases of local capture, which are the result of concentrated political power meeting concentrated economic power, take place in places which allowed the political actor to gain resources. In the case of *InterAms*, the political actor was a prime minister, while in the case of *Infoafera*, the main political actor was head of Poland's main IT-procurement agency. In both cases, therefore, the political actor was able to derive their political resources from their formal position they occupied.

The second part of the chapter then examined why the emergence of political and economic competition has led to a systematic transformation of the country's patterns of corruption. By examining the three components of the theorized causal mechanism individually, I was able to trace in detail how the entire causal mechanism operates. Causal claim 1 described how the emergence of political and economic competition transformed the actors' incentives and constraints in favor of engaging in corruption in general. Causal claim 2 then investigated why the specific constellation of powerful incentives and weak deterrents encouraged political and economic actors to form corrupt state-business relationship. Through true process-tracing, I have shown that the specific constellation of incentives and constraints that economic and political actors faced, resulted in the creating of mutually compatible interests to form a corrupt state-business relationship. However, anyone that every has tried to be more active or less 'hungry' knows that interest is not the same as outcome. Causal claim 2 therefore also tests whether the actors have actually entered a corrupt relationship by examining the benefits that each side gained through the corrupt exchange (which represents the incentives for actors to engage in a corrupt exchange) and the constraints that they faced (representing the deterrents against engaging in a corrupt exchange).

The core part of the causal mechanism is causal claim 3, where I tested the resource distribution with the corrupt state-business relationship. This final component

of the causal mechanisms allows me to argue that the type of corruption that emerges follows a specific logic. I have found strong evidence supporting causal claim 3, specifically the propositions about legal corruption and local capture. In line with proposition 2, I found that local capture emerges when political and economic actors have a balanced distribution of power. In comparison, legal corruption emerges when the political actor is fragmented and thus in a weaker position against a more powerful economic actor, represented in the third proposition of causal claim 3.

Two important questions remain now. First, I have not yet been able to test the first proposition of causal claim 3, which proposes that concentrated political power, combined with weak economic power, results in covert political financing. Second, I have traced the emergence of local capture only in the case of *Infoafera*. To ensure that the finding is not just a random occurrence, it requires additional testing. I will pick up on these questions in chapter

CHAPTER 5

CASE STUDY: HUNGARY

In the preceding chapter, I analyzed the transformation of corruption patterns in Poland. I have first categorized the type of corruption that took place in each of the six corruption cases. While four out of the six cases reflected legal corruption, with no variation across time, the cases also exhibited no variation across sectors. Moreover, two of full set of cases involved the same political party during the same time period. And while the cases took place in different sectors, I have traced the root to this variation in the different resource distributions between the political and economic actors in the corrupt exchange. The chapter provided also some preliminary support for the theorized causal mechanism. But the case study of Poland was not able to test whether the logic of resource distribution also holds for covert political financing, the first proposition of causal claim 3.

The present chapter classifies the type of corruption that each corruption case exhibits and evaluates the causal mechanism in the case of Hungary. Before I go into details on the types of corruption and test the three proposed causal claims that link the emergence of competition to the type of corruption, I provide a brief background description of Hungary. Specifically, I will outline the major economic and political developments in Hungary from 1989 to 2010 as well as explain the dominant corruption forms practiced in Hungary during the early transition period.

I then move to the first substantive section of the chapter where I classify the six selected corruption based on their type of corruption. I find that the cases, regardless whether they occurred in the real estate, construction, or energy sector, share some remarkable similarities. All three cases that have occurred in the early to mid-nineties

fall under the category ‘Covert Political Finance’ while the later the three cases represent some form of local capture.

In the next step, I investigate *why* such a transformation of corruption types has occurred across sectors. Causal claims 1, 2, and 3, and their propositions, presented in chapter 2, divide the proposed causal mechanism into its separate parts. This section is set up in a similar fashion as it begins by examining whether the collected evidence supports the propositions of causal claim 1. For causal claim 2, which hypothesizes about actions taking place on the micro-level, I analyze the selected three corruption cases. Here I test whether the change in opportunity structures has encouraged political and economic actors to enter into corrupt state-business relationships. Also causal claim 3 hypothesizes about activities on the micro-level by predicting that the distribution of resources between political and economic actors determines the type of corruption. Ultimately, I find strong support for my argument through the careful examination of the process that links the emergence of political and economic competition to the three Hungarian corruption cases.

Background information

When Hungary held its first free parliamentary political elections in 1990, it had already introduced several market liberalizing reforms in the late 80s (Borish & Noel, 1996, p. 60; Inzelt, 2011, pp. 352–379). Despite these early steps toward a smooth(er) transition, the economy nevertheless plummeted (Borish & Noel, 1996, p. 141; Inzelt, 2011, p. 360). Moreover, in the first few years, the Hungarian Parliament had to race to catch up with the rapid economic changes occurring around it (Burai, 2016; Innes, 2002, pp. 94–95; Inzelt, 2015, pp. 182–197). Eventually, the Hungarian government managed to stabilize its markets and succeeded in attracting significant amounts of foreign direct

investments (Borish & Noel, 1996, p. 61), in part because of its focus on signing and ratifying several multilateral trade agreements with the EC/EU, EFTA, and CEFTA.

Hungary's drive to adjust to the Western standards of laws and legislation also shaped its political arena, where political parties competed not on an ideological or substantive matter (i.e., the direction in which Hungary ought to develop), but on technical matters (i.e., how Hungary should adapt to be able to join the European Union) (Grzymała-Busse & Innes, 2003, pp. 64–73; Innes, 2002). Political parties had a weak societal basis in the former communist countries, which in part explains the high political turnover Hungary experienced in the last decade of the 20th century.

While in the first parliamentary elections, the rightist parties of the former opposition defeated the communists and formed a coalition between the MDF (Hungarian Democratic Forum), the FKgP (Small Farmers' Party), and the KDNP (Christian Democratic Party), the reformed communist party MSZP entered into the opposition with two smaller political parties (SZDSZ, the Alliance of Free Democrats, and FIDESZ). By 1993, however, "serious rifts appeared between the three coalition parties, while acrimonious in-fighting took place between moderate and hard-line factions within their ranks, leading to a number of defections" (Canning & Hare, 1996, p. 7). It came therefore as little surprise when at the next parliamentary elections in 1994, the rightist government were ousted from office and a post-opposition center coalition between the MSZP and SZDSZ came to power. But they also faced some difficulties, including several corruption scandals, some of which will be discussed in the next sections, and at the next parliamentary elections four years later a post-opposition right coalition between FIDESZ, the FKgP, and the MDF established a new government. As usual, the right-winged coalition was voted out of office in 2002, and the center-left

coalition between MSZP and the SZDSZ returned to office until 2010, when the rightist FIDESZ-FKgp Coalition won a qualified (i.e., two-thirds) majority.

Just as their socialist neighbors, under communist rule Hungarians commonly practices corruption related to everyday bribery due to the overwhelming shortage of necessary items (Burai, 2016, p. 96; Inzelt, 2015, p. 182; Sajó, 2002). Such a 'shadow economy' was a tolerated part of the socialist system, despite the existence of the Act IV of 1978 on the Criminal Code that regulated active and passive bribery (Burai, 2016, pp. 98–100). In other words, while the necessary laws and regulations existed, they were not enforced.

A second common corruption practice that was especially popular among the nomenklatura was the use of personal connections.¹²² In these planned economies, the state had full control over all aspects of the economy, and "power was strictly centralized to members of distinguished circles of society who had influence on decision-making, the executive, control bodies and the judiciary." (Burai, 2016, p. 95). This also meant, that the elites were in a better position to personally benefit from their positions with the state (Holmes, 2006).

Once the change of the political and economic system began and most people were still struggling to understand what is going on around them, a few entrepreneurial souls managed to profit from the chaotic years of the early nineties. If one had the business acumen and some political connections, her income could increase drastically in just a few years (HU 101, personal communication, 2017, Jul 16. Location: Budapest,

¹²² The term nomenklatura refers to "the exclusive network of party functionaries, political and economic leaders, presidents of local councils, public prosecutors, judges and members of the police all appointed upon political criteria and connected through close relationships or even friendships." (Schöpflin (1990), cited in: Burai (2016, p. 95)). Later the term started to refer to any individual that was understood to be part of the power elite in communist countries (Tarkowski, 1991, p. 15).

Hungary; Inzelt, 2011, p. 360, 2015, p. 184). The parallel transition of the political and economic system shaped each other, and, as the following analysis will show, also the patterns of corruption.

Categorizing ‘Patterns of Corruption’

In this section, I analyze the first part of the research question on how corruption patterns vary by classifying the types of corruption each corruption case exhibits. The three main types of corruption—Covert Political Finance, Local Corruption, and Legal Corruption—have several causal attributes that enable me to group each of the six cases. As the corruption cases are paired based on the sector in which they have occurred, this section is also divided into three subsections—the Tocsik affair and Hunvald case in the real estate sector, the BKV Metro 4 and Simicska case in the construction sector, and the Energol case in the energy sector.¹²³ Within each subsection, I start with a summary of the corruption cases, before assessing the corruption type based on the available information.

Corruption Pair 1: Real Estate Sector.

Tocsik Case.

Case Summary: In December 1995, Imre Szokai, the President of the National State Privatization and Holding company ÁPV Rt., introduced the lawyer Marta Tocsik to ÁPV Rt.’s legal counsellor Peter Liszkai. By January 1996, ÁPV Rt. hired Tocsik to negotiate on ÁPV Rt.’s behalf with local governments on the sum ÁPV Rt. owned them for privatizing their assets (Hajdu, Pápay, & Tóth, 2016, p. 5; Szikinger, 1999, pp. 15–17).

¹²³ I want to remind the reader that the case of Lajos Simicska spans the entire period under investigations and has been divided into two instances. The first instance covers Simicska’s activities from the late eighties to the early 2000s, while the second instance covers the 2000s.

For her involvement, Tocsik received ten percent of the sum she saved ÁPV Rt., which came to around 3,296,400 EUR (Barrett, 2002, pp. 233–287). Journalists revealed the first details of the case on September 18, 1996 (Hajdu, Pápay, & Tóth, 2016, p. 8). In the next few weeks events moved quickly as the parliament established an parliamentary inquiry committee and the Budapest’s Attorney-General brought forward charges against Tocsik (Barrett, 2002, pp. 38–39; Hajdu, Pápay, & Tóth, 2016, p. 7; MTI, March 29, 2000). While the Metropolitan Court of Budapest acquitted Tocsik and her co-defendants in the first instance in February 1999, her confession leaked. In it, she states that László Boldvai (then treasurer of the ruling party MSZP) and György Budai (an entrepreneur associated with the Alliance of Free Democrats, SZDSZ) demanded that she transfer 50 percent of her fees to companies named by them (Barrett, 2002, p. 38; Hajdu, Pápay, & Tóth, 2016, p. 7). Court documents later revealed that Tocsik indeed transferred EUR 943,000 and EUR 471,000 to two companies associated with these individuals (Szikinger, 1999).

What is known to the outside as the ‘Tocsik Affair’ consists of two different instances of corruption: the first being the appointment of Tocsik as the lawyer negotiating for the state privatization company, the second one relates to what happened with half of her income. As these instances represent two different types of corruption pattern, I will examine them separately.

Corruption Type & Activities: The first instance of corrupt behavior in this affair represents local capture, in particular, the corrupt ‘Public Purchase of Goods or Services.’ First, corruption occurs around the process of the acquisition of services for the state, in this case the appointment of Tocsik as the negotiator that acts on ÁPV Rt’s behalf without a competitive selection process. Second, the purchase of these services broke with previously established norms and procedures, in this case, for instance that no

other potential candidates were invited. Next, the state organization purchases services that are either a public good or in the public's interests. ÁPV Rt. claimed that the purchase of Tocsik's services saved them a substantial amount of money, suggesting that it was in the public's interest. While the Budapest Metropolitan Court ruled in the first instance "that it was not illegal to earn large fees" (Szikinger 1999, p. 17), many Hungarians nevertheless disagreed and considered her fees to be extraordinarily high. In addition, the question arises whether it was necessary for the privatization company to hire a lawyer, especially as they had their own in-house legal counsel.

Fourth, other state organizations have criticized the transaction as financially unsound, or at least not in the public's interest. Last, the purchase has benefited a close network by excluding other actors that would have a right of inclusion. In this case, the other actors with rights of inclusion would have been any other lawyer with similar experiences as Tocsik but without her connections to the head of the ÁPV Rt.

The predominant corrupt activity appeared to be the use of personal and political connections. And while a simple introduction does not necessarily mean that the entire hiring process is rigged, the amount of personal-political connections that tie the main actors together raises doubt about the procedural fairness. For one, Tocsik's appointment as the 'intermediary' between ÁPV Rt and the local governments already appeared unusual as she was the only applicant for what appeared to be a lucrative position. In addition, the ÁPV Rt.'s Supervisory board failed to investigate the appointment of Tocsik after the scandal became public (Hajdu, Pápay, & Tóth, 2016, pp. 5–6). The prosecutor has also viewed the transactions as suspicious as he charged

Tocsik, ÁPV Rt's president Imre Szokai, and four of his colleagues with fraud and forgery.¹²⁴

The second instance of corruption in the case refers to Tocsik transferring almost 50 percent of her fee to two associates of the ruling political party, exemplifying 'covert political financing'. First, the political actors (László Boldvai, MP and treasurer of the MSZP and György Budai, to a lesser degree) had the power to offer nothing or just a few general concessions in exchange for a contribution. The transfer of almost half of her income to companies closely associated to the then-ruling coalition has been well-documented; while the Supreme Court dismissed charges of bribery against her due to lack of evidence (Barrett, 2002, pp. 38–39; Hajdu, Pápay, & Tóth, 2016, pp. 5–6). Second, the financing of a political cause occurs through channels that disguise the origin of the resource and/or its recipient is visible in the financial structure of the party funding scheme, including Tocsik's apparent coercion. Third, the political actor refuses to, or at least makes it unnecessary difficult, to disclose the origins of his funding. The MSZP and SZDSZ neglected to reveal the contributions of Tocsik in their annual accounts; this was partially enabled by the circuitous route the money took.¹²⁵

The main corrupt activities involved in this covert political financing case, were extortion and a lack of implementation and enforcement of rules and procedures that would have increased the accountability and transparency of the process (Burai, 2016; EC, 2014a; GRECO, 2009; HU 101, 2017, Jul 16.; Inzelt, 2011).

¹²⁴ After a long process through several judicial instances, the Supreme Court dismissed all charges but 'counterfeiting private documents' due to lack of evidence in 2003. In a civil procedure, however, the Supreme Court did require her to pay back over HUF 500 million (Inzelt, 2011, pp. 352–379).

¹²⁵ While parties are obliged to annually publish their accounts in the Official Hungarian Gazette, however, multiple sources emphasized that these reports tend to be provide an inaccurate picture of a party's income sources (European Commission, Migration and Home Affairs, 2014a; Group of States against corruption [GRECO], 2009; HU 101, personal communication, 2017, Jul 16. Location: Budapest, Hungary).

Hunvald Case.

Case Summary: In February 2009, a year before the parliamentary elections that would put Fidesz in power, the police arrested the MSZP mayor György Hunvald of the District VII—the famous Erzsébetváros district—in Budapest on suspicions of real estate fraud.

The investigations surrounded the sale of over a dozen district-owned buildings between 2003 and 2004. In the course of the investigation, György Gál, and a major real estate entrepreneur names György Nagy, in addition to the mayor. It turned out that Nagy and Gál arranged for the sale of these buildings to friends and acquaintances far below the building's market values and allegedly ignoring the pre-emption rights of the building's current tenants (Mayor of Budapest's District VII in custody for real estate fraud, February 10, 2009; Erdélyi, May 20, 2016). In exchange for their help, Hunvald and Gál, a member of the SZDSZ, seemed to have ended up with luxurious apartments with swimming pools, several houses, a fleet of luxury cars, and even a private jet in the case of György Hunvald (Hungarian Digest, February 27, 2012; Halász, November 17, 2013; Inzelt, 2015, pp. 186–187). Several drawn-out court proceedings later, Hunvald was acquitted of all charges by the Hungarian Supreme Court, which explained in its ruling that Hunvald's role in the corruption scheme was only minor (Hunvald and Co. acquitted in final court ruling, February 13, 2015; Dull, December 16, 2016).¹²⁶ The main culprits in the scheme were Gál and Nagy who orchestrated these fraudulent real estate sales.

¹²⁶ Labeling the case therefore 'Hunvald Case' is actually a misnomer, but the name remained (Wirth, Z., personal communication, December 2017).

Corruption Type & Activities: The case again is an example of local capture, specifically the corrupt ‘sale of public assets’, where actors sell or at least attempt to sell public assets over which they have control for personal or third-party gains. As mayor and head of the economic city councils, Hunvald and Gál had final discretionary authority over the sale of these publicly owned buildings. Court documents revealed that several of the involved individuals profited immensely from the exchange. The identifying key attributes of this type of corruption have therefore been fulfilled.

First, both Hunvald and Gál were key-decision makers in the sale of these buildings. Second, their approach of selling these public assets violated the commonly accepted norms of procedure, among others because they sold the buildings often under market values, according to court rulings.¹²⁷ For instance, one indicator that the sale did not follow the standard procedures was the lack of any public tendering of the sale (Halász, November 17, 2013; Wirth, November 24, 2009; Wirth, April 19, 2011). Last, and most importantly, the corruption occurs around the process of selling state assets.

The primary corrupt activities that produce this type of corruption were also present in the Hunvald case. The key players in the sale seemed to have abused their discretionary power in order to complete the sale. The same players were also making use of a conflict-of-interest situation as the buyers of these buildings were often friends or acquaintances of Gál and Nagy. Finally, Gál and Hunvald were both suspected of having accepted bribes, and while these allegations could only be proven in the case of Gál (Wirth, April 19, 2011), the massive wealth that Hunvald accumulated during the time, indicates that he too managed to profit from these transactions.

¹²⁷ Even though these rulings contradicted themselves on several issues, they agreed on this point.

Corruption Pair 2: Construction Sector.

BKV Metro 4 Corruption Case.

Case Summary: The Budapest municipality government has been considering the construction of another metro line for some decades before finally making the commitment in the early 2000s.¹²⁸ It worked out financing arrangements with the national government, the EU, and the European Investment Bank and the first tender calls went out in 2004. From the start, the project's implementation failed to follow common public procurement procedures and as more than one dissertation could be written on the full case, I will limit myself here to a summary of the two largest contracts in terms of their values that have been linked to corruption: the cases of Siemens Metro 4 Consortium and Alstom Transport SA. Siemens' contract Co-09 revolved around the provision of "Systems and power supplies" (European Anti-Fraud Office [OLAF], Directorate B Investigation II, 2016, p. 40), i.e. power-supply infrastructure, and valued at 108,850,000 EUR plus extra for two additional provisions (valued at 32,050,000 EUR). Siemens M4 Budapest Consortium (including Siemens AG, Siemens Zrt, and Siemens Transport System sas) and BKV's DBR Metro Directorate signed contract Co-09 on July 26, 2006 (OLAF, 2016, p. 40). Alstom, as the leader of the Budapest Metropolis Konzorcium, signed contract Co-10 for the supply and maintenance of metro carriages on May 30, 2006. The value of the contract was EUR 76,444,919 (OLAF, 2016, pp. 42–43).

¹²⁸ The summary and assessment draw heavily on OLAF's 2014 report, due to its in-depth investigation. OLAF is the European Union's Anti-Fraud Office (the abbreviation comes from its French name: *Office européen de lutte antifraude*) and has the mandate to protect the financial interests of the European Union. It does this, among others, by investigating suspicious of corruption related to EU funds.

Relevant political actors involved include persons from the national and local government. The highest-ranked individual implicated in the case is the former prime minister Péter Medgyessy (an independent who served as prime minister for the MSZP and SZDSZ coalition government from May 2002 to September 2004), through several consulting contracts. In addition, companies associated with László Puch, the treasury of the MSZP, were recipients of some of the payments by Siemens. At the local level, the long-time mayor of Budapest, Gábor Demszky, a founding member of the SZDSZ, was also accused of being involved. And while the entire corruption case around the Metro 4 line spans over a decade, I will only cover the first four years, from 2006 to 2010.

Corruption Type & Activities: Both instances are examples of ‘public procurement corruption,’ a subtype of ‘local capture’. They occurred around the public procurement process and broke with previously established rules of behavior for going about winning a tender. In addition, both contracts related to the purchase of public goods or services—the expansion of the Budapest Public Transportation system (the third attribute of ‘Public Procurement Corruption’).

Regarding the violation of the procurement procedures, consider how Alstom went about. While the firm’s tender was ranked last out of eight bidders, it eventually ended up winning the tender under rather dubious circumstances that have been investigated by the United Kingdom’s Serious Fraud Office (OLAF, 2016, p. 15).¹²⁹ In the case of Siemens, OLAF’s investigation revealed that the company and its subsidiaries made several financial disbursements just around their public procurement decision to

¹²⁹ The United Kingdom’s Serious Fraud Office (SFO) reached a Deferred Prosecution Agreement with an undisclosed company over its involvement in systematic corruption in several foreign jurisdictions Serious Fraud Office (2016). Despite the undisclosed name, the general characteristics, time period, and that the Alstom investigation was not mentioned any more by the SFO all point towards Alstom being the undisclosed company. I, nevertheless, will rely predominantly on the OLAF report.

relevant decision-makers at the BKV and the project management company Eurometro Kft. (OLAF, 2016, p. 40).

Additionally, several national and European agencies viewed the management of the project as financially and operationally unsound, as summarized in the OLAF Report (OLAF, 2016, pp. 16–19). The agency's own conclusion, based on an in-depth examination of the project, point to extensive mismanagement and irregularities in the implementation of the project which "are not in line with the principle of sound financial management." (OLAF, 2016, p. 62). Last, both contracts benefited a closed network of actors by excluding other actors that would have had a right of inclusion. Alstom's approach to winning its contracts is a strong example of this (discussed more below), but also Siemens' payments to several individuals at BKV or Eurometro Kft. highlight how competitors were excluded.

Admittedly, at a first glance, it seems that both instances are examples of the 'covert political finance' type of corruption as funds were diverted to political parties. The main distinction, however, is that for covert political finance, the aim of actors is to acquire resources with only a few commitments in return. Both Siemens and Alstom, however, received major contracts in exchange for their part in the deal. Moreover, the political actors subverted the public procurement processes for their own benefit at the expense of economic actors that had a valid right to be included, as later court authorities determined.

How did Siemens and Alstom go about winning the contracts? Despite their many commonalities, Siemens and Alstom differed in their choice of corrupt activities. Siemens' used an intricate web of consulting and advertising contracts to create several conflict-of-interest situations. The German multinational focused its efforts on four firms that have been associated with, among others, the treasury secretary of the MSZP, László

Puch, and the co-owner of Eurometro Kft. (the firm tasked with the management of the entire project) (OLAF, 2016, pp. 40–41).

Alstom, in contrast, used bribe payments to gain inside information in the public procurement process and so win the contract despite having the worst tender offer. In addition, Alstom has also employed an advertisement firm that was owned by then-Prime Minister Péter Medgyessy (OLAF, 2016, pp. 43–44). Medgyessy downplayed his involvement in the firm when confronted by OLAF, stating that he became a traveling “business ambassador” for Hungary after leaving office. In this position, it is his duty to build international political relationships (OLAF, 2016, p. 45). Such behavior, however, raised even more red flags as Medgyessy was still prime minister for a few months after the consulting contract between his firm and Alstom was signed (OLAF, 2016, p. 45). He, therefore, would have “substantial authority over or access to state assets and funds, policies and operations” (FATF, 2013, pp. 28–29), even on projects at the subnational level. And even once he left office he still could potentially exercise (informal) influence, especially when considering his former political position (FATF, 2013, p. 12).

To summarize, Siemens and Alstom used a combination of creating conflict-of-interest situations, paying bribes, and making use of professional and political connections to win their public procurement contracts.

Rise of Lajos Simicska.

Case Summary: Lajos Simicska is one of the richest persons in Hungary with a net worth of 55.8 billion HUF in 2016 (Fekete & Zsiborás, 2016).¹³⁰ He has made his fortunes in the media, advertisement, and the construction sectors and, as I show below,

¹³⁰ Forbes Hungary ranked him 16th in 2016, after his spectacular break-up with Victor Orbán in 2014 (Fekete and Zsiborás, 2016).

benefited substantially from his close relation with Orbán, the chairman of Fidesz. The case illustrates excellently how the resource distribution between actors transforms their relationship and thus shapes the corruption type they engage in. Moreover, it also serves as a prime example of how corruption can hide behind a facade of legality.

As in the case of Tocsik, Lajos Simicska was involved in several corruption cases throughout the years. These cases, however, fall into two types of corruption: covert political financing in the early to mid-nineties, which slowly transformed into local capture from the early 2000s on.

In the early to mid-nineties, corruption fit the general characteristics of covert political financing, where the main goal of the political actors is to acquire resources with as few commitments made to the economic actors in exchange as possible. In addition, the political actors prefer that the acquisition of resources and the origins of these resources remain hidden from outsiders.

Corruption Type & Activities: The first attribute of covert political financing—the political actor has the power to offer nothing or just a few general concessions in exchange for a contribution—are being fulfilled when analyzing the relationship between Victor Orbán and Simicska. First, Simicska had no independent power base; instead, his fortunes dependent entirely on Fidesz and any economic activities were also done for Fidesz' benefits even though he himself benefited from these interactions as well. However, without his ties to Fidesz, Simicska would have been unlikely to pull off his early coups such as the sale of the party's headquarters and the purchase of the state-owned publication company *Mahír* (a detailed description of both events follows). In the early years, therefore, Simicska, was still a 'tool' for Fidesz, despite Fidesz being dependent on Simicska's business expertise. The major element that pushed the power

towards Fidesz was that Simicska's wealth came from economic activities whose first aim was to ensure the party's continuous financing.

The second attribute is the use of covert channels to finance the party and that the party either refuses or attempts to refuse to disclose the sources of the income and the channels themselves. We see this several times in Simicska and Orbán's relationship. Apart from the sale of the party's headquarters, where the income disappears into unknown accounts, similar irregularities occurred in the case of Kaya Ibrahim and the subsequent destruction of documents related to the implicated firms (also more information below)(Kovács, February 10, 2015). The channels and income sources needed to stay hidden as the Party Act prohibits explicitly for political party to engage in business activities (GRECO, 2009, p. 15).

The third defining feature is that the event excludes others that have a right to know. A major indicator supporting this element is that even the party's internal steering committee did not manage to reveal where the money went from the sale or who the final recipients were (Balogh, November 23, 2013). In addition, the Hungarian State Audit Office, despite the party's obligation to inform it about financing activities (GRECO, 2009, p. 12), was also not informed. And at a more abstract level, the public was also excluded from knowing about the dealings.

In sum, the main corrupt activities employed by the actors were a combination of embezzlement, conflict-of-interests, and patronage appointments. In addition, we see instances of relying on personal connections and a lack of enforcing accountability measures. All of these activities are common in cases of covert political financing.

By the late 90s to early 2000s, Simicska and Orbán's relationship transformed into one of local capture in its various forms. The aim of local capture is to subvert the effectiveness of a state agency, policy, or procedure so that it is beneficial to a select

group of actors by allowing them to either shape the creation or at least the implementation of laws and regulations.

For a case to be one of local capture, the first attribute it needs to have is that it is done by political actors that manipulate a state agency, policy, or procedure to work in their favor. Again, several instances have occurred within a short time span indicating that this was the case. There is the appointment of Simicska himself as head of the Hungarian IRS, the ÁPEH (Adóés Pénzügyi Ellenőrző Hivatal). During his short tenure, allegations arose that he used his position as head of the ÁPEH to order the destruction of essential documents related to firms implicated in the suspicious sale of the party's headquarter as well as in the case of Kaya Ibrahim (Balogh, November 23, 2013; Kovács, February 10, 2015). Another indicator is the surprising resignation of the serving Chief Public Prosecutor in 2000, despite having had tenure until 2002 (Barrett, 2002, p. 237; GRECO, 2002, pp. 21–22; HU 101, 2017, Jul 16). His replacement Péter Polt was a Fidesz party member with personal ties to Orbán (Balogh, November 23, 2013; Rádi, September 9, 2016). Orbán also arranged for some other questionable appointments, such as appointing his former law professor István Stumpf, a party loyalist whose name appears on some of the aforementioned suspicious companies and a former minister of the Prime-Minister's office (1998-2002), to the Constitutional Court (Balogh, September 9, 2008; Hack, 2011, p. 77). Fidesz also asserted their control over state agencies. For instance, during its first term in office, it hindered the appointment of the opposition candidates and so ensured that only government representatives are on board of the National Television and Radio Board ORTT (Országos Radió és Telekizió Testület), the state agency controlling the public media enterprises (Freedom House, 2003, p. 296; OSCE/ ODIHR, 2002). Despite the opposition having had the right to appointing four out of the eight seats on board of the ORTT, because of a struggle between the two

largest opposition parties, MSZP and SZDSZ, against the third largest, the Hungarian Party of Justice and Life MIÉP, the four opposition seats remained empty (OSCE/ODIHR, 2002). The constitutional court, nevertheless, approved these developments (Freedom House, 2003, p. 298).¹³¹

A second core element of local capture is that the functioning of the captured entity is now violating the principle of impartiality or it harms the public's interests—both of these elements can be observed with the appointment of Péter Polt as new chief public prosecutor (more on this in the second part of the case study). However, also the appointment of Simicska as head of the ÁPEH points towards a manipulation of the agency's responsibilities. Even if he did not order the destructions of these documents, which is rather unlikely that he would implicate himself, his negligence of hindering the destruction of important financial documents points towards him having at least implicitly encouraged the wrong-doings.

The third point—the capture benefited a select few—also finds strong support. First is the rise of *Mahír* (and Publimont) to one of the top firms in the media and advertisement sector due to generous state contracts, helped by the capture of the ORTT and the public procurement authority which pushed state agencies to advertise with politically friendly advertisement companies. And returning to the appointment of Polt as new Chief Public Prosecutor, the Hungarian law enforcement and judiciary system is set up in such a way, that the Chief Prosecutor can dismiss any investigations by law enforcement if he believes there is not enough evidence (GRECO, 2002, pp. 21–22; HU 094, personal communication, 2017, Jul 17. Location: Budapest, Hungary; HU 101, 2017,

¹³¹ Additional examples of Fidesz' capture of state agencies and procedures exist that will be discussed throughout the chapter. Suffice to say that the following agencies and state bodies have been considered to be captured at some point: Chief Public Prosecutor, Public Procurement Council and the Public Procurement Authority, ÁPEH, the National Election Commission, and the ORTT.

Jul 16). For instance, in the case of Kaya Ibrahim, Polt eventually dismissed the charges and thus stopped the investigation due to lack of evidence (Balogh, September 9, 2008; Inzelt, 2011, pp. 371–372).

Local capture was predominantly achieved through a combination of following corrupt activities: patronage appointments, which went beyond the positions of heads of agencies or enterprises but included middle to low-level bureaucrats, perverting the course of justice by appointing individuals to courts and public prosecution with a strong link to Fidesz, and by employing covert lobbying. The latter, however, was predominantly in Fidesz' favor or at least firms that are closely connected to Fidesz, meaning that the party would create beneficial legislation that helped the firms, which in turn helped Fidesz.

Corruption Pair 3: Energy Sector.

Energol case.

Case Summary: The Portik case is part of the larger oil-mafia scandal surrounding the illegal import of gasoline in the early nineties. Hungary had liberalized the oil market and its prices in 1990 and the oil price soon reached values close to the world market (Borish & Noel, 1996, p. 48). The government taxed heating oil much lower than gasoline and also introduced subsidies to relieve the population. To distinguish gasoline from heating oil, the government dyed it red at the borders before letting it enter. The broader corruption scheme centered around a large number of small-time entrepreneurs smuggling gasoline into Hungary by declaring it heating oil and later removing the dye through a chemical bleaching process. The state lost billions of forints through customs and tax fraud.

One of the largest companies involved in the systematic import of dyed gasoline was Energol Rt., founded in 1994 by Tamás Portik and several others (Sipos, September

24, 2007). Energol Rt. acted then as a distributor of oil to a major firm, in which then prominent members of the MSZP held senior posts (Rádi, March 26, 2015). But also senior officials of ÁPEH as well as law enforcement and customs have also been accused of having been involved the oil-scheme (Burai, 2016, pp. 107–108; Finn, March 23, 2000; Sipos, November 11, 2007; Thorpe, August 28, 2000; Thorpe, June 29, 2007). These rumors found more and more supporters as several major criminal investigations into the matter were shut down from above (Rádi, March 26, 2015; Sipos, November 11, 2007). For instance, in 1999 a parliamentary inquiry committee was established to investigate corruption cases in connection with organized crime (Finn, March 23, 2000; Kósa & Alexa, 2007, p. 104; National Assembly of Hungary, 2000, May 8). The committee, however, only existed for a few months—from February to November 2000—and its final report was heavily criticized by all sides, and even was rejected by the committee’s members (Thorpe, June 29, 2007). They claimed that “among other things, that facts revealed during committee hearings were not included in the report. Significantly, the report named no names and made no links between the oil mafia and politicians or the courts.” (Kinga, July 1, 2007).

Corruption Type & Activities: The Energol case and the events surrounding it point towards the capture of several state agencies and policies. For instance, there is the passage of the 1993 law on the regulation and control of excise custom payment. In addition, the uncovered connections between senior public officials, such as the Vice-president of ÁPEH between 1997 and 1999, his wife, and a smaller oil-distribution firm, or the ties of former Interior Minister Sándor Pintér (Sipos, November 11, 2007). Moreover, the almost regular ‘dismissal/ shut down’ of law enforcement investigations into the oil-scandal to this date are cast doubt on the impartial functioning of the authorities. The conclusion is corroborated as even the court judges criticized the

prosecutors for having provided only limited evidence on which they can make a decision (Organized Crime and Corruption Reporting [OCCRP], n.d.). Last, the capture of these authorities and policies has created several fortunes (Finn, March 23, 2000).

The main corrupt activities that the corrupt actors employed can be summed up as creating and profiting from conflict-of-interest situations, soliciting or extorting bribes, and the abuse of the political actors' discretionary powers.

To summarize, the classifications of the three pairs of corruption cases reveals that the types of corruption vary across time and not across sectors, visible in table 5.11. I found that the Tocsik case, the first case of Lajos Simicska and the case of Energol all represent covert political financing type of corruption. The corruption cases of the 2000s that is the case of Hunvald and the second case of Lajos Simicska have shown all attributes of local capture type of corruption. These findings allow me not only to answer part of the research as to *how* corruption patterns differ, but they also indicate that the transformation of corruption patterns is shaped by factors beyond specific business sectors. In the following section, I delve deeper into the causal factors that transform the corruption patterns. Specifically, I test the causal process through which the emergence of competition in politics and the economy has transformed these corruption patterns.

Table 5.11: Results of categorizing Hungary's Corruption Cases

| | Pair 1 | | Pair 2 | | Pair 3 |
|-------------------------------|----------------------------------|------------------|------------------|--|-------------------------------|
| <i>Name</i> | Tocsik Affair | Hunvald Case | BKV/ Metro 4 | Rise of Lajos Simicska | Energol Kft. |
| <i>Period</i> | 1996 | 2003-2004 | 2003-2006 | 1990-2010 | 1993-1995 |
| <i>Sector</i> | Real Estate | | Construction | | Energy |
| <i>Type of Corruption</i> | Covert Political Financing | Local Capture | Local Capture | Covert Political Financing; Local Capture | Covert Political Financing |

Linking Competition to the Transformation of Corruption Patterns

In the previous section, I categorized the six corruption cases into their types. I found that the three corruption cases that have occurred in the early to mid-nineties all represent covert political finding, while the cases in the 2000s classified as local capture. The main distinction between these two types is the power distribution between the political and economic actor. In covert political financing types of corruption, the power lies unequivocally with the political actors, while in local capture or its subtypes the concentration of power between the political and economic power is more equally distributed. As the variation of corruption patterns occurred over time and not across business sectors, I have shown the significance of tracing the origins of these new patterns of corruption.

In this section, I therefore trace the causal factors of the transformation of corruption. Concretely, I investigate why the emergence of political and economic competition transformed the patterns of corruption in Hungary, the second element of my research question. I argue that the emergence of competition in the political and economic domains shifted the actors' opportunity structures towards powerful incentives for and weak constraints against engaging in corruption. This constellations of incentives and constraints in turn encouraged political and economic actors to form corrupt state-

business relationships. The distribution of power within these corrupt relationships then determines the type of corruption that develops. The causal argument consists of three parts, labeled causal claims 1, 2, and 3 (specified in table 5.12). In chapter 2, I have already operationalized these causal claims by hypothesizing their real-world implications. The result are nine propositions, three for each claim. To test the causal mechanism, I will therefore examine each proposition in light of the collected data. Specifically, I analyze the degree of support the data provides for each proposition.

Table 5.12: Argument Roadmap

Causal Mechanism: Emergence of competition in politics and the economy transforms the opportunity structure of actors, resulting in changes in their interactions, and so leads to a shift in the Patterns of Corruption.

Causal Claim 1: Emergence of competition in the political system and the economy transforms the opportunity structure of actors to engage in corruption.

- P1 Emergence of competition encourages political and economic actors to engage in corruption, or more broadly, violate established norms and regulations.
 - P2 Emergence of competition weakens existing constraints on corruption.
 - P3 Emergence of competition develops few new constraints on corruption.
-

Causal Claim 2: The constellation of powerful incentives and weak constraints encouraged political and economic actors to enter into corrupt state-business relationships.

- P1 Mutual compatible interests encourage political and economic actors to enter into state-business relationships.
 - P2 At least one of the actors in the state-business relationship benefits substantially from their relationship.
 - P3 Control mechanisms are unable to deter actors to form corrupt state-business relationships.
-

Causal Claim 3: The distribution of power between political and economic actors in a corrupt state-business relationship determines the type of corruption that emerges.

- P1 Concentrated political power combined with weak economic power results in covert political financing.
 - P2 Concentrated political and economic power results in local capture.
 - P3 Weak political power combined with concentrated economic power leads to legal corruption.
-

The section examines the evidence for each claim and each proposition individually. Before I begin, however, two caveats are necessary. First, there exists some overlap, as evidence for one proposition is also suitable for another. In these instances, I will refer the reader to the first time I have mentioned the evidence to avoid unnecessary repetition. Second, while evidence for the first causal claim comes from the national

level, the observations for causal claims 2 and 3 comes from the three selected corruption cases.

Causal Claim 1: Transforming the actors' opportunity structures.

The emergence of competition in the political and economic domain transform the opportunity structures of actors. This first causal claim about the transformation of opportunity structures contains three propositions, P1, which captures the incentives that actors have to engage in corruption, and P2 and P3, which focus on the existing and newly created constraints to corruption. In chapter 3, I discussed the evidence I expect to find, if this part of the causal mechanism takes place as theorized. To support the first proposition, I expect to encounter accounts in interviews and other sources that emphasize the willingness of political and economic actors to engage in corruption. The second proposition requires traces in the historical records about the limited capacities of existing oversight agencies. The third proposition similarly relies on historical evidence, but evidence that speaks to the creation of new and effective oversight agencies or mechanisms, or the lack of such control mechanisms.

Proposition 1.

Strong evidence exists for the first proposition that the emergence of competition has encouraged political and economic actors to engage in corruption, or more broadly, violate established norms and procedures.

Observation 1: With the change in political regime, competition among political parties emerged. If one looks at the ENEP indicator in Hungary from the first democratic elections until 2004, where effective parties refers to those parties that actually had some influence on the political decision-making process and were part of the cabinets, we see a slow decrease from a starting ENEP value of 3.78 at the founding elections in

1990, to 2.89 at the second elections in 1994, 3.44 at the 1998 elections and an ENEP value of 2.48 in 2002 (Krupavicius, 2007, pp. 23–38).

Observation 2: Throughout the nineties, the percentages of votes gained by the first or first two political parties has steadily increased. In 1990, voters cast only 25 percent of the total votes for the winner of the election (and only 46 percent of the total votes for the first two parties). At the next two elections, the winning party already gained 33 percent of the votes (the first two parties gained 53 percent in 1994, and 60 percent in 1998). By 2002, the electoral winner managed to gain 42 percent of the votes (the first two parties gained a combined 83 percent of all votes cast) (Bozoki & Simon, 2006, pp. 146–195).

Observation 3: While the political parties received state subsidies from the beginning, the amount was not enough to cover their daily expenses or their campaign spending, as scholars find (Bozoki & Simon, 2006, p. 183; HU 095, personal communication, 2017, Jul 13. Location: Budapest, Hungary) and confirmed by (former) members of parliament (HU 094, 2017, Jul 17.; Magyar, 2016).¹³² Likewise, the income from membership fees never made up more than 5 percent of the parties' budgets in the nineties (Enyedi, 2007, p. 93).

Observation 4: Multiple interviewees saw extensive party competition, combined with a vague party financing law, as the major cause of covert political financing schemes (GRECO, 2009, p. 25; HU 072, personal communication, 2017, Jul 04. Location: Budapest, Hungary; HU 094, 2017, Jul 17.; Magyar, 2016, p. 7).

¹³² Only the successor party of the former Hungarian Communist party, the MSZP, inherited a large number of properties (Enyedi, 2007, p. 92; HU 072, personal communication, 2017, Jul 04. Location: Budapest, Hungary).

Observation 5: All ruling parties made sure to capitalize on their position and increase their base of economic actors connected to them. Stark and Vedres examine the ties between 1,696 corporations and all political office holders in Hungary from 1987 to 2001. Their measure of state-business ties goes beyond the common campaign contribution indicator. Instead, measure state-business ties by studying whether “a politician occupies a position of influence in that firm, whether as a senior manager or, more typically, as a member of its board of directors or supervisory board” (Stark & Vedres, 2012, p. 703). In their empirical assessment of the effect of political affiliations of firms have on their market behavior, the authors make two significant findings. First, economic and political actors use their connections “to coordinate strategy and channel resources” (Stark & Vedres, 2012, p. 702). Second, firms with strong political ties exhibit also a strong preference for firms with the same political affiliations. The authors conclude from their study that with more political competition and polarization, businesses will also become more polarized along ideological lines.

Observation 6: With the change in the economic regime, private sector contribution to the GDP increased dramatically in the early nineties, largely coming from new private firms that made new investments. The World Bank, based on internal documents and data from the Hungarian Ministry of Finance estimated that private sector contribution to GDP increased from 20 percent in 1990 to approximately 60 percent in 1993 (Borish & Noel, 1996, pp. 93–96).

Observation 7: During these years, Hungary also boosted the number of foreign investments, even managing to receive four times as much FDI as Poland during the same period. Between 1991 and 1994, FDI made up around 25 percent of the GDP (Borish & Noel, 1996, pp. 98–99).

Observation 8: The lack of adequate regulation facilitated the development of emergence of a ‘spontaneous’ privatization in the late eighties and early nineties (HU 072, 2017, Jul 04.; Inzelt, 2011, p. 360, 2011, pp. 359–360, 2015, p. 184; Jancsics & Jávör, 2012, p. 63).

Observation 9: The number of unregistered firms, taken by the World Bank as an indicator for the size of the informal sector, has also expanded substantially, moving from 421,000 in 1989 to 427,000 in 1990, and almost doubling in 1993 by jumping to 801,700 informal enterprises.

Observation 10: Sources consistently point out that bank lending significantly declined between 1989 to 1994, which posed a major problem for small and medium enterprises in making more investments (Borish & Noel, 1996, pp. 96–97; Meagher, 2002, pp. 1–76). Small enterprises, then, become vulnerable to outside forces beyond their control, as they are confronted with an expanding number of competitors, multinational corporations, and deteriorating credit availability (Magyar, 2016, p. 35).

Inferences: Observations 1 and 2 describe a steady decline in the number of political parties with at least some political power after they have peaked in 1990. Both indicators point towards an intensive competition among political actors for their survival. When combined with the lack of adequate state subsidies to cover the rising campaign expenses of political parties (observation 3), I infer that political actors had strong incentives to seek out additional income sources. Observation 4 corroborates the interpretation as it presents a picture of close and long-lasting connections that formed intentionally between state and businesses.

We can observe a similar development in the economic domain. As a larger number of firms (observation 6 and 7) are confronted with a lack of regulation (observation 8) and difficulty of obtaining credits (observation 10), economic actors are

encouraged to seek out alternative options. The increase in the size of the informal sector (observation 9) corroborates the interpretation and reveals that economic actors were willing to violate laws to do so. To discover that political actors were equally willing to violate laws and norms (observation 5) provides further support for the explanation. Taken together, the observations provide therefore abundant evidence for proposition 1.

Proposition 2.

Circumstantial evidence suggests that the emergence of competition weakened the capacities of existing corruption deterrents. The main focus is, therefore, on the various oversight agencies such as law enforcement agencies, prosecution, and the state audit office that existed prior to the transition in 1989.

Observation 1: Already in the early nineties, law enforcement agencies had earned a reputation of being highly corrupt (Holmes, 2006), not without reasons as the case of the oil mafia mentioned above shows. One interviewee, having worked closely with police officers and prosecutors for years, noted that for the first decade after the transition police and customs were highly corrupt, where stealing or planting evidence was common (HU 101, 2017, Jul 16). Two interviewee corroborates the statement, stating that at some point an entire regional department of border and customs officials had to be sacked and replaced with new officials from Budapest (HU 002, personal communication, 2017, Jul 02. Location: Budapest, Hungary)(HU 072, 2017, Jul 04). Both of these issues are also stressed in the first National Integrity report of Transparency International in 2007, stressing that police corruption is one of the main reasons that the agency's ability to constrain corruption outside is limited (Kósa & Alexa, 2007, p. 50).

Observation 2: Corruption investigations are also deterred as these oversight agencies do not have direct or indirect independence. For instance, while the Chief

Public Prosecutor is elected by the Parliament for a six-year term, his nomination comes from the President of the Republic. And as the appointment only requires a simple majority, there exists the risk that the Chief Prosecutor falls under enormous political influence (GRECO, 2002, pp. 21–22; Kósa & Alexa, 2007, p. 50). Furthermore, the system is arranged in a hierarchical manner, thus providing the Chief Prosecutor significant power over the investigations of the public prosecutors across Hungary. Some interviewees noted that in their work with public prosecutors, these individuals have felt pressured in the kind of investigations they can follow through (HU 094, 2017, Jul 17.; HU 101, 2017, Jul 16).

Observation 3: Investigating suspicions of corruption requires a specialized set of skills and additional resources, both elements that these oversight agencies have been lacking for most of the time (Borish & Noel, 1996, p. 120; GRECO, 2002, p. 10; HU 094, 2017, Jul 17).

Observation 4: The State Audit Office is tasked with auditing the finances of the National Assembly and the political parties with regards to whether they have fulfilled the formal reporting requirements (Barrett, 2002, p. 269; GRECO, 2005, p. 11). If it uncovers unlawful activities, the agency either has to notify the public prosecutor, who in turn will assess the claim and initiate an investigation, or order the violating party to “restore the legal operation” (GRECO, 2009, p. 16). Since 1990, the agency uncovered several violations and notified the public prosecutor. Between 1996 and 2009, for instance, it had uncovered 20 of these violations of which it forwarded one to the public prosecutor.¹³³

¹³³ The Chief Public Prosecution Office has not initiated criminal proceedings for the “violation of regulations of party financing” (Group of States against corruption [GRECO], 2009, p. 16).

Observation 5: Judges are independent from political influence as established in the Hungarian Constitution (GRECO, 2002, p. 14). However, during the nineties, the judiciary's ability to effectively adjudicate corruption cases was limited because laws kept changing (Inzelt, 2011, p. 362). While political influence was not yet a major issue in the nineties, judges were also hindered in their effectiveness by the requirement to not extend a corruption case beyond the scope declared in the indictment provided by the prosecutor (Barrett, 2002, pp. 264–265; Fleck, 2012, pp. 793–833; HU 094, 2017, Jul 17.; Organized Crime and Corruption Reporting [OCCRP], n.d.).

Inference: Observations 1 to 3 highlight the limited ability of law enforcement agencies, such as national police, customs and border controls, to deter actors from engaging in corruption. As one interviewee explained, when the old regime collapsed, the new regime was not able to establish proper monitoring institutions, leading to an inefficient police, prosecution, state audit office, and so forth (HU 094, 2017, Jul 17). Other state agencies tasked with oversight have also not been able to provide effective deterrents as the case of the State Audit Office shows (observation 4 and 5). This ineffectiveness stems in large parts also from the necessary interplay between these agencies required to investigate and prosecute a corruption case. In sum, I find strong but circumstantial evidence that the emergence of competition weakened the capacities of existing oversight institutions.

Proposition 3.

There exists direct evidence for proposition 3, stating that the emergence of competition has not introduced effective deterrents. The following observations are grouped into constraints provided by political competition (observations 1 to 8), followed by observations that examine the impact of economic competition (observation 9 to 11).

Observation 1: All of the larger political parties have been implicated in covert party financing scandals. The MSZP and SZDSZ in the Tocsik affair, while Fidesz (with help of the MDF) has been accused of aforementioned suspicious sale of its headquarters in 1993. Moreover, over the years, academics and international (non-) governmental agencies have repeatedly warned that the Hungarian political financing system is at a high risk of corruption (Austin & Tjernström, 2003, p. 90; Barrett, 2002, p. 238; HU 095, 2017, Jul 13.; HU 101, 2017, Jul 16.; Magyar, 2016, p. 8; Speck & Baena Olabe, 2013, p. 25).

Observation 2: Multiple references claim that the main political parties secretly participated in a financing scheme, the so-called ‘70-30 party finance scheme’, in the nineties.¹³⁴ In essence, any firm that wanted to work for the state needed to pay a certain sum to the parties—of which approximately 70 percent would go to the governing political parties and the rest to the opposition parties. While no apparent evidence exists for its existence, several (former) political actors made references to the scheme, such as the former president of the MDF and Minister of Justice between 1998 and 2002, Ibolya Dávid, who referenced the scheme in an interview with journalists (HU 072, 2017, Jul 04.; HU 094, 2017, Jul 17.; HU 095, 2017, Jul 13.; HU 096, personal communication, 2017, Jul 19. Location: Budapest, Hungary; HU 101, 2017, Jul 16.; Inzelt, 2015, p. 184).

Observation 3: In the course of a few years, Fidesz took control over the center-right camp by ‘merging’ with the Christian Democratic Party KDNP and the FKgP. Moreover, it formed an electoral alliance with the MDF in the 1998 elections. MDF, however, was nothing more than their junior partner in their first term in office (Bozoki

¹³⁴ Each interviewee, without prompting, would mention the scheme at some point in the interview. As far as I could establish, two prominent investigative journalists uncovered the political finance scheme and published about it in the mid-1990s, but these articles are not online and the journalists are not active anymore.

& Simon, 2006, pp. 149–150; HU 094, 2017, Jul 17). As a result, the electoral landscape in Hungary moved from seven larger political parties in the early 1990s to only four by 2002.

Observation 4: The legal framework on the functioning and financing of the newly established political parties originated at the round-table discussions before the first free parliamentary elections in 1989 (Enyedi, 2007, p. 92)—the Act on the Right of Association (1989) and the Act on the Operation and Financial Management of Political Parties (hereafter “Party Act”)¹³⁵ (EC, 2014a, p. 6; GRECO, 2009, p. 3). The Party Act, among others, requires political parties to publish their annual accounts in the Official Hungarian Gazette (Enyedi, 2007; GRECO, 2009, pp. 11–12). In 1997, the Act was amended to include a spending limit of HUF 1,000,000 (400 EUR) for parliamentary candidates in their campaigns and 386 million HUF (EUR 1.5 million) for political parties (Enyedi, 2007; GRECO, 2009, p. 21).¹³⁶

Observation 5: Areas that require a qualified majority of votes in Parliament to pass a bill are legislation related to the “police, on secret intelligence gathering, on the remuneration and benefits, legal status, and conflicts of interest of MPs, the rules of parliamentary procedure and many others.” (Kósa & Alexa, 2007, p. 22).

Observation 6: Multiple reputable sources criticize the party funding legislation as inadequate (Enyedi, 2007, p. 93; GRECO, 2009, p. 18; GRECO, 2009, p. 25; HU 095, 2017, Jul 13.; Kósa & Alexa, 2007, p. 28); some references go as far as claiming that it even promotes covert political financing (Bozoki & Simon, 2006, p. 183; HU 094, 2017, Jul 17.; HU 101, 2017, Jul 16.; Magyar, 2016, pp. 6–7).

¹³⁵ Act no. XXXIII of 1989 on the functioning and financing of parties.

¹³⁶ The amendment was repealed by Law XXXVI of 2013.

Observation 7: When the various parties negotiated the transition, the opposition forces pushed for a strong parliament (i.e.; strong veto powers and a large number of areas requiring a qualified majority) to counter any attempts by the government to concentrate power in its hands (Bozoki & Simon, 2006, p. 151).

Observation 8: During Fidesz' first term in office in 1998 to 2002, however, it managed to reduce parliamentary oversight of the government significantly (Freedom House, 2003, p. 300). First, Orbán pushed for switching the parliamentary sessions from a weekly to a monthly basis (Barrett, 2002, p. 258). Second, in 2000, he forced through a bill that allowed the government to operate on a bi-annual budget (Bozoki & Simon, 2006, p. 174).

Observation 9: When foreign firms were confronted with corruption they generally would either initiate a law suit against the Public Procurement Authority or report such instances to their embassies or their national Chamber of Commerce. As the law suits had limited chances of success, the majority of complaints went to the embassies, who in turn would often come together and give joint conferences calling on the Hungarian government to take care of corruption in the sector (HU 095, 2017, Jul 13).

Observation 10: Domestic firms could report instances of corruption in which they did not want to participate to various authorities (see discussion in the previous proposition). Among these is the Hungarian Competition Authority (in Hungarian: Gazdasági Versenyhivatal; GVH). The GVH was established in 1991, and implements the regulations established in the Competition Act of 1996 on the prohibition of unfair and restrictive market practices, including investigating whether firms formed cartels. Its other main task is to strengthen market competition and create competition in markets where it has not yet emerged (Hack, 2011, p. 241; Kósa & Alexa, 2007, p. 64).

Observation 11: The tenure of the GVH's first President, Dr. Zoltán Nagy, expired at the end of October 2010. He served in this position since 1998, two consecutive six-year periods. In the first few years of his tenure, he was repeatedly confronted with business people that expected to be exempt from GVH's investigations, threatening to call the prime minister's office or other high-ranking politicians (HU 095, 2017, Jul 13).

Inference: Observation 1 implies that the political parties partook in a collusive arrangement where none of the actors would tattle on the others. This conclusion is corroborated by the story of the 70-30 party finance distribution scheme, described in observation 2. Political party competition also declined because Fidesz incorporated most parties on the right spectrum, further decreasing the ability of political opponents to constrain corruption (observation 3). And even if a political party would have wanted to reform the Party Finance Laws, it would have required a two-thirds majority (observation 4 and 5). The lack of introducing adequate amendments to the party finance legislation substantiates the conclusions that various references drew—that the laws are purposefully kept vague to allow for covert political financing (observation 6). While there exist additional checks to restrict the activities of the ruling governing parties by needing government approval for its annual budget (observation 7), these controls can be removed as well, for instance by weakening parliamentary oversight (observation 8).

Observations 9 to 11 focus on the deterrent effects of economic competition. Here again, evidence reveals that competition has only a limited impact on deterring corruption. Neither foreign (observation 9) nor domestic firms (observation 10 and 11) have relied on the relevant state authorities to report suspicions of corruption.¹³⁷ The ability of these agencies in constraining corruption, therefore, was limited, despite being

¹³⁷ See also the relevant observations in the previous proposition.

established with the direct the purpose of strengthening market conditions. Overall, there is direct evidence that supports the third proposition of the first causal claim.

In summary, to support causal claim 1 on the transformation of the actors' opportunity structures because of the emergence of political and economic competition, I have analyzed three propositions. I have shown that the emergence of competition has transformed the incentives and constraints that political and economic actors faced in the early nineties. In the second proposition, I examined the impact that the emergence of the two competitive processes had on already existing constraints and discovered that these constraints, such as law enforcement or courts, experienced a decline in capacity, if they ever had such capacities in the first place. The last proposition focused on whether political and economic competition managed to encourage the creation of new oversight agencies or mechanisms that would be able to deter corruption. The evidence that I have found points overwhelmingly towards a limited ability to create new deterrents. While the evidence presented did not always speak directly to the proposition (such as for the second proposition, where evidence was mostly circumstantial), in all three instances, I have found strong evidence in support of causal claim 1.

Causal claim 2: Entering into a corrupt state-business relationship.

In this section, I analyze the three selected corruption cases in light of causal claim 2, which suggests that the particular constellation of powerful incentives and weak constraints encouraged political and economic actors to form corrupt state-business relationships. To corroborate the claim, I should ideally encounter evidence that supports its three propositions: (1) political and economic actors form corrupt state-business relations, (2) at least one side benefits substantially from their exchange, and (3) the control mechanisms failed to deter these actors from engaging in corruption.

Specifically, I examine the three corruption cases that have occurred in the early 2000s—the case of the mayor of district VII, G. Hunvald, and the rise of Lajos Simicska.¹³⁸

To support the first proposition, then, I expect to find references in interviews and description of the cases that the political and economic actors formed corrupt state-business relationships. For the second proposition, I expect to find references in the description of each case about the profitability of the corrupt exchange for each actor. While it is almost impossible to determine the exact values of the goods and services that have been exchanged, I am also more interested in the relative balance of power, visible in what they exchange. The third proposition requires evidence that highlights the inability of control mechanisms to deter political and economic actors to engage in corruption. Evidence for this will come in the form of accounts of interviewees and other records on how the corrupt actors subverted existing control mechanisms or prevented the establishment of new ones.

Hunvald Case.

The following four observations provide compelling evidence for the first proposition.

Observation 1: According to the prosecution's indictment, G. Nagy gave G. Gál a loan in 1996 (Wirth, April 19, 2011). These two have also developed a close and personal relationship over the years (Z. Wirth, personal communication, December 2017).

Observation 2: The entrepreneur Nagy maintained regular contact with Gál and other local officials over the years (Wirth, April 19, 2011).

¹³⁸ As the case of Lajos Simicska considers the formers relationship to Victor Orbán over the entire period, I examine the development of their relationship over time. This enables me to study the change in resource distribution between the political and economic actors, which provides an additional test for my argument.

Observation 3: By 2003, Nagy owned, among others, 10 percent of ERLAK, a real estate developing firm. The local government under mMayor Hunvald owned the other 90 percent (Budapest Public Prosecution Office, 2006, pp. 1–17; Wirth, April 19, 2011).

Observation 4: G. Hunvald became deputy mayor of the district VII in 1998 for a four-year term. In the following elections, he became mayor and served in the position until 2010. Gál took on the position as president of the economic council in the late nineties and sources indicate that Hunvald and Gal have served together in the district government since at least 1996 (Somlyódy, March 5, 2009; Wirth, April 19, 2011).

Inference: The first three observations reveal that there existed formal and informal ties between the political and economic actors over a longer time period. In addition to Nagy, Gal also had been working along Hunvald in the local government for almost a decade when the events occurred (observation 4). As the main sources of these observations were either court documents or the reports of investigative journalists with a reputation for high-quality work, I assume that the observations are reliable. As such, these observations provide evidence of a state-business relationship, if not of a corrupt relationship. However, as I have already established the corruption element in the first part of this case study, I conclude that the first proposition is supported.

The following observations for the second proposition provide circumstantial evidence that all involved sides benefited substantially from their exchange.

Observation 1: At the time of his trial in 2012, György Hunvald owned multiple luxurious homes and cars, the latter worth over USD 1 million, as well as private jet (Inzelt, 2015, pp. 186–187).

Observation 2: Research by an investigative journalist revealed that when Hunvald and Gál entered into government service already, they already made some fortunes in the business world. For instance, both of them would drive in their Jaguars to

their jobs in the local government (Somlyódy, March 5, 2009), cars which are unlikely to be affordable on a public official's salary.

Observation 3: Csaba Czibula, a Fidesz—representative on the economic council, fled to Mexico. He has been investigated for accepting bribe money from Nagy and Gál for his vote in the council's decisions (Wirth, November 24, 2009; Wirth, April 6, 2011). Czibula refused to leave Mexico, which has no extradition agreement with Hungary, claiming he does not have the resources to return. As he did not return as requested by the Hungarian authorities, they issued a red notice with Interpol¹³⁹ (Halász, November 17, 2013; Wirth, December 13, 2011).

Observation 4: When the court convicted György Gál, it also confiscated property as the prosecution showed that he obtained it through bribery (Inzelt, 2015, pp. 186–187). According to the indictment, Gál received around 366 million forints (Budapest Public Prosecution Office, 2006).

Observation 5: Investigations by several journalists revealed that G. Nagy used to be a major figure in the local real estate market who made his fortunes in the early privatizations of state buildings (Somlyódy, March 5, 2009; Wirth, April 19, 2011). In the late nineties, he switched to the construction of real estates with his firm ERLAK. By 2003, however, the firm's financial situation was so poor that he requested that the local government invest into his firm and so becoming a minority owner (Wirth, April 19, 2011).

Observation 6: Individuals associated with Nagy, in particular his girlfriend, where the owners of the newly registered firms that would buy the properties from the local government and sell it on to foreign owners, often through offshore accounts

¹³⁹ A 'red notice' is wrongly known as an 'international arrest warrant' which actually does not exist.

(Budapest Public Prosecution Office, 2006; Somlyódy, March 5, 2009; Wirth, April 19, 2011).

Observation 7: While for the first few months Nagy was considered the prime suspected, at the indictment he was considered a key witness and his trial was separated from the trials of Hunvald and Gál (Budapest Public Prosecution Office, 2006; Wirth, April 19, 2011).

Inference: No direct evidence that shows that Hunvald benefited from the corruption scheme as he already made a fortune before he entered into local government (observations 1 and 2). But then the main political actor involved was Gál, despite the essential role that Hunvald played. And observations 3 and 4 reveal that Gál, as well as other political actors, did benefited substantially from the exchange. Observation 5 points towards Nagy, the real estate entrepreneur, being in poor financial health. He, therefore, benefited by getting the government to invest into his firm. In addition, observation 6 shows that people close to Nagy would be the first owners of the new buildings. This indicates that Nagy might have benefited as close associates of his where some of beneficiaries of the scheme. A plausible conclusion then is that Nagy is likely to also have benefited from the exchange in some way. Observation 7 corroborates the conclusion, as it indicates that Nagy has become a witness for the prosecution in exchange for leniency. Here, the lack of evidence does not mean that Nagy has not benefited from the exchange. It is more reasonable to assume that he benefited, but that the evidence is withheld on purpose. As such, there exists a preponderance of evidence that supports the second proposition, even though it is mainly circumstantial.

The third proposition concerns the ineffectiveness of control mechanisms and focuses on how the local government managed to sell valuable buildings despite the

restrictions set by the UNESCO, and the involvement of several external oversight institutions in place.

Observation 1: In 2002, large parts of Budapest were declared an UNESCO World Heritage site, including parts of the VII district. Such a declaration restricts the owner to make substantive changes to the property in question, as it aims to protect the world's cultural heritage. The consequences of destroying or otherwise irreparably damaging such historic sites are limited to the UNESCO World Heritage Committee making a public announcement.

Observation 2: In Budapest, long-time tenants in public housing have a pre-emptive right to their apartments. A pre-emptive right means that tenants have the right to be the first to receive an offer of sale and it needs to be at a reduced price (Erdélyi, May 20, 2016).¹⁴⁰

Observation 3: To initiate the sale of publicly owned buildings, the local economic council had to propose the sale of these buildings for financial reasons to the National Office of Cultural Heritage OCH (Kulturális Örökségvédelmi Hivatal) for approval.¹⁴¹ The economic council's chairman was György Gál (SZDSZ) and it consisted of over a dozen individuals, including representatives of the three major political parties MSZP, SZDSZ, and Fidesz (Budapest Public Prosecution Office, 2006, p. 9; Wirth, April 6, 2011).

Observation 4: The OCH issued approvals for the sale and subsequent destruction of the selected buildings, despite the World Heritage declaration.

¹⁴⁰ The local government, however, sold these buildings without holding up its side of the deal. At a later point, it excused its behavior by claiming that because of the status as protected World Heritage buildings, the right of pre-emption was not applicable (Borish and Noel, 1996, p. 4).

¹⁴¹ The OCH was responsible for the preservation of historic monuments and archaeological sites all over Hungary. The Hungarian Government abolished it in 2012 (Földes, September 6, 2012).

Observation 5: Once the economic council received the approval by the OCH, it then needed to engage an independent appraiser to assess the building's market price (Z. Wirth, personal communication, December 2017).

Observation 6: Court documents revealed that the selected appraiser, Lajos Kormos, had professional ties with Gál and Nagy. The trial also showed that he was an important member of the corruption scheme to sell the public assets well under their value (Budapest Public Prosecution Office, 2006, p. 9; Wirth, April 6, 2011; Z. Wirth, personal communication, December 2017).

Observation 7: Based on the appraiser's valuation, the public asset management company ERVA (Erzsébetvárosi Vagyonkezelő Rt.) would report on the need to sell the property to the district mayor, in this case, G. Hunvald (Budapest Public Prosecution Office, 2006, p. 2; Somlyódy, March 5, 2009).

Observation 8: The mayor would then present the report to the economic council in a closed meeting, where they would vote on whether the expected earnings from the property's sale, based on the evaluation of the outside appraiser, outweigh the benefits of keeping it. Once it decided to go ahead with the sale, a restricted bidding process would be started (Budapest Public Prosecution Office, 2006; Wirth, April 6, 2011).

Observation 9: Depending on the estimated value of the building, the bidding could either be public, in which the highest offer would win, or closed. The municipality had previously established that any sale that was valued below 1 billion forints would not require a public bidding (Jancsics & Jávör, 2012, p. 76).

Observation 10: Hunvald would then sign on behalf of the government the sales contract. The buyer would generally be a close associated of Nagy's, who signed as representative of a specially established project firm, founded for the purpose of owning

a particular property.¹⁴² On paper, the new owner of most of these project firms was Nagy's girlfriend, and employee at his firm ERLAK. Other people that owned some of these firms, or at least parts of them, were the lawyers that organized the formation of all of these project firms (Budapest Public Prosecution Office, 2006; Jancsics & Jávör, 2012, p. 75).

Observation 11: Shortly after these contracts were signed, sometimes even on the same day, the project firms were then sold on, either to offshore companies or directly to foreigners. If sold to an offshore company, the company would then sell the project firms to the actual real estate developer who would transfer the price to the offshore company. As the core feature of these offshore companies is anonymity, the recipients of the money cannot be traced. And the real estates were owned by project firms once they were sold by the municipal government and not by individuals. When a building changes ownership, therefore, it is actually the project firm that changes owner, not the building itself (Budapest Public Prosecution Office, 2006; Somlyódy, March 5, 2009; Wirth, April 6, 2011).

Observation 12: When G. Hunvald would sign over the ownership rights of the buildings, Nagy or his representative would not immediately transfer the price. Despite this, the local government would forward the necessary documents to the Land Registry Office to initiate the change in ownership (Jancsics & Jávör, 2012, pp. 71–72).

Observation 13: The police investigations could not establish the final recipients of the money made from the sale of these assets; it cannot be traced as it disappears in offshore companies or abroad.

¹⁴² Importantly, the practice of real estates being owned by a project firm is actually common practice in real estate business.

Observation 14: One of the first beneficiaries of the corruption scheme was the local opposition party Fidesz as they acquired valuable real estate, which they converted into the local party's headquarters (Jancsics & Jávör, 2012, p. 75).

Inference: Any sale of public buildings needed to pass several internal and external control mechanisms. The repeated approvals by the OCH (observation 4), ignoring the pre-emptive rights of tenants (observation 2)¹⁴³, engaging a compromised appraiser (observation 6), and then holding a closed meeting where the actors decided on a restricted bidding process (observations 8) all highlight how external control mechanisms were manipulated in the actors' favor. Similarly, internal control mechanisms, provided by the opposition party (observation 3), having an internal asset management company (observation 7), or the requirement of an open bidding process, where all deactivated (observations 9 and 14, and the description in the previous proposition of how an Fidesz-representative was bribed for his vote on the council). All of these observations combined, present us with strong and direct evidence that the corrupt actors subverted the oversight mechanisms in place and rendered them ineffective.

A plausible alternative interpretation for why such a large number of oversight agencies failed, if not through a systematic deactivation of control mechanisms, would be weak state capacity. However, this interpretation of the situation loses credibility if one

¹⁴³ Hunvald himself maintains he was innocent. In his version of events, the district owned several old houses in which the tenants were forced to live without modern amenities, including toilets in each apartment. As the district did not have the money to renovate and upgrade the buildings, as well as could not find adequate housing for the tenants, it decided to sell the buildings. In exchange for selling the buildings at prices far below the market price, however, it made the new owners responsible for relocating the tenants (Balogh, May 16, 2011). While the explanation is plausible, it only accounts for a few observations, leaving the rest unexplained. For instance, even if the sale of the buildings at the lower market price was in the public's interests as tenants were resettled, it does not explain why their right of pre-emption were ignored or why the bidding process was not open to more real estate developers, which could have increased the price the local government would have received for the buildings. Given these and other points, the null hypothesis that the political and economic actors did not engage in corruption is extremely unlikely.

considers that the potential sale of these buildings involved multiple steps. The actors had to receive internal approval from the committee, as well as the OCH, appoint an appraiser for a valuation of the market value of the building, and then make a final decision in another council meeting where the mayor would be included. If the state was indeed weak, there would not have been the need to go through such an elaborate process, as one could simply sell these buildings, not fearing any consequences. Instead, the mechanisms provided some deterrents, just not enough.

In summary, I have found strong evidence in support of the second causal claim in the corruption case surrounding the former mayor G. Hunvald, that is, that the change in the opportunity structures of political and economic actors encouraged them to form corrupt state-business relations.

The rise of Lajos Simicska.

The rise of Lajos Simicska is the second Hungarian corruption case against which I test the three propositions of causal claim 2. The claim suggests that the new constellations of powerful incentives for and weak constraints against corruption encouraged political and economic actors to form corrupt state-business relationships.

There exists overwhelming evidence supporting the first proposition for the case of Lajos Simicska, which states that mutually compatible interests between political and economic actors encourage them to form corrupt state-business relationships.

Observation 1: Simicska was a childhood friend of Victor Orbán. Between 1981 and 1982, they even served together in the army and later went to the same university (Kovács, February 10, 2015; Lambert, March 13, 2015).

Observation 2: When Orbán became president of Fidesz in 1993, he appointed Simicska to the position of economic director of the party.¹⁴⁴ Once in office, he arranged for Fidesz to receive the deed to its current party headquarters overlooking Heroes' Square (previously owned by the state), even though, by law, the party was not entitled to such a large place. He then organized the sale of their residency to a state-owned bank for a substantial amount of money, while Fidesz retained the right of use (Kovács, February 10, 2015).

Observation 3: The party received around 700 million forints from the sale of their headquarters which disappeared into the accounts of several companies and whose whereabouts never were fully explained (Balogh, November 23, 2013; Kovács, February 10, 2015).

Observation 4: In 1995, a lawyer called Csaba Schlecht sold twelve companies to Kaya Ibrahim. The new owner, however, was not present.¹⁴⁵ These twelve companies owned over 400 million forints in taxes to ÁPEH, but were unable to pay them back as they were bankrupt. When newspapers examined the previous registered owners of these companies, they found that apart from the lawyer Csaba Schlecht, Viktor Orbán and Lajos Simicska also were listed as owners several times.¹⁴⁶

¹⁴⁴ The position of economic director, or party treasurer, or similar titles, were essentially about coordinating the financing of the party by firms (Stark and Vedres, 2012, pp. 700–722).

¹⁴⁵ Journalists later established, that Kaya Ibrahim was a Turkish immigrant in Germany, unaware that his name was used for the transaction.

¹⁴⁶ The names and owners of some of these companies are "Centum Kft.: (László Kövér, Viktor Orbán, István Stumpf, Tamás Varga); Foliograph Bt.: (Csaba Schlecht, Tamás Varga, Szilárd Kövér, Lajos Simicska, Viktor Orbán, László Kövér); Matt Bt.: (Szilárd Kövér, Tamás Varga); Creato Kft.: (Lajos Simicska, Tamás Varga, Szilárd Kövér); Bonusz Bt.: (Lajos Simicska, Tamás Varga); Menüett Kft.: (Lajos Simicska, Tamás Varga, Csaba Schlecht, Szilárd Kövér); Joys Kft.: (Csaba Schlecht); Padrone Kft.: (Lajos Simicska, Tamás Varga, Csaba Schlecht, Szilárd Kövér); Draft Kft.: (Lajos Simicska, Tamás Varga, Csaba Schlecht, Szilárd Kövér); Prompt Profit Kft.: (Lajos Simicska, Tamás Varga, Csaba Schlecht, Szilárd Kövér); Quality Invest Rt.: (Lajos Simicska, Tamás Varga, Szilárd Kövér); and Quality Profit Kft.: (Lajos Simicska, Tamás Varga, Szilárd Kövér)." (Balogh, September 9, 2008). The other individuals listed as former owners of these companies

Observation 5: In September 1997, Csaba Schlecht again sold two firms to someone posing as a Josif Tot, a Croatian national. The real Josif Tot apparently was also unaware of the transaction, as he had his passport stolen while he was in Hungary. And the companies again owned the ÁPEH substantial sums of back taxes, which they were not able to pay back (Schöpflin, 1990, p. 4, cited in: Burai, 2016, p. 95).

Observation 6: In 1999, the liberal newspaper *Magyar Narancs* published a list of 60 companies that were closely associated with Fidesz. Of these companies, Simicska's name appears on the ownership records of 24 (Kovács, February 10, 2015). The list also included the 14 companies sold by Csaba Schlecht (Balogh, November 23, 2013).

Observation 7: When Fidesz came into office in 1998, Orbán appointed Simicska as Head of the Hungarian Tax Authority ÁPEH.

Inference: There exists overwhelming evidence pointing towards Simicska and Orbán having had a strong, long-lasting personal relationship (observations 1) that they cemented by establishing several professional ties between them (observations 2 to 7) after the transition. In addition, observations 4 to 6 indicate that these two individuals were not opposed to engage in corruption. An alternative explanation for these observations is difficult to fathom given the abundance of observations, despite the existence of some incongruities about the origins of their friendship.¹⁴⁷ The large number of formal ties that these two individuals established in the 1990s provides, therefore, strong direct evidence supporting the first proposition of causal claim 2.

were also well-known individuals within Fidesz.

¹⁴⁷ The media provides conflicting reports on this—but they differ in *when* they met, not *where* they met. I cited here the information provided by Lajos Simicska himself in a public interview. Regardless of what source, in the end, they all agree that these two individuals met before 1990.

The second proposition about one or both sides gaining substantially from their relationship requires two separate assessments, as Simicska's and Orbán's relationship changed over the years. In the early nineties, Fidesz, just as other parties, employed covert political financing to acquire resources, and Lajos Simicska was their man for it.

Observation 1: It was Simicska who orchestrated the sale and renting of the party's headquarter that it had received from the state during the transition (Enyedi, 2007, p. 101; "The Fidesz robber barons. Part I," November 23, 2013). The new owners remain unknown despite questions by the party's internal steering committee (Enyedi, 2007, p. 93; Balogh, August 5, 2013; HU 096, personal communication, November 2017).

Observation 2: Beginning of 1994, Simicka orchestrated the sale of the state-owned broadcasting corporation *Mahír* and eventually gained ownership rights over it (HU 096, 2017, Jul 19.; Kovács, February 10, 2015). One of his helpers in the deal was Gábor Liskay, "a shrewd lawyer, who later became one of the most important executives in the Simicska empire" (HU 096, personal communication, November 2017).

Observation 4: At the national elections in May 1998, Fidesz came in second with 28 percent of the votes (MSZP came in first with 32 percent). FKgP came in third (14 percent), followed by the SZDSZ (8 percent). As a result, Fidesz formed a centre-right coalition government with the FKgP and the MDF (which alone only gained 3 percent). Victor Orbán, as leader of the largest party, became prime minister.

Observation 5: Simicska is appointed head of ÁPEH soon after Fidesz took over. He served in this position until 1999, when suspicions arose that under his watch,

financial documents related to firms implicated in the Kaya Ibrahim case were destroyed (Kovács, February 10, 2015).¹⁴⁸

Observation 6: Multiple sources argue that Simicska was Fidesz' main financier until his break with Fidesz in 2014 (HU 094, 2017, Jul 17.; HU 096, 2017, Jul 19.; Kovács, February 10, 2015; Magyar, 2016; Than & Dunai, April 16, 2012).

Inference: While Simicska benefited from their interactions, as evident in each observation, they also expose his lack of any independent economic power that he could use to counter any demands by Fidesz. In essence, he still acted as a covert political financier for Fidesz. For instance, Simicska's appointment as president of ÁPEH might appear as a prestigious position. However, for someone building up an economic empire, having to spend time away from their businesses is likely to negatively affect their ability to manage their companies. In addition, Simicska's past behavior of not taking on political or party positions (apart from his brief position as economic director of Fidesz in the early nineties) also points towards a limited interest on his side. In contrast, Fidesz profited from Simicska's foray into the media sector. By gaining control over a media company through Simicska, Fidesz again had access to positive media coverage, something they had lost when the party made the move from a liberal-socialist to a centrist-right in 1993 (more on this below). As such, I conclude that while Simicska definitely benefited from his close relationship with Orbán, Fidesz made the larger gains in terms of achieving their objectives—winning votes as they ended up in government. As to the resource distribution between Fidesz and Simicska—the power laid with the party as Simicska's fortunes were still tied to the party.

¹⁴⁸ See for more details observations in proposition 1.

During the 2000s, the relationship between Simicska and Orbán had slowly changed to a more equal partnership. The change in their relationship is also reflected in the benefits each side receives.

Observation 1: Companies close to Simicska or his associates, such as Zsolt Nyerges, started acquiring stakes in the media and advertisement sectors.¹⁴⁹ It started first with the acquisition of *Mahír*, the then-state owned billboard company in 1994. Its new owner was B-Reklám, an advertisement firm, where Simicska became a member of the board of directors and shareholder a few weeks later (HU 096, 2017, Jul 19.; Kovács, February 10, 2015). In 1999, Fidesz announced that more right-wing media outlets were needed (Bátorfy, April 29, 2015). Simicska made his big move into the media sector came when Fidesz lost its reelection campaign in 2002. Simicska established Hír TV in 2002, whose first Editor-in-Chief becomes the former government spokesman of Fidesz (Bátorfy, April 29, 2015). And between 2007 and 2010, Simicska gained control over even more advertisement and media outlets. All of them eventually exhibited strong political bias towards Fidesz as several reports by multiple sources show (Bajomi-Lázár, 2008; Barrett, 2002, p. 285; Jancsics, 2012). By 2010, he controlled either directly or indirectly through associates two radio stations (Class FM and Lánchíd Rádió), a TV-station (Hír TV), a daily newspaper (Magyar Nemzet) and several outdoor

¹⁴⁹ Zsolt Nyerges and Simicska were business associates throughout the last 25 years. Nyerges, however, also dealt directly with Fidesz members in these years. For instance, in 2001, during Fidesz' first term in office, Fidesz appointed Nyerges on the board of the state-owned Dunafer. By 2005, he had switched to Budai Malomipari, a company owned at that time by Mahír Rt., which was in turn led by Lajos Simicska. In Spring 2010, shortly before the elections, he bought the shares of a big media company called Infocenter from Tamás Fellegi. Fellegi later became the Minister of Infrastructure in the new Fidesz-led coalition government (Pethő, December 6, 2010). But Nyerges' formal business connections with Simicska went beyond him having worked at one of Simicska's companies. There are their shared ownership of several companies, including one in Switzerland and Publiment, a major billboard advertising company ("Kis Oligarchatározó," October 30, 2012; Pethő, December 6, 2010; Than and Dunai, April 16, 2012). In addition, in the late 90s, one of Zsolt Nyerges' businesses showed up among Közgép shareholders for a short time. Közgép is a construction company that plays a major role in Simicska's empire.

advertisement companies (Mahír City Poster, Publimont, EuroAWK, and Euro Publicity (How Viktor Orbán channeled tens of billions of forints to Lajos Simicska's media empire, February 18, 2015; Bátorfy, April 29, 2015; Bátorfy, April 29, 2015; Kovács, February 10, 2015; Lambert, June 13, 2016; Pethő, December 6, 2010; Than & Dunai, April 16, 2012).

Observation 2: Közgép is a former state-owned company that operates in the construction sector, among others in the construction of bridges, roads, and railways. It was a minor player in the sector after its privatization in 1994 and has changed ownership a few times in the first years after its privatization. In 1998, a few months before the parliamentary elections, the company Axon acquired Közgép. As investigative journalists found out later, Axon had strong ties to Fidesz members which naturally spread to Közgép (Becker & Bodoky, September 24, 2012; Pethő, December 6, 2010). Among others, for instance, was Zsolt Nyerges—one of Axon's shareholder (Kis Oligarchatározó, October 30, 2012). However, during Fidesz' first term in office, Közgép continued to be a minor player—Fidesz apparently relied on another construction company to win public procurement contracts and channel the money to the party (HU 096, 2017, Jul 19.; Kovács, February 10, 2015; Pethő, December 6, 2010). Közgép's breakthrough came in 2004, when in addition to an associate of Simicska and Nyerges becoming a member of the firm's board of directors, new capital came in and the firm started to invest into new market opportunities, including public procurement (Pethő, December 6, 2010). In 2004, Közgép reported HUF 1.8 billion. In 2005, Közgép's revenues increased to HUF 7.5 billion. In 2008, Közgép's revenues reached HUF 20 billion and HUF 40 billion in 2009 (Kovács, February 10, 2015). Multiple sources emphasized that between 2007 and 2010, Közgép Construction managed to make substantial profits at a time when the entire construction sector was in a deep economic

crisis in the late 2000s (Kovács, February 10, 2015; Pethő, December 6, 2010; Than & Dunai, April 16, 2012).

Observation 3: With the start of EU accession negotiations in 2001, Hungary became eligible for funding from the EU, aimed at improving the social and economic situation in a new member country. Once it joined the EU in 2004, Hungary was also eligible to receive additional money from the various EU funds, including the EU Cohesion fund. The fund makes up a large part of the EU budget and focuses on equalizing the social and economic inequalities between its member states, with a focus on improving a member state's infrastructure (European Commission, Directorate-General for Regional and Urban Policy, 2015).

Observation 4: At the national elections in 2002, Fidesz lost surprisingly by a narrow margin (Freedom House, 2003; HU 094, 2017, Jul 17). MSZP gained 42 percent of the votes, Fidesz, in an alliance with the MDF, again came in second with 41 percent. However, the SZDSZ, MSZP's coalition partner managed to gain over 5 percent of the votes and bring the social-liberal coalition back into power. The ruling MSZP-SZDSZ had only won 48 percent of the votes, translating into 198 out of 386 seats in the parliament (the MSZP alone only gained 179). Fidesz, in contrast, managed to gain 184 seats, making it the largest political party in the 2002-2006 legislature.

Observation 5: Fidesz would often leverage its political size in the National Assembly to force the government to fulfill some of its own demands, if it wanted Fidesz' cooperation (Magyar, 2016, pp. 49–50).

Observation 6: Multiple references point out that Fidesz initiated a political cold war after the election, where it attempted to undermine the legitimacy of government (Bozoki & Simon, 2006, p. 172; Jancsics, 2012, p. 20; Magyar, 2016, 26, 48-49).

Observation 7: Victor Orbán managed to steadily accumulate power within Fidesz in the 1990s and also during Fidesz' tenure in office. As a result, he had eliminated any potential rival within Fidesz by 2002 (Bozoki & Simon, 2006, pp. 172–173; HU 096, 2017, Jul 19.; Magyar, 2016, pp. 42–43).

Observation 8: Simicska continued working with Fidesz and providing financial support for them even once they left office in 2002 (Becker & Bodoky, September 24, 2012; HU 096, 2017, Jul 19.; Pethő, December 6, 2010).

Inference: Firms that belong to Simicska, or are closely associated with him, experienced a rapid rise in their revenues in the following years as observations 1 and 2 reveal. These additional resources provided him with more leverage in his relationship with Fidesz, and in particular with Victor Orbán. Fidesz' years in opposition for the majority of the 2000s, helped shifting the balance of power in their relationship. Fidesz, however, managed to continue capture important state entities and accumulate political power. Its major tools were a) that the ruling coalition needed it to pass any legislation requiring a qualified majority (observation 4), b) that it was able to start a political cold war that aimed at undermining the legitimacy of the election results and the government (observation 6), and c) that Fidesz had a strong internal party cohesion, centralized around personal loyalty to Victor Orbán (observation 7). In addition, Fidesz continued aiding its construction companies in acquiring public contracts, in particular with the additional funding provided by the EU accession process (observations 2 and 3). This provided it with enough political capital to not end up in a reverse relationship with Simicska.

Similar as above, while no single observation provides direct proof, the number of observations provide indirect and strong support for the second provisions—that at least one side of the state-business relationship benefits significantly from their exchange.

Clear evidence supports the third proposition on how control mechanisms that theoretically should have been strengthened with the introduction of competition proved to be ineffective in constraining the corrupt relations between Orbán and Simicska. Because of the large number of observations, I am grouping them not chronologically as before but rather based on how they relate to political and economic competition. In claim 1, specifically in propositions 2 and 3, I already confirmed the general lack of constraints imposed by political and economic competition on actors forming corrupt state-business relations. The following observations, therefore, examine more closely how the actors managed to subvert or otherwise circumvent constraints. Observations 1 to 3, therefore, relate to how Orbán eliminated critics within the party, while observations 4 to 6 present evidence on how external constraints related to economic competition have been deactivated.

Observation 1: When Fidesz' internal party steering committee asked about the whereabouts of the 700 million forints that the party apparently received for the sale of its headquarter in 1993, Orbán decried them as unfaithful to the party and their cause and undermined, if not entirely eliminated the committee ("The Fidesz robber barons. Part I," November 23, 2013; Enyedi, 2007, p. 93; HU 096, personal communication, November 2017; Magyar, 2016, p. 41).

Observation 2: Shortly thereafter Orbán, as elected president of Fidesz, moved the party to the ideological right, which eliminated a number of his internal opponents as well ("The Fidesz robber barons. Part I," November 23, 2013; Enyedi, 2007, p. 93; Rádi, September 9, 2016).

Observation 3: During Fidesz' term in office and even more after its defeat in 2002, Orbán further centralized Fidesz and eliminated potential alternative party leaders (Bozoki & Simon, 2006, pp. 172–173). As another long-serving member of parliament

writes, a dramatic reorganization within Fidesz took place after the electoral defeat in 2002. By the time of the 2010 parliamentary and local elections, Orbán concentrated all power within the party in his hands, for instance, by deciding who is an appropriate candidate for the national assembly, both for the individual constituencies as well as the electoral party lists. In this way, any dissenters within the party could be eliminated, including "the old Fidesz candidates' members, the local politicians who were considered cadres of other leaders within the party where replaced—or arranged to be beaten—by Fidesz candidates loyal to the top boss" (Magyar, 2016, pp. 42–43).

Observation 4: During Fidesz' first term in office, it also undermined the National Assembly's ability to supervise the activities of the government by holding only monthly instead of weekly sessions and by pushing for a bi-annual budget for the government (Barrett, 2002, p. 258; Bozoki & Simon, 2006, p. 174; Freedom House, 2003, p. 300).¹⁵⁰

Observation 5: Shortly after becoming Prime Minister, Orbán appointed Simicska as Head of ÁPEH. Other major positions in oversight agencies that were filled with close associates were the Chief Public Prosecutor and the Head of the State Audit Office, to mention a few (Balogh, November 23, 2013; Barrett, 2002, p. 258; Bozoki & Simon, 2006, p. 174; Kovács, February 10, 2015).¹⁵¹

Observation 6: During Fidesz's first term in office, it made a large number of appointments to major positions in the public media sector. "In October 1998, senior news staff at Hungarian Television were removed and replaced. In autumn 1999, the President of Hungarian Television fired hundreds of journalists, apparently because the

¹⁵⁰ See proposition 3 in causal claim 1 for more details.

¹⁵¹ See the description in Part I of chapter—categorization of Simicska case for more detail.

company was making huge losses. However, at the same time, new journalists loyal to the Government were appointed." (Barrett, 2002, p. 286).

Observation 7: While demand for investigative journalism exists in Hungary, publishers rarely support investigative journalism as it threatens their advertisement income. As publishers generally own several media-outlets, if one of these outlets publishes a damaging investigative story on a (potential) advertiser, the publisher likely suffers an advertisement loss in all of their media-outlets (Hajdu, Pápay, & Tóth, 2016, pp. 37–38). This is especially relevant for advertisement by state agencies, as the state is a major buyer of advertisement (Hajdu, Pápay, & Tóth, 2016, pp. 37–38; Kósa & Alexa, 2007, p. 72).

Inference: Observations 1 to 3 all highlight how Orbán managed to consolidate power within Fidesz over the years. Each observation is supported by multiple sources, independent from each other, strengthening the interpretation that Orbán continuously undermined any internal actors that could potentially harm his political ambitions. Observation 4 presents another approach of Fidesz to eliminate any potential oversight and control mechanisms, now by weakening the parliament's ability to oversee the government's actions. Moreover, by appointing several allies to high-ranking positions in oversight institutions such as the tax authorities and the chief public prosecutor, Fidesz furthermore undermined the ability of state authorities to oversee its actions (observation 5). Last, even the introduction of economic competition, and so increase the number of media outlets, did not improve the media's ability to report on governmental wrongdoings (observations 6 and 7). Combined, there exist strong and direct evidence that Fidesz systematically weakened any potential control mechanisms that could have been introduced or strengthened with the emergence of competition.

To examine causal claim 2, I tested the three propositions against each corruption case, twice in the case of Lajos Simicska. Each of these propositions focused on one piece in the puzzle of how the particular constellation of powerful incentives and weak constraints encourages political and economic actors to form corrupt state-business relationships. And even though the presented observations did not always provide *direct* evidence for each the propositions, they did provide me with *strong* evidence supporting the individual propositions for the causal claim. The case of Hunvald demonstrated well the existence of this part of the larger causal mechanisms. And the case of Lajos Simicska corroborates the inference, as it focuses on the relationship of the same two actors across time. It highlights that even if the corrupt actors move across sectors, the constellation of considerable incentives and weak constraints continues shaping their relationship and their involvement in corruption. The question now is, what shapes the type of corruption that emerges from the actors' interactions? I have argued in chapter 2 that the distribution of resources between political and economic actors plays a significant role in the corruption patterns. I therefore investigate in the next section the resource distribution among the actors and how it affected the type of corruption that emerges.

Causal Claim 3: Emergence of Patterns of Corruption.

This section evaluates causal claim 3, which argues that the distribution of resources between the corrupt actors determines the type of corruption that emerges. In chapter 2, I have outlined the three types of corruption and the particular distribution of resources between actors that I expect to observe. I described that covert political finance is the result of concentrated political power and weak economic power, while legal corruption is the exact reverse—fragmented political power confronted with concentrated economic power. Local capture, results from both sides having

concentrated power and provides each side with leverage. The expected evidence for each proposition needs to illuminate the power balance in the actors' relationship. For covert political finance, the evidence ideally reveals that the economic actors are dependent on the political actor. The proposition will be further strengthened if I encounter evidence that illustrates how the actors attempted to hide the transactions. Legal corruption requires evidence that highlights the limited power of the political actors when confronted with the economic actor's demand. Such evidence can be for instance tracing the language of a bill put forward in the national assembly to a report or white paper of an economic actor. It may also come in the form of account revealing the strong dependency of political actors on the economic actor. Evidence for local capture will ideally come in the form of accounts of the large-scale capture of state resources and agencies. Again, each proposition will be assessed against each corruption case—Lajos Simicska again being evaluated twice.

Hunvald Case.

To determine whether both actors had concentrated power in their domain, as the proposition on local capture requires, I examine the state of the actors' powers separately, beginning with the political actors and whether they had concentrated their powers. And while the evidence presented is circumstantial, the mass of observations supports the proposition.

Observation 1: A coalition of MSZP and SZDSZ had governed the VII. district since the first local elections in 1990.

Observation 2: Between 1990 and 2010, the mayor of the city of Budapest was Gábor Demszky, a member of the SZDSZ.

Observation 3: At the national level, a coalition of MSZP and SZDSZ governed Hungary between 1994 to 1998.

Observation 4: Over time, the state administration became politicized as government parties would replace personnel in the state administration (Bozoki & Simon, 2006, p. 168; Jancsics & Jávör, 2012; Magyar, 2016, pp. 37–38).

Observation 5: At the local elections in 2002, G. Hunvald got elected mayor of the district with almost 60 percent of the votes. In the local council, 18 of the 27 seats belong to the MSZP and SZDSZ representatives, 8 belonged to Fidesz representatives, and one to a representative of the far-right MIEP (Nemzeti Választási Iroda, 1998).

Observation 6: There exist no indications that the local Fidesz representatives voiced their disapproval of the sale of the real estate properties (Budapest Public Prosecution Office, 2006; Jancsics & Jávör, 2012; Wirth, April 6, 2011).

Observation 7: Thirteen members of the economic council, regardless of party affiliation, were charged with defrauding the state of billions of forints (Budapest Public Prosecution Office, 2006; Hack, 2011, p. 195).

Inference: From observation 1 and the contextual conditions, we can reasonably to assume that the MSZP and SZDSZ, after 14 years in office, managed to establish partisan people in the local state administration. Observations 2 and 3 extend the inference to the administration of the city of Budapest and to the national level, implying that even state agencies had been filled with individuals that were either party members or at least not completely opposed to the ruling parties. The secondary sources mentioned in observation 4 corroborate the conclusions drawn. While observation 5 could counter the proposition of concentrated political power in the hands of a particular party, observation 6 points towards a cross-party engagement in corruption as Fidesz did not only neglected to voice its opposition to the events but even benefited from them.¹⁵²

¹⁵² For additional evidence, see relevant observations in proposition 2 in causal claim 2 about Fidesz

Observation 7 corroborates the previous observations, strengthening the evidence in support of the proposition of the existence of political power, even if not concentrated in the hands of a political party, it was concentrated in the hands of the political actors involved.

On the side of the economic actor, I also find circumstantial evidence that supports the proposition about the existence of a concentration of power.

Observation 1: G. Nagy had contacts to lawyers and trustworthy individuals willing to become owners of these project firms on papers (Budapest Public Prosecution Office, 2006; Wirth, April 6, 2011).

Observation 2: Investigative reports have found indicators that G. Nagy had previously created a similar corruption network in another district (Jancsics & Jávör, 2012, p. 78).

Observation 3: G. Nagy was a successful entrepreneur who made his fortune with the privatization of state buildings in Budapest in the early nineties. By the mid to late nineties he was one of the main players in the Budapest's real estate sector (Wirth, April 19, 2011).

Inference: Observation 1 implies that G. Nagy played a crucial role in the corrupt scheme. While observation 2 provides only anecdotal evidence, it suggests that he had the experience necessary to set up such a corruption network once more. Observation 3 indirectly points towards Nagy's experience in the real estate sector. While none of the observations provide strong evidence in itself, consider the alternative. What if G. Nagy was not a partner in the relationship, and one day the political actors decided to replace him? They would have needed to find an economic actor with extensive knowledge of the

transforming one of the sold properties in the local party headquarter.

Budapest real estate market, a similarly well-developed network of co-conspirators, e.g., lawyers and sham-owners such as Nagy's girlfriend, able to identify willing buyers for the property that would not ask questions, and also ensure the transfer of the money to the final recipients. As a result, the costs of engaging in corruption would have risen dramatically for the political actors. G. Nagy might not have been the largest actor in the real estate market, but he had the knowledge and expertise scarce enough to make him an equal partner in their relationship.

In sum, the proposition about the equal distribution of power resulting in local capture, therefore, finds at least moderate support. While neither side accumulated *concentrated* power in its domain, they were able to either cooperate with potential opposition voices (in the case of Hunvald and Gál and the local Fidesz representatives) or provided such a rare resource that they could not have been easily replaced (in the case of G. Nagy).

The rise of Lajos Simicska.

As described above, Simicska's case represents two different corruption types—covert political financing and local capture. Thus, the corruption case offers two tests for my third causal claim that the distribution of resources between actors determines the corruption type. In the following section, I, therefore, examine the available evidence that (a) in the nineties, the balance of power between Simicska and Orbán leaned towards towards the latter, and (b) in the late nineties to early 2000s, Simicska accumulated enough independent economic power to become an equal partner in their relationship.

While the individual pieces of evidence only circumstantially support the first proposition, combined they corroborate the conclusion of an imbalance in the resource distribution in the state-business relationship in favor of the political actor Victor Orbán.

Observation 1: Simicska worked on behalf of Fidesz in the early 1990s and apparently had little independent economic capital. His income seems to have come from the sale of the party’s headquarters on Hero’s Square and his position on the board of directors of the advertisement company Mahír.¹⁵³

Observation 2: Simicska’s held the post of economic director of Fidesz in 1993.

Observation 3: Fidesz gained political power throughout the years in political power by gaining votes and through them seats in the National Parliament (see table 5.13).

Table 5.13: Distribution of Votes for Main Political Parties in Hungary, 1990–1998

| Political Party | 1990 | 1994 | 1998 |
|------------------------------|-------------|-------------|-------------|
| FIDESZ-alliance ^a | 16.84% | 11.92% | 55.18% |
| MDF [†] | 42.49% | 9.84% | --- |
| MSZP | 8.55% | 54.14% | 34.72% |
| SZDSZ | 23.83% | 17.88% | 6.22% |
| Others | 8.29% | 6.22% | 3.88% |

Source: National Election Commission of Hungary (Nemzeti Választási Iroda, 1998).

^aIncludes votes for the FKgD. In 1998, MDF votes were included in votes for FIDESZ as they ran together.

Inference: As the first two observations highlight, Simicska did not participate in any independent economic activities, at least none that we know of. His fortune came from the sales he organized on behalf of Fidesz, who provided the resources. However, none of these observations is conclusive; in particular as the absence of any evidence of Simicska having engaged in economic activities without Fidesz does not mean that he did not do so. But such an absence of evidence is still a corroborating indicator for two reasons. First, it is plausible to assume that after 15 years, one of the number of

¹⁵³ The description of the sale of the headquarter and the surrounding events are described in part 1 of the chapter.

journalistic investigations into Simicska's and Fidesz' past would have uncovered at least some of these activities. Second, when Orbán and Simicska ended their relationship in a rather 'confrontational' manner, they were quick to accuse the other side of wrongdoings. To date, however, no allegations appeared that would contradict the current conclusion.

For the second proposition that acts as empirical manifestation of the third causal claim, I find abundant and strong evidence—by the time Fidesz left office in 2002, the relationship between these actors had shifted towards local capture.

Observation 1: Fidesz, in a coalition with the FKgD and the MDF, came to power with a qualified majority in 1998. The coalition of these three parties gained 213 out of 386 seats in the parliament as figure 5.1 illustrates. With this power, they could force through legislation in areas that previously have required the cooperation of at least some opposition parties.

Observation 2: During their first term in office, Fidesz appointed a large number of politically connected individuals to senior positions in the tax administration

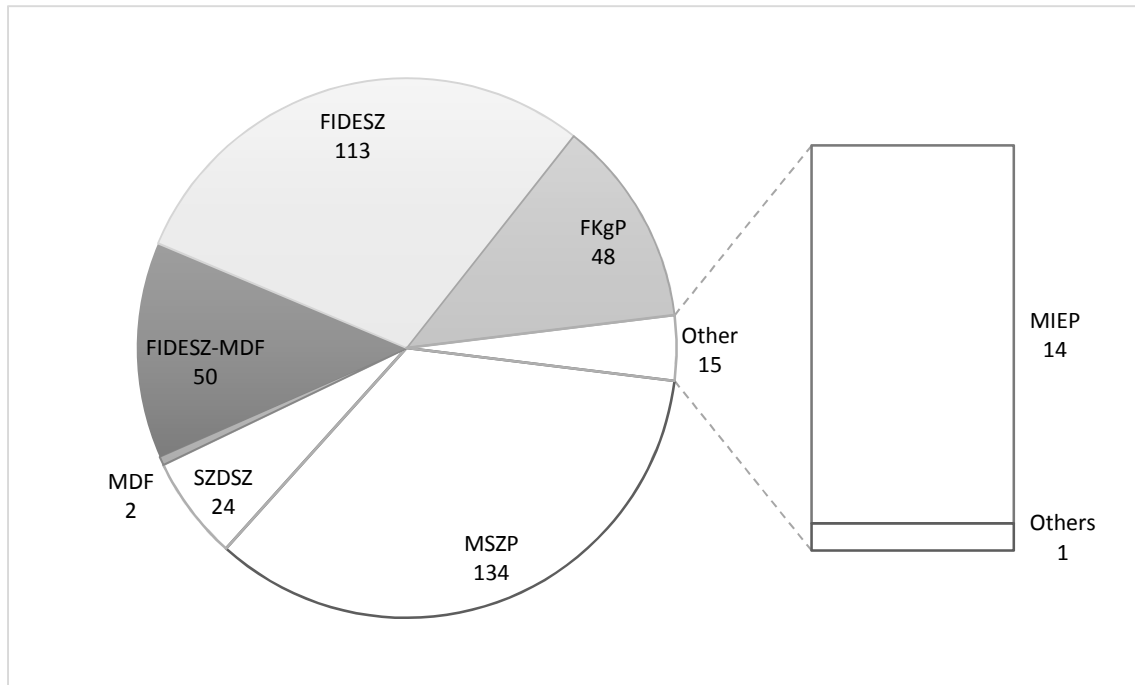


Figure 5.1: Number of Seats per Party in National Assembly of Hungary in 1998

Source: National Election Commission of Hungary (Nemzeti Választási Iroda, 1998). Shaded areas represent members of the ruling coalition.

(Simicska), Public Prosecution (Péter Polt), and the Public Procurement Authorities, among others.¹⁵⁴

Observation 3: Multiple independent sources highlighted that each government would introduce layoffs of state officials at senior and lower ranks (Bozoki & Simon, 2006, p. 168; Magyar, 2016, p. 37). As one of the sources notes,

the debilitating effects of these firings cannot be ignored in terms of their impact on individuals who would like to complete their careers in the country's bureaucracy, the productivity of government offices, and the confidence that average citizens have in the impartiality of their government officials (Freedom House, 2003, pp. 301–302).

¹⁵⁴ In the first part of the chapter, I listed more state agencies that Fidesz has captured over time.

Observation 4: In December 2001, the Hungarian Bar Association, the Budapest Bar Association, and the National Association of Prosecutors made a public announcement, warning of the ongoing threats to judicial independence (Barrett, 2002, p. 264, 2002, pp. 264–265).

Observation 5: After Fidesz' electoral defeat in 2002, it still maintained enough power to 'blackmail' the MSZP-SZDSZ government. For instance, Fidesz hindered the government's attempt to pass an economic reform package in the National Assembly by withholding its votes, which votes were needed to obtain a qualified majority. A former member of parliament for the SZDSZ said of Fidesz' behavior:

in the hands of Fidesz—lacking the wish to reach consensus—[the need to reach a qualified majority] had become a weapon for blackmailing the government: they would only vote for something (even if they agreed with) if they received something in return, or they would not vote for anything, to preempt any success of the government (Magyar, 2016, p. 49).

Fidesz made sure to secure benefits for their supporters (in particular Simicska). The media sector became one of the markets where companies associated with Simicska or otherwise concentrated in the hands of a few economic actors close to Fidesz (Hajdu, Pápay, & Tóth, 2016, pp. 32–33; Lyman, November 27, 2014, A12).¹⁵⁵

Observation 6: Simicska's expanded his economic empire after he left ÁPEH with the acquisition of Közgép.¹⁵⁶

¹⁵⁵ Take the case of the Law of Digital Switchover. In 2006, the two largest parties (Fidesz and MSZP) adopted the Law on Digital Switchover, which included a stipulation that two TV channels, apart from the three state-owned ones, would operate for another four years - the beneficiaries of this policy were Hír TV and the MSZP-friendly ATV (Kósa and Alexa, 2007, p. 71). Several other references agreed with the assessment that MSZP and Fidesz designed the law to favour these two TV channels (Group of States against corruption [GRECO], 2009, p. 18, Group of States against corruption [GRECO], 2002, pp. 21–22; HU 095, personal communication, 2017, Jul 13. Location: Budapest, Hungary).

¹⁵⁶ Recall that Simicska involvement into Közgép coincided with a dramatic rise in the firm's revenues.

Observation 7: Közgép experienced a dramatic increase in its revenues at a time when the rest of the market made losses because of the economic crises (Kovács, February 10, 2015; Pethő, December 6, 2010).

Observation 8: With the start of the EU accession negotiations in 2001, Hungary became eligible for several EU funds aimed at improving the country's failing infrastructure.

Observation 9: Közgép and other business entities of Simicska lost significant revenues after Simicska's break with Orbán. For instance, Közgép's net revenue decreased from 112.9 billion forints in 2014 to 101.5 billion forints in 2015. In a similar vein, his media and advertisement companies also made substantial losses in 2015. They made a total revenue of 12.1 billion forints, down from 20.5 billion forints in 2014 (Lambert, June 13, 2016). The loss is commonly attributed to a decline in state advertisement revenue.

Observation 10: In 2014 and 2015, a large number of patronage appointments lost their positions. Several sources attribute their dismissal to their allegiance to Simicska and not Orbán (Kovács, February 10, 2015).

Inference: When Fidesz came into power with a qualified majority in 1998 (observation 1), it displayed an excessive zeal of placing their people in senior positions (observation 2), sometimes through dubious means.¹⁵⁷ Fidesz extended its eagerness also to the lower levels in the state administration (observation 3) that eventually even apolitical state entities started to raise their concerns (observation 4). Fidesz' ambitions to control over the state administrations did not even stop when the party left office in

¹⁵⁷ One of these dubious means was the replacement of the Chief Public Prosecutor in 2000. As prime minister, Orbán managed to get the highly respected Chief Public Prosecutor Kálmán György, whose tenure would only have expired in 2002, to resign. The new appointee was Péter Polt, a long-time friend Victor Orbán and party member (Balogh, November 23, 2013; Barrett, 2002, p. 237).

2002 (observation 5), as the developments in the media and construction sectors illustrate. Simicska ended up being one of the beneficiaries of Fidesz' rise to power. Observation 6 illustrates how Fidesz continued help for its economic actors even if not in office, which can explain the steady media concentration that emerged (observation 6). The party also allocated a significant number of public procurement contracts to its businesses in the construction sector (observation 8 and 9).

The strongest support for the proposition, however, comes from observation 10. It provides unambiguous evidence for the close ties between Simicska and Orbán. Once these two broke off their relationship, Simicska's empire suffered serious losses. An alternative interpretation of the last observation that needs to be considered is that Orbán had the stronger hand in their relationship through all these years. While this is a reasonable explanation, Orbán apparently passed several pieces of legislations that specifically targeted firms owned by Simicska or his associates since their breakup (Kovács, February 10, 2015; Lambert, June 13, 2016).

In other words, the early 2000s saw a shift in the balance of power between these two actors. Simicska had slowly established himself as an independent economic actor, that is, his power came from his economic activities and not from any position in the party. The relationship between these two actors also transformed, as Fidesz and Simicska both manage to concentrate power in their hands and so end up capturing state agencies and procedures. The incentives for this remained the same – Fidesz desperately needed funds and positive media coverage, Simicska was interested in deactivating any potential control mechanisms. The concentration of power meant that they were on a more equal footing now.

In summary, the evidence supports the three propositions in each corruption case. On the one hand, the case of Hunvald and the second period of Simicska's and

Orbán's relationship highlight how a balance of power between these actors' results in the capture of state agencies or procedures. The early period of the relationship between Simicska and Orbán strongly support the hypothesis that concentrated political power combined with weak economic power will lead to covert political financing.

The in-depth investigation of these three corruption cases offers persuasive evidence for the hypothesized causal mechanism. I found through detailed process-tracing that in the three corruption cases, the emergence of political and economic competition transformed the opportunity structures of actors in a way that encouraged them to form corrupt relationships. The analysis then revealed that the resource distribution within such corrupt state-business relationships between political and economic actors determines the type of corruption. Take for example the case of Simicska during the nineties. Due to his weak economic power, the balance of power in his relationship with Fidesz and specifically with Orbán favored the political actor. Contrast this with the shift in their relationship in the 2000s, when Simicska managed to gain independent economic power. Orbán's and Simicska's relationship has transformed to a more equal partnership with both sides having gained concentrated power. The resulting type of corruption resembled local capture. Similarly, with the case of then-mayor Hunvald, where the balanced resource distribution between the political and economic actors provided both sides with leverage. Again, the evidence showed the emergence of local capture of several state agencies.

Conclusion

This chapter shows that my argument can shed light on the transformation of corruption patterns in Hungary. And while the findings from such a low number of cases cannot be taken as representative for the larger population, they do present us with some clear insights into the changes of corruption.

First, classifying the selected corruption cases by the type of corruption that they represent reveals that corruption varies not across sectors but across time. Corruption cases which took place in the early to mid-nineties all exhibited the characteristics of covert political financing type of corruption. These were situations where the political actors practically extorted the economic actor for their own benefits, while providing little in return. The power rested with the political actors, who also attempted to cover the origins of these funds. In contrast, the corruption cases of the 2000s belong to local capture or one of its subtypes. In these instances, the power distribution between the political and economic actors has been balanced. And each side was able to further their objectives at the expense of actors that would have had a right of inclusion. In short, this discovery is a first indicator for my argument that patterns of corruption transform systematically, a change which needs to be far better understood.

Second, tracing the emergence of competition in the political and economic domains to the transformation of corruption patterns presents some research challenges. However, by having separated the causal mechanism into three components, causal claims 1, 2, and 3, I tested each step of the causal mechanism individually. The evidence provides strong support for each of these causal claims. I find that in the early transition periods, political actors were confronted with high degree of competition, little income coupled with high expenses, in an uncertain environment that already had experience in corruption. Economic actors were also confronted with markets without clear rules and regulations but a large number of competitors. Both sides, therefore, had strong incentives to enter into a relationship, and there were hardly any constraints in place that could have deterred them from entering into a corrupt state-business relationship. What now determines the type of corruption that emerges? In the cases studied, I find that the distribution of resources between the political and economic sector determines

the type of corruption that emerges. We see in the case of Lajos Simicska how his lack of independent economic power meant that he was beholden to Fidesz. And we saw that it was in their interests that he would gain economic power as this benefited the party. The cases of Hunvald and Simicska in 2000s then show that when both sides have roughly equal power, their relationship is far more balanced.

This analysis of the transformation of patterns of corruption through the emergence of competition exposes some of the elements that until now stayed hidden in the black box that ties competition to corruption. I want to highlight three of these elements. One is the impact the distribution of power in the corrupt state-business relationship has on the type of corruption. The corruption cases reveal that concentrated power on both sides do not constrain their action but allows actors to engage in another form of corruption. As we have seen, local capture allows actors to manipulate or subvert specifically these state agencies and control mechanisms which are in place to prevent corruption.

The case of Simicska also shows that the EU is not a deterrent for all types of corruption. In fact, it acted as another opportunity to engage in corruption as the influx of money created new incentives for actors. And as the EU relies largely on the member state to implement the stringent rules and regulations that accompany the EU funds, it creates no new constraints as these domestic agencies and mechanisms have long been captured. The final point that this chapter makes is that democratization is not certain no matter how far along the path a country's political and economic development is. This conclusion stands in contradiction to the broad path dependency argument.

CHAPTER 6

DISCUSSION AND CONCLUSION

Social scientists and anti-corruption practitioners tout political and economic competition as an almost guaranteed antidote to corruption. Political and economic competition, so the broad argument, reduces corruption because it increases the cost of actors to engage in corrupt practices through several channels: competition increases the risk of exposure, provides non-corrupt alternatives for consumers, and introduces non-corrupt practices into the political and economic domains. Following this argument, we ought to observe a significant reduction in corruption in the Central Eastern European countries after the introduction of political and economic competition, especially two decades later. And while certain kinds of corruption, such as bribery, have been in decline, the population does not share the sentiment of an overall reduction in corruption (Open Society Institute, 2002). This hints at corruption transforming itself instead of disappearing in the region.

In this dissertation, I delve deeper into the conventional argument by investigating how and why the emergence of competition in the political and economic domains led to a transformation of the patterns of corruption¹⁵⁸? I argue that under conditions of a shared communist past and high levels of uncertainty, the simultaneous emergence of political and economic competition transforms the opportunity structures of actors, that is, their incentives for and constraints against engaging in corruption. The resulting constellation of powerful incentives for and weak constraints against

¹⁵⁸ Patterns of corruption refers to refers to the *prevalent configuration of types and activities of corruption that actors (e.g., individuals, organizations, or institutions) employ in a place (e.g., market sector, federal government, municipality, or other state entities)*. I consider an event or behavior as corrupt, if it fulfills four attributes: (a) a political decision-maker is involved, (b) who has violated the norms or regulations of their office, (c) receives some kind of compensation in return, and (d) the act or situation has harmed the public's interest.

corruption encourages political and economic actors to enter into a corrupt state-business relationship. Finally, the resource distribution between the actors in the corrupt state-business relationship determines the type of corruption that emerged.¹⁵⁹ Through intensive process-tracing of the micro-causal mechanisms of five corruption cases in Poland and six in Hungary, I have found preliminary support for my argument.

But before I discuss the findings in more detail, a short note on the research strategy and method employed in this dissertation. At the country level, I have selected Poland and Hungary as my case studies. While I do not conduct a cross-country comparison, selecting two countries ensures that any findings are not just a coincidence. At the corruption case level, I systematically selected six cases in Poland and five in Hungary according to three criteria: involvement of a politically exposed person, the business sectors the corruption case occurs in, and the time period. Specifically, I paired corruption cases based on having taken place in a shared sector, but at different points in time. Now, to examine how corruption patterns have transformed over time in Poland and Hungary, I categorized each of the selected corruption cases according to their types of corruption. Because I have paired the corruption cases based on a shared sector but having occurred at various points in time, I was able to investigate whether any change in the type of corruption took place over time. While I have found few signs of a transformation in the types of corruption in Poland, the findings for Hungary showed support for my argument. Table 6.14 illustrates the selected pairs of corruption cases for each country and their identified types of corruption.

¹⁵⁹ I distinguished between legal corruption, local capture, and covert party financing types of corruption. In chapter 2, I described in detail the three main types of corruption that I expected to observe in the selected cases and the causal attributes of each type as well as the most common corrupt activities that lead to them.

Table 6.14: Selected corruption cases and their types of corruption in Poland & Hungary

| | Name | Period | Sector | Type of Corruption |
|---------------------------|--|------------------------|-------------------------|---|
| Poland | | | | |
| <i>Pair 1</i> | Concession for Polsat Rywingate | 1994 2002 | Arts & Entertainment | Legal Corruption Legal Corruption |
| <i>Pair 2</i> | Afera Automatowa Afera Hazardowa | 2002-2003 2008-2009 | Gambling | Legal Corruption Legal Corruption |
| <i>Pair 3</i> | Afera InterAms Infoafera | 1994-1995 2008-2010 | IT | Local Capture Local Capture |
| Hungary | | | | |
| <i>Pair 1</i> | Tocsik Affair Hunvald Case | 1996 2003-2004 | Real Estate | Covert political Financing Local Capture |
| <i>Pair 2</i> | BKV/ Metro 4 Rise of Lajos Simicka ^a | 2003-2006 1990-2010 | Construction | Local Capture Covert Political Financing; Local Capture |
| <i>Pair 3^b</i> | Energol Kft | 1993-1995 | Energy | Covert Political Financing |

Note: The names of corruption cases generally come from its most prominent actor(s) involved or another striking characteristic. Unless otherwise noted, I have kept the name of the corruption case with which it is commonly referred to.

^aThe case of Lajos Simicka, who for a long time had been a close associate of Hungary's current Prime Minister Victor Orbán, presents two types of corruption as the duration of their relationships allowed me to explore a change in the resource distribution between actors.

^bThe final corruption pair in Hungary lacks a counterpart as there was not enough data for a third pairing. The case of Energol Kft., nevertheless, highlights the lack of variation in types of corruption across industries.

In a second step, I then investigated why the emergence of competition in politics and the economy has transformed the corruption patterns. For this, I traced the type of corruption in the second case of each pair back to its causal factors, that is, the emergence of competition. Despite the early non-findings in the case of Poland, each of the analyzed corruption cases supports the proposed causal mechanism. I have found that the emergence of political and economic competition changed the opportunity structures of actors in favor of corruption. Political and economic actors faced powerful incentives for and few constraints against engaging in corruption. Moreover, the new

constellation of incentives and constraints encouraged them to enter into corrupt state-business relationships. Crucially, I found that based on the resource distribution within these corrupt state-business relationships, a specific type of corruption emerges—local capture when both sides share concentrated resources that allow them to balance each other out, legal corruption when a fragmented political actor is confronted with a strong economic actor, and covert political financing when a weak economic actor faces a strong political actor.

At its core, the corruption case studies on the micro-causal mechanisms that link the emergence of competition in the political and economic domain to the transformation of corruption patterns uncover three points that challenge our existing understanding of corruption and anti-corruption. First, I find no signs of a variation in corruption type across industries, despite covering a wide range of business sectors (visible in table 6.14). This contradicts the findings of previous studies that have argued that certain industries are particularly prone to corruption, such as real estate and construction. Based on my findings, I suggest that instead of a particular sector having a higher risk of corruption, the sectors foster a particular resource distribution within the state-business relationships, which results in the observed corruption.

Second, by investigating the resource distribution within a corrupt state-business relationship, I was able to explain how the emergence of a particular type of corruption is not a random coincidence, or the result of a particular sector, but shaped by the concentration of resources that each actor has. I found that political actors with a large share of legislative control and/or other ways to control the distribution of state assets can leverage such resource in their interactions with an economic actor. Economic actors, in contrast draw their power from their market shares as well as prior political connections, both resources that allow them to counter the pressure stemming from a

strong political actor. Such a finding significantly updates our knowledge about the variations in the kinds of corruption that can emerge as well as the underlying causal mechanism that results in such variation.

Third, the corruption cases also illustrate vividly how corrupt actors are able to deactivate or otherwise subvert control mechanisms in place to counter exactly such malfeasance. Specifically, I find that despite the existence of a few strong entities that could deter corrupt actors, they alone are not enough. I interpret these findings as evidence that an anti-corruption mechanism is largely ineffective if not integrated into a broader anti-corruption system. In other words, an anti-corruption mechanism does not exist in a vacuum but is part of a larger system, and the entire anti-corruption system is just as strong as its weakest link.

In addition to the theoretical contributions described above, the dissertation also advances our methodological approach for causal process tracing and contributes to improving anti-corruption policies. To examine a subject that thrives in the dark and for which reliable data is hard to find, I have refined causal process-tracing to allow for a systematic assessment of the proposed causal mechanism. Specifically, in chapter 2, I outlined the expected causal mechanism before unpacking it in its three main components, labeled causal claim 1, 2, and 3. In chapter 3, I operationalized these causal claims by clearly stating what I expect to observe, if the causal mechanism took place as expected, as well as describing the two criteria¹⁶⁰ that I used to assess the inferential weight of the evidence. In chapters 4 and 5, I then tested each proposition by clearly

¹⁶⁰ Evidence was evaluated based on *measurement accuracy* and *degree of uniqueness*. Measurement accuracy assessed how well the evidence addressed the proposition and the reliability of the sources. Its values range from strong, to moderate, to weak. Uniqueness assessed how unique the observations are, that is, whether there exists some other plausible alternative explanation for the presented observations. Evidence was either direct, if no other plausible alternative explanation existed, or indirect, in case plausible alternative explanation existed or the evidence required additional conjectures.

presenting the relevant observations, before drawing any inferences from them. This approach also allowed me to assess the support the sum of observations provided for each proposition, the larger causal claim, and thus the complete causal mechanism. While this approach is cumbersome, detail-oriented, and requires patience on the side of the reader, it also clearly lays out all data points that have been used to assess the theorized causal mechanism. The research thus adds to the ongoing debate on how to strengthen analytical transparency in qualitative methods.

The findings in this dissertation also have two major implications for policymakers. First, as the case of Hungary illustrates, the decline of one type of corruption does not imply that corruption in general is in decline. Instead, it suggests that corruption transformed into another type. Corruption is not only a multi-causal phenomenon, but also a multi-faceted one, which constantly adapts to changes in its environment. Second, placing one's hope about eliminating corruption into a single anti-corruption mechanism will ultimately lead to a bad wake-up. All of the here investigated cases took place in systems where a number of deterrents existed; in some instances, the corrupt actors even faced a strong anti-corruption agency. However, in all of the cases investigated, the corrupt actors managed to deactivate or otherwise subvert the effectiveness of these control mechanisms by exploiting the weaknesses in the anti-corruption system. Hence, the entire anti-corruption system is only as strong as its weakest link in the chain. With this knowledge in hand, policymakers are better able to allocate their scarce resources in an appropriate manner.

While the study has favored a deeper understanding of a few corruption cases at the expense of a more generalizable theory, it nevertheless only covered a fraction of the cases in the countries of Central Europe. Analyzing eleven corruption cases, regardless of how strong the evidence in favor of the proposed causal mechanism is, does not present

a definitive test for the argument. I do, however, provide a much deeper study of the politics and economics of corruption than has previously existed. To corroborate the findings, future research would benefit from expanding the universe of contexts in which the theory has been tested. In particular, scholars should consider the case of weak political actors and weak economic actors as my theorizing did not extend into this category.

Finally, the findings of my dissertation also shed light on recent troublesome trends in Poland. As party consolidation slowly took place in Poland, the political actors have been able to overcome the institutional elements that kept them in a weaker position relative to the economic actors and accumulate political resources. And while social scientists largely view this as a positive development, my theory suggests that this represents a move away from 'legal corruption' towards a 'local capture' type of corruption - where strong political actors meet strong economic actors. In line with my argument, Poland's far-right party 'Law and Justice' has made several steps towards capturing the state since it won a clear majority in the 2015 parliamentary elections. Two of the party's more outrageous acts have been the introduction a constitutional referendum that would have threatened judicial independence if it had not been vetoed by President Duda after massive public protests and threats from the EU. But the party did succeed in bringing the public media, for a majority of Poles still the main source of news, under more direct government control. This episode shows that while I have advanced our understanding of corruption's causes by unpacking its underlying micro-mechanisms that shape the type of corruption that emerges, we still have a long way to go in finding effective policy solutions to minimize it.

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