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DEMOCRATIC BACKSLIDING WITHIN THE EUROPEAN UNION: THE CASE OF HUNGARY AND POLAND

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We certify that, as the jury, we have read this thesis and that in our opinion it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Science /Master of Arts/ the Doctor of Philosophy/Proficiency in Art.

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ABSTRACT

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Since the article “Some Social Requisites of Democracy” by Lipset, one of the basic building blocks of democracy literature, discussions have been started on the causes and process of democratization. In today's world, at least most countries have democratized to some degree, but we still see fragilities in democracy practices in some countries due to the complete lack of democracy building in the social and institutional spheres. Another important point at this juncture is that there are also problems in democracy practices in the long run among the member states of the European Union, which are considered to be pioneers in democracy. There are two EU member states that lead the way in this regard: Hungary and Poland. In fact, while it was the two successful countries in terms of democratization in 1989, there are major regressions in liberal democracy practices now. Especially after EU membership, they could not achieve the long-term success in legal and political terms. The democratic backsliding in the EU and the loss of the values of the rule of law started to damage the reputation of the EU in the international order within the framework of the importance it attaches to democracy practices. Visible regressions regarding certain democratic values, especially the rule of law, fundamental rights, fair elections and freedom of the press, not only makes us question the democratic practices of countries. In this regard, the thesis outlines how such authoritarian governments can be formed within a union like the EU that makes democracy the primary prerequisite for membership? And why the European Union is so incompetent in the face of the decline of democracy?

Keywords: democratization, democratic backsliding, European Union, Hungary, Poland

ÖZ

AVRUPA BİRLİĞİ İÇERİSİNDE DEMOKRATİK GERİ DÖNÜŞ: MACARİSTAN VE POLONYA ÖRNEĞİ

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Demokrasi literatürün temel yapı taşlarından biri olan Lipset'in"Demokrasinin Toplumsal Gereklilikleri" başlıklı makalesinden itibaren demokratikleşmenin nedenleri ve süreci üzerine tartışmalar başlamıştır. Bugünün dünyasında, en azından çoğu ülke bir dereceye kadar demokratikleşti, ancak sosyal ve kurumsal alanlarda demokrasi inşasının tam eksikliğinden dolayı bazı ülkelerde demokrasi uygulamalarında hala kırılganlıklar görüyoruz. Bu dönemeçte bir diğer önemli nokta, demokrasinin öncüsü sayılan Avrupa Birliği'ne üye ülkeler arasında uzun vadede demokrasi uygulamalarında da sorunlar yaşanmasıdır. Bu konuda başı çeken iki AB üyesi ülke var: Macaristan ve Polonya. Aslında 1989'da demokratikleşme açısından iki başarılı ülke iken, şimdi liberal demokrasi uygulamalarında büyük gerilemeler vardır. Özellikle AB üyeliğinden sonra başarıyı hukuki ve siyasi anlamda uzun dönem sağlayamadılar. AB'de demokrasinin gerilemesi ve hukuk devleti değerlerinin yitirilmesi, demokrasi uygulamalarına verdiği önem çerçevesinde AB'nin uluslararası düzendeki itibarını zedelemeye başlamıştır. Hukukun üstünlüğü, temel haklar, adil seçimler ve basın özgürlüğü başta olmak üzere bazı demokratik değerlere ilişkin gözle görülür gerilemeler, sadece ülkelerin demokratik uygulamalarını sorgulamamıza neden olmuyor. Bu bağlamda tez, AB gibi demokrasiyi üyelik için birincil ön koşul haline getiren bir birlik içinde bu tür otoriter hükümetlerin nasıl oluşturulabileceğini ve Avrupa Birliği'nin demokrasinin gerilemesi karşısında neden bu kadar yetersiz olduğunu ana hatlarıyla ortaya koymaktadır.

Anahtar Kelimeler: demokratikleşme, demokratik gerileme, Avrupa Birliği, Macaristan, Polonya

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Ecem Gacener

İzmir, 2022

TEXT OF OATH

I declare and honestly confirm that my study, titled “Democratic Backsliding Within The European Union: The Case of Hungary and Poland” and presented as a Master’s Thesis, has been written without applying any assistance inconsistent with scientific ethics and traditions. I declare, to the best of my knowledge and belief, that all content and ideas drawn directly or indirectly from external sources are indicated in the text and listed in the list of references.

Ecem Gacener

November

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ABBREVIATIONS

AA	Association Agreement
CoE	Council of Europe
CT	Constitution Treaty
CFSP	Common Foreign Security Policy
EU	European Union
ECSC	European Coal and Steal Community
EEC	European Economic Community
ECHR	European Convention on Human Rights
EP	European Parliament
ECSCT	European Coal and Steal Treaty
SEA	Single European Act
TEU	Treaty of European Union
QMV	Qualified Majority Voting

CHAPTER 1
INTRODUCTION

The transition to the socialist order, which started with the collapse of the Tsarist regime in 1917, marked the beginning of a new order within the framework of international relations. Changes on the current regime in a country and the transition to the new political order can be seen as the construction of different values on the traditional structure. In line with, at that time, the idea of the formation of the socialist system caused changes in many traditional political structures. With the aim of laying the foundations of this idea and ensuring its continuity, the Soviet Union did not withdraw its military units from the Eastern European countries, and the Communist Party continued its raid and had a say in power. With the increase of these dominances, the opposition parties were eliminated, and the one-party system dominated. Accordingly, the freedoms of the press and speech were restricted, and the economy faced major collapses. The people, who were disturbed by such oppressive administrations in their countries, were unsuccessful even if they rebelled from time to time.

While interpreting the economic and political order before 1989, we must accept the existence of a front that divides the world into two, “Liberal Order” and “Socialist Order”. After the end of the Second World War, changes began to occur in the political system and state structure in Central and Eastern Europe. During the Cold War period, the Soviet Union aimed at organizing its’ supporter countries in Central and Eastern Europe against the capitalist Western order. Central and Eastern European Countries, including Poland, Romania, Hungary, Bulgaria and East Germany, accepted Moscow as the authority and aimed to increase the influence of the Soviets on the world to become a single power block against American imperialism. The most basic features of the socialist bloc are that it centralizes power, creates a hierarchical social order, and gives dominance over all processes to the political party, which is at the very beginning of this layered social structure (Kramer, 2011). The party government, on

the other hand, has full control and supervision over the economy, judiciary, and media in accordance with the socialist philosophy. Criticism began to rise as the socialist bloc gradually moved away from democratic values and began to pursue harsh policies in line with the interests of the party elites. The uprisings that started in Hungary and Poland in 1956 against the Stalinist government was the first mass protests against the totalitarian regime and resulted in the intervention of the USSR. Although all these increasing revolts and criticisms were reflected as fascist actions against established regime, in fact, they were the search for democracy and freedom against the failed system, including socialists. With 1956 Hungarian and Poznan protests, countries tried to prevent the disappearance of democracy. Accordingly, with the realization of democratic elections for government bodies, it was demanded that all nationalized means of production be transferred. At the same time, Hungary and Poland have always been at a critical point for Europe and the Soviet Union due to their geographical locations.

Signals for the decline of the communist regime that dominated the Soviet geography in the mid-1980s, and the collapse of the USSR signify the end of the Cold War. Such a collapse, of course, caused a complete change in the international system. The bipolar structure consisting of countries that came together within the framework of NATO and the Warsaw Pact has come to an end. Contrary to the formation of a revolution, after the collapse of the Soviet Union as a result of political problems and complexities, Eastern European countries also underwent a rapid regime change during the transition to this new order. The emergence of uprisings against the nationalist and central authority following the end of the Warsaw Pact was the biggest indicator of the disappearance of the federal structure established by the Soviets. The truth is that although liberal western democracy may seem safe compared to its political rivals, especially in the process of transformation after the Cold War, it is now endangered in most country systems. Until the 1980s, liberal thought struggled with powerful authoritarian regimes and political movements. When the Cold War was over, political scientist Francis Fukuyama explains in his article "*The End of History*" that liberalism's long-term survival over its rivals is due to its superiority as a political and economic system. In fact, the point to be noted here is that the end of history thesis does not mean that the whole world has passed to a liberal order, it is simply emphasized that the existing alternative ideologies have disappeared. In addition, the

conflicts after the Cold War are an indicator of the inadequacy of this thesis. In 2003, while the US intervened in the Iraq War by making it clear to the public that it would bring democracy to the region, its enemy was not a communist ideology, but an authoritarian regime that was effective on a global level. The fact that authoritarian regimes are on the rise in today's order questions the functionality of this thesis.

On the basis of all this, the major changes that the international system faced also affected the European Union. In this context, member countries have started to make changes in the structure of the community in order to keep up with the international system and increase their influence. The most fundamental step made within the framework of this aim was the Maastricht Treaty in 1991. Thus, decisions were taken on issues such as ensuring a financial and political union, using a common currency, giving more power to the European Parliament, and identifying the elements of the common foreign policies. The increasing importance given to enlargement policies following this agreement and to the steps for increasing the effectiveness of the European Union in the political arena. After the Cold War, Eastern European countries began to take initiatives to democratize and gain independence. Poland and Hungary, which were under the influence of the Soviet Union, turned their direction to the west and set the goal of creating democracy-based political and economic institutions within their own structure. The successful conclusion of the independence movement that Poland started in Eastern Europe in 1989 has also been a pioneer for other countries on this path. These power changes in Central and Eastern Europe have led to significant changes in political, economic, and social life. This revolutionary process means the democratization of the order dominated by the authoritarian regime. The main strategy that these countries have determined to adapt to the new order is to turn their faces to Europe. With this orientation to Europe, countries started to follow liberal policies and non-communist circles gradually began to arbiter in the country's administration. The most important reason why the Eastern European countries could not achieve stability and were in constant turmoil after communism is the difficulty experienced during the transition from authoritarian rule to democratic regime. At this point, the European Union had a serious and comprehensive task because the newly established Russian Federation was seen as a continuation of the Soviets. Thus, the fact that Hungary and Poland had already established communist political regime and centralized economies for years were factors that facilitated their possibility of

incorporation into Russia. However, the people, who had been complaining about the failure of the socialist order for years, were more supportive of the idea of getting closer to the European Union. In return, the European Union took action and followed a positive attitude towards the membership of Hungary and Poland. The transition to the capitalist system started to create a panic and pressure on the countries, because the Eastern Europe was showing movements to leave this order however it didn't eliminate the fact that it was still at risk. Therefore, although the EU displayed a positive attitude, it was not an easy process for Eastern European Countries to become members of the union. Throughout this process, the EU's primary priority was to keep the existing economic and political standards of the union. Accordingly, the EU provided economic aid and created the Copenhagen Criteria for the membership process. Thus, on the way to membership, Hungary and Poland started to experience rapid economic and political transformations. Especially in 1989, when Poland and Hungary gained their own sovereignty and independence, it started to turn its direction more towards Europe. In fact, the idea of EU membership was one of the most important steps representing the post-communist transformation, because the political and economic backwardness of these two countries, their geopolitical position and the environment of insecurity was making the EU membership an inevitable duty for them. Within the framework of this purpose, they completed their European Union membership process in 2004. The Union's consensus on enlargement policies by the Copenhagen Summit and the ensuing membership process to the Central and Eastern European countries, which were dominated by communist policies before, were the success of these countries have achieved at the end of their policy towards Europe.

In the last ten years, Hungary has attracted attention in the international arena for being the first country among the member states of the European Union to transition from democracy to "hybrid regime of electoral autocracy", as the European Parliament named it in its report published in 2022 (European Parliament, 2022). The victory of the conservative political coalition of two parties which was FIDESZ- Hungarian Civic Alliance and KDNP- Cristian Democratic People's Party in Hungary in 2010 was the first signal of the beginning of the transformation. This transformation has been accelerated by the reforms carried out by removing the obstacles in front of the executive power. The reforms made are not in a way that completely hinders the democratic order. The democratic institutions that existed in the past remained in

place, but the rights of minorities, freedom of speech or forming opposition, which were the basic elements of democracy, were tried to be eliminated. At this point, the function of the Parliament was limited to only approving the laws determined by the coalition. Likewise, they have eliminated the possible impediment of their reforms by regulating civil servants, such as retirement age or 'emergency dismissal'. Likewise, following the 2010 election, the powers of the Constitutional Court, which protects fundamental rights in Visegrád countries, were gradually reduced. We can see that the state has started to intervene in all policy areas by carrying out continuous reforms in this way. These changes, which emerged due to the fact that the ruling party had too much power and showed authoritarian tendencies, became a threat to the rule of law, EU laws and European Council standards by the European Union Commission and the Council of Europe.

In Poland, like Hungary, with the collapse of communism in 1989, transition to democracy was on the agenda. The country has met the requirements for joining the EU and NATO, within the framework of its economic and political reforms. Poland formed the possible path of transition to democracy with the anti-communist movement Solidarity in the 1980s. Then, the activists involved in this movement helped to establish many non-governmental organizations in the international arena by laying the ideological foundations of civil society within the framework of democratic thought. At the same time, some Solidarity members turned to politics and developed a policy of support for democracy from the international arena. Poland, which is one of the countries set as an example in terms of transformation to democracy, went into political turmoil with the victory of the Law and Justice party as a result of the 2015 election. The country, which was thought to be dominated by a liberal and contemporary order, was turned upside down by the victory of the Law and Justice party and enacted certain restrictive laws, especially on the judiciary and free press. So, it is possible to see the reflections of Soviet-style politics again with this election, which is called a significant shift to the right.

The cases of Hungary and Poland show us closely the link between democracy, the crisis period and the European Union. According to Diamond (2011) "hard economic times are supposed to mean hard times for democracy, particularly when it is new and fragile" (p. 17). Another question asked at this point is does being a

membership of the EU mean more democracy? During the candidacy process, the European Union follows a tough stance on democracy, but after membership it cannot provide sufficient pressure, sanctioning and control regarding the implementation of democracy and human rights (European Parliament, 2013).

In the fight against the Hungarian and Polish governments to protect the values set forth under Article 2 of the TEU, they have shown from time to time that the EU institutions have so far been not fully competent to act in harmony. The inadequacy of the mechanism implementing the violation procedure is clearly manifested. According to Article 7, the implementation of the infringement procedure required unanimity, but this could not be achieved. Thereupon, the Commission aimed to make Article 7 more effective by establishing the Rule of Law mechanism in 2014. This regulation could not be applied to Hungary due to political concerns. Despite the very harsh warnings of the Commission about this procedure against Poland many times, the Polish government ignored all warnings. The inability of the Commission to have an effect against such harsh warnings has caused us to question both the legitimacy of the Commission and its ability to supervise the rule of law. The expected veto of the Hungarian government against the decisions taken with Poland has started to raise the question of whether the EU system needs new tools?

The long-standing EU policy tool in this regard has been the “conditionality”. The values mentioned in the Article 2 have been carefully elaborated in detail to provide the possibility of participation in transitional states with formerly authoritarian rule. In particular, within the framework of Article 49 and Article 6, the Treaty on European Union describes the conditions and values that a country wishing to become a member of the EU must comply with. The main tool used in the implementation of issues such as ensuring democracy, rule of law, and human rights is the chapter system governing the great enlargement (Pech, 2015). In the EU, this process started with the accession of ten former communist states in 2004, continued with the accession of Romania and Bulgaria in 2007 and ended in 2013 with the accession of Croatia. However, the evaluation of democracy and rule of law criteria during these enlargements was not complete and consistent. In addition, as most countries qualify as transition countries, the thresholds for completing these criteria, like other countries, were low. As a result of all these processes, the Commission could not create a sufficient bridge between the

realization stages of the reforms expected from the candidate countries and the fulfillment of the Copenhagen criteria (Kochenov, 2004).

In this framework, answers to certain questions will be studied with this thesis. Within the scope of introduction, the background of the relevant debates will be introduced by giving place to the previous studies, the purpose and direction of the thesis. In the first chapter, the theoretical framework related to the study will be provided. Before examining the decline of democracy, it is important to understand what democratization is. After explaining the mentality of the democratization theory in general terms, the formation and characteristics of the de-democratization will be mentioned. After providing the theoretical basis, the third chapter of the thesis will explain the democracy building in the EU since its establishment. From the very beginning, the European Union offers democracy as a primary condition. In line with, the mechanisms that the EU has for the protection of democracy will be examined. The deficiencies arising in these mechanisms create maneuvering space for the emergence of authoritarian behaviors in the regimes of the member states. Therefore, it is important to understand the mechanism that EU provides for the continuity of democracy which is one of the major areas that this thesis will discuss. Finally, in the last part of the thesis, there will be an analysis of the situation based on the cases of Hungary and Poland. This study first will present how Hungary and Poland became Europeanized and the then, will examine the democratic regressions that emerged in these two countries together with the EU's reaction to this. Finally, this thesis will discuss the reasons on why the EU could not prevent the democratic recessions in these countries and recommendations for the future?

1.1. Aim and Research Question

The purpose of my research is to examine the transition in the governing patterns of countries to de-democratic order within the framework of the astonishing success of the right-wing parties in the European Union and to analyze the how the European Union deals with this process of disengagement to democracy, the tools and competence which has developed in this regard. In line with, thesis trying to answer these general questions:

- What tools does the EU have in the face of decline in democratization in member countries and whether these tools are enough?
- Does it have the power to deal with the reverse waves of democracy emerged within the European Union?

As a result of the remarkable crises in the EU in recent years, some political reactions have caused to changes in some existing regimes within member countries. In this regard, this study claims and investigate that "although EU has several tools for the democratization, it still lacks enough & efficient instruments to provide sustainability of democracy in new member states and to prevent democratic backsliding within the Union". In the context of answering the general questions, I will justify my claim with two case countries - Hungary and Poland -. The reason for choosing these two countries is that they are both distinctive examples of member countries which have shifted from democratic government to authoritarian in recent years. In this context, I will analyze how two different countries have been transformed into authoritarian regimes and how they face a backlash by the European Union.

Within the framework of my claims and research questions, I will also examine how the instruments of the European Union operate in the face of such a reversal in the most fundamental issue, and how it affects the EU integration process.

This thesis will widely benefit from the concept of *authoritarian equilibrium* which introduced by Kelemen. This concept is a political balance system that ensures the survival of authoritarian member governments within the EU. This theory provides a full-blown authoritarian balance that explains the factors that enable authoritarian governments to maintain their presence within the EU. Accordingly, in my research, I

will analyze how authoritarian-leaning governments in both Hungary and Poland use the dynamics which described in this theory in order to consolidate their rule. According to this approach, the three factors that support the EU's authoritarian balance are partial politicization, money, and migration.

Nearby, there has been a dramatic upsurge in anti-refugee rhetoric, media limitation and interference over checks and balance system in the Visegrád Group countries. These countries have adopted aggressive policies and actions in their politics recently. In the face of such a problem, all European governments have reacted the situation differently, but in this context, part of my research will examine how the Hungarian and Polish governments have shifted their democratic order. The tactics employed by the populist leaders of the two countries are one of the most obvious examples of how right-wing governments that adopt a competitive authoritarian approach communicate with their people within the EU.

1.2. Literature Review

The changes created by the Cold War, which ended after the collapse of the Soviet Union in 1989, continued until 1992 in Eastern Europe. With Michael Gorbachev's coming to the head of the Soviet power in 1985, the balances within the Eastern Bloc changed with the policies of *Glasnost* (openness) and *Perestroika* (restructuring). Within the framework of this pre-planned restructuring, a transition to a market economy was achieved with the aim of eliminating economic problems. In addition, it was aimed to separate the party and the state, which is the biggest step that should be taken on the path of liberalization, and also, democratization steps were taken by re-establishing the constitutional order within the framework of the rule of law and human rights. The tense environment created by the uprisings and opposition movements that started to emerge in Poland in the early 1980s, has moved to a different dimension with the USA's support of the anti-Soviet movements. Although not as violent as in Poland, pressure groups have increased against communist parties on freedom and human rights issues within the framework of the Helsinki Accord in Hungary. In this situation, the communist rulers of the Eastern European countries were stuck in a dilemma that was unlikely to be resolved. While they needed to implement more national policies to stop the uprisings that emerged within their countries, this orientation caused them to become more detached from Moscow. Therefore,

Communist party leaders began to democratize their structures in order to eliminate the atmosphere of distrust. However, the party order, which was accustomed to acting on behalf of the minority, could not sufficiently fulfill the demands of democratization after it started to shift to nationalism in its policies. Therefore, they were not very successful in removing the society from the tense environment they were in. With the end of the war, the communist regime implemented by the countries in that geography gradually began to disappear. The economic collapse caused by the disintegration of the Soviet Union and the bureaucratic congestions led to the beginning of changes in the Eastern European countries. The transition process that took place after Communism, which did not disappear as a result of a revolution, took place with varying degrees of reaction among the countries in the Eastern Bloc.

In recent years, the question of what democracy is, and which regimes should be evaluated under the name of democracy has begun to be examined and studied more closely in the literature. In this context, we have a lot of knowledge about the definition of democracy, what conditions are considered democracy, and the adequacy of practices, accompanied by many different thinkers and studies. In fact, although there have been great changes in the understanding of democracy after the “Democracy’s third wave” thesis (Huntington, 1991), there is still no agreement regarding the conditions for a full democracy. Accordingly, the classification of the emerging regimes in some countries continues to be a matter of debate. Some scholars use Robert Dahl's “polarchy” thesis when defining democracy. In this view, an environment where only free and fair elections are ensured is not considered a fulfilled democracy. In addition to these, it should be ensured that the institutions remain democratic by guaranteeing the freedom of expression and freedom of organization (Dahl, 1971). In this way, the policies to be implemented by the government will be shaped by the elections and free votes of the citizens. On the contrary, some thinkers explain the definition of democracy within the framework of Joseph Schumpeter's “minimalist” standards. In this direction, democracy is described as “institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote” (Schumpeter, 1942, p. 269). Even if we accept the conditions that are the most comprehensive among all the different definitions made for democracy, it is not possible to get a full clarification about it. As an example, Samuel Huntington describes democracy as a system where

“its most powerful collective decision makers are selected through fair, honest, and periodic elections in which candidates freely compete for votes and in which virtually all the adult population is eligible to vote” (Huntington, 1991, p.7). The point that should be noted in this definition is the part of “fair, honest and free” elections. Fair elections take place in many different countries that are called democratic, but what the concept of fair and free elections means and covers in these countries may vary. Although the definitions of democracy, which are explained by many different aspects, are accepted and applied, these definitions have recently started to be approached with suspicion.

Liberal democracy represents an order in which the rule of law and basic liberal values come together. Democratic systems are always in danger of authoritarian tendencies because democracy is inherently fragile. Such a period of democratic regression often occurs during a period of major economic or political crisis that puts questions about fundamental issues such as the rule of law. Especially after the Cold War, there was an atmosphere of thinking about western-style democracy, which provides freedom and equality, which is one of the principles of liberalism, as the most appropriate type of regime. However, throughout history, liberal democratic systems have failed to provide effective answers to the challenges they face and to protect the rights of citizens. In this context, there has been a considerable literature on democratic decline. It has been argued that the pauses in the practice of democracy are due to various reasons. For example, according to Inglehart and Norris (2009), the biggest reason for this is the populist and authoritarian opposition forces emerging within countries. They created three interactive pillars to explain the rise of populist-authoritarian parties, especially in Europe. In the first pillar, they argue that because of the complaints caused by the economic problems, social diversity and immigration issues, the conservative view has risen through the “silent revolution”. In the second pillar, they talk about the institutions on the supply side. People who support conservatives are changing their classical reasoning on important issues affecting the public. Thus, it is explained here that significant changes were introduced in the election rules and party competition mechanisms for voting authoritarian parties. As the last pillar, they talk about the theory of cultural reaction put forward by governance. This is the war against civic culture by populist parties that are gradually changing the democratic order.

According to Acemoglu and Robinson (2006), another reason put forward is the economic collapse and the resulting inequalities. In this context, they tried to answer some basic questions in their book on "*Economic Origins of Dictatorship and Democracy*". Why do some countries bring democratic institutions while others do not? And what once democratized states stabilize some while others turn to authoritarian regimes? The regime system in which democratic and authoritarian values coexist is not a new phenomenon. Even in the 1960s, there were countries with a multi-party system and regular elections, but not democratic. Particularly at that time, it was tried to remove the activities of the opposition parties in the political arena or to provide serious controls that prevented their organization. The tendency of governments to control in this direction has extended from that time to the present. Many academics have begun to question the fact that multi-party regimes have regularly developed electoral periods, allowing competition only up to a certain point, and not being completely sure of their fairness.

Many scholars argue that since the number of undemocratic and authoritarian regimes is large and extensive, the link between such regimes and democracy is fragile and uncertain. Countries in such uncertainty have led to the emergence of many concepts for the understanding of their regimes. Therefore, they have proposed different ways to define regimes that are not fully democratic but also do not have traditional authoritarian state characteristics. Juan Linz's book on *Totalitarian and Authoritarian Regimes*, which is worth an encyclopedia on this subject, examines the prevalence of authoritarian regimes in an order with a multi-party electoral system. As for political issues, people who have the right to speak seem to act in a way that respects democratic values, but they question the existing democratic order in order to solve the problem in any crisis. After the emergence of such a crisis, they form a hybrid system that disrupts the existing democratic system and draws political competition to their side. Related to this, Steven Levitsky and Lucan Way (2010) point out that government regimes can be *competitive* and *authoritarian* at the same time. While categorizing the political systems that states have, we need to put the authoritarian regimes on one side of the line and the democratic regime on the other. Dahl (1971) put forward seven criteria that must be met for a political system to be democratic. But, of course, it is almost impossible to find an example that will fulfill all the criteria Dahl's mentioned. Even in Western countries, which are set as an example to many countries in terms of

democracy, there are still unresolved issues regarding immigration, religion, and minority rights. However, since the fact that democracy is not fully met in some issues does not mean that the system is not democratic in general, the administration is considered democratic even in cases where violations occur. In particular, after the end of the Cold War, communist countries entered the process of transitioning to democratic rule. Adaptation to this new regime is, of course, a difficult situation to happen all at once. Therefore, Eastern European countries were considered somewhere between democracy and authoritarian regime. While some of the countries adopted the multi-party system and could not provide full freedom in other areas, the opposite situation was experienced in some countries. Even if the transition to a democratic regime has been completed, the consolidation of democracy depends on the liberality of institutions, a free civil society, and a certain level of welfare. However, as can be seen, the process of ensuring this continuity seems to be heading towards failure in the post-communist Central and Eastern European countries. In addition to these, it should also be considered whether the current changes are another challenge that the EU will overcome and continue its way, or whether it is a process that can lead to permanent and radical changes.

In fact, the point to be noticed while examining democracy is that the concept is tried to be explained through either the transition from authoritarian regimes to democracy or the process of democracy becoming ideal rather than a fixed definition. Therefore, democratization theories investigate the transition processes of countries to democracy and the difficulties they face in this process. In addition, it examines the cases where democracy is adopted and successfully maintained. Thus, democratization can be explained as the adoption of democracy by a society and ensuring the continuity of this situation. The fact that the democratic regime is fully implemented does not happen all at once. In order for the system to become fully functional, it must complete certain stages. In the literature, these stages are divided into three parts as "*liberalization*", "*transition*" and "*consolidation*" (O'Donnelle and Schmitter, 1986; Schneider and Schmitter, 2004; Karadağ and Usta, 2011). The democratic transition process begins to emerge at the point where the undemocratic regime begins to collapse.

Robert Dahl (1989) argues that the institutions he describes as full polyarchy belong to the 21st century system. In this framework, he mentions the existence of three developmental periods of polyarchy. The first development period is the period in which countries with polyarchy institutions increased, starting with the American and French revolutions between 1776-1930. However, he is stated that these first transitions ended after power changes in Italy, Poland and Argentina. The second period of development took place between the years 1950-1959 and he says that there was a significant increase in the number of countries governed by polyarchy in this period. In the third period, it points to 1980 and later, and states that the number of countries governed by polyarchy reached 50 with the transition processes and re-democratization in Latin America. In addition, Huntington (1991) says that there are three democratization waves and there is always a reverse wave after these democratizations. According to him, the first wave took place between 1828-1926 and then the first reverse wave was experienced between 1922-1942; He says that the second wave took place between 1943-1962, the second reverse wave took place between 1958-1975 and the third wave of democratization started in 1974. The democratization movements that started in Portugal, Spain and Greece in 1974 were followed by the political transformations that took place in Eastern Europe in the late 1980s and then continued in the post-Soviet period.

The transition process includes the elimination of authoritarian institutions and laws that are not compatible with the democratic order by making new constitutional arrangements (Pridham, 2005). As a result of these stages, after the transition to democracy is achieved, the consolidation of democracy is a process that spreads over a longer period of time and has more permanent effects. The consolidation of democracy marks the permanent implementation of democracy in the country, with the danger of its collapse diminishing, thus, it is the final stage of democratization (Kubicek, 2003). However, reaching this point depends on the historical and cultural structure of the country, as well as the magnitude of the problems from the previous regime. In this context, when we look at the transition process of the post-Communist countries in Central and Eastern Europe, we can realize that the consolidation of democracy is a long process because both economic transformation and nation-state building take place at the same time.

Regularly holding free and fair elections in the country is actually the first step of democratization. Then, with the deepening of democratic practices, practices such as individual freedoms, human rights and the rule of law get involved. Thus, the aim of democratization is not only limited to the establishment of certain institutions, but also extends to the adoption of the basic values of democracy in society. In this context, stable constitutional democracies become embedded in two ways;

"Internally, the specific interdependence of the different partial regimes of a democracy secures its normative and functional existence, externally, these partial regimes are embedded in spheres of enabling conditions for democracy that protect it from outer as well as inner shocks and destabilizing tendencies" (Merkel, 2004: 36).

Civil society is also one of the important factors in consolidation of democracy. In this respect, civil society plays an important role in the continuation of the change towards full democracy. Active and cohesive civil society strengthens the transformation of authoritarian regimes towards liberal democracy. Countries without civil society either remain hybrid or may cause democratic backsliding (Shin and Tusalem, 2007). From another point of view, to ensure the continuity of democracy, a regime other than democracy should no longer be accepted. However, democratization is a dynamic process that constantly risks being reversed (Tilly, 2007). Therefore, the important thing is not to establish democracy once, but to bring the established democracy to a position that will not be affected by reverse waves. Therefore, in order for democracy to be sustainable, it is necessary to institutionalize a fair and competitive electoral system, to maintain a certain economic level and to have a democratic political culture (Karadağ, 2006: 77).

1.3. Methodology

In this research, my aim is to examine the democratic backsliding that emerged with the rising right-wing parties in Hungary and Poland, which are members of the European Union, and to analyze how the European Union reacted in response to this transformation and to analyze where they fell behind. When research question designed with "how" and "why" questions, case studies are the very valuable method to be used (Yin, 2003). A case study is a methodological approach that involves in-

depth examination of a limited system using multiple data collection to gather systematic information about how it works (Chmiliar, 2010). On the other hand, a case study can be explained as qualitative research in which the researcher examines one or more cases in depth with data collection tools that include multiple sources such as observations, interviews, documents and reports (Creswell and Poth, 2017). In this context, basically, an examination was made on two same cases in the thesis. Depending on the research question, Hungary and Poland were chosen as the cases of the study because they are EU member states and experience the democratic decline in similar periods and forms.

There are some distinctive reasons for selecting Hungary and Poland as the case countries of this study. First and foremost, the direct violations of the EU's fundamental values in terms of democracy have been very frequently observed in these countries during the last decade. Moreover, European Parliament took decision regarding the violation of the EU values by these countries and such a decision was taken against the member states for the first time. Secondly, although the democratic backsliding processes of the member states are discussed a lot in the literature, in particular, for Hungary and Poland, there is still not adequate analysis regarding the EU's response towards these countries and its shortcomings.

This research is based on qualitative research technique. Consequently, research method called secondary research or desk research, which involves using already existing data, was used. The available data obtained as a result of the research have been summarized and compiled to increase the overall effectiveness of the research. In line with, at the beginning of the research, I will start with a critical reading of democratization, de-democratization, and Europeanization literature. In order to better understand the implementations of these theories over governments and European Union, I am going to make content analysis which is used to analyze a large number of contents within the framework of certain themes and patterns. Sources such as domestic and international scientific journals, articles, news sources, announcements and news published on the official website of the European Union, documents published by the European Commission, reports of the European Parliament, press releases have been examined and used as material.

At the same time, the two right-wing parties in Hungary and Poland are influencing society with their rhetoric in the process of consolidating the legitimate status of the government. Therefore, news, speeches and official documents were examined within the scope of common themes that emerged in this framework. In parallel, I will also evaluate the White Papers, press releases, agreements, recommendations, resolutions and reports of the European Commission, the Council of Europe, and the European Parliament for understanding their stance against democratic backsliding within Hungary and Poland.

Therefore, for answering my research questions, I will use the institutional viewpoint approach in order to investigate how Hungarian and Polish government and also EU institutions acted and shaped their policies and documents for this purpose. In order to support this, I will use historical process approach at the same time by examining both governments' official documents and also the Commission, the Council and the European Parliament's documents. In this context, first of all, the historical process of the formation of democracy in the European Union was examined. In the same way, the transition to democracy and the wave of democratic backsliding that followed, based on the post-communist regime period of Hungary and Poland, were examined.

In this regard, my thesis consists of five parts: In the first part, I will make introduction about the thesis's general topic and methods that I will use. In the second part, I will evaluate the theoretical approaches which are democratization and de-democratization. Also, I will touch upon the relations and connections in between these two processes. In the third chapter, I will explain the how democratization imposed within the European Union over treaties, reports, and other publications from its establishment to the present. Also, I will add the process of spreading democracy in the name of European integration and under all these processes, I will evaluate how democracy has begun to decline and how it has affected the integration process. The third part will be an analysis of the instruments of the EU. In this part, I will analyze how the EU's instruments, such as agreements, reports, and negotiations, are taking a course in the spread of democracy and against rising competitive authoritarian systems. At the end of this section, we will analyze how effective these actors and instruments are. The last two parts will examine and discuss how democratic

backsliding started and, as well as, how they received a reaction from the EU, especially through the examples of Hungary and Poland

CHAPTER 2
THEORATICAL FRAMEWORK

2.1 DEMOCRATIZATION

When we look from the past to the present from a broad perspective, the concept of democracy has become a term that guides many political, cultural, and social ideas and structures. However, when we consider the term democracy in the current contemporary order, we can realize that there are different understandings compared to the past. At this point, one of the main questions we should ask is how much the meaning of the term democracy is associated with the meaning after "The End of History" thesis written by Fukuyama? At the same time, the values of each country, historical changes and socio-economic conditions should not be ignored. In the twentieth century, the concept of democracy started to be explained from three basic points of view which are a form of government in which the jurisdiction of government is determined, the objectives of government, and the foundations and procedures for the establishment of government (Huntington, 1991). The definitions and conditions of democracy, of course, provide an important basis for understanding transitions to democracy. The transition from authoritarian rule and change began with the "Revolution of the Carnations" that broke out in Portugal in 1974 and especially with the collapse of communist regimes in Eastern Europe, a common point in the definition of democracy has begun to be reached. Accordingly, within the democratization studies many aspects of the definition of democracy have been used. As an example, while the concept of democracy's minimum definition is highlighted in some studies, it has been argued the connection between the sustainability of democracy and state's quality because democratic procedures are not the only element that is adequate for the creation and maintenance to provide democracy (Schumpeter, 1942; Schmitter and Karl, 1991). Therefore, while explaining the theory of democratization for a state or a union, we must remember that the term democracy does not have a fixed universal definition and the contexts and conditions can change the understanding of democracy.

When we define democracy, we should know that we are actually examining a comprehensive and cumbersome concept, so we need to see democratization as the process of reaching this concept. Therefore, before looking at the theory of democratization, we need to look at what democracy is, in which areas it dominates, and its conditions.

The origins of the term 'democracy' date back to about 2500 years ago to Ancient Greek. We can easily see that this term simply means that rule by the people and ensuring the participation of citizens, which emerged at that time, is constantly evolving, spreading across continents and is at the heart of most political events and decisions. In fact, the Greeks were not a community living under a single state, rather they were consisting of city-states. Therefore, it is difficult to establish a direct connection with today's modern democracies and Greek's understanding of democracy, because although the Greeks coined the term democracy by combining the Greek words from *demos* and *kratos*, which mean the people and power, they did not fully provide us with a model of democracy on which we can stand and apply on another nation-states. Although the Greeks dwell on individual rights, which are important to modern democracy, there is a clear difference between what this word suggests now, and the changes and implications made at that time. Despite, the aim of the Greek practice was to achieve the necessary balance and equality between the elite and citizens, the right to political participation remained mostly in the hands of the minority and make political steps with using direct vote which is completely against the representative government that has existed in the democracy understanding of nation states (Acemoğlu and Robinson, 2019:54-68).

The meaning of democracy in the modern sense has gone beyond the democracy exercised by the city-states or tribes in the past and has continued to change in its meaning with the formation and improvement of nation-states. In this context, Birch (2007: 110) asserted that "democracy is a system of representative government means in which the representatives are chosen by free competitive elections and most male citizens are entitled to vote". In addition to this modern description, many definitions of democracy have been made within the framework of different perspectives. For instance, while Joseph Schumpeter follows a one-dimensional approach by

emphasizing only on the “procedural” definition of the term democracy, Robert Dahl has added different dimensions to the definition by examining different aspects of democracy (Schumpeter, 1942; Dahl, 1972). Here we can argue that Schumpeter makes a minimal definition of democracy because he argues that if there is an environment where citizens can vote for parties which competing for the government, there is democracy there (Schumpeter, 1942). Unlike this, Robert Dahl took the only election-focused definition of Schumpeter a little further and added the issue of liberty to the definition of democracy and introduced the seven criteria of the democratic process. At the same time, Dahl called the modern understanding of democracy as “polyarchy” and defined polyarchic democracy as a system in which freedom of expression, freedom of the press and freedom of form and join organization exist in addition to free election within a state (Dahl, 1971). These freedoms pave the way to the elections be freer and fairer. It is obvious that elections held without these freedoms will not be fair, because the opposition has the right to freely express its opinions and to join unity. Consequently, Dahl extended Schumpeter's definition of democracy which is considered narrowly, by adding freedoms in the political sphere and revealed the definition of polyarchy. However, according to Philippe C. Schmitter and Terry Lynn Karl the concept and definition of democracy, expanded by Dahl, did not reach beyond a procedural and minimalist definition which made by Schumpeter. They formed the *concepts* to explain the relations between rulers and society, *procedures* that significant for the regulations and rules to ensure the continuity of democracy and two operative *principles* that enabling democracy to occur and functions (Schmitter and Karl, 1991:4-13). At the same time, they added two new basis over Robert Dahl's seven conditions of the concept of polyarchy and widened boundary of the democray’s definition to “by the consent of people” to an extensive “by the contingent consent of politicians acting under conditions of bounded uncertainty” and, within this framework, they made rectification over the existing seven items with the first principle while adding the prerequisites of the all articles with the second newly added operative principle (Schmitter and Karl, 1991:8-11).

When we think about all these definitions of democracy, we see that throughout the long history of democracy, everyone has put forward different opinions on certain foundations. In this context, “democratization theory” has become a research subject outside of democracy and it is obvious that we will not encounter a single definition

or process when we examine it. This process explains the evolution of an undemocratic political regime towards a democratic order in which basis on regular free and fair elections, freedom of the press and expression, and the rule of law. The reason why this idea of democratization emerged as a process is that it consists of practices in many fields and the question of exactly what started the process or whether it is a transition that ends at a point or continues continuously has not been determined. Correspondingly, this process may occur with an uprising against an authoritarian government, an invasion, or the declaration of autonomy under its repressive state auspices, at the same time, this transition can happen suddenly and very drastically with the complete change of the system or in a slowly and gradually changing process. In the past eras, the issue of how to create a democratic society was more on the agenda than discussions about the exact meaning of democracy. Thus, it was believed to be a political order dominated and governed with tolerance and justice by a middle class who have a certain level of education and financial resources. Accordingly, democratization was accepted as the realization of these accepted conditions, so the existence of a modernization transformation, where the economic and social order changed, gave the communities the opportunity to be democratic.

The wave of democratization that began in the mid-1970s caused a severe alteration in traditional views. Important steps have been taken regarding civil and political rights and freedoms, which are limited even in some countries where it is believed that the conditions necessary for transition to democratic order are lacking, and not only that, the realization of free and fair elections has been determined as a target point. In other words, all these changes that emerged with the wave of democratization mean that democracy has now turned into a phenomenon that can be revealed by people with leaving the practice applied only by developed countries in certain areas. In his book "The Third Wave: Democratization in the Late Twentieth Century", Samuel Huntington explained and interpreted the phenomenon of democratization with three waves that emerged especially from the nineteenth century onwards. Huntington explained the concept of democratization as the transformation of a nondemocratic state into a democratic state by evolving with democratic values in a specific time, however, in some waves of democratization, old systems may partially put into practice the values of democracy and secularism, even if they did not become fully democratic (Huntington, 1991). At the same time, Huntington took a Schumpeterian

‘Democratic Method’, from *Capitalism, Socialism, and Democracy*, which based on the influence of the majority of the people’s vote in the decision-making process in order to contextualize this democratization process. Huntington's study revealed that there are three different waves, one of which is different from each other. The first wave started in 1828 with the American and French revolutions and to slow down arounds 1926 with the end of the First World War. According to Sunshine, this wave seen as establishment of the ‘minimum democracy’ which was a period when more than half of the population had a franchise and periodic elections were held (Huntington, 1991). Then the first reverse wave that started with Mussolini's March to Rome in 1922 continued until 1942, and most of the democracies that emerged with the first wave of democratization lost their democratic order and conceded to communist, fascist, or dominant military regimes. Henceforth, there was a short wave of democratization that began with the victory of the Allied Powers in World War II. This victory triggered democratization in countries such as Germany, Italy and Japan, and halted the advance of democratic institutions in countries under Soviet pressure such as Czechoslovakia and Hungary. The idea of democratization, which was suffering again by military interventions in the early 1960s, paved the way of the third democratization wave with the “Carnations Revolution” that broke out in Portugal in 1974, and the wave continued to spread with the loss of influence of socialist governments. Overall, the idea of being democratic started to be an idea that spread all over the world. In fact, when we look at all these changes, we understand that the phenomenon of democratization does not take place in one direction and at the same time, it is obvious that these steps are not stay stable forever because every attempt to transition to a democratic order may not be able to create a quality formation in which all the conditions are present. In addition, Huntington introduced the “two turnover tests” to measure whether newly established democracy is proceeding. According to this test, if the party elected with the first election after the democratization decision loses the next election, expected to transfer power to the winning party without any problems and, if this process is achieved without breaking this chain of change, democratization process is end and will be consolidated in a country (Huntington, 1991). Two main characteristics of democracy underlie this test: the first is that democracy can continue with the existence of fair elections, and the second is that the elected people transfer the administration with their consent. However, this circumstance for democratization is lenient or rigorous for some governments.

At the same time, there are conditions that initiate the democratization process or allow it to be successful in the ongoing time. Different thinkers and political scientists have taken different approaches to these triggering conditions. One of these approaches emerged after Lipset's (1959) "*Some Social Requisites of Democracy*" article which is regarding reasons in order to explain democratization process influenced the studies in this field and is considered a pioneer in this respect. Lipset has revealed two characteristics of a society ensure the continuity of democracy which are economic development and legitimacy. But before all this, he thinks that understanding the situation and conditions that constitute a democratic society is one of the most important points in understanding this process. In this context, in addition to the institutions established within the framework of democratic values, the cultural basis that led to the formation of democracy should not be overlooked (Lipset, 1959).

Contrary to those who think that the social attitude that emerged with the understanding of democracy developed over Christian and Jewish-based European culture, he argued that the political and economic developments in Europe revealed democratic thought without a religious basis. Especially, in countries where social disorganization and impoverishment occurs, we can see the greater tendency to switch to a new order, consequently, it confirms the thesis that economic factors trigger the democratization process. Based on the descriptions of Schumpeter (1942) and Weber (1946), Lipset defined democracy as a political system that exists within the framework of legal rules in a society that has very different views, and an order in which all segments of the society freely participate in determining government administrators, and in which interest groups have a contribution in decision-making processes (Lipset, 1959:71). Within the framework of all these definitions, he defined the realization of democratization with the elements of "industrialization, wealth urbanization and education" by establishing a connection with economic development. Additionally, he mentioned that in the democratization of a country, the problem of legitimacy, which is related to the integrity and appropriateness of the institutions that make up the political system, apart from economic development, affects democratization. In summary, Lipset thought that there was a positive correlation between democracy and economic development and made clear his thesis, especially through the differences that emerged in his comparisons between Western European

countries and Latin countries. In addition, Huntington openly embraced Lipset's modernization theory and stated that the bond he established between democracy and economic development was more effective than other social and political ties. Countries with moderate economic development are more likely to transition to a democratic order than countries with economic backwardness, so a state of backwardness arising in economic issues prevents democratization (Huntington, 1991).

In fact, while examining this process, we are looking for answers to certain questions such as why, when, and how. Regarding why transformation occurs, O'Donnel and Schmitter (1986) examined the distinction between hard-liners and soft-liners inside the regimes, the latter behaves more prone to negotiate with the opposition by encouraging liberalization and they argued that this separation underlies the transformation. For that reason, it was thought that the transition process proceeded in line with the bargaining indexes between the political elites and the opposition. They thought that there was not a major division between liberalization and democratization and the conditions that led to democratization were not only dependent on economic or cultural conditions. During this transition, they stressed the importance of critical choices made by the elite at a key point. It would be wrong to expect a complete and monotonous change in an order headed by an authoritarian government. In such a structure, it is possible for it to form a coalition outside the government by having a voice for change.

Moreover, Adam Przeworski and Fernando Limongi (1997), who worked on the democratization process through comparative politics, studied whether the emerging democracies were linked to economic developments, and the transformations that took place in Europe were not an exception, in line with, they examined the democratization processes would continue or not in Europe within this perspective. They argue that democracy can occur in countries that are not economically developed sufficiently but economic problems are more likely to destabilize democracies and leave their power to authoritarian regimes. Thus, economic development is not in the first place for the emergence of democracy in a country, however, economically developed countries' democracies are stronger than less developed countries. Furthermore, Adam Przeworski, in his article titled "*Some Problems in the Study of the Transition to*

Democracy", revealed that it is possible for an authoritarian regime to evolve into democracy and analyzed the dynamics and factors associated with process. This transition from authoritarian to democratic order has been considered as a two simultaneous but at the same time autonomous process: the first one is the liberalization process that started with the collapse of the authoritarian regime and the construction of democratic institutions (Przeworski, 1991). Przeworski believes that democratization steps can be taken by eliminating the problems caused by income differences between capital owners and workers, and further, closing this gap also helps ensure the continuation of democracy.

At the same time, a similar interpretation of the order, which functions in parallel between democratization and economic development, created by Lipset, was made by Daron Acemoglu and James Robinson (2005) in their book "*Economic Origins of Dictatorship and Democracy*". In the book, some questions have been answered about the emergence of democracy, its progressions and how it can be consolidated after the establishment of a democratic society with making connection to political economy. In answering all these questions, they have put forward an application within the framework of a technical analysis that can guide future studies. They argued that the beginning of the democratization process is related to conflicts that arise in situation where the minority is rich and the majority is poor (Acemoglu and Robinson, 2005). Accordingly, the rich do not support the transition to democracy against the threat of redistribution of what they have, but the democratization revolution may occur in times of war or economic crisis by the poor is the greatest threat to them. As the democratization process begins in societies where inequality is extremely high, voters expect changes in the distribution of rights and economic incentives on a large scale, so elites struggle for the continuity of undemocratic societies where there is no equality. As part of the approaches made through all these conclusions, they showed that all countries that started in the 1960s and reached a certain point economically in the period up to 2000 managed and maintained the democratization process very well. But even though they have examples that confirm this entire process in terms of economic approach, they argued that this change, in contrast to the democratization that Lipset explained through economic development, is no guarantee that it will not transform to an authoritarian order again (Acemoglu and Robinson, 2005).

In contrast to all these arguments, Barrington Moore (1966) argued that political changes that begin with the industrialization of societies will not only result in democratization, in short, every modernization or access to a certain point in terms of economy will not result in democracy. These economic developments are changing the social classes that exist in society, in line with, he argues that a regime can emerge within the framework of a changing class order. In addition, Moore, who defended the link between the economy and the change of social classes, conducted reviews through countries, and as a result, the development of the economy in countries such as Britain or the United States gave rise to capitalist democracy, while the same developments emerged as authoritarian regimes in countries such as Germany or Japan (Moore, 1966:413-432).

Besides, Rustow (1970) also opposed Lipset's economic development-based perspective. He believes that these are not to be perceived as preconditions for democratization, however, all these advocated developments will occur after democracy is fully enacted. Predominantly, studies assess the causes of democracy and democratization without any separation. In the article of "*Transitions to democracy: Toward a dynamic model*", he pointed out that "the factors that keep democracy stable may not be the ones that brought it into existence: explanations of democracy must distinguish between function and genesis" (Rustow, 1970:346). The situations that trigger the start of all this democratization process are values that will change from country to country in terms of structure and culture. At this point Rustow explained the democratization process under four stages. Firstly, he argued that there was only one "*background condition*" underlying all these crossing, which is national unity, it means that the people recognize that they have implications in the political sphere in order not to include separatist movements and thoughts, second period called "*preparatory phase*", at this stage democratization, which has a dynamic structure, arose with long and abortive conflicts. Herein, the struggles which based on structural values are likely to end in solutionlessness, so instead of continuing the war, they will come together in the result that is closest to their own interests. However, the decision on the transition to democracy does not occur directly after the occurrence of these first two situations. For this reason, Rustow mentioned the existence of a "*decision phase*" in which after these two stages, the process for transition is evaluated by the political elites with examining the cultural and structural aspects. In addition to

adapting all these democratic procedures to management, lastly, "*habituation phase*" that requires adapting all new values to the population.

Nearby, *Democratization: Theory and Experience* book, which is written by Laurence Whitehead, examine democratization theory from an "interpretivist" perspective and reveal out several aspects of democratization. In fact, he explains how democratized third wave countries do not progress within the framework of the conditions put forward by the theory. According to his, democratization is not just explained only by procedural definition, it is an entangled process in which emerge with the integration of rule-based participatory policies and social construction that continue in the long run but without definite end (Whitehead, 2002:27). The reason why this process is so complex is that the bad-tempered elements existing from authoritarian regimes aim to change not only at the government level but also at the societal level. In addition, the process does not have a long and definite end time just because democratic values do not make continuous progress while putting them into practice, therefore, it is normal to have periods of retrogradation and stagnation from time to time because bottom-up changes are troublesome. While explaining the theory of democratization, he argued that an institutionalist approach is not adequate because this process of change is not limited to official institutions. Even if civil society cannot have a direct impact on political outcomes, it should encourage the public to legitimize these institution's act and decisions. As well as, Whitehead, adding on the Rustow's (1970) definition of democratization, argues that this process is not limited to official institutions, and in fact sees this process as the construction of a multifaceted social order. In a society where the democratization process has started at a certain point, it is not known exactly what the process will end with or what will happen during the process, however, the transition is shaped within the framework of the specific goals and expectations of the institutions and civil society's understanding of democracy.

In conclusion, the concept of democracy has its origins in ancient times. This concept has also been considered as a subject of study in many political, economic, and social fields. In addition to the concept of democracy, which has been put forward by many different political scientists with different characteristics, how communities turn into this form of government and ensure their continuity has been considered as a separate research topic. Democratization is defined as an extremely complex process of

transformation, beginning with the transition of an authoritarian political system into a democratic system. Accordingly, different schools have tried to explain the democratization process with various points of view. Each different perspective emerged in different historical and cultural contexts and tried to find answers and solutions to the questions raised by democratization within the framework of their unique traditions. In fact, all theories of democratization present specific arguments by combining factors that could induce the transition to democracy. Some of these approaches are based on economic development, while others place civil society or cultural values at the center of democratization process. In fact, when we look at all these theories, we understand that democratization is a term that is constantly in motion. It cannot be explained in one direction, it can also vary depending on the situation and circumstances.

2.2) De-democratization (Democratic backsliding)

Basically, apart from the definitions of democracy and autocracy, there is a very large academic literature on democratization, consolidation of democracy and the collapse of democracy. After the third wave of democratization, the unstable environment, and the existence of hybrid regimes with authoritarian rule have come to the fore in the research agenda, apart from creating a new environment in the field of politics. When we look at many examples in history, countries have made a lot of effort and endeavor to get into a democratic order. Within the framework of the fluctuating dynamics of democratization, countries sometimes failed to maintain their long-term continuity and faced decline in democratic values as a country's adoption of democracy once did not mean it would never return. Especially, recently, the concept of democratic backsliding has been widely discussed from different angles. These setbacks, which damage the ties between society and the state, may not lead to the collapse of a democratic regime but it can decrease the quality of democracy. If it is necessary to define de-democratization in the simplest way, the definition can be the retroactive weakening of certain rules such as competitive elections, freedom of speech and accountability of government. On the other way, transitologists who have studied the transition processes of most countries assured that the simplest method of proving the existence of democratic backsliding is the influence and validity of free and fair elections. The simplest example of this is Samuel Huntington's two consecutive electoral periods in

which power changed smoothly, proving the credibility of democracy (Huntington, 1991).

Most political scientists have always come together at a common point that democracy has multiple dimensions, but instead of having a single idea in terms of its functioning, minimalists only comment on elections, while maximalist thinkers touch on a more conscious society, social order, and economic conditions. At this point, trying to understand the issue of de-democratization, it is necessary to be in the middle of two thoughts and to examine the reasons for the sliding back through the existence of competitive elections, as well as economic conditions and the accountability of the government because when talking about a backsliding, it can happen with the disappearance of democracy completely or with the gradual weakening of the institutions in terms of democracy over a period of years. However, most debates that began in the 1990s were influenced by the Huntington and Fukuyama's arguments (Huntington, 1991; Fukuyama, 1989). While all these studies focused on emerging new democracies, the democracies that led to the consolidation of the changes towards authoritarianism did not pay much attention.

On this topic, the democratic backsliding most clearly and comprehensively covered in the book of *The Breakdown of Democratic Regimes: Crisis, breakdown, reequilibration* by Juan J. Linz in 1978. In the book, Linz emphasizes the importance of preventing the influence of unregulated and unfaithful individuals or institutions in society to prevent democratic leaders from losing their legitimacy. Before moving on to the factors leading to the democratic decline, Linz clarify the conditions in order to define democracy which are freely organizing on political issues; to have freedom of expression as well as fundamental rights and freedoms; fair competition between regularly changing leaders and a political order in which all segments of the society are included (Linz, 1978:5). When we look at history, while most democratic backsliding were seen as a revolution after the collapse of the regime, Linz argued that this word was an incorrect term for explaining this process and these changes should be seen as a coup d'etat or a so-called fair change of power. He has determined that the main actors of the breakdown of democracy in short periods are the choices made by people and politically the wrong steps and evaluations. In addition, he is seen as the most important step in terms of ensuring the continuity of the management is related

that the newly established government's first agenda. All democratic government leaders should always be prepared to face the effort of shifting the support of the loyalty segments of the society to the opponent once the regime is to be works perfectly. The rise of such opposing voices undermines the stable order provided by the government, forcing the rulers to use force, and leading to a decrease in support from the public. However, in contemporary communities, the government acts more by relying on the support of its supporters, those working under the party, and bureaucrats, rather than using direct force. Consequently, disloyal opposition forces tend to implement illegal acts under certain legal means rather than engaging in one-on-one debate with governments (Linz, 1978).

Nevertheless, Nancy Bermeo (2016) has conducted a study on how democratic backsliding consist of different processes. These different varieties appear as proof that the frequency and forms of the transformations change over time. The fact that backslides occur at different speeds and shapes affects the result that the country will reach at its destination point. For instance, in an environment of very strict and rapid changes can more likely cause transition to an authoritarian order, however, only gradual alterations in certain institutions can result in intervening regimes that are neither fully democratic nor fully authoritarian. Accordingly, Bermeo has revealed six different forms of backsliding, such as the slow and unnoticeable changes that have occurred in the contemporary order, from the one that was a fully authoritarian regime through the speed of transformation with *coup d'etat*, however, he basically argues that the traditional executive movements cause changes, but he thinks that such changes are not very common anymore and are replaced by *executive aggrandizement*, besides, Bermeo cites *election-day vote fraud* which means that manipulation over votes, unfair vote counting and ballot box fraud as another reason for the decline in democracy, likewise it has given its place to *strategic harassment and manipulation* in the modern order (Bermeo, 2016: 6-8).

In addition, the de-democratization movements that have continued since the Cold War period follow a different course today's functioning. Since the changes did not occur as rapidly as before, when authoritarian-leaning parties came to power within the framework of the elections, all this change is shown as under the view of legitimacy that it is approved by the public. Hence, Bermeo considers that the number of frauds

that will occur on election day has decreased during this period, so that the most common form of de-democratization is manipulations over election. This manipulation focuses directly on making an impact on the voters without changing the election result directly. In order to create such an effect, they also engage in attempts to intimidate opposition, such as restricting use of media, limiting funds for campaign regulation, and preventing voter recruitment. Since the efforts to prevent all this change in government did not take place on the election day, a fair environment was achieved on paper.

Efforts to prevent all this opposition from winning an election are also very connected with executive aggrandizement which has been on the agenda lately. This stage is the way a party or leader gradually takes control of the management system. Without transferring the government to another party for a long time, "elected executives weaken checks on executive power one by one, undertaking a series of institutional changes that hamper the power of opposition forces to challenge executive preferences" (Bermeo, 2016:10). All these insidious steps take place by targeting institutions or society separately, so it may take time for people to realize that there is democratic backsliding. In addition, parliaments with opposition parties are actively present in order to maintain the atmosphere that the order has not changed, elections are held regularly, or the media gives place to criticism, but every action against the existing government is punished in certain frameworks under deterrent policy.

In addition, the democratic backsliding model revealed by Levitsky and Ziblatt's (2018) *How Democracies Die* book is another important approach. The main point in the book is that democratic orders are now regressing within the framework of movements that are under the name of democracy, but have nothing to do with democracy, rather than military coups. It is stated that many of the efforts of governments to overthrow democracy are within legal limits, so they will not be recognized by the legislature and will not be seen as a threat by the courts. Therefore, authors argued that it is necessary to prevent possible dictators from approaching power for democracy to survive. However, in order to prevent authoritarian governments from taking power, the authors advocate neither the closure of parties nor the denial of candidates to participate in the election, the responsibility for filtering authoritarian tendencies is left to the political parties and leaders which they called

“democracy’s gatekeepers” (Levitsky and Ziblatt, 2018: 47). Just like Nancy Bermeo's (2016) term “distancing”, mainstream parties, who are seen as the guardians of democracy, expected to be successful in isolating extremist discourses and initiatives. These parties in distancing duty can apply in four ways while doing this. Firstly, during election periods, they can keep those they see as authoritarian in the candidate lists formed by the parties away from the list. Secondly, they can weed out groups of radical-minded people, otherwise, expel or eliminate those with anti-democratic opinions from party membership. Also, thirdly, they should refrain from forming alliances with parties or candidates that do not have democratic values, neither to win elections nor to establish a party, because established partnerships in this way can cause greater damage to the structure of government and society in long-term processes. Lastly, they must exclude radicals from the system entirely, rather than legitimizing them by granting rights or some privileges.

At the same time, they have demonstrated four behaviors that will help us recognize to shifting authoritarian behavior, influenced by the work that Linz has revealed. All these behavioral steps aim to eliminate each individual value of democracy. The first behavior is *rejection*; it is in the form of actors rejecting existing rules in a democratically progressing order or reducing their commitment to decrease these values. At this point, law, and law enforcement agencies such as courts, and tax institutions have been determined as targets. All these institutions and organizations are called “referees”, so their job is to supervise the approval and implementation of laws and investigate what citizens and public employees do in accordance with the law for prevent cheating especially in executive and legislative branches (Levitsky and Ziblatt, 2018:135). However, while a liberal government supports these institutions, a government that has started to slide back democratically may resort to various methods such as blackmail and bribery to eliminate these institutions or recruiting from their own advocates. Besides, the same ways that are used for referees can also be used for the judiciary, but at this point, making changes in the independently established high court is a very challenging process. First, people with as much critical thinking as possible can be deprived of their power and replaced by judges who are sympathetic to the government, but they can also resort to expanding the courts because it is not easy to replace or dismiss judges. By increasing the individual capacity of the court, the government can appoint new judges loyal to the government decisions. After the

government has control over the referees, the agenda now shifts over the opposition like media, politicians, or businesspeople.

In line with, the second behavior has to do with *denial of opponent's legitimacy*; at this point, the party or leader with an authoritarian tendency wants to completely eliminate the opposition by making accusations that their opponents are acting against the constitutional order, threatening the security of the nation with no evidence in some cases. The government's follow-up of these institutions and media outlets ensures that it both avoids the sense of responsibility towards society and dispose of the contrary criticisms (Levitsky and Ziblatt, 2018:141). Thus, they can implement their decisions within the framework of legitimacy without worrying that they will act against the law by the executive body because they are not facing any criticism and obstacles from the referees. Finally, the government is targeting businesspeople as it has the capacity to finance politicians and the media. Company owners who are against government opinions may lose their contracts and affiliates with the state and damaging their commercial identity within the framework of fraud and tax cases due to the government accusations. In fact, it is obvious that this behavior will have dire consequences in the future. While the effectiveness of the opposition in a democratic order is the most important indicator of the successful operation of the system, their silencing and loss of financial connections in the democratic backsliding is the biggest signal that the government will not leave the administration for many years. Because of all these obstacles, the opposition begins to believe that they will no longer be able to win and be successful.

The third type of behavior, on the other hand, tends to *tolerate or encourage violent behaviors* occurring within the country or to cooperate with persons or groups who illegally possess weapons and carry out attacks and they do not tend to condemn the subsequent attacks. The last behavior is the tendency of the *restricting civil liberties*; at this point, the leader or party with an authoritarian tendency tends to prevent or punish any criticism and protest that may arise against the government, especially by putting restrictions on the media. Likewise, media organizations with anti-government views are imposed censorship by charging heavy fines, lowering their broadcast speeds, or closing them under certain excuses to prevent radical criticism. In addition, they complicate and hinder the conditions for the formation of any civil or political

institutions that may be opposed to their political implications. In fact, the purpose of maintaining the power of the government underlies all these behaviors.

Research on the decline of democracy is still ongoing. For example, Przeworski in his book *Crisis of Democracy* (2019) attributed the departure from democracy to the polarization between societies in the West. Przeworski continued his "minimalist" definition of democracy and developed a definition of crisis upon it. Crises arising in the field of politics are generally the occurrence of problems within the traditional rules or institution, and if a country enters such a situation, it can change the established order according to its decisions. In democratic regimes, crisis emerges as the weakening of traditional democratic values, damaging the fair voting system in the country, increasing public conflict and the emergence of insecure groups trying to overthrow the political administration. In line with his Schumpeterian understanding of democracy, therefore, he has taken as his focus the changing orders as a result of threats to the existence of a competitive election in which the power changes regularly. In addition, the institutional structure of a state determines the levels and consequences of conflicts and crises in democracy. Hence Przeworski (2019) argues that democracy functions perfectly when the danger posed by institutionalized forms of conflict is neither too little nor too great. This means that when the elections are over, they have little impact on people's lives, that is, when they realize that the elections do not cause a change, or when there are heavy consequences for the losers because of the election, a crisis environment occurs for democracy. Accordingly, especially when the losers realize that the decisions taken by the government are within their own interests, they resist the government, which can reach up to violence. Besides elections, the success of governments in the administration is very important for the continuity of democracy. To ensure a stable environment, the government is obliged to please the majority, but in doing so it must not push the minority out of the complete system, because the existence of an excluded community creates an extreme degree of polarization in society and after such a situation it is more difficult to create a popular set of policies.

The period called as the crisis, is used for situations where uncertainty still continues, and there is no exact conclusion. At this point Przeworski supported his thoughts with Gramsci's approach to the issue of crisis in his work titled *Prison Notebooks* (1971).

At this point, we can relate the Gramsci understanding of crisis in the liberal international order from various points. Firstly, he argues that crises exist as a process and should be viewed from a broad perspective. Rather than examining the crises that occurred in the 1920s and 1930s as separate critical periods, he regards as a long-term transition by taking capitalism into the center because with the increase in per capita income, societies evolved into a more democratic order and democracy was consolidated. Accordingly, Gramsci concluded that the periods of democratic backsliding were linked to the periods of economic crisis in the society and stated that in such a period of crisis, at the same time, the parties maintained and took their past national, religious, and cultural values into the agenda (Gramsci et al., 1971). Along with all these, the fact that democracy is in crisis can be understood by the decrease in support for the established government, the decrease of public trust in the government and as Linz said (1978) the deterioration of public order with the failure of democratic institutions to fulfill their functions. However, in explaining the decline of democracy, Przeworski ignored the existence of fake news, manipulation and election fraud by the party or its leaders.

Furthermore, Dr. Yascha Mounk (2018) has written a comprehensive and groundbreaking book on democratic decline in the developed world with his book *The People vs. Democracy: Why Our Freedom Is in Danger and How to Save It*. Mounk argues that democracy is being dissolved, mainly by linking the rise of authoritarian-leaning populist thought in politics to the extreme collapses in the economic sphere and mass migration movements. The forces contrary to all this liberal order and far from democratic thinking aim at the disappearance of democratic values that have been consolidated through certain struggles throughout history, instead of targeting only existing institutions. The traditional liberal order is such that within the framework of certain checks and balances mechanisms to prevent a fixed party collects too much power and becoming a single voice. However, groups that consider reducing the influence of democratic values deny the existence of minorities and think that the representation of the will of the people is not required. All these like-minded groups have developed similar methods to impose themselves, for example, by making their stances more violent towards their opponents, gaining a majority of their cronies in courts and electoral commissions, and taking control of the media and eliminating opposition (Mounk, 2018:18).

Professor Mounk attributes the liberal order to find itself in crisis for different reasons. The first of these is economic stagnation or collapse. The acceptance of a capitalist economic order within the framework of the idea of democracy meets various expectations by the society, but the failure to fulfill the promises made by this system triggers the emergence of opposing ideas. The second important point is the widespread use of social media. Now, the number of audiences that ideas reach has increased enormously compared to the past, especially with the use of various social media. All these possibilities increase the speed of people coming together within the framework of the ideas put forward, and at the same time, it increases the speed of refuting any opposing thought, thus preventing the society from thinking differently. Another factor is the identity crisis. Especially the identity discrimination and propaganda made over the increasing amount of immigration in recent times are damaging the democracy phenomenon that exists in the liberal order. As the public no longer tend to think liberally, and at the same time, liberal democracy is slowly disappearing as it moves away from democratic practices among the elites. Instead, we see the "rise of *illiberal democracy*, or democracy without rights, and *undemocratic liberalism*, or rights without democracy" (Mounk, 2018:24-25).

Conversely, Krastev and Holmes (2020) explained the global democratic backsliding with the concept of "imitation". In this context, the basis of illiberal ideas that started first in Russia but then continued in Hungary and Poland rooted that after 1989 triumph of liberal ideology because, at that time, countries had to imitate the west to survive, and they argue that this is the result of the current backlash. After communism collapsed, the liberal order became the only option. Liberalism meant keeping up with the modern order, as a unipolar order was formed. Thus, institutions and values in every part of the world have introduced the idea of imitation within the framework of evolve into the shape of the West. For post-Soviet countries, imitation was a more difficult process because they were faced to an oppressive and imposing regime and after, there was pressure to adopt the idea and institutional structure referred to as a ideal and modern ideology. They have been argued that the psychological reaction of society against liberalism emerged as a result of all this pressure of change. Finally, they said that the democratic stagnation seen in the US under Trump presidency was the beginning of imitation of the East, for that reason, the authors argued that after the

economic crisis that emerged in 2008, liberal thought should be included in alternative models.

In conclusion, within the context of the studies on democracy, it is clear that most people have certain ideas and opinions about democracy. Even if the society lives in a democratic order or the experience of democracy is very new or not at all, they have the capacity to understand basic democratic values. Throughout history, there has been a view that the democracy regime is the best regime for people to live under equal conditions. Most political scientists who studied the alteration between these regimes thought that when democracy was the only game in town, the continuity of democracy would be maintained (Przeworski, 1990). But the reality is that, quite different from all these demands, worldwide democracy is declining, personal rights and freedoms are threatened, and leaders who displaying authoritarian tendencies are rising.

De-democratization does not have to emerge as a result of a military coup or revolution and proceeds in small steps involving political changes. That is, democratic elections, rights and freedoms, and government accountability are destroyed by years of erosion rather than overnight. Democratic decline in industrially developed countries occurs mostly within the framework of economic stagnation and social polarization. Although there are assumptions and findings that democracy is in crisis, there are no standards sufficient to objectively explain. But in most cases, such a situation manifests itself because of democratically elected leaders' decisions and actions taken by mainstream politics. Because it may be revealed that even the constitutional court, which has been amended duly, however, its amendments are not constitutional. Underlying all these efforts is the desire of the actors on duty to restrict competition by changing the political system to prolong their stay in power and increase power over decision making. However, it is not easy to set the exact starting point about this backsliding process because it does not occur with sharp intervention. Even the political conflict over basic terms and parameters can make it impossible to come to a common idea. Just as we cannot determine the exact time of this change, it does not show the same indications in all political systems. But the goal of backsliding is generally the same, although it has also occurred in different ways. However, when we look at the societies of the world standing under different conditions, neither income level nor successful repeated elections are in a sufficient position for the continuation of democracy. The

decline of the idea of democracy and its transformation into a major crisis extends from the USA to Europe and Asia.

CHAPTER 3
MECHANISM OF THE EU FOR PROVIDING AND SUSTAINING DEMOCRATIZATION: ACCESSION PROCESS AND MEMBERSHIP

3.1 Policy Documents and EU's Democracy Building

There are many states and international organizations around the world work to promote and maintain democracy by putting the issue of democracy at the center with forging alliances and by making commercial, economic, and political agreements. In particular, until the Cold War, international factors in democratization were considered within the framework of a "marginal role" (O'Donnel and Schmitter, 1986), now these factors have become more effective in the spread or decline of democracy. It is possible to see this change clearly after the collapse of the Soviet Union, since after this time a more suitable environment for the democratization has been created, in this context, both international communities and states have rolled up their sleeves to establish democratic systems. In this context, the European Union, which has become an important actor in global politics with constitutively pointing out human rights and rule of law, is one of the leading international actors that should be focused on within the framework of democratization. Apart from being established by states with democratic regimes, they have developed certain mechanisms to implement the continuity of democracy both within the union and to candidate countries through membership criteria, enlargement, and integration.

Changes in the basis of the treaties emerge in four parts; "the first one is reconfiguring national sovereignty; secondly, gradual change in institutions; thirdly, change in the scope and powers of the Union; lastly, the attempted creation of a European 'demos' by such mechanisms as EU citizenship and quasi-corporatist Union policymaking" (Warleigh, 2003: 1). Particularly, the EU made important attempts to establish and consolidate a democratic regime from the 1970s to including the post-Cold War

period, on Spain, Portugal, Greece, and especially Central and Eastern European countries (Dimitrova and Pridham, 2004).

After the Second World War, European Coal and Steel Community (ECSC), which emerged as an economic community within the framework of the Treaty of Paris and creation of European Economic Community (EEC) with the Treaty of Rome at the international level in 1957, has made great contributions to the continuity of rights in the political and social spheres by increasing the areas of influence over time. In fact, the basis of the Union is the idea that a permanent peace and stability environment on the European continent is possible with the establishment of economic cooperation among European nations. The successful establishment of cooperation in the field of Coal and Steel industry has encouraged the European Union to further economic integration, leading to the creation of a common market. Although the underlying idea of European integration was initially of economic origin, the idea of European integration began to spread politically, especially after the adoption of the Single European Act (1986). It is accepted that the institutional structure of the European Union (EU), which took its current name with the Maastricht Treaty, has a *sui generis*. Also, the establishment of the High Authority in the ECSC at first, followed by the EEC and Euratom shows that there is a complex interaction chain within the framework of the institutional system. Accordingly, executive system has been established within the Union to implement, supervise and maintain the common decisions mentioned in the agreements. For this reason, it is important to comprehend the institutional structure of the organization to understand how democratic developments are resuming within the European Union.

In this context, there are three basic organs that need to attention should be paid; The first one is the European Parliament, which represents the people within Europe, the Council of the European Union, which is the representative body of national governments, and the European Commission, which works on the common interests of the union. The EU implements effectively in political, social, and legal fields through all these institutions. Therefore, these institutions are important for the establishment, maintenance, and protection of democratic values. In short, since the decisions, treaties, plans and practices are evaluated in parallel with the executive organs of the EU, it is not possible to separate each development from other bodies.

Although, the European Union has a more comprehensive system and relations than it was first established, the existence of the democracy promotion within the member states has started to decline in the opposite way recently. It has been demonstrated that the existence of such a backsliding in the democratic sense also increases with the problems occurring on the *input* and *output* sides of democracy in the dual sense that Scharpf's argued. The input part involves citizens self-determination, direct participation in elections based on their *authentic preference*, and government accountability to the ruled, while the output side put *effective fate control* is at the forefront, because this part is the side where the values and identities of the citizens come to the fore, therefore, it requires the implementation of careful and effective policies. (Scharpf, 1997: 19).

In this context, the implementation of common policies other than the decisions made by the voters and the decrease in the degree of accountability within the decision-making processes directly reduce democratic participation. Therefore, we are discussing the democratic backsliding that has occurred within the EU these days, as the rate of questioning the democracy practices of the union within the member states has increased accordingly. Eventually, this section will examine what democracy has meant for the EU since its establishment, its importance and the decisions taken on this subject within the framework of provide continuation of democracy, for this reason, at the end, we will look at what points these decisions fall short and provide space for a democratic backsliding among the member states.

The EU consists of states that have adopted the fundamental values of the democratic regime. However, since its establishment the formation of the EU as a supranational institution in political areas is based on a gradual process. At the beginning, the first step of providing democracy, human rights and rule of law targets were to establish the Council of Europe, the first political organization in Europe, in 1949. In addition, CoE has the purpose of creating a European identity that enables member countries with different cultures to adhere to common values in the social and legal field. At the beginning of Council of Europe status stated that "The aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage and facilitating their economic and social progress" (Statute of the Council of Europe, 1949).

In addition to the fact that there are many articles in line with the purpose of protecting human rights and parliamentary democracy, it is stated in the 8th article of the status that there will be very harsh returns leading to dismissal from the Council of Europe for non-compliance with these values. Thereafter, The European Convention on Human Rights (ECHR) was adopted in 1950 for the protection of human rights within Europe. With the implementation of the convention, a standard text has been created to ensure peace and democracy throughout Europe. ECHR is one of the most important and sophisticated steps in maintaining and basically adopting the liberal democracy understanding in Europe. The reason why this convention has a sound impact on the member countries is that it has a strong universal judicial mechanism at the same time. Thus, it has enabled the formation of a state in which the rights and freedoms of individuals are violated. In other words, the ECSC treaty focused on stabilization within the framework of economic goals and objectives, and all the steps taken afterwards have passed through various stages with the idea of creating a common market with the aim of establishing closer trade relations with the member states. Therefore, the European Union does not have a specific human rights declaration, however, they attach importance to these issues with various articles in the founding treaties.

The EU has not only been limited to the practices that implements to ensure the rule of law and the continuity of democracy within its member states, but also has identified itself as a representative of democracy regionally. The process that defines the sensitivity of the EU towards democracy since its establishment presented within the framework of agreements. However, in the context of its founding purpose, especially in the Paris and Rome agreements, the focus was on the creation of the common market and the advancement of relations, in line with it paved the way for the continuous deepening of the community legislation. Thus, the economic interdependence established between the member states led to a political interdependence after some point. In this regard, Warleigh argues that the European Coal and Steel Community, which provides certain incentives for economic empowerment of countries, actually takes away some of the sovereignty of the member states because all these regulations increase the bindingness between the member states in economic, political and many other areas. Accordingly, the states' starting to give up their sovereignty for economic

and commercial-based cooperation has also led the community to become a political union (Warleigh, 1998).

About the deeper integration, a major step was taken with the Single European Act (SEA) in 1986 to change the regulations created by the Rome agreement signed in 1957. The main important aspect of this agreement is that a political layer has been added to the integration process by focusing on cooperation politically. The addition of such a political dimension has begun to be considered together with the enlargement. Due to the increase in the number of members to 12, together with countries such as Spain, Portugal and Greece that cannot fully implement economic and democratic governance, raise questions in the minds of the member countries in terms of the protection and maintenance of democratic values. They then explicitly emphasized commitment to democracy in the preamble of SEA. Member states liable to;

"Speaking ever increasingly with one voice and to act with consistency and solidarity in order more effectively to protect its common interests and independence, in particular to display the principles of democracy and compliance with the law arid with human rights to which they are attached" (Single European Act, 1986).

With this agreement, two important changes occurred in the institutional field; firstly, the sovereignty of the countries have been reduced by the decision of qualified majority voting (QMV) instead of national votes, and secondly, the European Parliament, which is the legislative body, has become more effective within the framework of cooperation and decision mechanisms. In order to deepen the integration, the EU parliament has been strengthened, and the enactment and implementation of laws have been facilitated. Thus, the treaty brought the direction of the European Economic Community, which is based on economic developments, on a political stage. In fact, within the framework of the criticisms formed based on the democratic deficiency within the EEC, changes towards democratization have been made on the existing economic and commercial ties. In this way, it has been realized that the community agreement was inadequate in democratization area until the SEA is signed. Also, some political views consider this treaty to strengthen the influence of the European Parliament to complement the shortcomings in the so-called democratic stage, but it does not fully meet the expectations (Nugent, 2017).

EEC switched to a serial change trend from the 1990s to the 2000s. Especially, with the end of the Cold War period, Hungary, Slovakia, Czechoslovakia and Poland in Central Europe started their attempts to become members of the EU and NATO, aiming to be included in Western Europe politically, economically and militarily. Central and Eastern European states had two options at that time. They would either turn towards Western Europe or remain faithful to their traditional alliance with Russia. With the end of the Cold War, the desire to be included in Western international organizations by adopting Western values, which are the foundations of liberal democracy and free market economy, laid the basis of the transformation of the policies of Central and Eastern European countries. It is also clear that Western-oriented values, norms, and institutions accelerate the modernization and democratization processes of Central and Eastern European countries (Pridham, 2005). In this context, Eastern European countries aimed to become a member of the EU by carrying out economic and political reforms with the "*return to Europe*" strategy with the collapse of the Eastern Bloc. Central and Eastern European countries have entered a rapid transformation process since the beginning of the 1990s, and in this context, they succeeded in becoming a member of the EU in the early 2000s by rapidly implementing political and economic reforms.

From the perspective of the European Union, with the collapse of the Soviet Union, the West has confirmed that democracy and open market economy are the most viable order. Thus, the European Union played a leading role in the democratization of Eastern European countries. Eastern European countries have always been important for Europe and the Soviet Union due to its location. The European Union took action in order to prevent these countries from falling under the influence of Russia, which is considered the continuation of the Soviet Union, and displayed a positive attitude towards membership to these countries. However, in response to this attitude of the European Union, the membership of Eastern European countries to the Union was not as easy as planned. To adapt the Eastern European countries to the existing European Union members in economic and political terms and not to lower the standards of the Union, the European Union provided economic aid and created the Copenhagen criteria. In line with these criteria, Eastern European countries have experienced economic and political transformations to become a member of the European Union.

The issue of democracy has started to be emphasized more since the Maastricht Treaty, which was decided in 1991, entered into force on 1 November 1993. Especially against those who stated that the EU's attempts in the field of democracy after the SEA were lacking, this agreement was a responsive for some federalist critics. The concept of democracy and the rule of law, as well as being the basic building blocks in the EU, has become the principles sought in countries that have bilateral relations with the EU. Accordingly, at the beginning of the agreement, commitment to democracy that had existed since its establishment was reaffirmed. It is clear that a number of reforms have been introduced in line with the desire to secure the foundations of this commitment to democracy. Treaty established the European Union and expanded its scope by adding two new "pillars". The increase in the responsibility areas of the community and the extension of the integration beyond the economic sphere caused the formation of this tripartite structure. With this structure, the democratization process within the EU has begun more prominently. They constituted organizational distributions reflecting different policy areas to create a politically intertwined Europe.

Within the framework of the issues that are jointly decided inside the union, the common policies are divided into *three pillars of the European Union*. In this framework, the *first pillar* covers economic, social, and environmental issues that more related with society, while the *second pillar* is shaped around Common Foreign and Security Policy by dealing with more military issues, while the *third pillar* mostly includes action against crime and judicial operations. In other words, while the last two pillars are mostly intergovernmental, the first one is more related to the inner workings of the union. In this context, a chain has been established among all the columns to which the institutions are affiliated. All these regulations were made with the aim of creating a more democratic environment within the union. Since having a Commission holding all legislative powers was not suitable for this purpose, certain restrictions occurred in the duties of the Commission within the framework of this treaty.

For the first pillar, only the Commission can submit proposals to the Council and Parliament, however, they had the power to change the decision of the Commission when there was a situation or decision that neither of them deemed appropriate, and a qualified majority must be provided for the decision to be implemented. However, for

the other two pillars, the evaluation and final word on the proposed decision is between the Commission and the member states, but there is a condition of unanimity within the Council. As can be understood from this distribution, the decision-making and implementation stages work interdependently under economic and political issues to provide democratic atmosphere. At this point, however, the complexity of the European Union's legislative, executive, and judicial system is one of the difficulties it faces when taking steps towards democracy. Although the TEU has made provisions to show that it has made democratic regulations and reforms, especially to the citizens of the member states, but it has not been able to fully clarify the balance between the institutions and the unclear boundaries.

The Amsterdam Treaty, which entered into force in 1999, did not provide as much radical changes as the TEU and also it was not enough to complete the deficiencies about democracy. The Parliament took an active role in the construction phase of this treaty for the first time and attempts have been made to increase the powers of the Parliament to solve the problem of democracy. In line with, policy areas have been expanded to allow co-decisions to be implemented, however, the power of the EP has not been enlarged sufficiently and is not particularly an actor who has a say in both the second and third pillars (Maurer, 2001). Also, the negotiations within the framework of the treaty took place between the governments and the participation of the people was not ensured. At the same time, the fact that the treaty process was not reflected to everyone in a transparent manner was questioning the existence of the understanding of democracy inside the EU.

In fact, negotiations for the Nice Treaty began with the institutionally and constitutionally reforms were not successfully integrated to the agenda. In this context, The Cologne European Council of 1999 organized an intergovernmental conference (IGC) and aimed to work on issues that were not fully resolved by the Amsterdam Treaty. Subsequently, in 2003 the Nice Treaty created certain changes in terms of ensuring the link between deepening and precondition of enlargement processes. In addition, politically, the Council drew attention to the point that if the member states violate their fundamental rights, their membership rights will be reconsidered. The fact that such a severe sanction on their violations was brought to the agenda for the first time has been a sign that the EU takes more into consideration the issues of democracy

and human rights to prevent the deterioration of the stable peace environment in Europe by the extremist regimes.

Although, for most political scientists, the Amsterdam and Nice Treaties did not demonstrate adequate reforms, nevertheless, it would be wrong to say that the developments made with the aim of creating a democratic environment did not contribute at all. The European Union has its own challenges in terms of democracy, both internally and externally. Within the Union, bringing citizens closer with European institutions, regulating European politics in the enlargement process and ensure democracy at the international level are the primary goals. Although citizens supported the Union to set broad goals and act within this framework, however, the ineffectiveness of the actions was always on the agenda. After the reforms that were deemed inconclusive, the 2001 Laeken Declaration on the Future of the European Union stated that the European Union should be "more democratic, more transparent and more efficient" within the framework of its enlargement target (European Council, 2001). The main purpose of this convention was to prepare a plan for the future steps of the EU and to organize a constitutional draft. There were many opinions by the member states to add to the articles of the Constitution Treaty. The constitutional proposal, which is seen as a combination of founding treaties, and which included the Charter of Fundamental Rights to represent European public's rights for find solutions to criticism about democracy promotion, had many important goals. These objectives are to increase the area of use of the QMV, to strengthen the Common Foreign and Security Policy with determine the position of the Ministry of Foreign Affairs in order to increase its recognition in the international arena, to strengthen the European Parliament compared to other institutions and to increase the level of cohesion between member states (Nugent, 2017).

In fact, it is significant to notice the shortcomings in this treaty to understand that the EU's contemporary democracy problems and their effectiveness about prevent questioning of democratic regime. As in all agreements made by the EU, it was impossible for CT to come into force without the approval of all member states. In this context, the failure of the attempt to bring European citizens together was once again revealed by the refusal by referendums in France and the Netherlands. One of the most obvious reasons for the increase of the *No* vote in France and the Netherlands is that

the Treaty appeals to the elites request rather than making changes to the demands of the European community (Nugent, 2017). For this reason, the failure of the EU to realize the Constitution proposal for the Union to show great progress towards democratization should be regarded as normal within the scope of the criticism of the EU's absence of democratic institutional structure.

In fact, it cannot be said that the EU paid much attention to the criticisms made about the existing democratically problems until the Lisbon Treaty, also known as an EU Reform Treaty. However, due to the CT's non-approval of all countries, the failure of its institutions to the EU to establish a politically close union since the SEA has led to the more prominent rise of opposing voices and the populist movements. Thereby, the Lisbon Treaty, which stated at the beginning with "to complete the process started by the Treaty of Amsterdam and by the Treaty of Nice with a view to enhancing the efficiency and democratic legitimacy of the Union and to improving the coherence of its action" (Treaty of Lisbon, 2008), contains a large part of the points referred to by CT and signed with minor changes in 2007. Fearing CT's fate in Lisbon Treaty process, European leaders gathered to discuss several measures with "Ioannina compromise". At this meeting, an agreement was reached on decision-making within the framework of qualified majority on the enlargement process (Yanıkdag, 2010).

As a result of all these processes, the Lisbon Treaty entered into force in 2009 to reform the EU according to the new world order. If we talk about the aims of the treaty; The first aim is to emphasize the deepening process that started since Maastricht and bring it to the desired level, to make effective arrangements to solve the problem of democracy that could not be reached conclusion in the EU, to bring the EU to a strong position in the international scene in terms of security and foreign policy, and eliminating the problems experienced in the CT process (Mayoral, 2011). At the same time, with the entry into force of the Lisbon Treaty, "Charter of Fundamental Rights of the European Union" has become binding. Even though these conditions mainly focus on the protection of human rights, they also contain provisions on the applicability of democracy. Thus, the Treaty preserves the values and objectives of the EU since its foundation and adds new ones over substantial values. In addition, another important change occurred in the three-pillar structure of the EU. The second pillar, CFSP, was renamed "Foreign Affairs of the EU", while the third column on Justice

and Home Affairs was changed to “Area of Freedom, Security and Justice” (Bache et al. 2017).

In addition, while the Maastricht Treaty determined a different legal source for each pillar, with the Lisbon Treaty, the legal instruments in the second and third pillars were replaced by the legal instruments of the first pillar. This means that the Union's interests have also been shaped within the framework of the interests of its society, and serious steps have been taken in integration process. This is one of the changes made by the Lisbon Treaty to create a more democratic and transparent structure in Europe. In addition, the changes made within the scope of the European Parliament serve this purpose as well. Within the framework of the treaty, the powers of the European Parliament to participate in the decision-making processes have been increased, thus democratic legitimacy strengthening within the EU.

In fact, it is possible to interpret another attempt to integrate with the society in terms of the length, explanatory, and plain language of the Treaty. From the very beginning, the criticism that the treaties were always addressed to the elite and that there was no democratic participation at the forefront. It cannot be argued that a treaty that is not fully understood by the public, defend the rights of citizens, and provides democracy, so in such a situation a European citizen will find it difficult to support EU institutions. Therefore, what the EU became aware of, especially after the great failure in CT, was that the public support was lacking at some point in the face of the agreements that were constantly made and explained how to implement new decisions. Accordingly, in the Lisbon Treaty, attention has been paid to the simplicity of the language, to the adequate explanation of the regulations and to increase the interaction of the citizens with the institutions. Eventually, for the first time in the history of the EU, both political, economic, and social rights were collected in a single legally binding document. The participation of the parliament and citizens was increased in order to establish a democratic European order, the voting rules of the union became more applicable, and the rights and freedoms of the citizens were guaranteed.

3.2 EU Democracy Practices: Conditionality

The European Union has come to a position where its principles such as fundamental rights and freedoms and the rule of law are not only to ensure a fair, stable and peaceful

environment among the member states, but also encourage democracy at the regional level. In fact, the EU was established to provide peace within the framework of economic purposes, however, democracy is one of the cornerstones of the union (Kochenov, 2008). The issue of embracing, advancing, and strengthening democracy within the EU is a long process that has been going on since its establishment. Consequently, the fact that the candidate country maintains its democratic system in a flawless and effective manner within the scope of enlargement and membership policies covers an important part of the membership process. Along with this, since its establishment, the link between democracy and the functioning of the EU and the conditions of accession has become the fundamental elements that need to be addressed in Europe. Especially in line with the developments that took place after the Cold War, the EU had to review its current legal regulations. From this point on, with the increasing demands for membership, the EU has had to define and implement the political direction of integration in its enlargement policy with sharper lines.

The most fundamental tool used by the EU to promote democracy in countries around the world is conditionality. Especially in this period, the concept of "political conditionality" has come to the fore in the context of promoting democracy. The fact that political conditionality is at the most fundamental point on the way to membership has enabled European countries to transform their political regimes towards democracy or to improve the existing democratic regime. Political conditionality creates many different requirements for membership. It can be explained as the fulfillment of the condition of ensuring and protecting human rights and democratic principles, which a state or organization perceives and sees as a benefit (Smith, 1998). In fact, although they seem and are explained as two separate concepts, the promotion of democracy and political conditionality processes have similar paths and patterns. The promotion of democracy has gained an important position, especially after the collapse of the Soviet Union, with the attempts to keep the communist states pace with the international order. The promotion of democracy can be defined as helping the democratization of non-democratic governments or governments that are named as democratic but cannot fully comply with their principles by the external actor (Milja and Hobson, 2011). In fact, the main purpose is to make democracy more effective and efficient and to ensure its functioning. Since the European Union has democratic foundations and attaches great importance to the existence of these characteristics in

member states, assumed the role of the protector of democracy, especially in the European continent. In addition to all these, the European Union applies a principle of political conditionality in terms of democracy in both its member states and candidate countries. This means a kind of promise within the framework of an international treaty that the parties are committed and respectful of human rights, democracy, good governance, and the rule of law (Saltnes, 2013).

In addition, the type of political conditionality is generally examined in two frameworks. The first form is called *ex-ante conditionality*, in this type, the definite conditions such as human rights, democracy must be fulfilled before made a certain convergence or agreement, second one is *ex-post conditionality*, contrary, in this type of conditionality, there is mutual cooperation that continues or tends to grow within the framework of a certain treaty (Koch, 2015). Hence, the ex-post approach is considered as more effective than the other because the pre-set conditions limit the mobility of both sides within the framework of the treaty.

The second distinction can be divided into *negative* which is restrictive or *positive* which is encouraging. Negative conditionality is the removal of mutual privileges or freezing for a while when the rules and conditions are violates. Under this conditionality, commercial or political relations can be suspended for a certain period, or sanctions may be applied within the framework of the conditions that the other party violates or does not comply with. On the contrary, positive conditionality is the continuation of mutual promises as long as the conditions are met. There is a mutually binding relationship between the concessions provided under the present conditions and the performance provided for democracy. By achieving this balance, positive conditionality is maintained. The provision and continuity of democracy and human rights also constitute the basis for the continuation of this conditionality.

Within the scope of the enlargement strategy, the EU has clearly implemented positive conditionality, especially in the Eastern European countries in terms of providing and strengthening the democracy issue. In fact, the EU prefers to use *ex-ante positive conditionality* in membership or partnership processes, where conditions are required to be met in advance. In this context, the EU strategy is basically to provide the conditionality principles that must be fulfilled for Central and Eastern European Countries (CEECs) countries to gain certain benefits from the EU. As a result of its

fulfillment, a path that can lead to commercial, political and full membership is established. In short, the EU reinforces its strategy within the framework of conditionality with an reward for keeping the enthusiasm of the parties to implement the conditions alive (Schimmelfennig and Sedelmeier, 2004).

In all these different ways, the EU which tries to ensure democracy and human rights issues, has positioned as an effective player in politically applied conditions. Regarding this issue, Commission's Executive Vice President Timmermans said in a speech that "The rule of law is part of Europe's DNA, it's part of where we come from and where we need to go. It makes us what we are" and again drawing attention to the bond between Europe and democracy (Timmermans, 2015). The development of democracy and human rights has become a subject of greater interest, especially with the Lisbon Treaty (Art. 10 A (1)). At the same time, documents such as the Treaty on European Union and the Paris Charter for a New Europe (1990) draw attention to the fact that democracy is one of the main goals of the EU in terms of enlargement and membership. For example, Article 6 in Treaty of the European Union (2006) emphasizes that "The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States", thus, while the EU stipulates the continuity of the democratic regime in both member states, the message is given that candidate countries cannot become a member without fulfilling the requirement of democracy. In this context, the EU's pre-accession conditions are the primary example of *ex-ante positive conditionality*.

In fact, the necessity of creating and implementing all these conditionality has become even more discussed with the EU's enlargement policy. The enlargement is actually a multifaceted process. Schimmelfennig and Sedelmeier (2005) also see enlargement as *gradual and formal horizontal institutionalization.* The reason why enlargement is actually a gradual process is that the candidate countries incrementally start to adapt to their institutional and economic structure before joining the EU. However, enlargement is a process that ensures its continuity even after the candidate country becomes a full member. At this point, of course, there are certain conditions that the EU wants to be completed in all respects. There are specific reasons and initiatives behind each enlargement wave. As there is always a rational calculation of pros and

cons in every decision-making process, the EU takes certain steps by calculating the advantages and disadvantages while making the enlargement decision. For example, the enlargement steps that developed in the continuation of the first enlargement wave were generally completed with the participation of the states whose economy and democracy tradition did not reach a sufficient level. In fact, the joining of countries with lacking in these aspects into the EU may create an economic burden on the member countries, and the differences in the political regimes of the countries make it difficult to adapt to the union and bring social problems. Along with these differences, the decision-making process of each separate enlargement wave may also take longer than the other. The main reason for this is that as the number of member countries increases, making and implementing a joint decision is a more difficult and lengthy process compared to a less numbered members. In addition, the realization of the membership of countries that have not adopted a politically democratic regime may damage the democratic principles created by the EU since its establishment. They made attempts to solve the problems and facilitate the processes within the framework of all these difficulties. Especially as part of the EU enlargement, they have stated democracy under the name of a common value and wanted to have both member countries and candidate countries adopt it, however, they have not had a specific document or tool for it, but they have always referred to democracy in certain articles of the treaties. In this context, it may be more appropriate to examine the EU in two different periods: before and after the 1993 Copenhagen criteria.

3.2.1 Democracy as Part of EU Membership Process before 1993

European integration is a process that is constantly in motion, it would be wrong to interpret it as a stable process in terms of institution, aims and situations of countries. To better understand the changes and processes that the European Union has undergone since its establishment, it is essential to look at the enlargement and deepening processes. In fact, these interdependent processes are shaped by the successful management of the EU's integration process. The common policy areas and the increase in the number of members are the dynamics that also affect the integration process. Especially, the increase in the number of member countries requires a review of the existing integration conditions. Deeper integration also restricts the independence of the states and directs them to more common policies. Thus,

establishing new institutions or increasing the powers of existing ones and creating new common policies are among the indicators of deepening. The strengthening of the European Parliament in 1979 or the addition of political dimensions to integration in 1987 with the Single European Act can be shown as an example.

EU integration is mostly shaped around economic concerns, but the steps taken in the name of enlargement can be explained more by political reasons. This process begins with the application of the candidate country. National parliaments are also informed of the application to the Council. After this notification, the Council starts the application process in consultation with the Parliament and the Commission. The condition of acceptance of membership to be unanimous is also valid for the acceptance of the application. After the applicant country has gained candidacy status, the negotiation process begins with the EU. Although it is seen as a step-by-step technical process, applications for membership are mostly evaluated within the framework of political and EU interests. In this context, it has always stated that the EU has certain expectations within the framework of treaties before granting full membership to candidate countries.

In line with, since its establishment, the EU has signed Association Agreement (AA) to spread its values under the cooperation to both member and non-member states especially in the 1950's and 1960's. Within the framework of such agreements, countries align themselves with the EU's political, commercial, and social criteria and values for the purpose of open the path to membership with expanding the customs union, creation of free trade areas, the mutual ties in economic policies and preparing financial aid to increase living standards (Phinnemore, 1999). The provision of the association agreement was incorporated into the Treaty of Rome, which established the EEC. In addition, for the agreement to be seen as AA, the EU requires the party or parties to the agreement to fulfill certain criteria.

In the context of democracy, the principle of protecting human rights and adopting democratic principles on both sides as one of the basic articles of the agreement. The agreements are formed and maintained on the condition that there are democracy reforms that are expected to take place in the country, and that they are committed to their continuity. It has been stated that in addition to making AA with non-member

states, every European state can apply for membership within the framework of Article 49 of the Treaty on European Union. Article stated that "Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union" (Consolidated version of the Treaty on European Union, 2016). Article 2, which is binding here, points out that all processes will begin under the guarantee of protecting and maintaining values such as freedom, democracy, rule of law and human rights.

By the 1960s, the discourse of democracy had become a political necessity. EU membership recruitment is mainly analyzed in waves. At that time, the construction and sustainability of democratic political identity was brought to the agenda by the Political Committee of the European Parliament with the Birkelbach Report, which was emerged in 1962 by bringing the enlargement movements of the Community to the agenda. With this report, whose membership conditions are determined from a broad framework, the EEC has now made a commitment to implement the stated liberal conditions. Committee guaranteed that "Only states which guarantee on their territories truly democratic practices and respect for fundamental rights and freedoms can become members of our Community" (Pridham, 1991, p.215). However, the conditions put forward within the framework of this report could not be systematized by the Commission and the Council, and a mechanism that monitors whether they are implemented regularly has not been fully adopted and reflected.

In the mid-1990s, more serious steps be taken in this regard. However, despite all this, EU paid attention to issues such as democracy and human rights while incorporating a new state. In the first two waves, the strength, or the degree of implementation of the democratic characteristics of the member states was completed without being bound by any legal regulation. Although the European Council of Copenhagen published the "Declaration on Democracy" in 1978, the candidate countries were not fully bound by conditionality for democracy. Through this joint Declaration on Democracy, all states, the Council, the Commission, and the EP underlined that they aim to protect the principles of rule of law, democracy and human rights, apart from declaring the importance to be given to fundamental rights. In addition, they have officially declared that "respect for and maintenance of representative democracy and human rights in

each Member State are essential elements of membership of the European Communities" (European Council, 1978).

Initially, there were no specific economic and legal criteria for membership in the EC. The main goal adopted since its establishment was to ensure peace and stability in Europe. Democracy was accepted as an ordinary condition among the founding countries at the time of its foundation. The main purpose of establishing an environment of cooperation between European countries was to provide a stable environment in terms of continental and to encourage economic growth. In the first wave of enlargement, namely Denmark, Ireland and the United Kingdom, there was nothing that would require the Union to worry about democracy because the political regime of these countries was in the same position as the constituent countries. Especially in those times, it cannot be said that a common agreement was reached within the EU for the qualities that constitute a democratic regime.

However, within the framework of the second and third waves of enlargement, they started to focus more on democratization. Especially, under the Southern European integration process with Greece in 1981 and Spain and Portugal in 1986, there was in fact the aim of spreading democracy to the Mediterranean countries. Trying to integrate countries with this dictatorship into the EU is actually an indication that democracy has become a matter of priority and democratization has now taken the form of a tool for membership. The relationship between Greece and the EU started with the AA, which was created in 1961 with the prediction of achieving a customs union. This agreement with the aim of rapprochement was suspended after the military coup in Greece in 1967. In this way, the events of being forced to withdraw from the AA and the European Council helped both Greece and the candidate countries to show the solidity of the bond between Europe and democracy (Kaloudis, 2000).

Following the overthrow of the Regime of the Colonels after the 1974 Peace Operation in Cyprus, the democratic order in the country was restored. Konstantin Karamanlis, who came to power in 1974, was restored the transition to democracy and started the membership application process to the EEC in 1975 with the aim of preventing the formation of a coup again by ensuring the full democratization and continuity of the political system and solving the economic problems because this was seen as the only suitable environment in which Greece could provide these conditions. Thus, full

membership ensures that the states that have just achieved the transition to the democratic regime can maintain the continuity of the institutional order they have organized. Likewise, Spain, which is included in this enlargement wave, is one of the countries that support the development of EU conditionality on democracy. Even under Franco rule in the 1960s, Spain was in favor of increasing relations with the EU. For this purpose, as a first step, Spain initiated initiatives for an AA with the EU in 1962. While both the Federal Republic of Germany (FRG) and France had positive approaches to Spain's participation in the European integration process, the Benelux countries did not want the Franco administration to have close relations with the EU (Gómez, 2014). France and FRG did not advocate that Spain, which has Franco administration, should be a member, what they supported was the creation of association, not membership under these conditions. However, the thought that an Association Agreement to be made even under these conditions could result in membership was outweighed by other member countries. In this context, while the Commission was in a position to approve of closer relations with Spain, the Parliament took a completely opposite stance to this idea. At the end of the day, due to the authoritarian rule of Spain, coming together under the umbrella of an AA was rejected with the thought that it was contrary to the democratic stance advocated by the Union.

As a result of all these, Spain was able to apply again after Franco's death in 1975, but after the general elections held in 1977, Spain started to solve the problems arising from the democratic deficiency between them and the EU and was accepted as a member in 1986. Portugal, which is also on the agenda at the same time, is another country that affects the political conditionality in democracy. One of the factors shaping the relationship between Portugal and the EU is the dictatorial order created under Salazar and Caetano regime and the struggle against decolonization (Leitão, 2001). After the April 1974 military coup, the institutionalization of democracy began to be discussed in Portugal. This process, which started at the peak of the Cold War, a period when the pressure for democratization was not very intense, initiated the third wave of democratization according to Huntington, which is still ongoing. After the first democratic elections were held in 1975, they stated that they would start economic negotiations with Portugal, although they emphasized that they would only support pluralistic democracy due to the traditional and historical ties of the European Community (Magone, 1997). With the beginning of the transition to a democratic

order, Portugal's political situation was tried to be finalized by the European Council, while the European Commission was providing financial aid and support. However, the country's economic fluctuations and its political instability prevented progress from the European side. The Portuguese government's application for membership to the Council of Europe in 1977 was a period when the EEC again showed its attitude towards democracy to the international community. There were two main reasons behind the government's taking such a strategic step. The first is to ensure the continuity of the new democratic order created in Portugal, especially for the realization of the EEC membership, and secondly, the country's ability to achieve its economic development goals within the framework of the aid of the EEC (Magone, 2004). Despite all these mutual approaches, the realization of membership took a long time. The reason for this was that the democratic order passed in 1976 was a pluralistic order, but since the constitution created at that time under a military institution dominated by a revolutionary period, it was not considered fully compatible with the democratic values adopted by the EEC. With the elimination of the irregularities in the country, Portugal became a full member of the EEC on January 1, 1986, after the Mário Soares government signed the Treaty of Accession in 1985.

As seen in all these membership processes, even if the main actors are the candidate country governments, domestic factors that prolong or facilitate the realization of conditionality shape the processes by creating a push/pull effect in this process. Within the framework of this enlargement wave of the EU, Pridham (2005) argues that there are three general characteristics of EU conditionality in terms of the non-democratic members wanting to be candidates for EU membership and the evolution of the existing political regime into democracy in these countries. The first of these is *the Eurocratic* which is concerned with the changes that may occur in the functioning of the EU with the realization of enlargement. At this point, the EU Council and the Commission are the most important parts in terms of enlargement, membership negotiations and controlling the candidate countries, but the influence of the Commission in this process when these enlargement waves took place was not as sufficient as the effective stance of the European Parliament on political conditionality. The second is *the national-level-top-down* approach; In this perspective, national governments are important actors. To fulfill the political conditionality determined on the way to EU membership, the candidate countries are in the process of implementing

the stated democratic values without any criticism or right to change them. At this point, the absence of a clear and systematic understanding of democracy presented by the EU creates a shortcoming. At first, the existence of democracy for the EU progressed in direct proportion to the elections. Therefore, it is possible to define the understanding of democracy, which is presented for its implementation from such a narrow framework, with a more "Schumpeterian" approach. Finally, there is *the national level bottom up* approach; The tendency of the elite has a lot to do with determining the political conditionality shaping the enlargement process. However, this approach is directly related to ensuring the continuity of democracy, especially starting at the social level. In this framework, it is seen that issues such as democracy, human rights and minority rights are ignored in the international order. In fact, the reason for such a deficiency is related with the Cold War period which security coming to the forefront. At that time, the EU has not been able to properly place the concept of democracy in both domestic and foreign policy approaches.

As a result, during the enlargement wave involving Southern European countries that started to develop and establish pluralist democracy, the EU created a limited democratic conditionality which are not clear in practice, to realize possible membership and AA against these countries. Although the EU, as an external actor, has taken an active role at the national level to support and encourage the institutional transformation of these states by supporting their democratization processes. This existing conditionality and the expected harmonization process have created changes in the EU's requirements for full membership and set a turning point for the enlargement steps that will follow. Thus, from 1980 onwards, the EU took its "formal criteria" one step further and reshaped the conditions as "substantive democracy" (Pridham, 1999). The inadequacy of the mechanisms controlling the transition of non-democratic countries to candidate status has brought to criticism about the lack of political conditionality both in the institutional system of the EU and its enlargement policies. We can associate the existence of a deficiency in democratic conditionality in the EU institutions such as the Commission have not been fully empowered to monitor the democratic points of the candidate countries. However, even if the EU did not have very sharp lines on democratic conditionality, it is obvious that it created certain political changes on these countries. Although the democratization issue had progressed successfully among the members integrated into the EEC, there was a lack

of coordination regarding the integration of the democratic conditionality determined within the EEC to the countries.

3.2.2 Democracy as part of the EU Membership Process after 1993

Since its establishment, EU has always been stated that it is sensitive about democracy and human rights among the European Coal and Steel Community Treaty, Rome Treaty and Euratom articles, which are among the founding treaties of the Union. Especially in the Cold War era, which ended with the fall of the Berlin Wall in 1989, faced the collapse of the widespread communist regime in Central and Eastern European countries. This process showed that the communist regime could not ensure the continuity of its system in the liberal international order. Thus, the European Community has offered the chance to democratize their systems both politically and economically by giving the opportunity to initiate the candidacy process of the countries to ex-communist regimes. The political changes that started in the 1990s with the fifth enlargement wave in Europe have been a sign of both the transition to a new era and strategic changes for the EU. Accordingly, the concrete criteria that shape the enlargement policy were established more clearly during this period. In the process until the end of the Cold War, the admission of countries to membership was taking place under more political and subjective reasons than in the following periods.

After the end of the Cold War, the applications of candidate countries with low economic conditions and welfare, insufficient democratic experience and different socio-cultural values led to the need for the union to reorganize its procedures and to establish and follow strict membership criteria. After such a regime collapse, countries started to adopt a policy that would fulfill the conditions to become member by following policies of convergence with the EU. Within the framework of these demands, although EU politicians were in a skeptical position about their membership, the crisis that broke out in Yugoslavia in 1991 changed their stance and made them look more positively towards membership (Pridham, 2005). Also, since a maximum of three states had accepted until this enlargement wave, many application requests from Central and Eastern European countries required the creation of a certain document. Accordingly, documents and processes such as progress reports, Accession Partnership Documents and criterias related to membership started to be implemented

for the first time with these membership requests. Thus, the EU initiated attempts to create a comprehensive transformation on the candidate countries. Therefore, with the Accession Partnership Document, prepared separately for each country, is aimed to reach the criteria within the framework of long- or short-term goals. Likewise, depending on these developments, progress reports are prepared by the Commission, separately for each country, in which how much of the determined targets have been achieved or how much progress has been made. The general purpose of all these processes is to ensure the realization of the desired democratic environment after a socialist order.

Although democratic conditionality has been applied to member and candidate countries since the establishment of the EU, especially after the 1990s having a democratic regime has been the primary condition for the enlargement process. The increase in the number of candidates has also led to changes in the understanding of democracy. While the existence of 'procedural' democracy, which was more election-oriented, constitutes a qualification, within this enlargement process, this narrowly focused definition has transformed to the substantive democracy, which include administrative order, women's and minority rights, and socio-economic order (Pridham, 2005). In this context, Copenhagen Summit in 1993 took place as a step to initiate the full membership processes of Central and Eastern European countries. The "Copenhagen criteria", which were adopted in 1993 from the European Council, were determined as a precondition for the establishment of democratic standards in the country's administration for EU membership. They aimed to achieve a fundamental consensus on democracy, which has been an essential value for Europe since its establishment, and to strengthen the working methods of institutions within the framework of future democratic developments for all member countries. These conditions were created especially for the Central and Eastern European Countries in the post-Cold War period in order to ensure peace and security in the region. At the same time, Council of Europe has been associated the peace environment in Europe and the advancement of economic relations between Eastern Europe. Within this framework, they draw attention to certain principles via *Acquis Communautaire*, so the central explanation is;

“The associated countries in Central and Eastern Europe that so desire shall become members of the European Union. Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required” (European Council in Copenhagen, 1993).

There are economic and political conditions that must be completed by countries applying for membership. The European Council produced a list of superficial criteria in 1993 but did not give sufficient explanation about their content and application. Although it is basically a concept and definition of democracy, the absence of clear lines as to what makes a government fully democratic with the rule of law puts the conditions into ambiguous position. The Commission determined the achievement of democracy and the rule of law within the framework of the political criteria. Also, fair, and free elections should be organized within the candidate country with the full and active participation of the people in the administration process, and the government should be transparent and accountable to the people. They aimed to achieve a fundamental consensus on democracy, which has been a main value for Europe since its establishment, and to strengthen the working methods of institutions within the framework of future democratic developments for all member and candidate countries.

The summit addressed to Central and Eastern European countries and bilateral relations were also developed with the aim of improving the economic situation of the countries. Thus, for the security of Europe, which is considered to depend on efforts in this framework, the Council of Europe has designated:

“Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union” as a general statement (European Council in Copenhagen, 1993).

Within this document, policy criteria focused on institutions' protection of democracy, human rights and minority rights, economic criteria for the establishment of a functional and competitive free and fair market economy within the EU and legal criteria that exhibit the membership conditions and the EU's “*acquis*” policies. Countries wishing to become members are expected to not only accept the principles

of democracy and the rule of law as procedural but also put them into practice. The Commission evaluates democracy and the rule of law under political criteria. In the documents prepared by the Commission, it is clear in which areas the Copenhagen criteria includes democracy and the rule of law. First, the realization of free and fair elections in the countries applying for membership was determined as the most important point. For example, in the report prepared during Latvia's candidacy process, the regulation regarding the elections was stated as “the elections were free and fair and in line with international standards and commitments on democratic elections” (Commision of the European Communities, 2002). Thus, the Commission aims to ensure that candidate countries not only fulfill these conditions, but also develop and maintain their democratic systems. They also emphasized the importance of national parliaments within the framework of political criteria. With these criteria, the authorities and decisions of the national parliaments are expected to be respected also, the oppositions and minorities to carry out its activities without any hindrance. In addition, the public should have the right to participate and follow all proposals or changes to be made during the legislative processes under the principle of transparency. In addition, the functioning of the executive also occupies an important part in making the terms of democracy and rule of law an integral part of the order because the executive body must be accountable and transparent.

As an example, within the framework of the reforms that will take place in Central and Eastern European countries, public services were expected to be carried out independently. In addition, candidate countries have made some regulations specific to the EU in this regard. For example, it is stated as “Under the new regulations on the structure of ministries, each ministry has a special unit on EU integration” in Bulgaria's progress report (European Commission, 2000). In addition to the legislature and the executive, there should also be a judicial body that is independent, accessible to citizens, and where appointments are made transparently.

Within the framework of these conditions, the use of the criteria specified on human rights and democracy has increased in the Central and Eastern European enlargements. The issue of democracy has become a priority to create and maintain a stable environment in former communist countries. To this end, to encourage these countries to adopt a democratic regime and to encourage them to fully commit themselves to

democratization processes, the EU states that the Community Assistance Program for Central and Eastern European countries (PHARE) will not be allowed unless countries take democratic steps (Wallace et al., 2005). The Council of Ministers of the European Union established the Phare Program which aims to create a more stable Europe by helping the development of countries with democratization initiatives in 1989 to support the economic and political transformation of Poland and Hungary. In the same year, Bulgaria, Czechoslovakia, Yugoslavia, and Romania were included in the scope of the program. The Phare program was accepted at the 1993 Copenhagen Summit as a tool for the EU to shorten the accession processes of candidate countries and to encourage them. It was expanded further in 1996 to include 13 Central and Eastern European countries. Thus, the EU integration process of the countries was accelerated by providing financial and technical assistance to the candidate countries during the pre-accession period. Financial allocations are also conditional on candidate countries' completion of the Copenhagen criteria for full EU membership. In this way, the political, economic, and social gap between candidate countries and EU member states has been tried to be filled.

However, while the democratic deficiencies sought to be covered by several initiatives have been successfully implemented in some countries, it has taken time to be realized in others. Because, until this period, the EU has not so firmly and determinedly defended the necessity of democracy in Central and Eastern enlargement process. Accordingly, unlike other periods, the EU draws attention to the existence of a stronger EU Commission at the stage of preparing candidate countries for full membership. The message to be given at the 1997 Luxembourg Summit which gave candidate status to twelve countries and 1999 Helsinki was clear. The candidate countries were quite confident that they would become EU members if they managed their democratization processes in a controlled manner and fulfill political conditionality (Pridham, 2005). However, fulfilling the democracy conditionality on the way to full membership in the candidate countries is related to the fair and consistent management of the pre-accession process by the EU throughout this process. So, in the 1990s, the EU played an active role in the democratization of the regimes of the Central and Eastern European countries in the membership process.

The presentation of membership as a reward, especially as a result of complying with the EU's conditionality of participation, has an important role in this process. The democratization of candidate countries, which began systematically in this regard since the 1993 Copenhagen Summit, continued in the in 2004 and 2007 enlargements as well. Agenda 2000, which was created by the EU Commission and accepted at the 1999 Berlin Summit, covered the enlargement perspective and strengthening policies of the Union for the period 2000-2006. This document is specifically tailored to the last enlargement process. Under the title of "for a stronger and wider Union", it aimed to reduce the economic, political, and social differences of countries and to provide political unity. To encourage the democratization of the candidate countries of the Union and to ensure their continuity, supporting the economically insufficient regions became the agenda again. Thus, the Czech Republic, Slovakia, Hungary, Poland, Slovenia, Estonia, Latvia, Romania, and Bulgaria, which are listed as candidate countries in the report, have declared that they are eligible for candidacy.

Undoubtedly, the EU did not dwell on the issue of enlargement policies until the biggest enlargement wave that took place in 2004, but since this wave it has started to adopt new strategies that encourage human rights and democracy. The common point of these strategies is to create an understanding of democracy and human rights policy at the EU level and to require both member states and candidate countries to comply with these conditions legally and politically. Ultimately, the fact that the EU started to give extra importance to these areas has been an indication that the EU has assumed the role of promoting democracy. In the light of the developments mentioned above, we can say that the EU has taken certain steps based on certain policies regarding the democratization of candidate countries. However, for the EU, achieving democratization of post-communist countries was a difficult process because the acceptance of political conditions associated with democracy and human rights in these countries marked a costly transformation for the ruling elite.

Thus, the adoption of political conditionality in Slovakia under Vladimir Mečiar and in Croatia under Franjo Tudjman failed. In fact, the EU's influence on the victory of liberal coalitions over illiberal parties plays an important role in achieving democratic change. In the case of Slovakia and Croatia, the European Union was not sufficiently effective in helping the liberal coalition emerge victorious from the elections.

However, after the new governments that won the election have fulfilled some political reforms on the way to membership, the subsequent government is forced to continue with democratic reforms because it does not want to jeopardize the election victory by being exposed to criticism.

After these last enlargements, EU members and their elites were supporter of increasing the conditions for democratic conditionality to be implemented in the next enlargement region. Therefore, the EU has developed new approaches and models in the field of political conditionality that will influence future policies (Pridham, 2007). Within the framework of this thought, the political conditionality principle applied by the EU against the Balkan countries, the next candidate region, included more compelling terms and conditions. The reason for the hardening of the conditions in this way is the thought that these countries will be more challenging than the countries that democratized with the previous enlargement wave. The fact that the community included many countries as a member in 2004 is an indication that it has taken a hasty attitude contrary to the mentality that is advancing step by step on enlargement. However, although this enlargement seems to be a rapid process within the Union, the idea that the Union has fallen behind in becoming a full community in the post-Cold War international order has also led to support for the transition to democracy in Central and Eastern European countries.

Especially, in the beginning of the 2005 Enlargement Strategy Paper stated "the Western Balkans is a particular challenge for the EU. Enlargement policy needs to demonstrate its power of transformation in a region where states are weak and societies divided" (European Comission, 2005, p. 2). With the arrival of the new enlargement wave, questions about how these countries will be integrated into the EU and where the new borders of the EU will be started to come to the fore. After it was concluded that a stable and safe environment in Europe would be possible with a democratization movement to be carried out in this region, the Stabilization and Association Process (SAP) started in 1999. After this point, countries faced certain difficulties in transforming into democracy because countries were already founded on a certain democratic culture. It has been clearly understood that the transformation towards democracy is a more difficult process than the transition to democracy, especially in Romania and Yugoslavia. It has not been easy to bring about change in democracy,

especially in Romania. The National Salvation Front (NSF), which was founded after a Communist party, monopolized the administration of the country. Thus, while the country was expected to take forward steps in democratization with this party, it regressed in terms of democracy and led to a further increase in violence, so the new system that emerged in Romania did not achieve the expected change (Agh, 1998). Problems such as political conflicts, corruption and minority rights that could not be resolved in Romania caused the full membership process to be delayed. Romania has been subject to criticism for a long time because it is a problematic process to fulfill the conditionality that the European Union has defended clearly and systematically. It created three separate safeguard clauses for these countries to successfully carry out the democratization and post-accession harmonization process. To prevent the difficulties that may be encountered from creating long-term problems, a general economic safeguard clause, a specific internal market safeguard clause and a specific justice and home affairs safeguard clause has been established. To emphasize the necessity of a democratic order within these safeguard provisions, Article 39 has been established where the accession of candidate countries may be postponed for one year in the Act of Accession which is authorizing the Commission to take action in the event of a breach of commitments. Despite all the developments, Bulgaria and Romania, which could not become full member states in 2004, had to accept an additional "super-safeguard clauses" clause, delaying the process for one more year. In addition to the classical safeguard provisions, the Commission retains the right to delay accession and impose sanctions if countries do not demonstrate competence in meeting the obligations set by the EU. In addition, the Commission considers that further progress is needed on judicial reform and the fight against corruption so after the accession agreement signed with the completion of the conditions, the Cooperation and Verification Mechanism was put into force to maintain the democratic progress and ensure post-accession compliance in 2006.

After the accession of Bulgaria and Romania, while the stated safeguard clauses are expected to continue, the ongoing weaknesses in the areas of accountability and judicial system necessitated the establishment of this mechanism. In fact, the EU did not have such an effective monitoring tool in the accession and post-accession period of the candidate countries. In this period, the unstable environment of the candidate countries pushed the EU to create a pressure system. Thus, the post-membership

follow-up process, which is not in the tradition of the European Union, has now been followed closely to states can ensure their continuity, especially in the field of democracy. Moreover, the EU was not as strong as the pre-accession process and was not capable of penalizing the setbacks that would occur in the post-accession process. Article 7 of the Treaty on European Union allows the Council of Europe to take certain restrictions and measures against acts that harm the liberal democratic order among EU members. However, the requirement that a majority in the Council of Europe and the European Parliament is required is necessary to use Article 7.

As mentioned above, the EU's political conditionality for accession has been the cornerstone of their success in the enlargement process. The most obvious reason for its success is that the EU's linking the benefits of membership with democracy and human rights has encouraged candidates to comply with these political norms. There is a consensus in the literature that the comprehensive change desired to be created in the internal order of the candidate countries should be adapted to the candidate country's order without any problems for the conditions of EU membership to be effective. Because in the country where democratization or new arrangements are expected to be made in the existing order, the government's failure to conduct these conditions will be a proof that membership incentives are not effective (Schimmelfennig, 2008).

In fact, the enlargement policy of the EU for years is a controversial process, but every enlargement wave that has taken place up to now is considered a success because the EU has agreed with the candidate countries within the framework of a common agreement and completed the accession process. Despite recent criticism and the idea of Euroscepticism, the wave of expansion to the East is considered a success. At this point, some academic circles defend the idea that the most successful foreign policy of the EU is the EU enlargement policy (Feketija and Łazowski, 2014). For instance, the inclusion of Croatia is shown as an example of a successful process especially towards the Balkans.

From the different viewpoint, a very positive picture is not drawn regarding the democracy situation in the EU's new member states (Tanja and Schimmelfennig, 2017). Although democratic values have emerged in the new member states after communism, the idea that there are differences between the old member Western

European countries and the understanding of democracy still continues to be on the agenda. Thus, since 1993, with the Copenhagen Criteria, a stricter control mechanism has been started to be developed in the implementation of democracy and rule of law on candidate countries, and they have continued to develop by increasing control over control mechanisms until the last enlargement wave. However, discussions about the effectiveness and adequacy of these mechanisms have started to increase, especially with the increasing de-democratization trend in recent years.

CHAPTER 4

DEMOCRATIC BACKSLIDING IN CENTRAL AND EASTERN EUROPEAN EU MEMBER COUNTRIES: THE CASES OF HUNGARY AND POLAND

Today, in the European continent, where the largest number of free and democratic countries are located, significant backsliding are observed in the issues of personal freedoms and political rights. And especially in the last decade, there has been a scientific consensus that democracy is deteriorating in Central and Eastern Europe (Schimmelfennig and Sedelmeier, 2004; Krastev and Holmes, 2020). In the face of almost 30 years of democratic developments, Hungary has been facing a serious democratic decline since 2010 and Poland since 2015. In this context, in this part of the thesis, first, the democratization path that took place in post-communist Hungary and Poland is explained. Then, the democratic decline and violations of liberal-democratic values in Hungary and Poland were evaluated. At the end of all these, how the European Union, which is the representative of democracy, allowed a democratic backsliding in these two countries and in which aspects it was lacking were questioned and evaluated.

4.1 HUNGARY

4.1.1 Europeanization of the Hungary

In 1968, the Brezhnev doctrine declared that all socialist countries were united in the possible attacks against the socialist system, and that the problems would be solved by an armed intervention to legitimize military interventions, especially after the Soviet intervention in Hungary. However, with Gorbachev's declaration of the collapse of the doctrine, regime change was triggered in the country as Hungary was not strategically linked to the USSR.

In terms of checks and balances and the provision of fundamental rights, Hungary was the most successful and comprehensive among the countries in political transition (Schimmelfennig and Sedelmeier, 2004). On the contrary, Hungary represents the first case within the European Union for transformation from the comprehensive constitutional liberal system to the illiberal authoritarian system.

The determination of the EU to protect its values can be examined in connection with Hungary's deliberate violation of EU principles, because there has not yet been sufficient opposition or sanctions against Hungary from within the Union. For this reason, the fact that this transformation initiated by Hungary is also seen in other former communist countries in the region will have serious consequences for Europe. The European Union could not force the member states to comply with the acceptance criteria that it made mandatory at the beginning. The strength of the democratic opposition in Hungary and the inability to prevent its rise is a point where the EU should stop and think about the limits of its own power. In this context, the primary question we ask is obvious; Why couldn't the EU, which was founded on liberal democracy values such as democracy and the rule of law, prevent Hungary from turning into an authoritarian state?

Hungary basically aimed to establish the nation-state, civil society, and democratic structure at the same time at the beginning of the political transformation. Therefore, plans were launched to transform the 1949 Rákosi Constitution, inspired by Stalin's ideology, into a document containing the rule of law. To this end, representatives of the Hungarian Socialist Workers' Party (*Magyar Szocialista Munkáspárt*, MSZMP) invited the Opposition Roundtable which contains nine organization and Third Side dominated by communist ideology to hold a National Roundtable Talks. There were two main objectives to be achieved as a result of these negotiations. The first is to liberate Hungary from the dictatorial regime and the second is to ensure institutional order for a democratic regime to function (Bruszt and Horvath, 1990). There is a common belief in the literature that the social and political transitions targeted in this way are focused on the elite framework. However, Schumpeter's democracy studies argue that the elite and the democratic environment are not the same. Accordingly, the transition that took place in Hungary did not occur only within the framework of the views of elite groups. Of course, it was a process dominated by the elite, but it is possible to observe a connection between the elite circle and the masses.

The most basic vision that dominates the new system is *"return to Europe"* which started with the collapse of the Soviet Union. The aim of this vision is to create a welfare society with foundations such as democracy, free market economy and

parliamentary government. In line with this goal, the participants of the Roundtable discussions identified freedom, which is both a liberal and a democratic value, as the primary condition to be met. Another important point of the understanding of democracy for Hungary, which has been under Soviet domination for all these years, is the provision of *popular sovereignty*. The point to be considered here is to prevent the nascent democracies from being taken over by nationalist policies. Because, in order to have a say in power in non-democratic countries, it is common to turn from the communist regime to nationalist policies by using popular will. In such transformations, democracy is shaped within the framework of unfair elections. In addition, it should not be forgotten that democracy is a *representative government* formed by the delegates elected by the people to defend their constitutional rights. Particularly, participation from the three components of democracy, which Dahl (1971) mentioned, is ignored in Hungary. There is distrust because of the forced or unwilling participation of the masses left over from the country's communist past. Accordingly, the public is more inclined to create a form of democracy with less participation.

Within the framework of all these various democratic values, the ideas of the opposition were based on the vision of the Europeanization of Hungary. Hungarian politicians were aware that the West supported countries that wanted to democratize. Therefore, they thought that the transformation could happen faster. Moreover, European integration was a good option, as they might fall short of competing on their own in the international political arena compared to other major states. In line with this goal, Hungary has started to develop a regime and political order formation strategy that can harmonize with the EU.

Hungarian political forces have a common idea for the realization of the goal of EU membership since 1989. The issue of inclusion in Europe had now becomes a concrete goal. In this period, Hungary which was the first state that took the West as an example both in terms of trade and policies (Mayhew, 1998). Within this framework, Hungary has a special importance due to its position as the first country to establish a connection with the EU. Throughout this process, the policy plans determined within the framework of institutions reflecting EU values and the process of creating a democratic

constitution also included the support of the public. From the late eighties, Hungary has been trying to gradually encompass the three pillars of the EU.

For Hungary to join the EU legally, it had to initiate the integration process in certain areas. There has been a transfer of European policy values in the institutional space. Also, the trade relationship with the EU was raised to a high level. The economic development of Hungary encouraged the EU's largest companies to invest. In this way, the investment of both EU and multinational companies in Hungary contributed to the integration into the EU to a great extent. In addition, Hungary's active membership in the OSCE played an important role in ensuring security integration which is the concern of the second pillar. In addition, NATO membership in 1999 strengthened the European integration process (Agenda 2000, 1997). Regarding the third pillar, "Hungary is well on the track to meet the justice and home affairs acquis within the next few years, assuming progress continues at the current rate and effective training and institutional development programmes are implemented in the key JHA institutions" (Agenda 2000, 1997, p.67).

In the pre-accession period Agenda Hungary and the Progress Report published in November 1998 clearly stated that Hungary's political integration process is progressing successfully. Thus, the Europeanization process was basically provided within the scope of the administration in Hungary. Accordingly, democracy-oriented arrangements were made, first in the parliament and then in other sub-systems, to create a fast and smooth process for the formulation and implementation of certain policies. As stated in Agenda 2000 (1997, p. 77), "Hungary presents the characteristics of a democracy with stable institutions guaranteeing the rule of law, human rights and respect for and protection of minorities." Countries that have started their democratic transformations and want to become members must develop their institutional systems within the framework of Europeanization. Thus, a certain system of institutions has been established in the mutual European Agreements so that countries can manage their Europeanization processes. In the First Parliament formed in Hungary in 1992, the Association Council, the Association Committee and the Joint Parliamentary Committee were established at the government level.

Then, in 1996, the institutional structure expanded with the creation of a series of new state institutions, such as European Integration Cabinet, Integration State Secretariat, and Interministerial Committee for European Integration. These established government agencies were successfully introduced in 1996 the Hungarian Country Report as top-level organizations. In addition, the Parliamentary Committee for European Integration was established in 1992. This specially established body constitutes the Hungarian branch of the *Joint Parliamentary Committee* (JPC) of the European Parliament, and they meet regularly twice a year. Although the Committee performed well in the European part, it was not that effective in Europeanization in the Hungarian Parliament (Gyôri, 1996). As a result, the biggest shortcoming in the European-oriented policy making process is that the Hungarian Parliament does not adequately address EU policy issues because member states have a specific role in the European Parliament as much as they organize their interests through pressure groups (Norton, 1998).

The desired link between the national parliament and the EU Parliament is largely lacking in Hungary. Hungarian parliamentarians do not try to develop enough expertise regarding the policy-making process linked to European issues. For this reason, committees in the Hungarian Parliament to work on European affairs have not yet been established or even if they are established, they do not work fully operational. This situation is one of the reasons that led to the failure of Hungary's Europeanization process. This disconnect underlines the necessity of active interaction of actors inside and outside the country. Thus, it is possible to create more effective participation and success in both national transformation and EU integration processes.

In the early nineties, Central and Eastern European countries wanted a short and smooth Europeanization process aimed within the framework of the "*return to Europe*" motivation. The idea that the Europeanization in Hungary would solve all the problems of the country in the beginning began to disappear due to the increasing economic crisis. The long and gradual period of the Europeanization process soon disappointed Hungary. In fact, at the beginning of the nineties, 83 percent of the Hungarian population was positively approaching EU membership, then by the mid-nineties this level dropped to as much as 40 percent (Grabbe and Hudges, 1998).

In parallel with the democratization of Hungary since 1989, its foreign policy had aims such as being a member of the EU and NATO, protecting the rights of the Hungarian minority and establishing strong relations with the Western economy. Official contacts of Hungary with the EC began in 1990. Hungary became a member of the Council of Europe on 6 November 1990, when the Hungarian Minister of Foreign Affairs Geza Jeszenszky, signed the establishment document of the Council of Europe, which was established in 1946 in Rome. Thus, at the same time, the official ground for close diplomatic and economic relations are prepared with Western European countries. In line with, Joszef Antall takes an important step towards strengthening relations with EC in 1991. Prime Minister Antal signs Hungary's application for membership to the European Union on 16 December 1991 in Brussels. On March 31, 1994, Hungary officially applied for European Union membership during the meetings in Athens. With this application, Hungary became the first country to apply to join the Union among the post-Soviet countries.

With the decisions taken at the European Union Summit held in Amsterdam on 16-17 July 1997, Hungary was among the new candidate countries to be admitted to the union within the framework of the European Union's enlargement program. In terms of the EU membership process, the most important event of 1997 was the EU Summit held in Luxembourg. At this summit, the heads of government of the EU member states declared that they would start intergovernmental membership accession talks with Hungary.

As Hungary and other Central and Eastern European countries made a serious effort to sustain themselves politically and economically, the EU Commission took responsibility for Western aid to Central and Eastern Europe in 1989. In this context, they created the PHARE (Poland and Hungary: Assistance for Restructuring their Economies) program. This program was also created to assist Central and Eastern European countries in their preparations for EU accession. Thus, the EU both supported the institutional structure established within the framework of the membership goal in Hungary and provided incentives for investments in line with the *acquis Communautaire*.

Starting the European Union membership process after 1989 was the most important step for Hungary. The European Union showed a positive attitude towards Hungary in this regard and supported Hungary, which is a former Eastern Bloc member but also has an extremely important strategic position in Central Europe, to be admitted to full membership

as soon as possible as a result of fulfilling the necessary basic conditions. Being a member of the EU means the creation and development of political and economic cooperation with Western European countries, which have deep-rooted traditions of democracy for Hungary. On the other hand, it means that there is a chance to continue cooperation with its former allies, Eastern Europe, and the USSR countries.

In the framework of the country report published by the European Commission in 2000, Hungary was ready for full membership. In November 2001, with the enlargement, which was the next step, Hungary had completed 23 parts of the 31 pre-admission conditions. Towards the end of that year, the number of completed parts reached 24, and then all parts were completed at the end of 2002. In fact, the economic difficulties and unemployment experienced during the completion of these stages caused the Hungarian Parliament to meet many times to discuss the European Union membership issue. Therefore, domestic political discussions took place in this way The opposition warned the government that Hungary was not ready for the EU and pressured it to slow down this process. Hungary and Slovakia were entitled to take part as observers in the institutional work of the EU until May 2004, when they became full members, on the grounds that they had successfully conducted EU negotiations. In the face of these progresses, EU representatives believed Hungary's membership would be completed by 2004 and thus Hungary became the country that completed this process the fastest among other candidate countries. As a result, forgetting the communist past and finalizing EU membership meant the modernization of public administration. At the same time, since the basis of modernization is democratization and providing a free market economy, the period after 1996 is seen as an intertwined state of modernization and Europeanization.

In conclusion, the year 1989 was an important date for the Hungarian people because this date is the beginning in terms of democratization and separation from the administration under the influence of the USSR. The Hungarian people, who took democratization steps and wanted to be integrated with the West in every sense, also shaped the new administration and government in line with this view, and thus Hungary's democratization process began. Hungary's democratization process has been more seamless than other post-Soviet countries. The governments that took office in Hungary between 1989 and 2004 had common goals. The first was to become a member of the EU and the other was to become a member of NATO. Hungary achieved this goal by joining NATO in 1999 and

successfully completing the EU membership process that started in 1994, it became a member of the EU in 2004. The EU has had many effects in political, economic, and social fields after Hungary's membership. New business areas have been created and trade and investments between countries have been made easier. At the very beginning of the membership period, it is seen that there was an increase in economic indicators, improvements in living standards, and important steps were taken in the field of democracy in terms of rights and freedoms. As a result, Hungary, which determined democratization as its primary goal after the collapse of the Soviet Union, reinforced this goal with its EU membership.

4.1.2. EU initiatives about democratic backsliding in Hungary

It was believed that the end of totalitarian regimes came with the collapse of the Soviet Union. The wave of democratization began to show its effect in all countries in a short time and democracy was accepted as the ideal form of government. However, since the early 2000s, suspicion against democracy has increased with the coming to power of populist leaders in many democracies that have not fully adapted in many different regions from Latin America to Eastern Europe and the Middle East. Hungary, which left the Soviet regime after the Cold War, applied for EU membership in 1994 and started modernization initiatives to fulfill the membership criteria, democratization, and development. Hungary, a post-communist country, was seen as one of the pioneers of the democratization until the mid-2000s. The fact that the country has stable governments and a well-functioning electoral system, and its transformation into one of the countries that attract the most attention in terms of international capital, enabled Hungary to gain EU membership in 2004. However, the negative effects of the 2008 economic crisis started the tremors in the country and the 2010 election took place.

With this election, the Hungarian Socialist Party (MSZP), which had been ruling the country for eight years, was replaced by the nationalist-populist Fidesz and its ally Cristian Democratic People’s Party (KDNP). As a result of the elections, under the leadership of Victor Orbán, the right-wing populist party Fidesz came to power in Hungary by receiving 52.73% of the votes with a two-thirds majority (Uitz, 2015). The constitutional amendment, which was his first act after the victory, and legal regulations in some areas faced intense reactions and caused controversy. With this

constitution, which came into force in 2012, the separation of powers was largely destroyed; parliamentary powers were reduced, judicial independence was weakened, and political pressure on the media increased (Batory, 2015). In addition, the Fidesz government enacted the New Press and Media Act, with the announcement of a new national cooperation system. However, this law has also led to widespread criticism. Access to government-controlled media outlets was also restricted for the opposition.

Fidesz put the country on a competitive authoritarian path with the legal regulations and political moves during this time. On June 5, 2010, a series of amendments were made to the 1989 Constitution. The most important of these, it has eliminated the necessity of calling a four-fifths majority, which the Hungarian Parliament should have achieved while in the process of making a new constitution (Uitz, 2015). With the elimination of the majority requirement, the election procedures of the Constitutional Court judges have been changed. This change signaled that the Constitutional Court's authority to make a constitution was under control. However, when the government drew serious public reaction against these changes, Fidesz decided to remake the constitution, claiming that it caused a political crisis. Subsequently, the new constitution draft of the Fidesz government was approved by the Parliament on 18 April 2011, with only the votes of the coalition government, without the votes of the opposition (Uitz, 2015). With this new constitution made in 2012, all institutions of control over the government were freed. The new constitution that came into force has brought many discussions with it, because this new constitution creates a direct incompatibility with the EU's core values such as democracy, rule of law and respect for human rights which are protected in TEU Article 2 (Bugaric, 2014).

Another development that constitutes the subject of discussion was experienced when the Hungarian Parliament added the “Fourth Amendment to the Basic Law of Hungary” to the 2011 Constitution on 11 March 2013. According to this change, some controversial provisions that were canceled by the Constitutional Court were re-enacted. With the submission of this amendment to the Hungarian Parliament, the Foreign Ministers of Denmark, Finland, the Netherlands, and Germany called for a new mechanism to secure the EU's core values and for the Commission to play a greater role in this matter.

The Court of Justice has the authority to impose economic sanctions against countries that do not comply with the implementation and protection of EU values and rules. The relevant violation procedure is explained in Article 259 of the Treaty on the Functioning of the European Union (TFEU), which provides

"A Member State which considers that another Member State has failed to fulfil an obligation under the Treaties may bring the matter before the Court of Justice of the European Union".

However, the EU's sanction power for violations of rules that are part of EU democratic conditionality, such as democracy, human rights, and the rule of law in member states, is limited. In addition, the evaluations made within the framework of the violation procedure are also insufficient to prevent the violation of democratic principles.

If we look at the Hungarian side, the EU did not actively use its main mechanisms until the Fourth Amendment to the Fundamental Law came into force in 2013. With this newly established Hungarian constitutional system, equality in the Constitutional Courts and the government's checks and balances system was abolished. The policies put forward by the government since 2010 also have a great impact on media freedom. On the Hungarian government's forced retirement of judges and the media law packages they enacted, the Council of Europe's Venice Commission and a special Council of Europe expert panel expressed their concerns about harmonization with EU values and made their recommendations. In the face of all these changes, in April 2013 the Monitoring Committee of the Parliamentary Assembly of the Council of Europe recommended that the Hungarian government be put in a follow-up procedure on the rule of law and democracy. Immediately after the Hungarian Parliament presented its constitutional amendments, in March 2013, the Ministers of Foreign Affairs of Denmark, Finland, the Netherlands and Germany published a Joint Letter for demanding that the Commission play a more active role and the creation of a stronger mechanism for monitoring countries to protect the EU's primary conditions for membership, such as democracy, human rights and freedom of the media.

The European Parliament requested the Committee on Civil Liberties and Justice and Home Affairs (LIBE) to write a report on the amendments to the Hungarian

constitution. The report was presented by the rapporteur Rui Tavares who was the Portuguese MEP at that time and explained the rule of law situation in Hungary, especially for the last three years, and it gives advice to the European Union side to bring Hungary back into the European path and makes critics about Prime Minister Victor Orbán's decisions and constitutional change. When the report was put to the vote on July 3, 2013, it was passed with an astonishing 370 votes in favor, 248 against and 82 abstentions.

The Tavares Report, creating a space for the European Parliament to implement the principles of Article 2 of the Treaty of the European Union. There are four important elements in the report. The first issue is that under the "Article 2 TEU/ Alarm Agenda" all agreements between the Commission and Hungary will be blocked until Hungary is brought into line with the issues in Article 2, secondly, "Article 2 Trilouge" formed by members to be appointed by the Commission, the European Parliament, and the European Council for the Hungarian government to consider within the framework of the report. The purpose of this committee is to monitor Hungary's progress in a more intrusive manner and to report whether it is making progress, thirdly, it has been requested to establish a "Copenhagen Commission" consisting of independent experts, who checks that the Copenhagen Criteria, which includes the conditions for admission to the EU are in harmony with the member states, the last important point is about the applicability of Article 7, which is seen as the "nuclear option" by depriving the EU members of their voting rights in the Council of Europe (European Parliament, 2013). The reason why these articles are important is that they refer to the basic tools created to ensure that the desired constitutional demands of an EU member state are fulfilled.

The Hungarian government's first reaction to this report, published by the European Union, was to sharply reject the recommendations. Immediately after the report was accepted in the European Parliament, the Hungarian Parliament adopted the decision named "the equal treatment due to Hungary". In fact, this published manifesto is a document that clearly states anti-Europeanism, representing all Hungarians. Stated that "We, Hungarians, do not want a Europe any longer where freedom is limited and not widened" (Walker and Garamvolgyi, 2022). In addition, another point that was not accepted is that the European Parliament approved the creation of institutions that would restrict Hungary's sovereignty. In the concluding section, the Parliament

appeals to the Hungarian government about the demands that the European Union remain resilient in the face of pressure and those national rights are not violated within the framework of the fundamental EU treaty. This objection makes the Orbán government's libertarian understanding of law-making even more evident. Regarding this: “This is why we are writing our own constitution…And we don’t want any unsolicited help from strangers who are keen to guide us…Hungary must turn on its own axis” (Pop, 2012).

Taking the Tavares report as an example, Commission President Barroso proposed to prevent risks against violations of the rule of law by establishing a control system among the mechanisms that the EU has. As a result of pressure from the EU, the Hungarian government made changes to the Fundamental Law, but did little to address the problems raised by the European Parliament. Hungarian Parliament on 16 September 2013 made the 5th amendment to the new constitution. In the amendment, regulations were made regarding the transfer of cases by the head of the national judiciary, the decision-making time of the constitutional court, political campaigning through the press, and the status of churches.

As seen in the example of Hungary, the proposed and taken steps could not perform effectively. Therefore, the European Commission has proposed to the Council a new warning process. This framework emphasizes Article 7 and Article 258 of the TFEU, which is the official infringement procedure. However, the measures taken for violation do not appear to be a very successful picture in addressing the problems occurring in the member states, as can be understood from the example of Hungary. This is due to Hungary's sudden change in the appointment and retirement ages of judges. So, The Hungarian Government filed a infringement by the European Commission because of age discrimination in the Supreme Court. Despite all these preventive actions, the dismissed judges could not be reinstated. Even a specific warning from the EU could not prevent the Hungarian government from reducing the independence of the judiciary and making pro-government constitutional reforms.

This new framework proposes that the Commission engage in dialogue with Member States to resolve situations that threaten the rule of law. In fact, the reason for establishing this framework is to create a warning mechanism before the final

sanctions in Article 7 are applied. This warning mechanism consists of three stages. First of all, the Commission examines the violation that has occurred in the member state and assesses whether it poses a threat to the rule of law. Then, if there is a serious threat, the Commission advises countries on how to evolve from their situation. Finally, the Commission monitors whether there is any development in the member states regarding the issues it recommends.

Since the Hungarian government brought the death penalty back to the agenda and followed anti-immigration policies, in 2015, the European Parliament proposed a solution against Viktor Orbán's actions. Following this proposal, the Commission had ability to implement the Rule of Law framework procedure against Hungary (European Parliament, 2015). In fact, at this point, Viktor Orbán knows that reintroducing the death penalty is impossible. However, he knows that he can increase his vote rate by keeping this issue on his agenda. Already, in the country's latest public opinion polls, nearly half of the people seem to support the reintroduction of the death penalty. Thus, Orbán not only undermines the EU's authority over the member states by bringing up issues that are against the values that the EU has defended since its establishment, but also portrays the image of being the protector of Hungarian sovereignty. Although these developments in Hungary caused concern, the Commission did not initiate the procedure, claiming that they did not see any threat to the rule of law, democracy, or human rights (European Parliament, 2015).

In December 2015, the European Parliament again proposed to the European Commission to initiate the Rule of Law Framework in response to the increasing anti-immigrant discourse and laws in Hungary. In this case, the Commission initiated the infringement procedure for the first time on the grounds that Hungary violated the Charter of Fundamental Rights. In 2017, the issue of re-introducing an infringement procedure against Hungary came to the fore because the government passed a law amendment that would cause the closure of one of the important universities, the Central European University in Budapest (CEU). It founded in 1991 with the support of George Soros, is counted as one of the best universities in Central and Southeastern Europe. According to the law amendment made by the government; For the universities of foreign origin in Hungary to have the authority to issue diplomas; There must be an agreement between the Hungarian state and the state to which the foreign

university is affiliated, and the foreign university must have a branch in its own country. Approving a bill in this way means restricting academic freedom in the country. However, the university does not meet the latter of these conditions. Although there are many universities of foreign origin in Hungary, the only university that does not meet only the second requirement in the bill is CEU. This clearly shows that the draft law directly targets this university. According to the Commission's statement, the law enacted by the Hungarian government.

"*the Hungarian Higher Education Law is not compatible with the fundamental internal market freedoms, notably the freedom to provide services and the freedom of establishment but also with the right of academic freedom, the right to education and the freedom to conduct a business as provided by the Charter of Fundamental Rights of the European Union*" (European Commission, 2017).

On these grounds, the Commission sent a Letter of Formal Notice to the Hungarian Government, warning them within the framework of the law on non-governmental organizations and education.

In May 2017, the European Parliament issued a resolution on the grounds that the current situation in Hungary was getting worse and worse and a need about the activation of the Article 7. In the EP (2017) resolution stated:

5. Calls on the Commission to strictly monitor the use of EU funds by the Hungarian Government

9. Believes that the current situation in Hungary represents a clear risk of a serious breach of the values referred to in Article 2 of the TEU and warrants the launch of the Article 7(1) TEU procedure

11. Reiterates the need for a regular process of monitoring and dialogue involving all Member States in order to safeguard the EU's fundamental values of democracy, fundamental rights and the rule of law, involving the Council, the Commission and Parliament

The ruling party Fidesz was a member of the European central right political group which is the European People's Party (EPP). This group is one of the largest political groups in the Parliament where center-right, conservative and Christian Democratic

parties come together. Viktor Orbán joined EPP in 2000 and served as EPP's vice president from 2002 to 2012. In March 2019, the EPP voted to suspend Fidesz at the request of the parties. However, Orbán's opposition to EU institutions and developments in member states after 2010 led to Fidesz's dismissal from the EPP. Especially, EPP leaders strongly stated that a more serious response should be given at the Union level to these anti-EU events in Hungary. In line with, EPP stated that "We cannot compromise on democracy, rule of law, freedom of press, academic freedom, or minorities rights. And anti-EU rhetoric is unacceptable" (European People's Party, 2019). The removal of Hungary from the EPP was in fact aimed at re-evaluating the rule of law and respect for EPP values in the country. In addition, the EPP has introduced conditions for the reinstatement of membership, such as the significant implementation of EU values in the country and the restoration of the Central European University's status. In early 2020, the EPP stated that they would continue to suspend Fidesz's membership indefinitely, citing continued problems with rule of law issues in Hungary. Meanwhile, Fidesz continued to sit in the EPP group in the European Parliament but changed its internal rules in 2021 to suspend members of the EPP. Orbán stated that "These regulations are undemocratic, unfair, and unacceptable. Therefore, the Fidesz board has decided to leave the EPP group as soon as possible" (Macek, 2021).

With the emergence of the coronavirus pandemic in 2020, the government has confirmed by the National Assembly that it will provide administration by decrees for an unlimited period. During the time the legislation was in power, the Government had the right to stop enforcing any laws it wanted and to impose up to five years in prison for misinformation about Covid-19. The legislation has been criticized by the EC, EP and many NGOs over concerns that the government has taken full control and that there is no time limit. Then, in a joint statement, thirteen EU Member States "expressed deeply concerned about the risk of violations of the principles of rule of law, democracy and fundamental rights arising from the adoption of certain emergency measures" (Ministère de l'Europe et des Affaires étrangères, 2020).

Ursula von der Leyen, President of the European Commission, also underlined the need for the Commission to re-examine the emergency legislation. The new state of emergency law put into effect by Hungary within the framework of the coronavirus

means the suspension of parliamentary democracy in the country. In this process, the decree signed by Prime Minister Orbán is put into effect within five minutes, and the public understands the implementation of the decree by seeing and experiencing it in practice, without any objection periods beforehand. The position of the media is also very important in this process: since the national media is mainly directed by the government, many developments are "ignored" by the press, negatives are not talked about, positives are showcased, so the content of government action is only reflected to the public as a propaganda for success. However, in countries where authoritarian-leaning political movements are in power, the criticisms that the state of emergency practices are used "out of purpose" have also come to the fore.

The state of emergency in Hungary during the Covid epidemic was one of them. Controlling the disclosure of data on the epidemic and the functioning of the country's health system, case, and death statistics, and stopping the flow of information with the emergency decrees were highly criticized at that time. In addition, measures were taken in areas unrelated to the epidemic. One of them is the confiscation of some of the revenues of the municipalities, especially the opposition municipalities, under the pretext of covid. While pro-government municipalities were supported with additional funds, opposition municipalities were thus rendered incapacitated. However, government spokesman Zoltán Kovács says that the states implemented by Hungary by declaring a state of emergency are in line with the constitution and its aim is only to combat the coronavirus (Zsiros & McCaffrey, 2020).

The state of emergency can be extended once every five months, subject to approval by the parliament. If the government deems it necessary, it can extend this practice as long as it wishes, since the ruling FIDESZ-Christian Democratic Party coalition has a two-thirds majority in parliament. According to the Hungarian constitution, a two-thirds majority also allows the ruling political party to make some changes to the constitution. One of these changes was a constitutional amendment made less than two weeks after the general elections on 3 April. The amendment, proposed by FIDESZ and approved by a two-thirds majority in the parliament, gives the government the power to declare a state of emergency in case of war or natural disasters if it deems necessary. Before this last amendment, there was an article in the Hungarian constitution that authorized the government to declare a state of emergency, but this

article did not cover the state of war. The government of Viktor Orbán declared a state of emergency using this authority in the Covid epidemic, and Hungary became one of the first countries in the world to apply a state of emergency on the grounds of the epidemic.

The Hungarian parliament's extension of the state of emergency declared due to the danger of war until 1 November 2022 shows the necessity of a serious EU intervention in the situation. The commission had warned Orbán that the emergency powers he had created, citing the Coronavirus outbreak as an excuse, should be subject to parliamentary and media scrutiny. However, Orbán does not take what the EU says seriously, either because the EU's responses to Hungary have not directly targeted the government, or because political statements and sanctions have not been implemented as declared.

The Socialist and Democrat Group put pressure on the EU to speed up its response, with statements that "Orbán has crossed all red lines and Hungary is becoming the first dictatorship in the EU" and "It is shocking to see that the Commission president didin't even mention 'Hungary' in her statement. It is time she acts as the guardian of the Treaties" (Socialists & Democrats, 2020). Then, Speaker of Parliament David Sassoli announced that he would write a letter to the Commission and the Council condemning the Hungarian government and explaining the need for serious counteraction. For the first time, Orbán's Fidesz party faced pressure from the European Parliament, which also opposed it from its own political supporters. Several delegations at the EPP expressed in a letter that they could step aside their Hungarian MEP colleagues. The letter also stated that it was necessary to suspend the rights of Fidesz MEPs. All Visegrad members of the EPP have also signed this letter, showing that there is no clear East-West separation in decisions, as Orbán's policies now endanger the whole of the Union. As a result of the letter signed by one third of the EPP group members, the countries brought up the urgency of the EU's need to impose sanctions against Hungary in response to the violation of the EU's founding values.

As a result of the National Assembly elections held in Hungary on April 3, 2022, the Orbán government managed to stay in power and declared its fourth consecutive electoral victory. The Fidesz-KDNP alliance won 54% of the vote, the highest ever,

thus retaining their majority position, winning 135 out of 199 seats in the National Assembly. The Socialist Party (MZSP), the Democratic Coalition (DK), the Hungarian Dialogue Party (PM), Hungarian Green Party and Movement for a Better Hungary (Jobbik) parties came together under the United Hungary alliance to overthrow the Fidesz government. The opposition, led by the Marki-Zay, criticized Orbán's government for concepts of corruption and authoritarianism. Orbán had distanced Hungary from Western values. Orbán, on the other hand, criticized the opposition for being away from Hungarian values. The votes were close between the two camps. Orbán seemed somewhat advantageous, but the public support of the opposition candidate was close to him. Then things changed with the Russian invasion of Ukraine. This occupation, which started almost a month before the Hungarian elections, seemed to be against Orbán at first. First of all, the economic costs of the business were worrying. Despite the unfavorable economic conditions, Orbán wasn't too bad at handling the crisis situation as the Russian-Ukrainian war could have a bad effect on the Hungarian economy.

Orbán has been a leader who has emphasized his closeness with Putin for years. However, since this war had a very negative effect on Putin's perception in Europe, the opposition thought that Orbán would be badly affected by this situation. The election campaign was set up, arguing that Orbán should, for once, stand on the right side of history and support Ukraine along with Europe. However, the expected loss of power by the opposition could not be realized, as the authoritarian leaders, who had been in power for years, knew the preferences of the electorate well and had the advantage of being able to manage the perception of the voters with the control they had established over the media for years.

4.2 POLAND

4.2.1 Europeanization of the Poland

During the communist period dominated by the Soviet regime, rebellions against the system took place from time to time in Central and Eastern European countries. Of course, one of the biggest threats to show up or resist against the Soviet oppression and communist rule was Poland. With the economic deterioration of Poland, the existing unrest against the communist regime began to intensify. Because the communist regime obviously hinders the social, political and economic developments

taking place in the country (Kramer, 2011). In fact, the social groups and activities that emerged against the communist government were not fully coordinated until the mid-1970s. In addition, the inability to form a coalition of opposition forces has led to the failure of the uprising movements that have been attempted so far (Kramer, 2011). For example, in Poznan, one of the largest cities in Poland, the protests of workers taking to the streets in 1956 when they were dissatisfied with the economic and political order were suppressed by the communist authorities. Following this event, many student and worker uprisings took place for the same reasons. However, all these strikes suffered the fate of the previous ones and resulted in the brutal suppression of the communist forces. In particular, violent reactions began to emerge from the intellectuals against the Polish constitution, which was amended in 1975, which weakened Poland's sovereign state order and strengthened the power of the communist party (Zarycki, 2020). In fact, these uprisings made them realize that the workers, intellectuals, students, in short, the whole people, are outnumbered, and that the self-organization they created can have the power to change things.

This awareness also signaled that it would begin to gather strength for the change of Polish society during that period. Within the framework of these movements, when the economic conditions began to deteriorate towards the end of the 1970s, all social groups in Poland launched large-scale strikes. The strike that started in Gdansk, led by a factory worker Lech Walesa, quickly spread to other workplaces, and organizing under a trade union called *Solidarność* (Solidarity) to protest the deteriorating economic environment and workers' rights (Surowiec, 2018). In fact, this uprising of the Polish people was not only a reaction to the communist regime of the country, but also a direct stance against the Soviet Union. The totalitarian rule of the Soviet Union was focused on restricting the freedom of the political environment and preventing the division of society around oppositional ideas. Thus, people have come to accept the idea that they cannot express their opinions in the face of the existing system. At this point, this solidarity movement contained a message against the whole order. The message they wanted to convey was that there is an atmosphere of mutual trust, and it is possible for people from different social segments to come together and exchange ideas (Surowiec, 2018). In line with these goals, they act within the framework of a strong alliance formed by the intelligentsia, the youth and the church. They continued to react against the administration by establishing close relations with the Committee

for Defense of the Workers (KOR), which was established in 1976 to resist the unfair attitudes over labors.

This movement, which developed itself step by step, started to reach more than a union appearance day by day. This national movement had become one of the main opponents of communism in Poland. In the face of this, especially the Communist Party of Poland entered a crisis period between 1980-1981. The Solidarity movement, which had expanded and pressured from the very beginning, continued to demand reforms from the government, but the government was like an impenetrable wall in fulfilling these demands (Kramer, 2011). At the same time, the complete collapse of the Polish economy was signaling action to reconsolidate power. Thus, the prime minister, General Wojciech Jaruzelski, declared a two-year martial law in 1981, as he found military intervention inevitable in order to keep control of the country. Although this event was tried to be imposed by the party as a movement to prevent the collapse of the country, it meant the end of their freedom in the social and political field for the Poles. Thus, violent repression began in a short time. Organizations supporting the democracy regime, especially "Solidarity", started to be considered illegal overnight. Hundreds of active people, including the leaders of the movement, were arrested and forced to migrate. Borders were closed, communication lines were taken under control, curfew was introduced at certain hours, and educational institutions were subject to strict control. All these violent movements showed that the communist regime did not want to leave any maneuvering space to the opposition (Gliński, 2015). Although the communist regime continues to monopolize the administration, it is not fully successful in directing the political life. Even though the existence and movements of the union were declared illegal, the members who survived the arrest and detention tried to re-establish a formation in the underground secretly. Thus, even though this state of martial law managed to control the solidarity financially, it could not prevent it from continuing intellectually (Brzeziński, 2000). Martial Law was suspended in 1982. The events that took place during this period resulted in devastating effects for Poland's democratic opposition. Although all this showed that the Communist regime under the Polish administration was losing power, the environment had not yet been created for its complete overthrow (Gliński, 2015). At the same time, the fact that the Soviet Union could not directly intervene in the events in Poland during this process was a sign that there was little time left for the collapse of the communist regime. This

stance of the Politburo towards Eastern Europe is the clearest expression that it will no longer use force to maintain its influence (Pridham and Vanhanen, 1994).

However, the goals of rebuilding the communist regime with the aim of stopping the economic collapse began to disappear gradually. After these events, despite the efforts of the communists, they could not make sufficient progress in the social and economic fields. Although Jaruzelski had some success on the field, he failed to restore an economically devastated order. In line with this inadequacy, a Roundtable talks was proposed in 1988 in between Solidarity and the government. The issue of legalizing Solidarity was brought to the agenda by establishing a dialogue between the opposition. The roundtable discussions that took place in 1989 became an important turning point in which mutual demands were expressed for the new political system. After these negotiations, the Solidarity organization was legalized at first, and then the participation of Solidarity in the elections of the Sejm and Senate, the lower house of the National Assembly, which was made into two wings, was allowed, and the election race in the country was created. In this context, Tadewz Mazowiecki, supported by Solidarity, won the election and a new government was formed. Thus, the communist order based on one-party rule in Poland came to an end (Gwiazda, 2016). Accordingly, the peaceful transition from the communist order to democracy without turmoil and bloodshed is one of Poland's greatest achievements.

After the collapse of the Soviet bloc in 1989, Poland's foreign policy was completely reshaped. Establishing friendly relations with its neighbors, integrating with the West politically and economically, being a member of the EU and NATO have been the priorities of Poland. These aims have been gradually put into effect within the framework of the idea of "*return to Europe*". Thus, in March 1999, the Czech Republic, Poland, and Hungary became the first post-communist states to join the expanded security pact. However, EU membership was not so easy and fast. This is due to the complexity of the EU *acquis* and the existing political and social structural differences between Poland and the current EU member states, like other post-communist candidate countries.

Along with other post-communist states, Poland signed an association agreement with the EU in 1991, known as the Europe Agreement. This agreement lays the groundwork for the gradual integration of Poland, which aims for future membership, to the EU. In

addition, for the European Agreement to be enforceable, it created the “Association Council”, made up of representatives of the European Commission, Polish government, and the Council of the European Union. In addition, the EU-Poland Joint Parliamentary Committee was formed at a time when the members of the European Parliament and the members of the Sejm (the lower house of the Polish Parliament) would hold their meetings. In September 1992, the Governments of Czechoslovakia, Hungary and Poland announced to the Council of Europe a Memorandum on strengthening relations with the Community and accelerating the integration process.

Then, at the European Council meeting held in Copenhagen, EU member state leaders expressed their views on the immediate resolution of accession conditions by Poland. Besides, European Council stated that “the associated countries in Central and Eastern Europe that so desire shall become members of the European Union” (European Council, 1993). The Copenhagen criteria applied for each candidate country aimed to make Polish legislation in line with the EU for Poland's cultivate European integration. Within the framework of the membership goal, it started to run its legislative body, the Parliamentary Commission of the Communities of Poland, in parallel with the European Union.

At the same time, the SLD (Democratic Left Alliance) - PSL (Polish People’s Party) government, controlled by PSL's prime minister Waldemar Pawlak, submitted a request for full membership to the EU. One of the main elements of the pre-accession strategy “White Paper - preparation of the associated countries of Central And Eastern Europe for integration into the internal market of the Union” was announced by the European Council and aimed to harmonize Poland with the sectors in the EU internal market (European Commission, 1995). Subsequently, the European Council presented to the European Commission in 1997 the “Agenda 2000”, which includes progress in Poland's integration process and the issues mentioned in the Amsterdam Treaty. Then, following the decisions taken at the EU Luxembourg summit in 1994 and 1997, the Jerzy Buzek’s government launched accession negotiations in March 1998. Poland, along with twelve candidate countries, found itself in the process of completing ‘chapter’ and made significant progress in negotiations.

The main purpose of all these EU-published documents is to meet the Copenhagen criteria. However, the prolongation of the negotiation process compared to other

countries such as Estonia and Hungary created the idea that Poland was left behind. The main reason for the slowdown in the process in Poland is that the country is the largest of the twelve candidate countries. Also, the vast majority of the population works in the agricultural sector, which is as underdeveloped as in EU countries. This situation pushes the EU to develop common agricultural policies, but at this point, it will be criticized by the member states as there will be a serious increase in the EU budget. Within the framework of the pre-accession strategy, the European Commission evaluated Poland's initiatives in annual reports. EU actions were reshaped after the evaluation of compliance with the *acquis*. Also, in this period, it was very important for institutions to act in an integrated manner in order to fulfill the EU's conditions. Therefore, the Committee for European Integration (KIE) was established in 1996 to monitor whether integration has taken place in accordance with EU requirements and to take measures if necessary. Apart from presenting action plans and draft laws to the EU, this body also coordinates pre-accession aid funds. As the process of Europeanization continued, it became difficult at some points to establish a link between the acquis Communautaire and Polish law. To address this problem, a special committee was established in 1999 to monitor the legislative process. During the same period, several reports were prepared at the Commission on Poland's low administrative capacity to implement EU values. Then, in 2000, an agreement was signed between the Polish Sejm and the President of the Council of Ministers to adapt the Union's law to Poland. Thus, collaborative committees were established in both the Sejm and the Senate.

At the end of all these processes, the negotiations regarding the candidacy were concluded at the European Council summit held in Copenhagen in 2002. Following the signing of the Accession Treaty in Athens on 16 April 2003, 10 candidate countries became members of the Union on 1 May 2004. This step was now the last step of Poland's EU membership process. The accession of Poland meant the end of the integration process, which they had to nominate as a candidate, but what they now need to focus on is their commitment to EU values during membership.

As a result, Poland, a post-communist country, has taken important steps in adopting the political, economic and social values of the EU from the candidacy to its membership. Even though they had difficulties in the integration process from time to

time, they never lost his motivation to become a member of the EU. Joint institutions and committees formed in parallel with the EU play an important role in maintaining this motivation. Although Poland has succeeded in becoming an EU member and has stepped up, the continuation of the more important issue of Europeanization has become one of the tests in front of Poland.

4.2.2 EU initiatives about democratic backsliding in Poland

The expectations that liberal democratic values will spread to the Eastern Bloc countries after the Cold War and that their continuity will be ensured have not been fulfilled in the past decades. Poland, which carried out the transition from socialism more peacefully than other post-communist countries, is the most prominent country where liberal expectations are not met. Poland, which has been a member of the EU since 2004, has started to transform democracy by following policies that are not very compatible with the founding values of Europe. However, The Law and Justice Party (Prawo i Sprawiedliwosc- PiS), which has left its mark on Polish politics in the last 20 years, has signaled that its ideas will not work in harmony with democracy. The ruling PiS in Poland was founded in 2001 and became the first party in the 2005 election. After the opposition period in 2007 and 2011, PiS came to power alone in 2015. The contradiction of the changes made with the existing regime led to a polarization between pro- and anti-government.

Following the democratic decline in Hungary, the anti-democratic actions of the government in Poland began to affect both the country's relations with the EU and its economic and social order. The victory of the conservative Law and Justice Party in October 2015 was a turning point in relations between the European Union and Poland, and the European states were clearly uncomfortable with the policies of the new government that came to power. After the reforms involving the conservative PIS government in Poland to put pressure on the judiciary and the Constitutional Court, the EU warned Warsaw about a series of sanctions, including the cancellation of its right to participate in decisions at the European level. The focus of criticism is about the Polish Law on the Constitutional Tribunal and the New Media Law. The adoption of the draft law restricting the Constitutional Court's supervisory power over the government and parliament, with the ruling votes, was the first move that drew

reaction on this issue. With the new law, the practice of simple majority, which allows the Constitutional Court to take decisions, was ended and replaced by a two-thirds majority requirement. Criticism has begun to rise that this initiative endangered the principle of separation of powers. In addition, the decision to re-election of some appointed members of the Constitutional Court was not accepted, especially by human rights organizations and lawyers, because it is thought that this situation interferes with the judiciary and democracy. Subsequently, the government passed the New Media Law through parliament. With the new law, the government is increasing its control and supervision over public broadcasting organs. In addition, the government will have the right to appoint general directors of public radio and television. Following the advice of Vice-President of the European Commission Frans Timmermans, the Polish government requested legal feedback from the Venice Commission which is the Council of Europe's consultation body about constitutional issues. Subsequently, upon the invitation of the Polish Prime Minister, Beata Szydło, to attend the plenary session of the European Parliament in Strasbourg, she stated that there was no violation of the rule of law or human rights in Poland, and she made it clear that Poland is a part of the EU, but that the EU's intervention in matters that are Poland's own internal matter is not right (European Parliament, 2016).

As we know, Poland is a state that has been a member of the European Union since 2004. Within the framework of the treaties Polish government signed, they transferred some of its sovereignty to the supranational level, like other EU member states. In this way, each member state agrees to respect the core values of the EU. The majority in Poland displayed unconstitutional behavior in this institutional crisis. The reason why they show such a tendency is to put their anti-democratic actions in a legal framework, since they have the majority as a parliamentary majority. In January 2016, the European Commission activated the Rule of Law Framework for Poland for the first time and wanted to find a solution to the problem through a bilateral dialogue. Even though the procedural process initiated for Poland is a first in the legal sense, it was not the first time with Poland in the historical process of the European Union regarding the damage to the rule of law after a conservative party came to power.

At the same time, according to the view of the Venice Commission which is the advisory body of the Council of Europe on constitutional matters,

"*Democracy cannot be reduced to the rule of the majority; majority rule is limited by the Constitution and by law, primarily in order to safeguard the interests of minorities*"

and in line with the Constitutional Tribunal;

"*As long as the situation of constitutional crisis related to the Constitutional Tribunal remains unsettled and as long as the Constitutional Tribunal cannot carry out its work in an efficient manner, not only is the rule of law in danger, but so is democracy and human rights*" (Council of Europe, 2016).

After the Venice Commission's statements, no constructive response was received from Poland. Therefore, the Commission has given Poland a period of 3 months to make EU-oriented changes regarding the Constitutional Court. The Commission recommended from Poland that three judges appointed by the former government should be take up their role, that the reform of the Constitutional Court law should be in line with previous decisions of the Supreme Court and that it should be subject to the opinion of the Venice Commission review before enactment (European Commission, 2016b). Despite the Commission's best efforts, Poland continued to violate the principle of separation of powers and did not yield the desired results against the dialogue efforts that continued for more than a year. In addition, the European Commission called for Poland to activate the "second phase" of the rule of law mechanism despite this ineffectiveness.

As no remedial action has been taken by the Polish government in response to the EU's concerns, the Commission adopted a "Rule of Law Opinion" on 1 June 2016. Thus, they formalized their stance in response to Poland's right-wing party's failure to comply with the EU's democratic standards. The Commission published in a press release the text of its observations to resolve its concerns about Poland. In the face of this initiative of the Commission, Jaroslaw Kaczyński, leader of the Law and Justice party, said in his statement; "If the Commission continues to press its unprecedented rule of law procedure against Poland, the country could issue a challenge to the European Court of Justice at any time" (Cienski and De la Baume, 2016). The Venice Commission, the legal body of the Council of Europe, expressed its concerns about

the Polish government's change in the functioning of the court, and demanded that the three elected judges take office under oath. The Law and Justice party continued to refuse to recognize the three judges elected by the last parliament.

Timmermans met with Szydło in Warsaw about the process initiated by the Commission, but the meeting did not seem to find common ground. Since Poland is one of the largest countries in the EU, the Union aims to end the conflict between them without alienating Poland. As a result of this initiated procedure, it is even possible for Poland to lose its right to speak and vote in the EU. However, taking such a clear decision requires unanimity. At this point, the EU's room for maneuver is limited, because Hungary, which is skeptical of democratic principles, has said that it will support Poland in all matters.

Then, The Law of July, 7th 2016 reshapes the way the Constitutional Court works, with a parliamentary majority, giving a clear message that they will not back down on EU warnings. The Polish government has again brought up provisions that are unconstitutional or contrary to the Venice Commission. Most importantly, within the framework of the Law, the Court will be rendered uncontrollable over the decisions of the majority to be formed in the parliament. According to Koncewich (2016) the court has been tried to be changed in two dimensions: internal and external. Internally, it was aimed to increase the power of the executive power to intervene in the Court in violation of the Constitution and tried to make the Court dependent on external powers. Externally, an attempt was made to create a Court dependent on PiS and prevent the government's decisions from being interrupted during the decision-making process. As Council of Europe Commissioner for Human Rights Nils Muižnieks (2016) said in his report published after visit to Warsaw "Poland's legal and institutional framework threaten human rights and undermine the rule of law, on which the protection of human rights ultimately depends. Lawmakers and the Government should urgently change course".

Despite all these efforts, after Poland remained silent, on 27 July, the European Commission activated the second stage and published its Recommendation. The document directly emphasized the issue of the effective functioning of the Polish Constitutional Tribunal. The Recommendation clearly stated that "emergence of a systemic threat to the rule of law that could develop into a 'clear risk of a serious

breach' which would potentially trigger the use of the 'Article 7 TEU Procedure'" (European Commision, 2016c). Following the publication of the proposal, Commission vice-president Frans Timmermans granted a three-month period for the PiS government to rectify the situation where the independence of the constitutional court was jeopardized.

European Commission President Jean-Claude Juncker explained in his interview that there will be no stopping the EU members' slide towards authoritarianism under Article 7 because

"*We say that it is a 'nuclear option'. But there are already some Member States which are saying that they will refuse to use them. This a priori refusal cancels de facto Article 7. I note this with sadness and disappointment. I hope that the peoples will not give free rein to those who will in the end harm them*" (Pech and Scheppele, 2016)

In fact, despite all these suggestions and warnings, Poland's continued actions that undermine democracy were expected to implement a clear Article 7 from the EU, because unless the Union took a determined stance, it both endangered its legal framework and damaged its upright stance because it seemed to tolerate authoritarian tendencies.

On the last recommendation of the Commission, an additional Recommendation was adopted on 21 December 2016 in the framework of the continuing dangers to the rule of law in Poland. The Commission demanded that constructive dialogues be started with the Polish Government and that a solution to the stated problems should be found and presented within 2 months. It has also been clearly stated that if there is no significant change within this period, TEU Article 7 will be applied. The Polish government again ignored the warnings of the European Commission, arguing that the changes it made in 2007 were not against Europe and that they did not see any problems in the functioning of the Constitutional Court. In July 2017, the Commission adopted the third Rule of Law Recommendation about the judicial independence in Poland. They demanded Poland to regulate the Supreme Court law, the law on the National Council for the Judiciary, withdraw the law on Ordinary Courts Organisation,

restore the independence and legitimacy of the Constitutional Tribunal and Refrain from actions and public statements which could further undermine the legitimacy of the judiciary (European Commission, 2017). After the President of Poland vetoed the first two proposals, the Commission initiated an infringement procedure. In line with, Jean-Claude Juncker stated that

"The EU can therefore not accept a system which allows dismissing judges at will. Independent courts are the basis of mutual trust between our Member States and our judicial systems. If the Polish government goes ahead with undermining the independence of the judiciary and the rule of law in Poland, we will have no other choice than to trigger Article " (European Commission, 2017b).

Recently, the President of the European Commission, Ursula von der Leyen, announced that the recovery program prepared to alleviate the economic effects of the COVID-19 epidemic will not be given to Poland without the expected regulations in the judiciary.

4.3 WHY EU DIDN'T STOP DEMOCRATIC BACKSLIDING in MEMBER COUNTRIES?

According to Freedom House reports, the number of undemocratic countries has started to increase in recent years. The EU, one of the number one representatives of democracy, is now faced with the authoritarianism of the former communist countries. One of the primary reasons for this situation is that the EU transition process has not been completed successfully. They believed that Europeanization would be achieved in the former communist countries through EU integration, the rule of law and the establishment of a democratic regime. However, the Eastern European countries that have been members of the EU and NATO are now countries that have returned to Cold War illiberalism and once again made relations with Russia and China. This clearly indicates that although these countries have joined the EU, their political elites do not seriously accept European norms and values.

In the last 5-10 years, this process of change has made significant progress and ultimately resulted in the formation of an illiberal, competitive authoritarian regime in both Hungary and Poland. In fact, this regime change process develops in parallel with EU membership. Hungary and Poland, which became members in 2004, are one of the

big steps in EU integration. In the post-Cold War era, the EU's primary condition for the enlargement of Central and Eastern European countries was the countries' adherence to liberal and democratic values and their practices. At this point, both countries entered the process of Europeanization in line with membership. Europeanization is one of the most common and controversial concepts in the social sciences literature. At this point, besides the adoption of the EU acquis, Hungary and Poland were also requested to show adherence to EU values and norms. Because, it has been clearly seen in the examples of Spain, Portugal, Greece, and Ireland that EU membership strengthens economic prosperity and democracy. In the enlargement of Hungary and Poland, public opinion wanted EU membership to create prosperity and a more stable and freer social environment.

The enforcement approach explains the theoretical explanation of why the new rule-of-law instruments are inadequate. It is not possible to reverse democratic backsliding only by sanctions. The more authoritarian the targeted state, the less useful conditionality through sanctions (Priebus, 2022). Finding the right response to regression is not easy, but dialogue with governments alone is not enough. Therefore, a combination of implementation and management needs to be established.

In the case of Poland, there are several factors that contributed to the failure of the EU. The first and most effective case is the existence of the Fidesz government in Hungary. It came to the attention of the EU after Prime Minister Viktor Orbán transformed the regime towards illiberal democracy. For this purpose, the Orbán government began to reduce the power of the courts, to impose restrictions on free media, to increase taxes and to increase state control in the economy, which drew great reactions from all EU member states. In particular, Orbán's failure to share the burden of immigration with EU members and his clear departure from democratic practices drew further attention. However, despite all this, Hungary continues to protect its EU membership. Poland has also been warned about "Putinization", a term popularized by the President of the European Parliament Martin Schulz. However, the fact that the Union cannot take a firm stance against Hungary prevents serious reactions against Poland, which acts by taking Hungary as an example.

Another important point is the EU's unanimity principle. When the EU comes to the agenda to impose sanctions on Poland, Hungary expresses that it will veto it in every sense at every opportunity. As soon as the Law and Justice government in Poland came to power, it took steps to disable the Constitutional Court, silence the media, politicize independent institutions, and take control of the military. This situation brought the "Article 7" application to the agenda by putting the Polish crisis on the agenda of the European Commission's general assembly meeting in January 2016. The steps taken for the member states that act contrary to the European Union have never been aimed at removing them from the Union. Instead, behaviors that are not integrated into the EU are identified and attempts are made to correct them. The biggest sanction for violations of democracy and rule of law, which are the foundations of the EU, is to restrict the right of that state to have a say in European institutions by implementing Article 7 of the Treaty on European Union. Viktor Orbán has publicly declared that Hungary can block the implementation of Article 7, the EU's sanction against Poland. Article 7 consists of two separate parts: While a warning system is mentioned in Article 7(1), the sanction part is on the agenda in Article 7(2)-(3). Therefore, for Article 7(2) to be kept on the agenda, European institutions must first apply the first part of the article to these two countries at the same time.

However, these sanctions are not the first time for Hungary and Poland. After the 2000 elections, the EU brought Article 7 to the agenda against the coalition government of Jörg Haider's Freedom Party in Austria. However, since the member states thought that suspending all of Austria's rights was a very heavy sanction, they resolved the situation with bilateral sanctions. The result of the Austrian case demonstrated the need for a warning mechanism to be established before full-scale sanctions could be implemented. In this context, EU law was reshaped, and Article 7 separated into two phases. Now, the fact that Article 7 is on the agenda in Brussels is no longer so serious for the countries to be implemented. EU member states openly allowing Hungary's democratic backsliding created the image that they would be ineffective against Poland as well.

In addition, the mutual veto power of Hungary and Poland has put the EU in a dead-end loop. A way of implementing Article 7 can only be put into effect if the first phase of the article is approved by a four-fifths majority of the Council. In this case, it takes away the veto right of Hungary and Poland. However, since the period of decline in

democratic practices started, the EU has not applied to this article, and now the EU should take serious steps. In fact, if the EU is to make its sanctions enforceable, it must ensure that countries within the scope of the Article 7(1) warning, they must do not vote in ratifying the sanctions to be imposed under Article 7(2). This automatically cancels the veto issue that Hungary and Poland threaten the EU. In fact, the most important point is that the European institutions' inability to prevent democratic abuses against the Hungarian government has made the Polish government more courageous in violating the rule of law and democracy issues. As a result, the EU's proposals for change by considering only Poland will most likely always fail (Hegedüs, n.d). Therefore, it is necessary to effectively implement the sanctions mechanisms against the Hungarian government, which creates an area of action for Poland. Also, The EU, which failed in Hungary, is not expected to be successful in Poland's democratic backsliding, which has four or five times more population than it. Poland has a great influence in the EU both politically and economically.

Contrary to some who advocate the necessity of sanctions, there are also criticisms that the trial of Hungary and Poland may be objectionable for the EU. At one point, only Poland and Hungary do not violate the norms of the Union. If the sanction procedure is introduced against these two countries and the voting rights of the states are taken away; The Union may have to confront other "EU-skeptical" states as well. In this context, the "sanction procedure" causing a domino effect includes the possibility of seriously affecting the EU (Vatandaş, 2018).

After all these uncertain failed processes, the European Commission changed its attitude towards Hungary and Poland in 2021. Between 2010 and 2021, the European Commission only made short-sighted attempts to protect EU values such as democracy and the rule of law. The European Commission was not sufficiently aware of the difficulties that Hungary and Poland's autocratic behavior poses to the internal and external functioning of the EU. Recently, due to the European Parliament's (EP) decision that Hungary is no longer have democratic values, they requested the suspension of approximately 7.5 billion Euros of the funds provided to Hungary from the EU budget (Zalan, 2022). Thus, the long-standing tension between the EU and Hungary resurfaced. Considering that most of the EU resources are transferred to people close to the government and that there is no institution in the country to prevent

this, the funds were requested to be stopped. At the same time, Before the European Parliament met on the Hungary issue in January 2019, Orbán described European Commission Vice-President Frans Timmermans who was primary defender of triggering Article 7 as “Soros' man” (Gotev, 2019). Therefore, the Hungarian government has said that it will not engage in the rule of law debate that the European Parliament will hold.

At the same time, Money is another critical point between the EU and its member states. With the help of EU funds, member countries strengthen their infrastructures in many areas. About 106 billion Euros have been allocated to Poland within the framework of the 2014-2020 EU budget. However, for Poland to benefit from this budget, it must meet the Union's requirements. If Poland does not meet these conditions, payments may be withheld, as has been done in Italy and Romany in the past. In April, the EU took punitive action against Budapest, warning Hungary that financial aid could be cut. This initiative of the EU has been considered a milestone because no such criminal action has been taken by EU official institutions against any member state before. The fact that the funding cut to Hungary has come to the fore is an indication that the calm attitude towards Orban within the union has come to an end. The serious depreciation of Hungary's national currency Forint is at a point where the EU's use of the cut funds to Hungary can have a serious impact on Budapest (Mercédesz, 2022).

As long as the funding problem between the EU and Hungary continues, the functioning of the EU decision-making mechanism is also affected. German Chancellor Olaf Scholz said “We simply can no longer afford national vetoes, for example in foreign policy, if we want to continue to be heard in a world of competing great powers” (Reuters, 2022). This statement of German chancellor actually targeted Hungary directly because it was the only EU member to criticize the sanctions against Russia. This situation sabotages the bloc's ability to act jointly on foreign policy. Of course, in the structure of the EU, the member states have the right to veto, but the fact that the veto right is not used in parallel with the EU is the part where Hungary has reacted from Brussels. In this context, it can be expected that a revision related to the veto in the EU will be carried out in the future.

Until now, the EU has generally given political warnings to Hungary and Poland. However, now we see that the EU is trying to limit the maneuver space of both countries by creating economic practices to eliminate the incompatibility. EU is trying to get Orban to accept what they said by taking advantage of Hungary's bad economy. At the same time, in Hungary, whose economy is deteriorating, Orban wants to take advantage of EU funds to support their economy. Even though he says we don't need EU's recovery funds, Orban sent a top official to Brussels to take advantage of the funds that the EU had frozen in the disciplinary process against Hungary. If Hungary fails to reach an agreement with the EU by the end of the year, it will lose 4.64 billion euros in Covid recovery funds (Rankin, 2022). After this point, the EU's stepping back and allowing Hungary to benefit from the aid fund will mean the approval of the Orban administration. Therefore, the EU needs to think very carefully about its next step and process the request at the right time.

Poland has been criticized by the EU for a while, on the grounds that it has regressed in principles such as democracy and the rule of law. The EU accused the Polish government of establishing a disciplinary mechanism especially for judges and undermining the independence of the judiciary. EU Commission President Ursula von der Leyen, in her statement on June 7, announced that they would not make payments to Poland within the scope of the recovery program prepared to alleviate the economic effects of the Covid-19 epidemic, unless the expected regulations in the judiciary are made (Foy et al., 2022). Likewise, the fund-cutting strategy implemented in the two countries was strongly opposed by Poland. The Polish government, which is also the focus of the Commission on rule of law matters, has strongly indicated that they "will vigorously oppose" any move to suspend funds (Foy et al., 2022). At this point, Poland continued to show their solidarity with Hungary regarding EU funding.

In addition, another reason why there is no positive attitude towards EU membership in Hungary and Poland is the effective propaganda of Russia and China. By targeting the EU and NATO, Moscow praised Russian President Vladimir Putin and thus succeeded in influencing public opinions in Central Europe and the Balkans. At the same time, by reasserting its role as the representative of the Orthodox Christian population, Moscow wanted to prevent further enlargement of the EU and to bring its current members closer to it. In this framework, it was presented to the EU countries

as weak and divided and fueled the disunity in the Eastern Europe region. However, China, which is economically strong, has also managed to influence the countries in the region with its economic investments. Balkan leaders in particular tend to take Beijing as a role model politically and economically. Another reason currently making room for democratic decline is the coronavirus pandemic. Non-liberal states have strengthened their control over power by using the epidemic as an excuse. For example, the Hungarian parliament granted emergency powers to Prime Minister Viktor Orbán for a faster response to the crisis. Likewise, in Poland, the pandemic has shown behind the last-minute intervention of the electoral commission to neutralize the decision on the postal vote. The fact that countries turned to politically restrictive measures instead of increasing health measures in this period created a situation of insecurity.

Since the first signs of democratic decline came in Hungary and Poland, the European Union has warned against these countries in various ways. However, the democratic regression could not be prevented due to the structure and policies of the Union. The absence of serious sanctions against Hungary in time does not act as a deterrent for the ensuing Poland. After that, the outcome of the discussions on whether the two countries should leave the EU has always remained unclear because Article 7 has no sanction to remove a country from the EU membership. In the current situation, since the removal from the EU is not regulated within EU law, the membership rights of the countries can be suspended within the framework of the relevant article in the future. In addition, it is not possible for these countries to leave the EU voluntarily. Because both countries continue their own illiberal policies and benefit from the resources of the EU. At the same time, The European Union has put on the agenda the cutting of financial aid as a final trump card to make the Hungarian Government accept their views and values. Within the framework of these financial aids, certain responses were also expected from Hungary. In a way, we can understand the tension between EU-Hungary relations as it is the first time that the EU has initiated such a transaction against a member state. In the future, it seems that the EU will implement the carrot-stick strategy in its relations with Hungary. Within the framework of this strategy, Hungary will have to accept the EU's conditions to receive financial assistance from the EU.

In conclusion, there are many comments about the future of European states in the order that emerged because of the global economic crisis. The foundations of the European Union, which protect the social system, have come into question due to the successive reforms in the post-2008 period. With this process, the question “Is the “European Social Model” coming to an end? has been asked widely (Pochet and Degryse, 2012). Scholars working on Central and Eastern Europe agree that the economic crises that emerged in the post-socialist regime have adversely affected the course of the countries. The not fully settled economies of these countries, which are in the process of transitioning to a free market economy after the regime change, and the crises that occurred after the EU accession have eliminated positive thoughts about the future (Ágh, 2013). With Europe's entry into such a situation, Hungary and Poland faced regression, corruption, and political instability in their administrative regimes (Rupnik and Zielonka, 2013).

CHAPTER 5
CONCLUSION

The West has been making different progress about democracy over the time. One of the West's biggest drivers for political, economic, and social progress has been democracy. Democracy is a form of government in which the ruled determine the rulers, the political control is in the hands of the ruled and these ruled are considered equal in terms of politics, social and economic aspects. So, democracy is one of the most popular concepts in contemporary political science.

The East of Europe, which was captured by the Soviet Union in the Second World War, remained under the power of the socialist parties at the end of the war. The Soviets eliminated the opposition in order not to lose their influence in this region and to ensure the full adoption of the communist regime. The fall of the Berlin Wall, the end of the Cold War, and the dissolution of the Soviet Union in the late 1980s simultaneously laid the foundations for democratic order in many countries. Not only in post-Soviet countries, but also in other countries with communist ideology have made initiatives on democracy, human rights, and the rule of law.

It was a very complex and long-term process of change for the countries embarking on reform initiatives in these areas. But at the end of the day, with the formation of new democracies "There was a moment of euphoria, in 1989, when people felt liberated from an oppressive regime" (Soros, 1994, para. 6). Countries that have started to develop themselves in democracy have made progress in the participation of citizens in the decision-making process, ensuring the principles of transparency and accountability, and eliminating corruption. In addition, even the first constitution adopted by the Russian Federation in 1993 was creating an administration that implemented the parliamentary democracy adopted by the West. The Russian Federation, which came to the international scene as a newly independent state after the dictatorship of the communist and tsarist eras, has made developments to implement the Western-type democratic structure. However, some incompleteness or gradual retreats from democratic values began to emerge regarding the foundation of the democratic order that was desired to be established. In fact, while the transition

process seemed likely to be completed smoothly, the basic values of democracy were not fully achieved and transitions to hybrid or authoritarian orders took place. Because, although an order comes to mind in general terms, this word may have different meanings for everyone. In this context, the existence of different perspectives created a room for maneuver for politicians such as Orbán and Kaczyński, leading to the formation of a majoritarian democracy.

In the democratic order formed according to this mentality, the majority's right to rule is absolute and cannot be limited, one of its important features is that it acts within the framework of preventing the opinions of minorities from becoming a majority later. In other words, it creates the danger that the will of the majority in a society in a certain period will dominate that community continuously. In a democracy formed within this mentality, it is not possible for it to create a "democratic" decision-making platform where ideas can be freely discussed. We see the transition from autocracy to democracy, which we have been accustomed to since the past, as a shifting from democratic regime to authoritarianism. In particular, the concept of "illiberal democracy", as stated by Fareed Zakaria (1997), describes a system that cares about the existence of elections, but where the rule of law or constitutional controls are not effective. Along with the preferences of the voters, an order emerges in which minority and fundamental rights are ignored. As a result, in addition to strengthening the liberal order, it is also necessary to make regulations in the context of democracy.

Recently, the European Union, which has a set of democratic values and has demanded the establishment and continuity of a democratic regime from its member states, has faced the rise of authoritarian tendency not only at the international level but also within itself. While authoritarianism is on the rise in the global context, the practices emerging in the EU, especially at the national level, jeopardize the understanding of democracy adopted in Europe. Nearby, the concept of legitimacy plays an important role in deciding where the political regime stands between democracy and authoritarianism (Gerschewski, 2013). It is important because all kinds of political systems must have a certain level of legitimacy to ensure their continuity. Regardless of which regime they adopt, legitimacy is a mandatory for leaders, because the government, which is built on a classical order, has to explain the means of administration and its actions (Brady, 2009). In this context, even though both

Hungary and Poland are in the European Union, it draws attention that both countries have moved away from the EU's legitimacy understanding. However, the majority of countries with liberal democracy within the Union and rules created a grey zone between democracy and authoritarianism. Thus, mixed regimes, called hybrid, began to emerge, apart from democracy.

Hungarian *Fidesz* Party and the Law and Justice Party in Poland undermine the understanding of democracy by ignoring the will of the parliamentary majority and the electorate. Although hybrid regimes that engage in such behavior seem to have a so-called environment of political competition, in fact, there is no room for maneuvering for the opposition because the large institutional structure supports government forces (Levitsky and Way, 2002). At the same time, the authoritarian tendencies that began to emerge in Poland became an important issue for the European Union. With the coming to power of Jarosław Kaczyński's Law and Justice Party, the changes made in the country's Constitutional Court and judicial system, as well as the pressures and restrictions it placed on the media, prove this backsliding. Within the framework of the criticisms made against the PiS government, it is argued that the actions are similar to Hungary and that a democracy against the liberal order was established in the same way. With the increasing developments related to all this regression, the European Commission started a violation procedure against its member state, Poland, on 28 July (European Commission, 2017). In this regard, Poland has the distinction of being the first member state to open an investigation regarding the violation of the rule of law. This procedure is a warning to the behavior of the Polish government that violates the independence of the judiciary, because judicial reforms against the understanding of the EU trigger the implementation of Article 7 (1) in TEU. Within the framework of all these contraventions, the Commission initiated the "*Rule of Law Opinion*" in January 2016 and started the process by giving "*Rule of Law Recommendation*" in response to the new regulations made by the Polish government on the Constitutional Tribunal, appointment of judges and the media (European Commission, 2016). In fact, the Commission was not unfamiliar with this process, which it started within the framework of the concerns it raised about Poland, because it initiated an infringement procedure against Hungary, which was a former EU member, due to the asylum law it applied in 2015.

The political system that emerged in Hungary in the post-2010 period could not be fully named, however, especially in the last seven or eight years, the changes made in the constitutional and political fields, which have taken place consecutively and rapidly, have made it clear that the existing regime will reach a target point within the framework of these changes. After a new constitution adopted by Victor Orbán in 2011 and entered into force in 2012, we have become clearer that the democratic regime that Hungary has is beginning to break down because, only if a competitive, open, fair and multi-party election process is generally represented that democracy exists here (Zakaria, 1997). However, systems that cannot fully implement the democratic regime hybridize the ever-existing order as they move to an authoritarian order, thus disappearing the rules and guarantees that ensure that political institutions remain democratic. Accordingly, despite the decisions of the Constitutional Court, the unilateral constitutional changes and the subsequent 2014 elections, which were not carried out fairly, signaled that the Hungarian political system was moving away from a democratic structure (ODIHR, 2014). As can be understood from all these changes, Orbán portrays an illiberal democrat image (Bremmer, 2017). Considering its approach to the rule of law and human rights, attempts to close the Central European University in Budapest, supported by an NGO that advocates these values, caused a great public reaction. This reaction was to show that the Hungarian government cannot prevent education and science with bans in the globalizing world order. It is possible to see similar changes made by Hungary in the institutional field in Poland.

With the aim of having sole authority over judicial reforms and decisions, Poland is also amending the Constitutional Courts. We see the same attempt in the administration of Victor Orbán, who reduced the constitution to party politics. In the same way, after the Hungarian media, which was restricted by suppression, the Polish media was also brought under control by imposing bans. In short, Hungary takes its place as the biggest example in the process of Poland's shift from democratic regime to authoritarianism. At this point, it is not only the idea of liberalism but also democracy that is in danger in both countries because the leaders of both countries are trying to increase the power of their positions by undermining the rule of law. Their nationalist and strong idealistic feelings enable the step-by-step construction of an illiberal democracy. At this point, a regime was born in which democratic institutions existed in both Poland and Hungary, but in which autocracy predominated in their

functioning. Essentially, there is always a so-called competitive environment in the hybrid regimes, but the fact that the government controls the institutional structure blocks the opposition and drives both the parties and the people to despair (Levitsky and Way, 2010). Although it seems like there is a democratic order in the general picture, the situations behind the scenes are different.

Hungary's and Poland's trends in authoritarianism continuing today and Western democracy has not been fully successful in that sense. In particular, the case of these two countries clearly proves that democracy and liberalism do not show joint progress. The main problem with the Hungarian and Polish illiberal constitutional systems is that they are now members of the European Union, which has liberal democratic constitutional principles. Of course, the citizens of Hungary and Poland have the right to democratically oppose the measures or policies taken by Europe in the same way that democratic nation-states have. However, if these two countries choose an illiberal democratic order, they must face certain sanctions, including leaving the European Union.

This democratic backsliding in Hungary and Poland is the biggest picture of the failure to sustain successful democratization. Moreover, these case studies show us that the definition of democracy is multiplicity and cannot be explained only in liberal terms. On the other hand, the definitions of democratic, authoritarian or dictatorial regimes cannot be fully differentiated, so Hungary and Poland also have their own hybrid regimes. For example, the support of these two countries, which stand against the refugee crisis, by other Visegrád countries has shown us that populist and ultra-nationalist movements that are against the liberal democracy values of the European Union can be supported. This means that being a member of the European Union is not a guarantee that countries will ensure the continuity of liberal democratic regimes. Especially recently, to give an example from the refugee crisis, the threats that emerged as a result of the Syrian conflict have further strengthened the illiberal states in Europe such as Turkey, Russia and even EU member Hungary and Poland. As a result, the disparity between the former and the last EU member states is gradually increasing. But the problematic issue for the EU here is that populist parties are starting to rise even in the former member states. Clearly, the mechanisms and institutions of the European Union have so far proven insufficient to protect core European values.

Both Viktor Orbán and the PiS government state that they will not give up on the path of authoritarian transformation they have started, and they will take this progress further.

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