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TITLE: Spoiler effects in proportional representation systems: Evidence from eight Polish parliamentary elections, 1991-2015

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ABSTRACT: I consider a model of multiple winner elections with several types of spoilers. In single-office elections, a “classic” spoiler turns a winner into a non-winner and a non-winner into a winner. Such spoilers rarely appear in multi-office elections. In such elections, spoilers include a “Kingmaker”, who turns a non-winner into a winner; a “Kingslayer”, who turns a winner into a non-winner; a “Valuegobbler”, who subtracts from some competitor more seats than it receives; and “Selfspoilers”, who may be hurt by competing separately rather than creating an electoral coalition. Various strategic spoilers, such as fake parties, are possible as well. I look for spoilers in eight Polish parliamentary elections that have taken place since the fall of communism in 1989. In two elections, the consequences of spoilers were massive. In 1993, multiple spoilers on the right helped the two post-communist parties return to power, slow down decommunization and create strong institutional obstacles to further democratization. In 2015, a spoiler manufactured a majority for the largest party (PiS) and, as a consequence, enabled PiS quickly to implement radical reforms. In other elections, spoilers had smaller, but noticeable consequences. The results suggest that parliamentary elections using PR party-list systems are vulnerable to spoiler problems that may cause significant political effects.

KEYWORDS: Proportional representation, spoiler, Poland, parliamentary elections, voting paradox

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1 Introduction

The spoiler effect is one of the nastiest threats identified in single-office elections conducted under plurality rule (first-past-the-post) or similar voting methods.¹ In this paper, I am looking for spoilers in multi-office elections, especially under proportional representation (PR) voting systems. I introduce a general formal framework for spoiler-like activities in such systems. Then I analyze all eight Polish parliamentary elections held after the fall of communism in 1989. In two of those elections, spoilers produced massive political consequences.

In single-office parliamentary elections, the spoiling mechanism is simple. Two or more similar competitors may play Chicken and refuse to make way for the rival. As a result, they split the vote and lose, turning another party into a victor. Under a slightly different scenario, a small competitor may subtract enough votes from a prospective winner to make him a loser. In general, a spoiler in single-office elections is a non-winning alternative whose removal from the race alters the election result. The political consequences of spoilers include political turmoil, instability or, in the worst-case scenario, violent takeovers of power.

A spoiler decisively affected the 2000 American presidential race. Ralph Nader collected just 2.74% of the vote nationwide and that share was sufficient to help George W. Bush narrowly defeat Albert Gore. While Nader's voters were more centrist than Nader, their estimated distribution of second preferences was 40% for Bush and 60% for Gore. That 20-point

¹ The plurality method does poorly in simulations testing its robustness against the spoiler problem. Other majoritarian methods, such as majority runoff and instant-runoff voting (IRV), also get low scores (Dougherty and Edward 2011, p. 93).

preference for Gore would have given him a victory in the crucial State of Florida and, consequently, the majority of electoral votes (Herron and Lewis 2007). Since in the United States most of presidential electors are elected with plurality rule, the process increasingly becomes vulnerable to spoilers when voters are more willing to vote for third parties (Shugart 2004).

Spoilers have caused considerable turbulence in world politics as well. The 1970 Chilean election was one of the defining moments of the Cold War. A center-right Jorge Alessandri and a centrist Radomiro Tomic split the vote and helped the likely Condorcet loser, Salvador Allende, win the presidency (Nohlen 2005). The tensions resulting from the election of a president with a radical Marxist agenda, but relatively low popular support, led to 1973 coup d'état by General Pinochet. Another likely beneficiary of the spoiler effect was Peru's Haya de la Torre in 1962, who narrowly defeated two candidates. In that and other Latin American cases of weak presidents elected by a faulty voting method, military coups followed (Colomer 2006).

Except for presidential elections, spectacular examples of massive spoilers in single-member district (SMD) elections are hard to find. Even the highest profile cases have limited nationwide consequences (e.g., Brams and Fishburn 1978). The frequency of possible spoilers in American general election races is estimated at no more than 1.5% (Bump 2014). The spoiling effect does not seem to affect parliamentary SMD elections the same way it affects presidential elections. That observation is quite in line with the following intuition. If infrequent spoilers affect the two main parties with similar probabilities, then the expected distributions of seats with or without spoilers are close. One can argue that substantial nation-level spoiler effect in SMD parliamentary elections normally would require the simultaneous occurrence of highly correlated spoilers in many districts. Hence, unless an unlikely massive third-party spoiler enters elections and generates the correlation, the spoiler effect fails to be significant in an SMD parliamentary system.

In contrast to the lack of serious spoilers in SMD parliamentary races, the consequences of splitting votes may complicate parliamentary PR party list elections in fundamental ways. Below, I develop the formal framework necessary for analyzing spoilers in multiple winner elections and provide an accounting of the turbulences created by spoilers in Polish politics after the fall of communism in 1989. The next section introduces the model and several types of spoilers. The first case describes how multiple simultaneous spoilers in the 1993 elections helped to bring post-communist parties back to power. That ‘red shift’ in Polish politics slowed down decommunization and created strong institutional obstacles to democratization. Then, I analyze how a small spoiler in the most recent 2015 parliamentary elections manufactured a majority for the largest center-right party (PiS)² and, as a consequence, enabled PiS quickly to implement radical reforms. Both sections include separate subsections containing detailed narratives on the political consequences of 1993 and 2015 spoilers; readers less interested in the intricacies of Polish politics can skip those subsections. Section 5 reviews how Polish politicians tried to use spoilers strategically. All cases having relatively minor consequences are relegated to Section 6. The last section concludes.

2 The model

The existence of spoilers is closely related to the condition of *Independence of the Alternative Set* (IAS), introduced formally by Heckelman and Chen (2013) for probabilistic voting with multiple winners as a property of voting methods. IAS in the context of single-office elections demands that adding more alternatives doesn’t turn a non-winner into a winner and subtracting alternatives doesn’t turn a winner into a non-winner (Ray 1973; Heckelman

² *Prawo i Sprawiedliwość* (*Law and Justice*). For acronyms of major parties and electoral coalitions, see the Appendix.

2015, p. 275). The existence of a spoiler implies that a voting method violates IAS.

The IAS imposes a very strong requirement on voting rules; practically all such rules violate it (Heckelman and Chen 2013, p. 111; Heckelman 2015). My focus here is on specific violations of IAS, i.e., the existence of spoilers, under distributions of votes in specific elections and specific sets of competitors. A voting rule may violate IAS in general, but such a violation may not arise for specific elections and a set of competitors. Thus, I will look for definitions that impose weaker conditions than the IAS.

The framework developed below is applicable both to single-office and multiple-winner elections. The model conceptualizes voting outcomes differently than models utilizing voter preferences and voting rules.

The model includes the set of at least three *actual electoral committees* P_1, \dots, P_n , such that $P_i \cap P_j = \emptyset$ for all i, j , subject to $i \neq j$. $\mathbf{P} = \{P_1, \dots, P_n\}$ is called the *actual election structure*.³ We interpret \mathbf{P} as the set of actual competitors in presidential or parliamentary elections. Any set $S_m = P_j \cup P_k \cup \dots$ that includes no more than $n-1$ committees from \mathbf{P} is interpreted as an electoral coalition of P_j, P_k, \dots and also is called a *committee*. The counterfactual election results in which we are interested are represented by various committee structures related to \mathbf{P} . Set \mathbf{S} is an *election structure* (or simply a *structure*) if it contains at least two committees; all committees in \mathbf{S} must be pairwise disjoint, i.e., for any $S_i, S_j \in \mathbf{S}$, $i \neq j$, $S_i \cap S_j = \emptyset$. We interpret \mathbf{S} as the modified actual structure \mathbf{P} such that some committees withdrew or formed electoral coalitions. For instance, $\mathbf{P} - \{P_i\}$ denotes structure \mathbf{P} when committee P_i withdrew. The assumption that all structures include at least two committees represents our lack of interest in an election with only one competitor.

³ The model is based on a generalized *partition function form game* (Thrall 1962; Kaminski 2001). For notational reasons, it is substantially easier to introduce elements of \mathbf{P} as sets.

For every structure $\mathbf{S} = \{S_1, \dots, S_m\}$, we define the *seat payoff function* $s^{\mathbf{S}} = (s^{\mathbf{S}}_1, \dots, s^{\mathbf{S}}_m)$, which assigns payoffs to committees 1, ..., m such that $s^{\mathbf{S}}_i \geq 0$ and $\sum_i s^{\mathbf{S}}_i = 100$. We interpret $s^{\mathbf{S}}$ as the vector of election results (percentages of seats won) when the structure is \mathbf{S} . In the special case of $\mathbf{S} = \mathbf{P}$, $s^{\mathbf{P}}$ represents the vector of actual election results. All committees win non-negative percentages of seats that sum to 100. We also assume for simplicity that no ties arise in competition for any seat or between the largest committees. If needed, that assumption can be modified; the reward for such tiny loss in generality is avoiding substantial complexity. With no ties, in single-office election for every \mathbf{S} exactly one i exists such that $s^{\mathbf{S}}_i = 100$ and for all other j , $s^{\mathbf{S}}_j = 0$.

Developing useful and intuitive definitions of spoilers for specific election results is challenging. The intuition behind the “exchanging the winners” idea of IAS for single office elections means that two big parties must exist in order to produce the violation. The first party would win more than 50% seats in an actual election and the second party would also win more than 50% seats if the spoiler were removed. Such situations – two big parties – practically do not happen in PR elections, where typically a few medium-size parties compete, and even the largest party falls short of a majority. On the other hand, the broadest potential definition of IAS for multiple winners, which would designate as a spoiler any party that even slightly changes the distribution of seats, is too comprehensive for empirical usefulness (see Kaminski 2015, pp. 378-379 for discussion). In addition, in parliamentary elections, especially PR elections, a meaningful complication is that parties may form electoral coalitions that work in ways analogous to spoilers.

Given those complications, I will define several types of spoilers, including a classic spoiler that is derived directly from the IAS condition. The definitions below identify such types. The categories are not disjoint, i.e., a spoiler may belong to two or more categories. In most cases, we clearly can identify the spoiler’s victim and/or its beneficiary (whose payoffs go down and up,

respectively, when the spoiler participates in the election). In a slightly differently defined case of selfspoiling, selfspoilers also are victims.

Classic spoiler: P_i is a classic spoiler if for a structure $\mathbf{S} = \mathbf{P} - \{P_i\}$, there exist j and k ($j \neq k$, $k \neq i$, $i \neq j$), such that (i) $s^{\mathbf{S}_j} > 50$ & (ii) $s^{\mathbf{P}_k} > 50$.

A classic spoiler turns the majority winner P_k into a loser and a loser P_j into the majority winner. Since for single-office elections the payoff is either 100 or 0, the conditions can be rewritten as (i) $s^{\mathbf{S}_j} = 100$ and (ii) $s^{\mathbf{P}_k} = 100$. The existence of a classic spoiler implies that IAS is violated.

Example: In the already discussed case of the 2000 American presidential election, $\mathbf{P} = \{B, G, N\}$. The election result is $s^{\mathbf{P}} = (100, 0, 0)$. For structure $\mathbf{S} = \mathbf{P} - \{N\} = \{B, G\}$, it is estimated that $s^{\mathbf{S}_G} = 100$ and $s^{\mathbf{P}_B} = 100$ (Herron and Lewis 2007). Thus, N is a classic spoiler, G is N 's victim and B is N 's beneficiary.

As I have noted, it is virtually impossible to find a classic spoiler in PR elections. Nevertheless, other situations closely match our intuition of a spoiler. The next two definitions relax the conditions for a classic spoiler.

Kingmaker: P_i is a kingmaker if for structure $\mathbf{S} = \mathbf{P} - \{P_i\}$, there exists $j \neq i$, such that $s^{\mathbf{S}_j} \leq 50$ and $s^{\mathbf{P}_j} > 50$.

A kingmaker increases its beneficiary's payoff from no more than 50 to a majority. In single-office election, except possibly for some empirically rare cases of ties, e.g., $s^{\mathbf{S}_j} = 50$, a kingmaker must be classic. Section 4 discusses the case of the 2015 Polish parliamentary election when a kingmaker is not classic even with no ties present.

Kingslayer: P_i is a kingslayer if for structure $\mathbf{S} = \mathbf{P} - \{P_i\}$, there exists $j \neq i$, such that $s^{\mathbf{S}_j} > 50$ and $s^{\mathbf{P}_j} + s^{\mathbf{P}_i} \leq 50$.

When a kingslayer competes, the former majority winner doesn't achieve the majority even with the kingslayer's payoff added. In single-office elections, similarly to a kingmaker, with no ties, a kingslayer must be classic. In

general, i.e., with single- or multi-seat elections, a spoiler who is both a kingmaker and kingslayer must be classic.

Whenever entry by a new committee causes the loss of a winner or the victory of a former non-winner, the political consequences are significant by definition. In the concepts introduced below, no losing or gaining of a majority is postulated. The types of spoilers defined below are specific to PR systems. Their political effects may in some cases be negligible, and in some other cases profound. Their importance certainly affects whether such spoilers are of our interest.

Valuegobbler: P_i is a valuegobbler if for structure $\mathbf{S} = \mathbf{P} - \{P_i\}$, there exists $j \neq i$, such that $s^S_j > s^P_j + s^P_i$.

A valuegobbler probably is the most common spoiler in parliamentary PR systems. A valuegobbler's entry into the competition reduces the payoff of another committee by more than the valuegobbler's own payoff. That outcome creates an apparent *ex post* inefficiency since the victim could 'bribe' the valuegobbler not to enter the elections if the seats were transferable. A kingslayer is a special case of a valuegobbler when the victimized committee loses its majority of seats. Of course, since the total payoff of all committees is constant, some other committee or committees must exist that benefit from the valuegobbler's entry.

The next type of spoiler conceptualizes the situation in which more than two committees exercise a destructive influence on their own electoral result.

Selfspoilers: At least three committees P_k^1, \dots, P_k^m are selfspoilers if for a structure $\mathbf{S} = \mathbf{P} - \{P_k^1\} - \dots - \{P_k^m\} \cup K$, where $K = P_k^1 \cup P_k^2 \cup \dots \cup P_k^m$, $s^S_K > s^P_{k1} + s^P_{k2} + s^P_{k3} + \dots$

Selfspoilers compete in the elections separately rather than creating an electoral coalition that would generate a higher payoff than the total of individual payoffs. One may hypothesize that all selfspoilers other than P_k^1 are the spoilers for P_k^1 , and the same property holds for P_k^2, P_k^3 , and so on.

That may be the case in some empirical situations, although the assumptions in our definition do not guarantee it. However, in real world parliamentary elections, a simultaneous withdrawal from the election of several committees that would benefit only one remaining committee of a similar kind seems unrealistic. With such a withdrawal, the quitters would get nothing, while the only competing committee would collect a substantial payoff. The quitters have no motivation to forego their take (let's note, however, that rare "selfless" potential valuegobblers occasionally happen, as is documented in Section 5). Instead of quitting, a more realistic solution is that similar committees pool their resources and form a single electoral coalition. They then can work out a scheme for sharing the payoff among themselves.

The motivation for the final two types of spoilers lies in their threatening potential. We first need to define the concept of a *substructure*. \mathbf{T} is a substructure of \mathbf{P} if, instead of $P_i \in \mathbf{P}$, \mathbf{T} includes at least two non-empty committees P_k, P_k^1, \dots, P_k^m that are pairwise disjoint such that $P_i = P_k \cup P_k^1 \dots \cup P_k^m$. In words, \mathbf{T} would result from \mathbf{P} if one committee participating in actual elections split into at least two smaller ones. In the definitions given below, $s^{\mathbf{T}}$ and $s^{\mathbf{R}}$ denote the seat payoff function extended to substructures \mathbf{T} and \mathbf{R} , respectively.

Absorbed spoilers: Let \mathbf{T} be a substructure of \mathbf{P} with $P_i = P_k \cup P_k^1 \dots \cup P_k^m$. Then $P_k^1 \cup \dots \cup P_k^m$ are *absorbed* by P_k if (i) $s^{\mathbf{T}_k} > s^{\mathbf{T}_{kj}}$ for $j = 1, \dots, m$, and (ii) $s^{\mathbf{T}_k} + s^{\mathbf{T}_{k1}} + \dots + s^{\mathbf{T}_{km}} < s^{\mathbf{P}_i}$.

Absorbed spoilers are committees smaller than P_k that in the election coalesced with P_k . If the committees competed separately, the sum of their payoffs would be smaller than the payoff of their coalition. Thus, creating the coalition prevents the loss of seats.

Spoiler threat power: Let \mathbf{T} be a substructure of \mathbf{P} with $P_i = P_j \cup P_k$, where $P_j \cap P_k = \emptyset$, and $\mathbf{R} = \mathbf{T} - \{P_j\}$. Then P_j has *spoiler threat power* against P_i if $s^{\mathbf{R}_k} < s^{\mathbf{P}_i}$.

P_j , a part of a larger coalition P_i , has spoiler threat power against P_i if, by leaving P_i , P_j can reduce P_i 's payoff. P_j may use its spoiler potential to negotiate a larger share of seats for itself within P_i . Of course, the really interesting cases occur when the potential loss of payoff is substantial.

The identification of empirical spoilers relies on counterfactual reasoning. We can recognize them only by simulating election results under various committee structures that appear in the definitions of spoilers, i.e., by estimating the values of payoff vectors s^s for structures \mathbf{S} that interest us. The simulations may rely both on quantitative simulations and qualitative estimates. For all such estimates, both quantitative and qualitative, it is useful to apply sensitivity analysis to make sure that our results won't be affected critically by small changes in the assumptions. Needless to say, the most interesting cases arise when small competitors cause huge political consequences.

For two quantitative estimates (for the 1993 and 2015 Polish parliamentary elections), the simulation methodology for the distribution of seats was adopted from Flis et al. (2017). Flis et al. developed and successfully tested empirically a formula for the Jefferson-d'Hondt apportionment algorithm that generates excellent estimates of seat distributions with country-level rather than district-level data. The seat share of party i is estimated at $s_i = sp_i + \frac{1}{2}c(np_i - 1)$, where s_i is party i 's number of seats, p_i is party i 's vote share, s is the total number of seats, c is the number of electoral districts and n is the total number of parties participating in seat allocations. The first term represents an exactly proportional share of seats and the second term represents corrections based on district structure and i 's relative vote share. The formula generates very close estimates for parliamentary elections using the Jefferson-d'Hondt algorithm.

3 The “red shift” of 1993 elections: Sevensome selfspoilers

In September 1993, a surprising comeback of refurbished and renamed post-communist parties took place in the Polish Sejm (House) elections.⁴ The main successor of the former communist party, SLD (*Alliance of Democratic Left*), and its earlier “red peasants” puppet party, PSL (*Polish Farmers’ Party*), were ruling Poland again. While they jointly won 65.9% of seats, their victory was much less impressive in terms of votes (see Table 1). What catapulted their 35.81% vote share into a seat share almost twice as large was the severe fragmentation of the rightist post-Solidarity parties. According to our terminology, the seven rightist parties were selfspoilers. Five parties just fell under their relevant thresholds and won no seats. Two last-minute entrants who joined the competition only three months before the September elections amplified the fragmentation. *Wałęsa’s Bloc* (BBWR) was announced to form and enter the race on June 1, while the *Solidarity Trade Union* declared its entry during its convention on June 25-27.

TABLE 1 ABOUT HERE

The substantial vote of 31.94% for the Right translated into only 8.26% of seats. While it is tempting to designate *Wałęsa’s Bloc* and *Solidarity* as spoilers, any division of the rightist parties into spoilers and their victims could be questioned. All parties competed for a very similar chunk of the electorate; that was confirmed later when all of them formed a unified AWS (*Electoral Action Solidarity*) coalition in 1996. Thus, all rightist parties can be treated as selfspoilers/victims in a coordination game that is more complex than a typical spoiler race wherein voters fail to coordinate on one out of two

⁴ In 1993, 15 parties and electoral coalitions registered their candidate lists nationwide; six parties and two minority committees won seats. Election results cited hereafter come from the following sources: M. P. (*Monitor Polski*) (1991, 1993, 1997), PKW (*Państwowa Komisja Wyborcza*) (2001, 2005, 2007, 2011, 2015). For the main parameters of the electoral laws, see the Appendix.

(symmetric or asymmetric) options. In our case, the incoordination happened among voters choosing among seven committees. In that game, all competitors at the last minute desperately appealed to the others to withdraw from the elections but, obviously, nobody volunteered (Sułek 1995, p. 114).

The multi-spoiler effect was amplified by the last-minute change in the electoral law and a noticeable, even though not decisive, shift to the left in the voter preferences. However, had the Right fully coordinated and coalesced into a single entity, the post-communist coalition wouldn't have been formed. The Right's share of seats is estimated at 41.7%. The two victorious post-communist parties, facing the unified Right, likely would have lost their majority with the estimated seat shares of 17.2% (PSL) and 24.8% (SLD). The Right could have formed a cabinet in coalition with the post-solidarity centrist UD (*Democratic Union*) which would hold about 10% of seats, the party that in fact became its coalition partner in the next 1997 elections. A backup option for the two parties would have been the post-solidarity center-left UP (*Labor Union*) that would hold about 5.2% of seats. Given that for all parties, including even the post-communist PSL, which was trying to distance itself from its past, the unified Right was a more attractive coalition partner than the then relatively isolated SLD, and would have been able to form a successful cabinet.

3.1 A narrative on political consequences of the 1993 selfspoilers.

The consequences of the "red shift" for the young Polish democracy were serious. Poland initiated the 1989 revolution in the Soviet bloc but, possibly paying the frontrunner's uncertainty fee, it proceeded overly cautiously and later became the worst procrastinator in the democratic transition. It was one of the last countries to have fully free elections in 1991. The slow pace of change allowed the former communists and secret police to hide archives of secret informers, and quickly to install themselves and friends in startup businesses. A symbol of such unequal opportunity became Aleksander

Gawronik, a former secret police agent, ranked first on the list of richest Poles in 1990 (Wprost 1990). When premier Rakowski signed the law legalizing currency exchange in March 1989, Gawronik at midnight on the same day opened a large chain of currency exchange points all over Poland and monopolized the market overnight. When in 1991 the former communists and their allies lost their Sejm majority, the pace of demounting communist monuments and structures accelerated. It halted again in 1993. After the 1993 elections, when the former communists-turned-social democrats came back to power, they stopped, slowed down or reversed many democratizing institutional reforms.

The “red shift” helped former communist and secret police businessmen to consolidate their positions in commerce and politics by bypassing lustration, i.e., the verification of public office holders, clerks, teachers, justices, journalists, and so forth, whether they were secret informers or otherwise collaborated with the communist regime. A typical sanction for a positively lustrated individual is a public announcement and some restrictions on access to public offices. The latecomers to the chain revolutions of 1989, East Germany and Czechoslovakia, performed swift verifications and opened secret archives, making quite clean breaks with communism. In Poland, the communist-designed Constitutional Tribunal blocked a draft of lustration law that followed a rough lustration attempt initiated with the so-called Macierewicz list. After the “red shift” and facing a loss in the forthcoming 1997 elections, the SLD-PSL cabinet prepared its own version of a rather light lustration law. The law attempted preemptively to prevent the introduction of a harsher law (Kaminski and Nalepa 2014). Since the members of the communist party rarely were recruited as secret police informers, the vast majority of the SLD members were safe under that law. The lustration process effectively was blocked (Zybertowicz 2004).

The main institutional project of the SLD-PSL coalition was a new constitution that was accepted narrowly in a national referendum on May 25, 1997. The

constitution prolonged the life of the Constitutional Tribunal and allowed the SLD-PSL coalition to nominate their justices for long nine-year terms and create a solid barrier against future anticommunist cabinets. The constitution was written hastily under political pressure, including the expectations that President Wałęsa would be reelected for a second term (he wasn't) and that the united rightist AWS would win the 1997 elections (it did). Sloppily written paragraphs generated endless conflicts over the next decades. The constitution didn't separate the powers of the president and the cabinet fully, a failure that quickly became the source of systemic conflicts between future presidents and ministers or premiers, including a "tough friendship" between President Aleksander Kwaśniewski and Premier Leszek Miller (both from SLD), a "harsh cohabitation" between Premier Donald Tusk (PO, *Citizens' Platform*) and President Lech Kaczyński (PiS) and, after 2015 elections, conflicts between the PiS-affiliated President Andrzej Duda and Minister of Defense Antoni Macierewicz and Minister of Justice Zbigniew Ziobro. Equally importantly, ambiguities in the constitution explicitly or implicitly ceded power over institutional details to the parliamentary majority. PO in 2015, and PiS in 2015 and later, happily used that opportunity for constitutional engineering, as described in the next section.

4 2015 elections: A kingmaker

In the October 25, 2015, Polish election, for the first time since the fall of communism in 1989, a single party PiS won the majority of seats. A small protest leftist party *Razem (Together)* received 3.62% of the popular vote. That seemingly inconsequential result of a party registered only three months earlier was of utmost importance for the PiS's victory. *Razem* subtracted enough votes from the larger leftist coalition ZL (*United Left*) to hold it just below the 8% threshold required of coalitions. The failure of ZL to translate their 7.55% of the vote into seats boosted the performances of

other parties. Thanks to the boost, the culturally conservative, economically social democratic PiS won a slim majority of 51.09% of Sejm seats despite collecting only 37.58% of votes. Thus, according to our definition, *Razem* was a kingmaker, but not a classic spoiler since without *Razem* no committee would win the majority. Without such accidental help, PiS wouldn't have been able to form a cabinet alone (see Table 2).⁵

TABLE 2 ABOUT HERE

One may ask a question: why did *Razem* stay in competition even though its chances of passing the threshold were minimal? (Their actual result of 3.62% was on the higher side of pre-election estimates.) One possibility is that quitting and asking its followers to vote for ZL in exchange for some benefits was a better option. Also, why didn't ZL register as a "Citizens' Committee", which required meeting only a 5% threshold? The likely decisive reasons are of a financial nature. Both players were incentivized to take the risk by the rules of state financing.⁶ Parties mustering over 3% of votes (or 6% for "Coalitions of parties") were eligible for state financing even if they wouldn't make their respective 5% and 8% thresholds. This rule encouraged *Razem* to run even with a slim chance of passing 5%. ZL ran as a "Coalition of parties" since while "Citizens' Committees" faced lower thresholds, they wouldn't receive any state financing.

It is worthy of mentioning that PiS in 2015 absorbed a small valuegobbler PjN (*Poland is Most Important*), which in the 2011 election received 2.19% of

⁵ Another party, *KORWiN* (*Coalition for the Renewal of the Republic Freedom and Hope*), received 4.76% of votes. A total of 16.61% of votes was cast for parties or coalitions that didn't clear their relevant thresholds. Eight parties and electoral coalitions registered their candidate lists in at least half of all districts; five parties and one minority committee won seats (PKW 2015).

⁶ The rules were generous to smaller parties. Every vote up to 5% was valued at 5.77 PLN (Polish Zloty), while every vote over 30% would generate only 0.87 PLN in state subsidy.

votes. If a similar vote share were subtracted from PiS's 37.58%, PiS's seat share would have fallen below 50%.

4.1 A narrative of the political consequences of 2015's kingmaker

We first need to outline key aspects of the almost-revolutionary policies of the post-2015 PiS cabinet. Winning the Sejm majority, along with the Senate and the presidency, allowed PiS to introduce a combination of policies that intended both to complete the unfinished anticommunist revolution of 1989 and empower the losers from democratic transformation. The wide-ranging array of reforms and restorations of old rules included PiS's flagship poverty-fighting and demography-boosting social transfers program of monthly allowances for a second child, called *500+*, and lifting the minimum wage even above the trade union's demands. PiS restored the old two-tiered educational system, raised the compulsory education age from 6 to 7 years, and reinstated the previous retirement age (60 years for women and 65 years for men rather than 67 years for both sexes). Successful programs for fighting tax fraud, including the omnipresent VAT fraud, helped to keep the budget under control despite the rise in social spending. Other changes included a bank tax, a progressive turnover retail trade tax (contested by the *European Commission*), lowering the pensions for former communist secret police to the average pension, and removing from public space the remnants of communism, such as the monuments of the Soviet *Red Army*.

The judiciary experienced the most controversial makeover.⁷ The motivation for change was the judicial system's inefficiency and lack of reforms after the fall of communism. The system of checks and balances among the three branches of government offered virtually no checks of the executive and legislative branches on the judiciary. For instance, the Sejm could reject a Constitutional Tribunal's ruling with a two-thirds supermajority at the

⁷ The highest judicial power in Poland is fragmented into a *Supreme Court (Sąd Najwyższy)*, a *Chief Administrative Court (Naczelny Sąd Administracyjny)*, a *Constitutional Tribunal (Trybunał Konstytucyjny)* and a *National Council for the Judiciary (Krajowa Rada Sądownictwa)*; some power is ceded to other bodies (Konstytucja RP 1997, Chapters 8 and 9).

Tribunal's birth in 1982, but the new 1997 constitution removed any veto power from the legislative branch. The judicial profession controlled the 25-person National Council for the Judiciary, whose duties included selecting the 93 Supreme Court and other justices. The parliament or the president practically had no power over the selection of any justices. Additionally, the system inherited many communist judges who presided over political trials before 1989. The first non-communist President of Supreme Court and a vocal critic of PiS's reforms, Adam Strzembosz, famously opined that the judiciary would cleanse itself of such people. He acknowledged later that he was wrong.

The deep reforms were illustrated with facts describing the judicial branch's inefficiency. Some inmates waited several years for trials and some convicts waited up to 14 years for their places in prison (see Adamski 2012; Karłowski et al. 2013). Massive scandals involving judicial and prosecutorial participation or puzzling inactivity included the 2012 *Amber Gold* Ponzi scheme, which claimed more than 11,000 victims (Komisja Śledcza 2017) and a real-estate restitution outrage involving about 40,000 tenants in Warsaw being evicted by re-privatization mafias (see Śpiewak 2017). In 2010, spending on the judicial system was about 0.85% of general government expenses, while the median for all EU countries was 0.4% (Dubois et al. 2013, p. 424).⁸

The legislation introduced by PiS in 2016 and 2017 intended to transfer some control functions over judicial bodies to the parliament and the public. The loopholes in the hastily written 1997 Constitution included many loose provisions delegating certain law-making power to the House majority. Those powers included determining the structure, scope and procedures of the Constitutional Tribunal and the Supreme Court, as well as setting the

⁸ In June 2017, only 28% of the respondents held a positive opinion on the court system while 49% held a negative opinion (CBOS 2017, p. 2). On July, 26-28, 2017, 81% of respondents believed that the judiciary required reforms, while 14% had an opposite opinion (Ipsos Observer 2017). The support for specific reforms proposed by PiS typically was lower and depended on the wording of questions.

retirement age for justices (Konstytucja RP 1997, Art. 176, Art. 187.4, Art. 197, Art. 180.4). The Constitution failed to specify who actually selects the 15 members of the National Council for the Judiciary from the pool of all sitting justices (Konstytucja RP 1997, Art. 187.1.2). The PiS legislators meticulously used those imprecisions for constitutional engineering, even though they didn't have the 66 2/3% supermajority necessary for constitutional amendments.

By winning the majority of House seats, PiS could form a single-party cabinet. Without the kingmaker, PiS would have had to look for a coalition partner. The only realistic partner was the center-right *Kukiz '15* commanding 42 seats, which probably would have gone down to 38-40 seats if ZL had passed the threshold.

Except for fighting tax fraud and removing the remnants of communism, the potential coalitional partner was less radical than PiS on political reforms and was closer to the dovish wing of PiS with President Duda. For instance, *Kukiz '15* supported the president's bill for the House to elect 15 justices to the National Council for the Judiciary with a 60% supermajority instead of the initial 50% majority proposed by PiS. The principal programmatic objective of *Kukiz '15* was to substitute the PR electoral system with SMDs and plurality. When PiS proposed the elimination of SMDs in the local government elections in November 2017, *Kukiz '15* reacted with fury. Its leader threatened street demonstrations, and even called PiS a Bolshevik party (Kukiz 2017). In short, the revolutionary program implemented by PiS would have been substantially tamed under the hypothetical PiS-*Kukiz '15* coalition.

As an obvious consequence of a less radical program, the political polarization in Poland that generated the opposition's dramatic accusations that PiS is "destroying democracy" and "breaking the rule of law" would have been lessened. The street demonstrations against PiS, organized in 2015 and 2016 by the opposition and its allies would have been less

vigorous. The clash with the European Commission that led its First Vice-President Frans Timmermans to trigger the ‘nuclear option’ of Article 7.1 on December 20, 2017, would probably have been avoided.

5 Strategic moves: Valuegobblers, threats and absorbed spoilers

The spoiling effect may be used strategically. It may materialize in surprisingly ingenious ways: as a fake party subtracting votes from the competition or as a tiny group of spoilers that increase the manipulator’s own vote share. All such cases fulfill our definition of valuegobbler. A prospective spoiler can threaten coalition partners. A spoiling strategy also may be used against individual candidates from one’s own party competing on the same party list.⁹

The undisputed master of strategic spoiling was Adam Słomka, a leader of KPN. His spoiling attempts often exploited relative voter ignorance about the identities of favored parties. He created clones that would confuse the voters into splitting votes between his clone and the original party. Later, he created spoiler threats against allied parties in order to extract payoffs in exchange for not launching the spoiler. His successes suggest that emerging democracies may be particularly vulnerable to *clones*, a special type of spoilers violating the criterion of Independence of Clones (Tideman 1987).

Słomka’s long spoiling career began with the first free elections in 1991, which used Webster-Sainte-Laguë formula in large districts and no thresholds.¹⁰ The total number of registered electoral committees was incredibly high at 111 and the Laakso-Taagepera’s effective number of parliamentary parties was 10.91 (see Laakso-Taagepera 1979). Such a setting – with an electoral formula friendly towards smaller parties – is extremely challenging for a spoiler. Nevertheless, Słomka creatively used

⁹ In regional legislative elections in Russia the strategic use of spoilers brought only modest results (Golosov 2015).

¹⁰ Webster-Sainte-Laguë formula is a divisor method based on consecutive odd numbers.

the property of the electoral law called *apparentement*. It enabled parties to combine their votes into a partisan 'bloc.' Seats were assigned on the basis of the total combined vote. Under *apparentement*, a small party for which votes otherwise would be wasted actually could win parliamentary seats. Słomka's idea was to introduce plankton of micro-valuegobbler parties that his supporters carefully planted in various corners of the ideological space. The plankton included a party related to the Polish ethnic minority association in Germany, a farmer's party, a green party and a feminist party.¹¹ The four tiny valuegobblers subtracted 1.4% of votes from similar competitors. The KPN was rewarded for absorbing the plankton with seven extra seats.

Słomka's next spoiling attempt was even more sophisticated, but less successful. In 1993, he created a clone of a post-Solidarity center-left *Unia Pracy* (Labor Union) and called it *Polska Unia Pracujących* (Polish Union of Laborers). He endowed his clone with leaders having names identical to those of the UP's original heads (Zbigniew Bujak and Wiesława Ziółkowska). The intended spoiler PUP failed to subtract a substantial vote from UP by receiving only 0.05% of votes against UP's original 7.28%. The likely lesson for Słomka was that an acronym looking similar to the original might be more important than time-consumingly cloning the leaders' names.

The 1997 elections witnessed a festival of spoilers and spoiler threats when the fragmented Right consolidated into a grand coalition (AWS), plausibly interpreted as former selfspoilers being absorbed by the dominant trade union *Solidarity*. Słomka, a member of the AWS, achieved considerable success with a mini valuegobbler. The post-communist SLD created a puppet KPEiR (*National Party of Pensioners and Retired*) party with polling scores oscillating around 6%-7% of votes. Two months before the elections, Słomka torpedoed the chances of the KPEiR by creating its clone named KPEiR RP (*National Agreement of Pensioners and Retired of the Republic of*

¹¹ *Polski Związek Zachodni, Blok Ludowo-Chrześcijański, Polska Partia Ekologiczna-Zielonych and Sojusz Kobiet Przeciw Trudnościom Życia.*

Poland). In the election, the spoiler KPEiR RP almost perfectly confused the original party's electorate and received 1.63% of votes against KPEiR's 2.18%. Neither reached the 5% threshold required for receiving seats. Another valuegobbler for the post-communist SLD that didn't make the threshold was a center-left UP with 4.74% of the vote. If KPEiR hadn't been neutralized and UP hadn't run, the SLD's 35.65% seat-share yield could have been closer to the 43.70% of the winner AWS. However, given the relatively strong results of AWS's prospective coalition partners UW (*Freedom Union*) and ROP, the AWS would have been able to form a coalitional cabinet anyway.

Just before the 1997 elections, Słomka skillfully used the spoiling threat power of his own KPN party. He blackmailed the AWS's leadership, warning that KPN would leave the coalition and coalesce with four smaller parties. He claimed that "there would be a chance of passing the 5% threshold by such a committee. However, those 7-8% votes won by us would mean 10-15% fewer votes for the AWS" (Zdort 1997). Creating such a significant spoiler could have helped the AWS's chief opponent SLD win the elections. After receiving some political compensation from the AWS, Słomka backed down. Other spoiler threats within the AWS coalition also resulted in concessions being made by the AWS leadership, but they didn't break the coalition. Finally, Słomka's party KPN broke into two parts before the elections. KPN-PPP left the AWS coalition, but in face of a certain electoral defeat, decided altruistically to withdraw from the elections because of its own spoiler potential. The selfless spoiler-to-be asked its voters to vote for the AWS since "The polls didn't give us any chances for passing the 5% threshold. The precious votes for us wouldn't have been converted into seats" (KMIL 1997).

Later, Słomka's attempts at strategic spoiling were still imaginative, but less successful. In 2001, he attended the inaugural convention of a large new party that promised to reveal its name. When he learned the name, he

quickly went to the relevant office to register the name *Platforma Obywatelska* (*Citizens' Platform*, PO). The actual *Platforma's* leaders were surprised a few hours later to learn that their original name was taken and had to change the name formally into *Platforma Obywatelska Rzeczypospolitej Polskiej* (*Citizen's Platform of the Polish Republic*). In 2005, Słomka registered *Liga Patriotycznych Rodzin* (*League of Patriotic Families*) with the identical acronym LPR as the original party's *Liga Polskich Rodzin* (*League of Polish Families*). In both cases, he was unable to turn those spoiler ideas into actual ones.

The final example goes beyond party competition. Internal spoilers can materialize only in a PR system with an open list.¹² Flis (Flis 2014; Flis and Olczyk 2017) argues that for candidates in PR open list elections, internal competition, i.e., competing against fellow candidates from the same party, is more important than external competition. He offers an example of an outsider PSL candidate in Lublin in Eastern Poland who surprisingly got elected to the Sejm while occupying a remote 24th place on his party's list. He clearly was considered by the leadership as one of the unelectable dummies lining the list's bottom. The local party leadership didn't like such an outcome. In the next elections, he was placed in a high third position on the list, but the leadership added three more candidates from his small county to the list. The spoilers worked as expected and he was not reelected.

6 Other elections: Minor valuegobblers

After the tumultuous 1990s, the Poland's party system consolidated and the next elections witnessed fewer paradoxes and less electoral engineering. The description below briefly summarizes how spoilers possibly affected those four elections.

¹² With an open list, voters vote for a candidate or candidates and the seats are assigned consecutively according to the numbers of votes. With a closed list, the vote is for a list only and the seats are assigned according to candidate positions on the list.

In the 2001 election, the poll leader SLD preemptively founded an electoral coalition with its 1997 valuegobbler UP. The rightist AWSP (*Electoral Action Solidarity of the Right*) and centrist UW fell below their respective thresholds, with 5.60% and 3.10% of votes, and gobbled votes from the center-right parties. Since the SLD-UP won the elections by a large margin with 47% of seats, and the results of its two potential coalition partners were strong, with PSL receiving 9.13% of seats and *Samoobrona* receiving 11.52% of seats, the SLD-UP-dominated cabinet would have been formed even if the spoilers hadn't competed.

Two post-solidarity parties, PiS and PO, which took 33.70% and 28.91% of seats, respectively, won the 2005 elections. The cabinet coalition of PiS-LPR-*Samoobrona* had a healthy 57.83% of seats, but that outcome was quite surprising since for long time the coalition of PO-PiS had been expected to form. Two small valuegobblers, *Socjaldemokracja Polska* and *Partia Demokratyczna*, with below-threshold votes of 3.89% and 2.45%, subtracted some votes from the leftist and centrist parties. A better score for the centrist PO could have strengthened its position in the cabinet negotiations with PiS and possibly could have resulted in the formation of a PO-PiS cabinet.

In the early parliamentary elections of 2007, PO decisively won 45.43% of seats over the second-place PiS with 32.11% of seats and held jointly with its coalition partner PSL the majority of 52.17%. The tandem of former partners of PiS in the 2005 cabinet, *Samoobrona* and LPR, ended below the threshold with 1.53% and 1.30% of votes, respectively. Even with the votes of both parties added to the PiS vote, PiS likely would have needed 1%-2% of votes more in order to push PO-PSL below 50% of seats. There is some chance that a similar number of seats could have been gained if the three parties consolidated early and hadn't run a destructive negative campaign against one another. Thus, the importance of this case is unclear. Regardless of a

slightly better PiS score and a slightly worse PSL result, the centrist PO would have been able to add another coalition partner if one had been needed.

Finally, the 2011 elections were spoiler-wise close and the existence of significant valuegobblers is in doubt. PO won decisively with 45% of seats against PiS's 34.13% and again formed a cabinet with its coalitional partner PSL with just 51.09% of total seats. The PO-PSL coalition could have been borderline vulnerable to the removal of a small valuegobbler *Polska Jest Najważniejsza (Poland is Most Important)*, which earlier was a part of PiS and in 2015 was re-absorbed by it. With 2.19% of votes, PJN didn't reach the threshold. Another valuegobbler was Ruch Palikota (*Palikot's Movement*), tangled in a Chicken-like competition with the larger leftist party SLD.¹³ Nevertheless, PO, as the centrist party in the parliament, wouldn't have had any problems in forming a cabinet coalition, perhaps with a different or additional partner.

7 Conclusion

Since at least Balinski and Young's (1982) seminal volume, we have known that PR seat-allocation algorithms are prone to a large number of paradoxes and problems. However, in contrast to single-office elections, the research on such problems in PR electoral systems has been pretty scarce.¹⁴ The results of this paper suggest that at least some PR party-list systems may be deeply affected by the spoiler effect, a problem that is endemic in single-office elections with plurality rule. Moreover, unlike in single-member district electoral systems, parliamentary elections with PR systems may witness multiple types of spoilers that cause significant turbulence (see Table 3).

¹³ Flis (2011) discusses two scenarios of potential PiS-PJN and SLD-RP (RP = *Palikot's Movement*) electoral coalitions or mergers under the assumption of additive votes that probably overestimates slightly the total votes of both coalitions. Under such additive scenarios, the total seats of the PO-PSL coalition would fall two and nine seats short of a majority, respectively.

¹⁴ For exceptions, see Van Deemen and Vergunst (1998), Tasnádi (2008), Kurrild-Klitgaard (2008, 2013) and Miller (2015). Tideman (2015) offers a review of a broader class of multiple-winner voting rules.

TABLE 3 ABOUT HERE

Arguably, a strong factor facilitating spoilers are vote thresholds that are shared by many PR systems. If a party hovers just over the threshold, even a small valuegobbler may push it under water with zero seats. Such failure benefits the parties that exceed the threshold. The combination of high thresholds with the Jefferson-d'Hondt apportionment algorithm and small districts seems to be especially problematic since the latter two factors amplify the translation of votes into seats and may magnify the spoiler's political consequences. In a PR system with a nationwide district and no thresholds, such as the Netherlands or Israel, the spoiler potential is limited because no small alike competitor can push a party below the threshold. However, even in a very proportional system that assigns the *formateur* rights to the largest party, a valuegobbler can turn the *formateur* party into the second-largest one, thereby affecting cabinet formation.

Under favorable conditions, spoilers may be created unintentionally by uncertainty about voter preferences paired with failed Chicken or coordination games. Incentives for creating such spoilers may be provided by entrepreneurial activity of political newcomers as well as by payoffs other than seats, such as party financing that is subject to lower thresholds than seats or the publicity associated with participation in election debates. An intentional spoiling threat may be produced on the basis of blackmailing opportunities in a larger coalition. Furthermore, a competitor with a sufficient interest, resources and know-how may strategically clone an alternative in order to neutralize its rival or create plankton of parties providing extra votes.

The collected evidence suggests that new democracies, with poor information about parties and candidates, fluctuating voter preferences, and

frequent electoral reforms, may be especially vulnerable to paradoxes and unusual election outcomes. For instance, “red shifts” similar to the Polish one happened in other Central-Eastern European countries. In the 1992 Lithuanian elections, the ex-communist party won 51.8% of seats with 44% of votes; in the 1994 Hungarian elections, the ex-communist party won 54.1% of seats with 33% of votes (Kaminski et al. 1998). The comeback of former communists allowed them to block, slow down or reverse reforms and create institutional barriers to transitional justice and democratization. It is likely that selfspoilers could be found in both cases.

Finally, “paradoxical” features of elections may often be conceptualized in alternative ways by referring to the effects of electoral institutions rather than focusing on political strategies. While *Razem* was a kingmaker in the 2015 Polish elections, both lower thresholds and an apportionment algorithm friendly to smaller parties likely would have prevented PiS from winning the majority.¹⁵ In 1993, a new electoral formula, smaller districts and thresholds dramatically amplified the effects of selfspoilers (Kaminski et al. 1998). Likewise, strategic cloning of parties or creating spoiler plankton can be prevented with appropriate restrictions in the electoral law. Last, but not least, more types of spoilers could be introduced with certain modifications of definitions; some spoilers satisfy multiple definitions. For instance, the rightist parties in 1993 could be jointly named the kingmakers for SLD and PSL, which jointly won the majority.

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¹⁵ Shugart and Taagepera (2017, pp. 3-8) use the 2015 Polish elections as their chief example that “electoral rules matter”.

Appendix

TABLE 4 ABOUT HERE

Acronyms of major parties and coalitions of parties appearing in the article follow the format: ACRONYM – *Polish Name (English Name)* [possibly short comment]

AWS – *Akcja Wyborcza Solidarność (Electoral Action Solidarity)*

AWSP – *Akcja Wyborcza Solidarność Prawicy (Electoral Action Solidarity of the Right)* [successor of AWS]

BBWR – *Bezpartyjny Blok Wspierania Reform (Non-partisan Bloc Supporting Reforms)*

KORWiN – *Koalicja Odnowy Rzeczypospolitej Wolność i Nadzieja (Coalition for the Renewal of the Republic Freedom and Hope)*

KPEiR – *Krajowa Partia Emerytów i Rencistów (National Party of Pensioners and Retired)*

KPEiR RP – *Krajowe Porozumienie Emerytów i Rencistów Rzeczypospolitej Polskiej (National Alliance of Pensioners and Retired of the Republic of Poland)* [clone of KPEiR]

KPN – *Konfederacja Polski Niepodległej (Confederation of Independent Poland)*

KPN-OP – *KPN Obóz Prawicy (KPN-Camp of the Right)* [part of KPN after split]

KPN-PPP – *KPN Porozumienie Prawicy Polskiej (KPN-Alliance of Polish Right)* [part of KPN after split]

LPR – *Liga Polskich Rodzin (League of Polish Families)*

PiS – *Prawo i Sprawiedliwość (Law and Justice)* [successor of Porozumienie Centrum]

PJN – *Polska Jest Najważniejsza (Poland is Most Important)*

PO – *Platforma Obywatelska (Citizens' Platform)*

PSL – *Polskie Stronnictwo Ludowe (Polish Farmers' Party)*

PSL-PL – *Polskie Stronnictwo Ludowe-Porozumienie Ludowe (Polish Farmers' Party-Farmers' Alliance)* [split from PSL]

ROP – *Ruch Odbudowy Polski (Movement for Reconstruction of Poland)*
[successor of 1993 *Coalition for Republic*]

RP – *Ruch Palikota (Palikot's Movement)*

SLD – *Sojusz Lewicy Demokratycznej (Alliance of Democratic Left)*

UD – *Unia Demokratyczna (Democratic Union)*

UP – *Unia Pracy (Labor Union)*

UW – *Unia Wolności (Freedom Union)* [successor of UD]

ZL – *Zjednoczona Lewica (United Left)* [coalition created mostly by SLD]

References

Adamski, M. (2012). Ile w Polsce czeka się na więzienną celę. *Rzeczpospolita*.

June 15. <http://www.rp.pl/artykul/892630-ile-w-polsce-czeka-sie-na-wiezienna-cele.html>

Balinski, M. L., & Young, H. P. (2001). *Fair representation. Meeting the ideal of one man, one vote* (2nd ed.). Washington, D.C.: Brookings Institution Press.

Brams, S. J., & Fishburn, P. C. (1978). Approval voting. *American Political Science Review*, 72(3), 831-847.

Bump, P. (2014). How often do third-party candidates actually spoil elections?

Almost never. *The Washington Post*. October 8.

https://www.washingtonpost.com/news/the-fix/wp/2014/10/08/how-often-do-third-party-candidates-actually-spoil-elections-not-very/?utm_term=.77e48b5f21bf

CBOS. (1993). *Preferencje polityczne społeczeństwa trzy tygodnie przed wyborami* (No. BS/132/109/93). Warszawa.

CBOS. (2017). Komunikat z badań nr 76: Opinie o działalności policji, prokuratury i Rzecznika Praw Obywatelskich. Warszawa.

http://www.cbos.pl/SPISKOM.POL/2017/K_076_17.PDF

Colomer, J. M. (2006). Non-median and Condorcet loser presidents in Latin America: A recipe for instability.

works.bepress.com/josep_colomer/120/download

Dougherty, K. L., & Edward, J. (2011). *The calculus of consent and constitutional design*. Springer New York.

Dubois, E., Schurrer, C., & Velicogna, M. (2013). *The functioning of judicial systems and the situation of the economy in the European Union member states. Report prepared for the European Commission*. European Commission.

http://ec.europa.eu/justice/effective-justice/files/cepej_study_justice_scoreboard_en.pdf

Flis, J. (2011). Co dwie partie, to nie jedna?

<http://jaroslawflis.blog.tygodnikpowszechny.pl/2011/10/26/co-dwie-partie-to-nie-jedna/>

Flis, J. (2014). *Złudzenia wyboru*. Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego.

Flis, J., & Olczyk, E. (2017). Historia politycznych gagów (interview by Eliza Olczyk). May 10. *Rzeczpospolita Plus Minus*.

Flis, J., Słomczyński, W., & Stolicki, D. (2017). Pot and ladle: Estimating seat shares from aggregate vote numbers under the d'Hondt electoral system. Jagiellonian University Working Paper, in the author's possession.

Golosov, G. V. (2015). Do spoilers make a difference? Instrumental manipulation of political parties in an electoral authoritarian regime, the case of Russia. *East European Politics*, 31(2), 1-17.

Heckelman, J. C. (2015). Properties and paradoxes of common voting rules. In J. C. Heckelman & N. R. Miller (Eds.), *Handbook of social choice and voting* (pp. 263-283). Cheltenham, United Kingdom, Northampton, MA: Edward Elgar Publishing.

Heckelman, J. C., & Chen, F. H. (2013). Strategy proof scoring rule lotteries for multiple winners. *Journal of Public Economic Theory*, 15(1), 103-123.

Herron, Michael, J. L., & Lewis, J. (2007). Did Ralph Nader spoil a Gore presidency? A ballot-level study of Green and Reform Party voters in the

2000 presidential election. *Quarterly Journal of Political Science*, 2.3, 205–226.

Ipsos Observer. (2017). *Ponad 80 proc. Polaków chce reformy sądów.*

<http://telewizjarepublika.pl/ponad-80-proc-polakow-chce-reformy-sadow-sondaz,51885.html>

Kaminski, M. M. (2001). Coalitional stability of multi-party systems. *American Journal of Political Science*, 45(2), 294–312.

Kaminski, M. M. (2015). Empirical examples of voting paradoxes. In J. C. Heckelman & N. R. Miller (Eds.), *Handbook of social choice and voting*, 367–387. Edward Elgar Publishing.

Kaminski, M. M., Lissowski, G., & Swistak, P. (1998). The “revival of communism” or the effect of institutions? The 1993 Polish parliamentary elections. *Public Choice*, 97(3), 429–449.

Kaminski, M. M., & Nalepa, M. (2014). A model of strategic preemption: Why do post-communists hurt themselves? *Decyzje*, 21(June), 31–65.

Karłowski, M., Kociel, K., Kuplińska, M., & Trzeciak, B. (2013). *Sądy na wokandzie 2013. Przejrzystość i wydajność pracy* (No. 17). FOR.

<https://for.org.pl/pl/a/2806,Analiza-17-Sady-na-wokandzie-2013>

KMIL. (1997). Odpowiedź KPN na apel lidera AWS. *Rzeczpospolita*. July 17.

Komisja Śledcza. (2017). Komisja Śledcza do zbadania prawidłowości i legalności działań organów i instytucji publicznych wobec podmiotów wchodzących w skład Grupy Amber Gold (SKAG). <http://sejm.gov.pl/Sejm8.nsf/agent.xsp?symbol=KOMISJAND&NrKadencji=8&KodKom=SKAG>

Konstytucja RP. (1997).

https://pl.wikisource.org/wiki/Konstytucja_Rzeczypospolitej_Polskiej

Kukiz, P. (2017). Mam zupełnie poważną propozycję.

<https://www.facebook.com/kukizpawel>. December.

<https://www.facebook.com/kukizpawel>

Kurrild-Klitgaard, P. (2008). Voting paradoxes under proportional representation: Evidence from eight Danish elections. *Scandinavian Political Studies*, 31(3), 242-267.

Kurrild-Klitgaard, P. (2013). Election inversions, coalitions and proportional representation: Examples of voting paradoxes in Danish government formations. *Scandinavian Political Studies*, 36(2), 121-136.

Laakso, M., & Taagepera, R. (1979). Effective number of parties - measure with application to West Europe. *Comparative Political Studies*, 12(1), 3-27.

M.P. (1991). Obwieszczenie Państwowej Komisji Wyborczej z dnia 31 października 1991 r. o wynikach wyborów do Sejmu Rzeczypospolitej Polskiej, przeprowadzonych w dniu 27 października 1991 r. 41, poz. 288.

<http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WMP19910410288>

M. P. (1993). Obwieszczenie Państwowej Komisji Wyborczej z dnia 23 września 1993 r. o wynikach wyborów do Sejmu Rzeczypospolitej Polskiej przeprowadzonych w dniu 19 września 1993 r. 50, poz. 470.

<http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WMP19930500470>

M. P. (1997). Obwieszczenie Państwowej Komisji Wyborczej z dnia 25 września 1997 r. o wynikach wyborów do Sejmu Rzeczypospolitej Polskiej przeprowadzonych w dniu 21 września 1997 r. 64(September 21) poz. 620.

<http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WMP19970640620>

Miller, N. R. (2015). Election inversions under proportional representation. *Scandinavian Political Studies*, 38(1), 4-25.

Millward Brown. (2015). *Sondaże okołowyborcze*. October 15.

http://wybory.millwardbrown.com/partie-polityczne-parlament-krajowy/113/sondaze_okolowyborcze

Nohlen, D. (2005). *Elections in the Americas: A data handbook, Volume II*. Oxford University Press.

PKW. (2001). Wybory do Sejmu: wyniki głosowania na listy komitetów wyborczych w skali kraju. http://wybory2001.pkw.gov.pl/sjg2_k.html

PKW. (2005). Wybory do Sejmu Rzeczypospolitej Polskiej.

<http://www.wybory2005.pkw.gov.pl/SJM/PL/WYN/M/index.htm>

PKW. (2007). Wybory do Sejmu Rzeczypospolitej Polskiej.

<http://wybory2007.pkw.gov.pl/SJM/PL/WYN/W/index.htm>

- PKW. (2011). Wybory 2011 do Sejmu i Senatu Rzeczypospolitej Polskiej.
<http://wybory2011.pkw.gov.pl/wsw/pl/000000.html#tabs-2>
- PKW. (2015). Wybory do Sejmu i Senatu Rzeczypospolitej Polskiej 2015.
http://parlament2015.pkw.gov.pl/349_Wyniki_Sejm
- Ray, P. (1973). Independence of irrelevant alternatives. *Econometrica*, 41(5), 987–991.
- Sejm. (1997). Konstytucja Rzeczypospolitej Polskiej. Dziennik Ustaw Rzeczypospolitej Polskiej nr 78, poz. 483.
- Shugart, M. S. (2004). Elections: the American process of selecting a president: a comparative perspective. *Presidential Studies Quarterly*, 34(3), 632–655.
- Shugart, M. S. & Taagepera, R. (2017). *Votes from Seats. Logical Models of Electoral Systems*. Cambridge University Press.
- Śpiewak, J. (2017). *Ukradzione miasto. Kulisy wybuchu afery reprivatyzacyjnej*. Warszawa: Arbitror.
- Sulek, A. (1995). Do czego służą sondaże? Wykorzystanie badań opinii publicznej w kampanii wyborczej 1993. *Kultura i Społeczeństwo*, 38, 103–117.
- Tasnádi, A. (2008). The extent of the population paradox in the Hungarian electoral system. *Public Choice*, 134(3–4), 293–305.

- Thrall, R. M. (1962). Generalized characteristic functions for n-person games. In *Princeton: Princeton university conferences: Recent advances in game theory*, 157-160.
- Tideman, N. (1987). Independence of clones as a criterion for voting rules. *Social Choice and Welfare*, 4(3), 185-206.
- Tideman, N. (2015). Multiple-winner voting rules. In J. C. Heckelman & N. R. Miller (Eds.), *Handbook of social choice and voting*. Edward Elgar Publishing.
- Van Deemen, A. M. A., & Vergunst, N. P. (1998). Empirical evidences of voting paradoxes in Dutch elections. *Public Choice*, 97(3), 475-490.
- Wprost. (1990). 100 najbogatszych Polaków - edycja 1990.
<https://web.archive.org/web/20090628165101/http://100najbogatszych.wprost.pl/ide,1/edycja-1990.html>
- Zdort, D. M. (m. d. z.). (1997). KPN czeka na decyzje AWS. *Rzeczpospolita*. July 13.
- Zybertowicz, A. (2004). Lustration as a probe into mechanisms of state capture in Poland. Presented at the Judging transitional justice conference, Laguna Beach, October 30-31.

Table 1 Votes and seats for the rightist and post-communist parties in the 1993 Polish parliamentary elections (percent). Other parties omitted.

Party or coalition	Actual election results		Simulated results (United Right)	
	Votes	Seats	Votes	Seats
Rightist total	31.94	8.26	31.94	41.7
(selfspoilers/victims)	2.37	0	n.a.	n.a.
PSL-PL	2.70	0	n.a.	n.a.
Coalition for Republic	4.42	0	n.a.	n.a.
Porozumienie Centrum	4.90	0	n.a.	n.a.
Solidarity Trade Union	5.41	0	n.a.	n.a.
BBWR (Wałęsa Bloc)	5.77	3.48	n.a.	n.a.
KPN	6.37	4.78	n.a.	n.a.
Fatherland		0	n.a.	n.a.
Post-communists total				
(beneficiaries)	35.81	65.87	35.81	42.00
SLD	20.41	37.17	20.41	17.20
PSL	15.40	28.70	15.40	24.80

Note: “United Right” denotes the election structure with seven rightist parties creating a unified electoral coalition. The criterion for listing the seven rightist parties was their inclusion (some after splits) in the grand coalition of the Right called Electoral Action Solidarity (AWS) that was formed on June 8, 1996, after long negotiations. For the coalitions *Fatherland* and SLD the electoral threshold was 8%; for single parties, it was 5%.¹⁶

¹⁶ The simulation methodology adopted from Flis et al. (2017) under the assumption that the votes for the Right are additive and the remaining votes were unchanged. The additivity assumption seems to be conservative given that three weeks before the elections almost one out of three supporters of the Right declared a willingness to vote strategically if faced with sure defeat of their favorite party (CBOS 1993, p. 13). Outside of the rightist bloc, the other likely beneficiaries of strategic votes were the post-Solidarity centrist *Democratic*

Union, the post-Solidarity center-left *Labor Union* and the post-communist PSL. The conservatism of my estimate also is supported by the facts that in the previous 1991 elections the seven rightist parties from my list received 38.95% of votes, while in the next 1997 elections the united Right (as AWS) received 33.83% plus 5.56% for a dissenting smaller rightist ROP (*Movement for Reconstruction of Poland*). Both numbers are more than 20% higher than my assumed total 1993 support of 31.94%. The simulation results are in very good agreement with the results of Kaminski et al. (1998), who conducted their simulation for six parties only, with no KPN (*Confederation of Independent Poland*). In 1996, KPN broke into two factions and only one of them joined the AWS. It was not added to the grand coalition considered by Kaminski et al.

Table 2 Actual and simulated electoral results for the spoiler (Razem), the spoiler’s main victim (ZL) and the winner (PiS) in the 2015 Polish parliamentary elections (percent). Other parties omitted.

Party	Actual election results		Simulated results (<i>Razem</i> removed)	
	Votes	Seats	Votes	Seats
<i>Razem</i> (spoiler)	3.62	0	0	0
ZL (victim)	7.55	0	9.36	7.4
PiS (beneficiary)	37.58	51.09	37.58	46.3

Note: The simulation methodology is adopted from Flis et al. (2017) under the assumptions that ½ of the *Razem*’s vote would go to ZL, the remaining votes would be divided equally among the three parliamentary center-left parties, and the votes of two rightist parties stayed constant.¹⁷

¹⁷ Second preferences for voters supporting a tiny party like *Razem* are unavailable. Among all voters who intended to vote if their first choice were unavailable, 15.5% indicated ZL as their second choice (Millward Brown 2015). The minimal transfer of votes from *Razem* to ZL necessary to pass the threshold was 0.45% of all election votes, or only about 13% of votes for *Razem*. Since *Razem*’s ideological position was close to ZL, even though *Razem* can be considered a “protest party,” one can safely assume that the transfer rate from *Razem* to ZL would have been substantially larger than the general population’s 15.5%, which already exceeds the 13% minimum.

Table 3 Summary of main spoiler effects in Poland's 1991-2015 Sejm (House) elections

Year	Importance	Main consequences (reference to this paper's relevant section)
1991		spoiler plankton benefitted medium-sized party KPN (5)
1993	minor	selfspoilers enabled the consolidation of post-communism (3)
1997	major medium	clone neutralized small party KPEiR, spoiling threats to AWS from KPN-OP and others, selfless spoiler KPN-PPP (5)
2001	medium	potential spoiler UP absorbed by the election winner SLD (6)
2005	unclear	potential cabinet PO-PiS not formed (6)
2007	unclear	tandem of valuegobblers <i>Samoobrona</i> and LPR possible (6)
2011	major	two independent small valuegobblers PJN and RP possible (6)
2015		kingmaker enabled single-party cabinet with a strong agenda (4)

Note: In eight elections, the following numbers of spoilers were identified: one kingmaker, one set of selfspoilers, 14 valuegobblers (four of them being quite consequential), two spoiler threats and three absorbed spoilers.

Table 4 The electoral laws in Poland's 1991-2015 Sejm elections (minor details omitted)

Electio n	Seats in district s	Number of districts	Formula in districts	Seat s NL	Thresholds (M-0%)
1991	391	37	H-H-N	69	NL-5%
1993	"	52	J-d'H	"	NL-7%, P-5%, C-8%
1997	"	"	"	"	"
2001	460	41	mW-S-L	0	P-5%, C-8%
2005	"	"	J-d'H	"	"
2007	"	"	"	"	"
2011	"	"	"	"	"
2015	"	"	"	"	"

Note: Size of Sejm: 460 seats. Abbreviations: " = no change from previous election, NL = nationwide list, J-d'H = Jefferson-d'Hondt, H-H-N = Hamilton-Hare-Niemeyer (largest remainder), mW-S-L = modified Webster-Sainte-Laguë, P = parties, social/political organizations, and citizen committee's in districts, C = coalitions of parties or social/political organizations in districts, M = minority lists in districts