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Family policy in a decentralized political system – comparative analysis and lessons for Poland

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Background & Points of Departure

Political crisis and societal divide in Poland

In search of a remedy – Questions:

- (A) [**prosperity**] what constitutional framework is best suited to **boost country's growth** and **enhance the quality of public services** in Poland?
- (B) [**values**] how to manage the **diversity** and how to handle the **growing societal (tribal) divide** among the Poles (conservatives vs liberals)?

These two questions are linked with **two dimensions of family related issues** as a part of public policies and moral choices made by the societies (political groups, such as nations or regional communities).



(A) Family policy

- Family policy as a part of public services provided by public authorities at a federal (central) or state (regional/local). This includes **childcare, family allowances, child benefits, maternity leave** (or broader – leave terms for parents), **maternity protection in labour relations**.
- These are services and benefits offered as a part of a broader system of public services.
- The **scope** and quality of these services is **dependent on two factors**: (A¹) the **amount of financial resources** at the disposal of a given creator of public policy / supplier of public services (A²) the **regulatory and cultural factors** – legal framework, institutional culture etc.



(B) Family-related moral choices

- Choices that any society needs to make on family related issues, such as **abortion, marriage, adoption, fertility** etc. These choices are translated into laws in the course of a political process.
- Depending on
 - the degree of homogeneity of an given society,
 - the features and peculiarities a political system in a given country,the discrepancies between moral values and legal system may vary.



Decentralisation

- Decentralisation, and specifically federalism is a **tool** developed by lawyers and political thinkers **to manage diversity**. Philosophical assumption: **coping with differences instead of trying to eliminate them** (*united in diversity*).
- Forms of decentralisation
 - **autonomous regions** (e.g. Spain, UK)
 - **federation** (e.g. US, Germany, Austria)
- Difference between (i) and (ii):
 - special status for some (i)

vs.

 - equal treatment for all within a common framework (ii) → level playing field



Legal borrowing and policy transfers in decentralized system

Legal borrowing – use of policy initiatives in different jurisdictions by looking at the potential for innovation by cross-national (cross-regional learning).

Legal borrowing in family policy context – use of family policies in different jurisdictions in creating family policies as a family allowances, child care, maternal leave or maternity protection.

Legal borrowing in decentralized system – use of family policies developed in another regions (states etc) to create regional efficient policy. In the decentralized system legal borrowing could be horizontal (policy transfers between regions) or vertical (central government adopts policies tried out on regional level)



Working hypothesis (A)

[growth/family policy]

(A¹) **decentralisation**, if understood as delegating down the tools (including legal) to develop public policies, **leads to regulatory innovation, quality improvement and mutual learning and spill-overs in the family policy**, exemplified by improved childcare, family allowances, child benefits, maternity leave etc. [Y/N?].

(A²) **decentralisation helps finding optimum strategic units** capable of designing **successful economic policy** around a **strategically integrated goals** and taking account of unique sets of assets and local conditions [Y/N?]

Working hypothesis (B)

[values]

(B) **Interference** by the central/federal authorities with areas determined by the **values** to which local/regional communities adhere, **threatens** the **political cohesion** of the union/federation, as it is **capable of undermining the foundations of a union/federation**. [Y/N?]

Empirical verification (A¹)

Paid maternity leave in the US

Family Leave and Medical Leave Act (FMLA) of 1993 requires granting of 12 weeks of **unpaid** leave for mothers of newborn or newly adopted children under certain conditions.

This is a minimum standard – states are allowed to go beyond the federal minimum threshold .

Paid maternity leave:

2002 (effective as of 2004) – California enacts law allowing 6 weeks partially paid family leave. In 2016 law was further expanded – **California as a leader of change in the US.**

2008 – New Jersey follows the suit by adopting a similar law (6 weeks partially paid) as California.

2013 – Rhode Island enacts law allowing 4 weeks partially partially paid family leave.

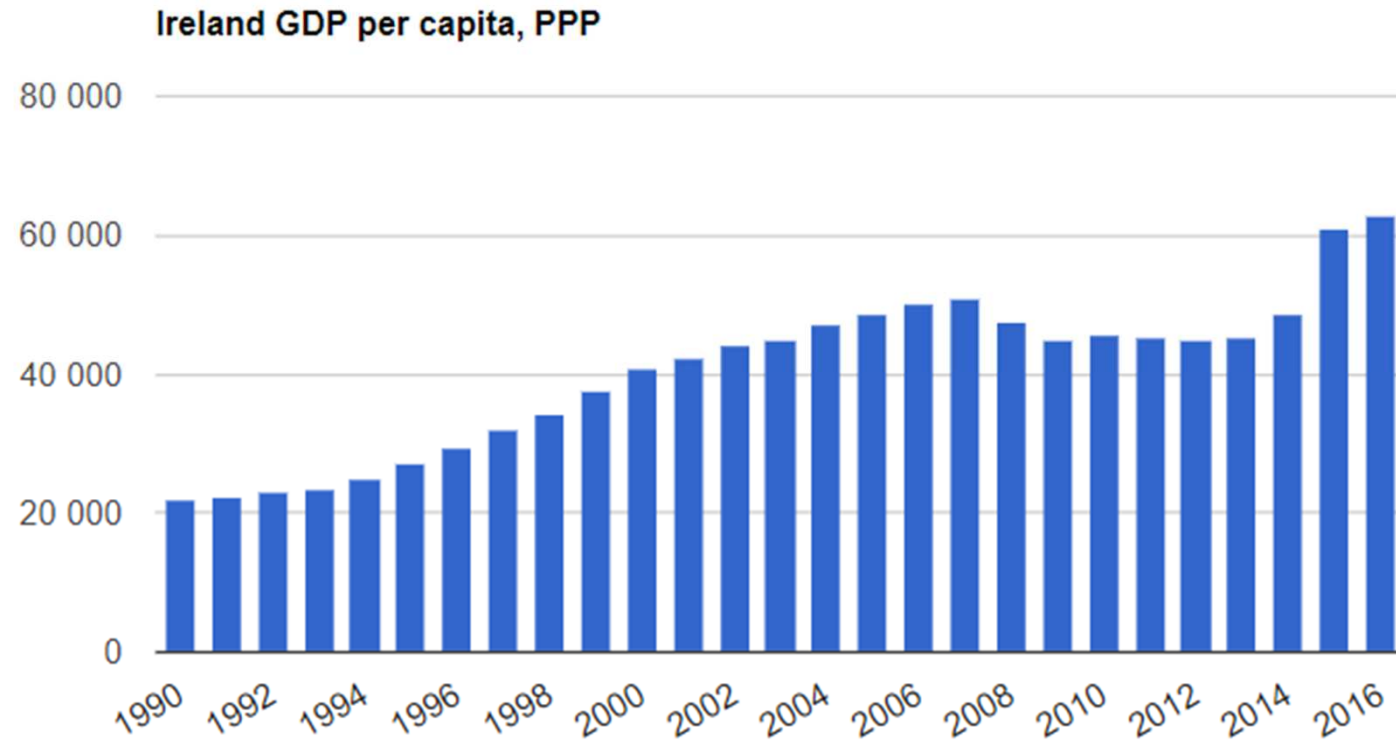
2016 (effective as of 2018) – New York: 8 weeks partially paid family leave. (to be extended to 12 weeks from 2021).

"State innovation can lead to national progress. For example, 23 states had passed FMLA laws for private sector workers prior to the 1993 enactment of the federal FMLA. And more than a dozen states had created rights for nursing mothers at work prior to the 2010 adoption of a federal standard" (National Partnership for Women and Families 2016)



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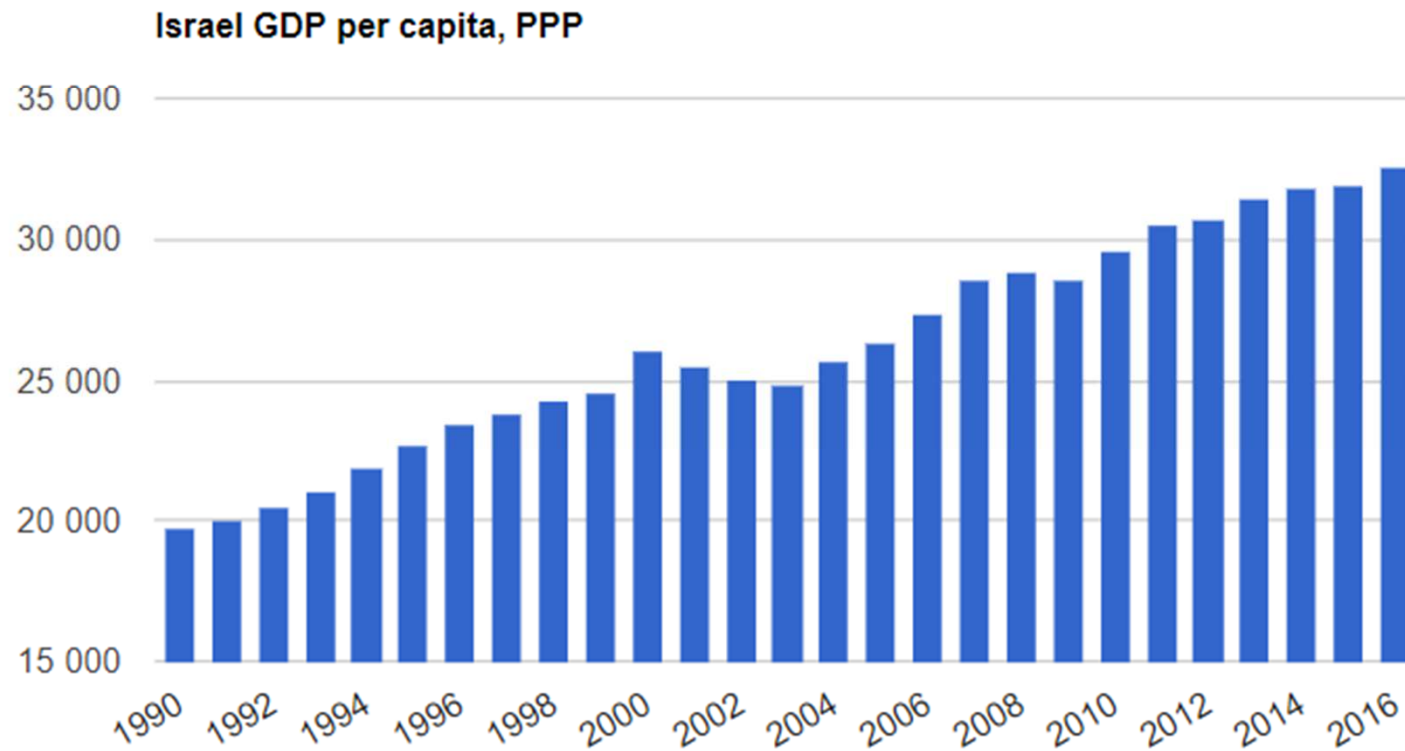
Empirical verification (A^2)





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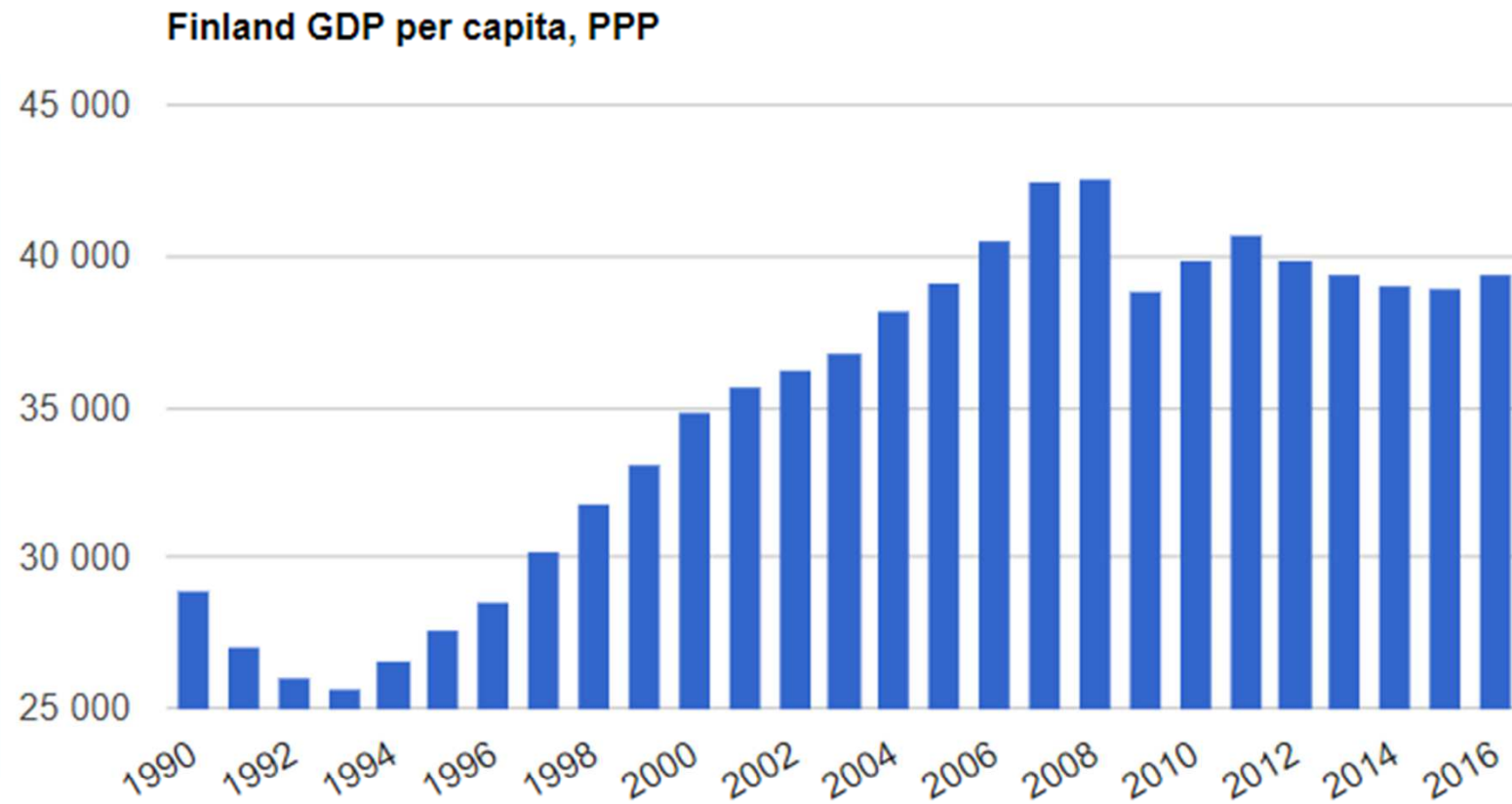
Empirical verification (A^2)





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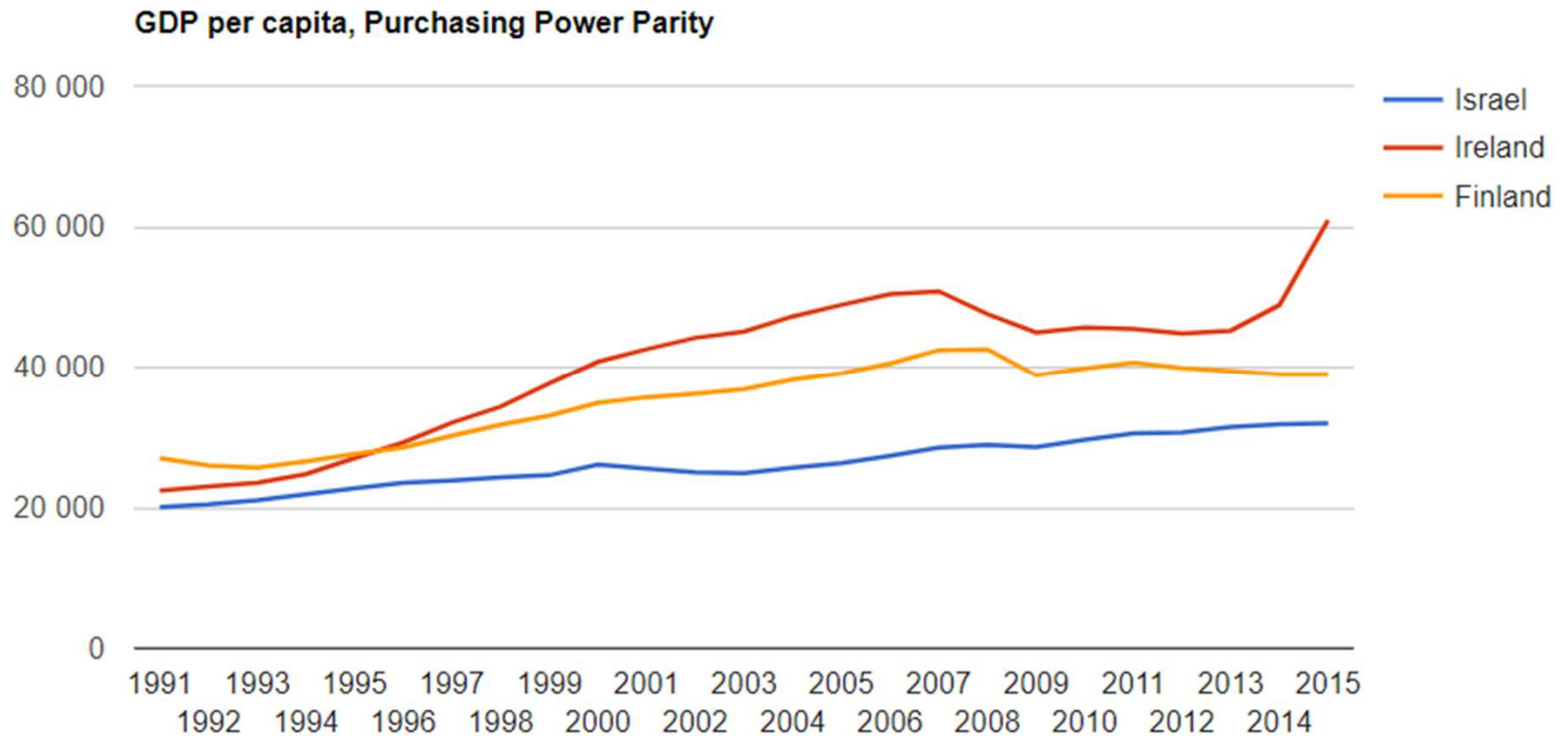
Empirical verification (A^2)





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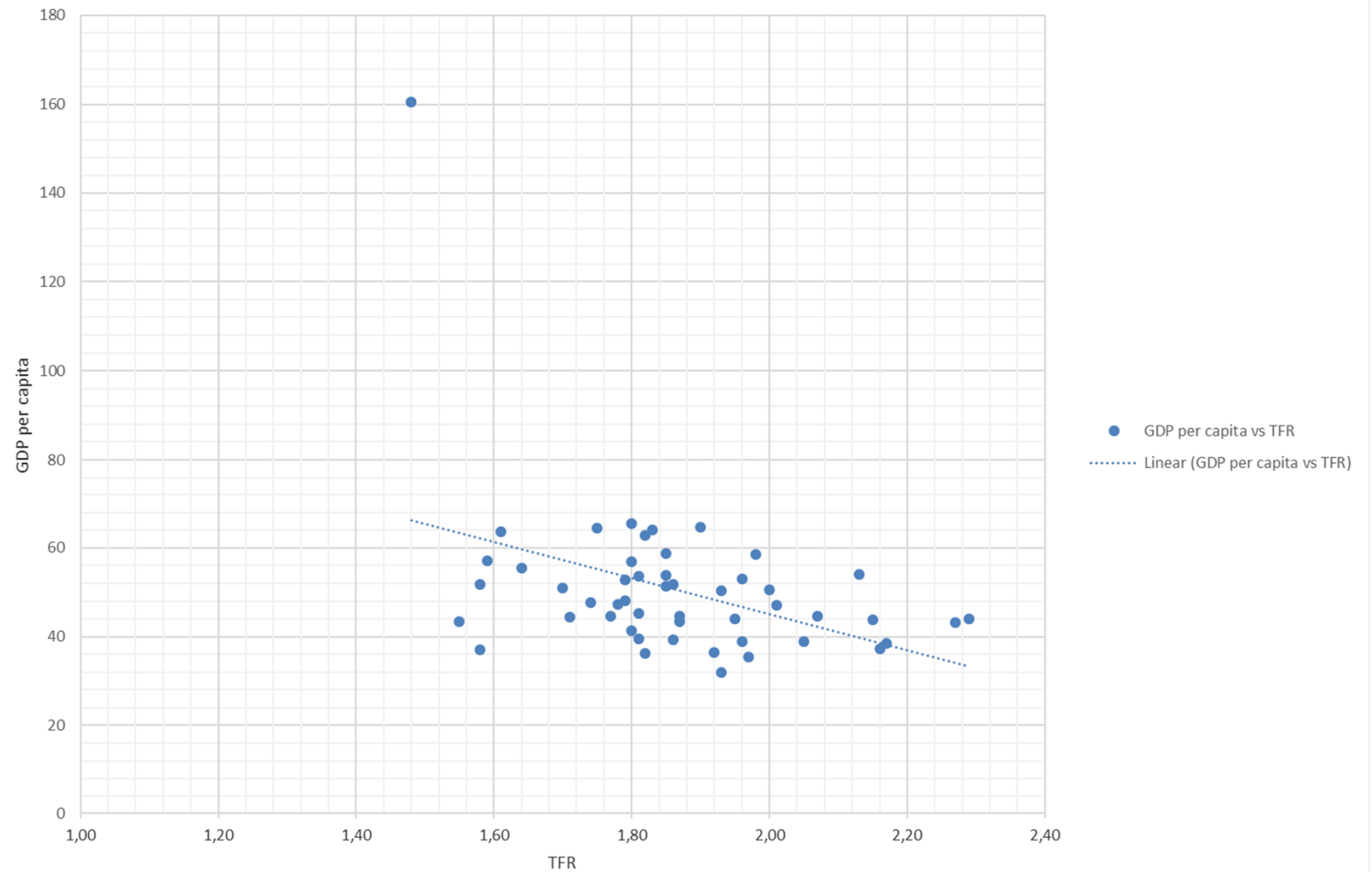
Empirical verification (A^2)





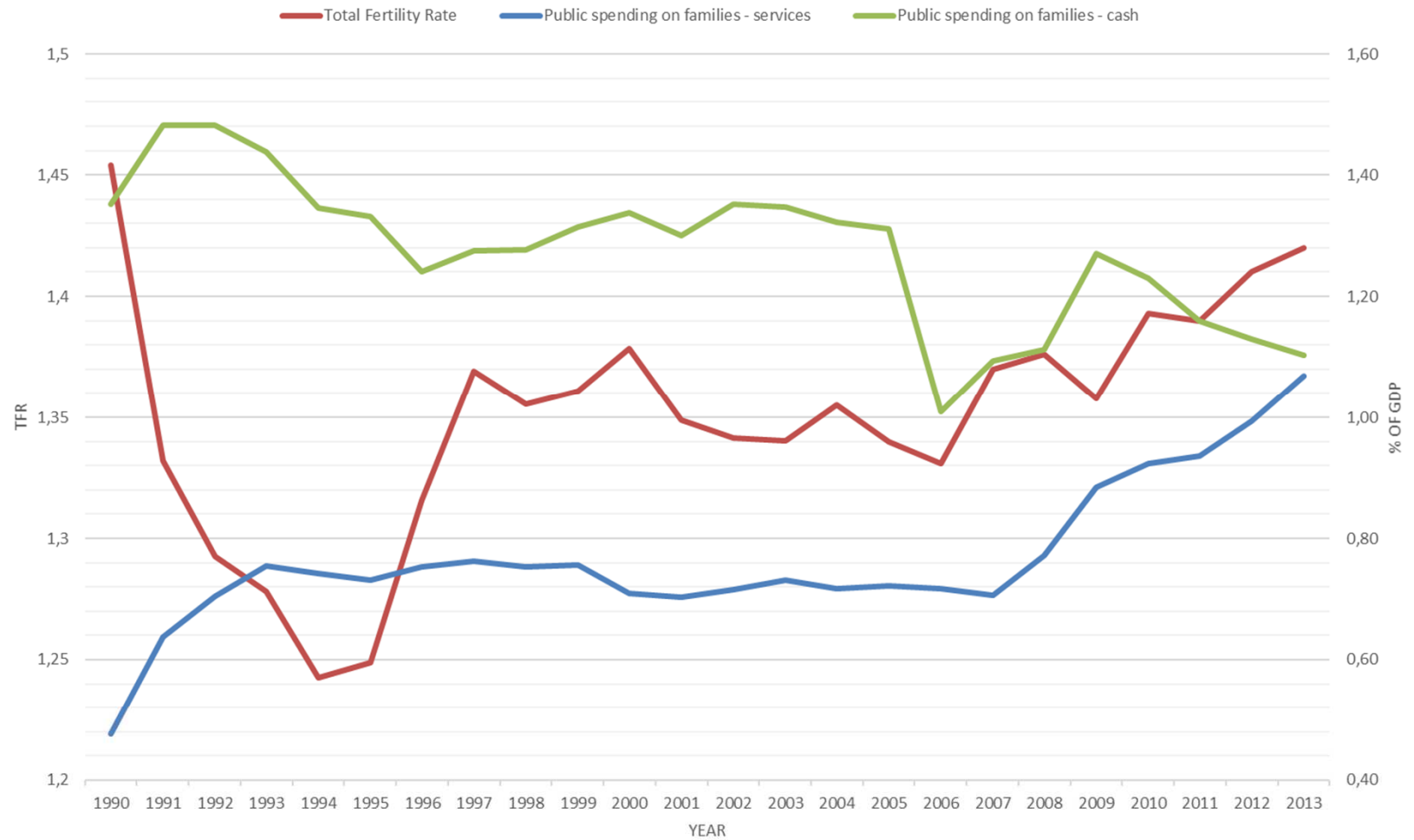
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Empirical verification (A²)





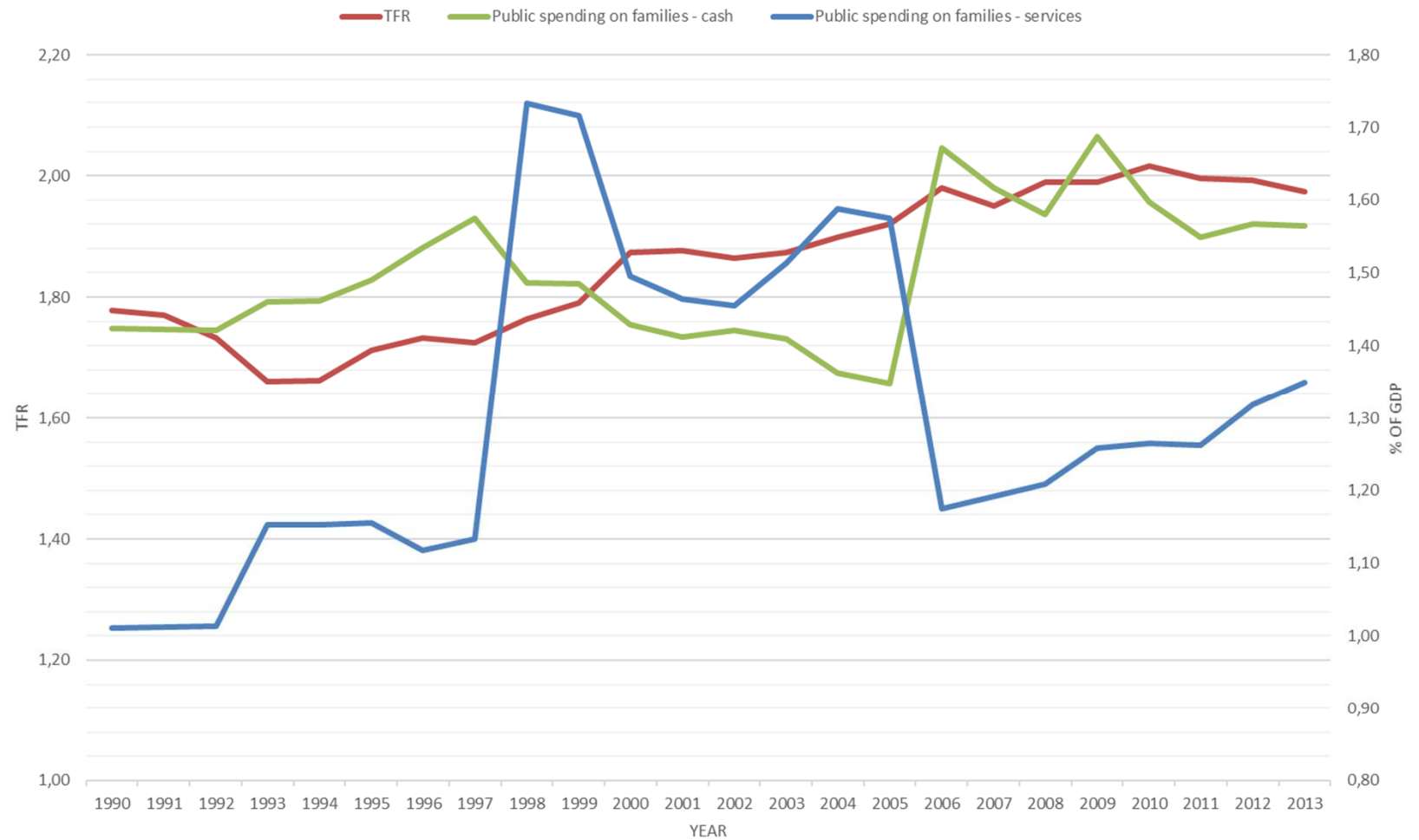
Germany - TFR and public spending on families 1990 - 2013





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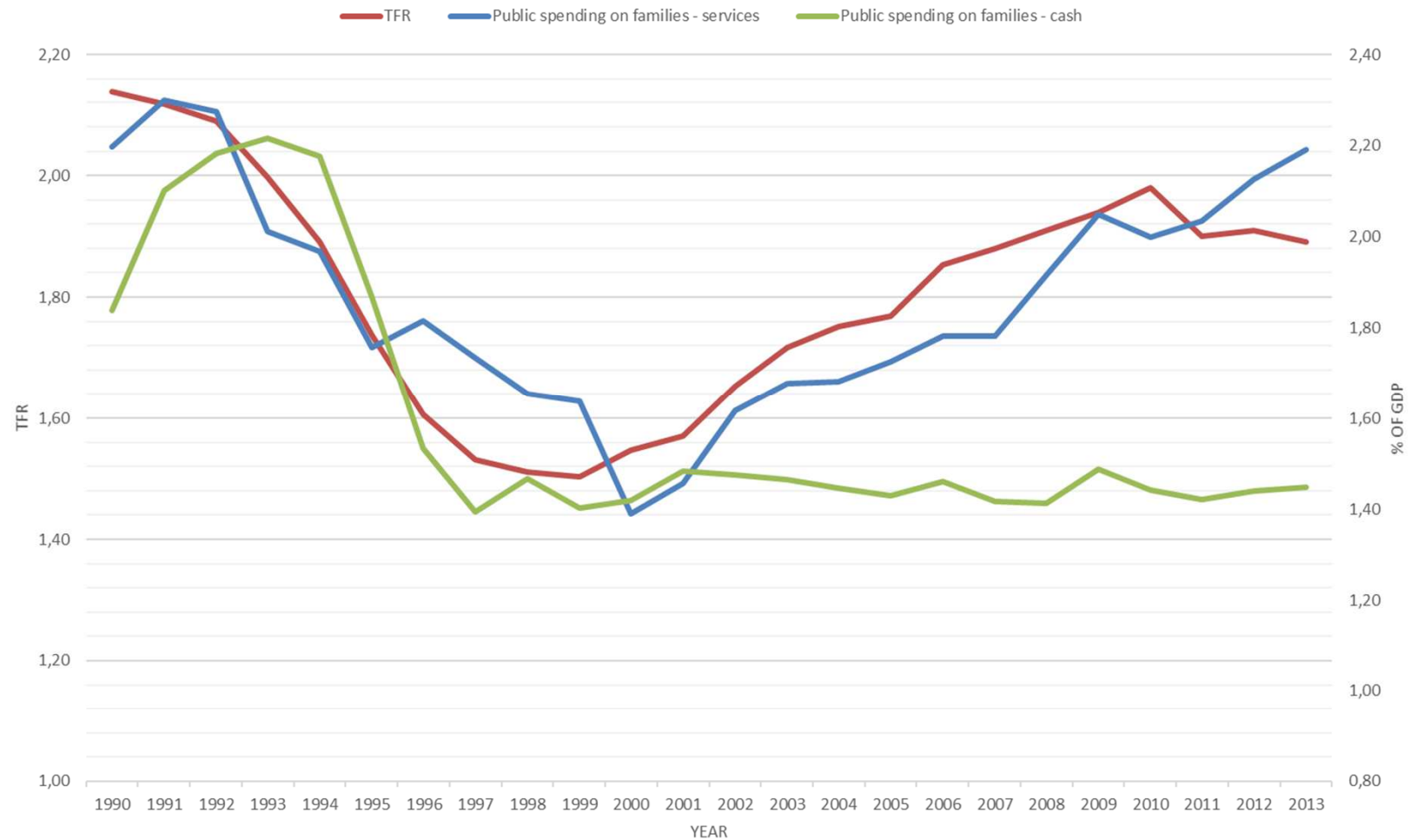
France - TFR and public spending on families 1990 - 2013





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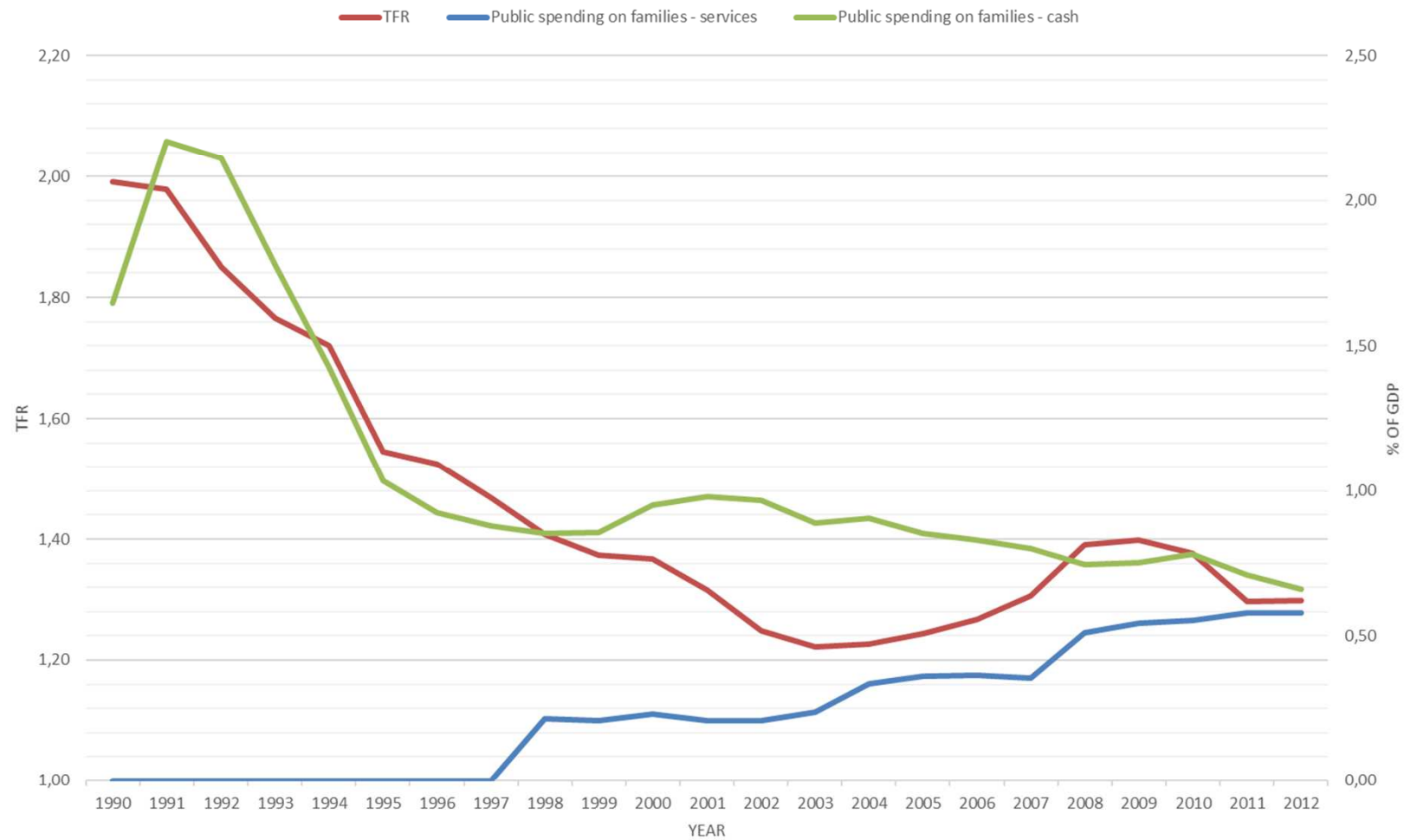
Sweden - TFR and public spending on families 1990 -2013





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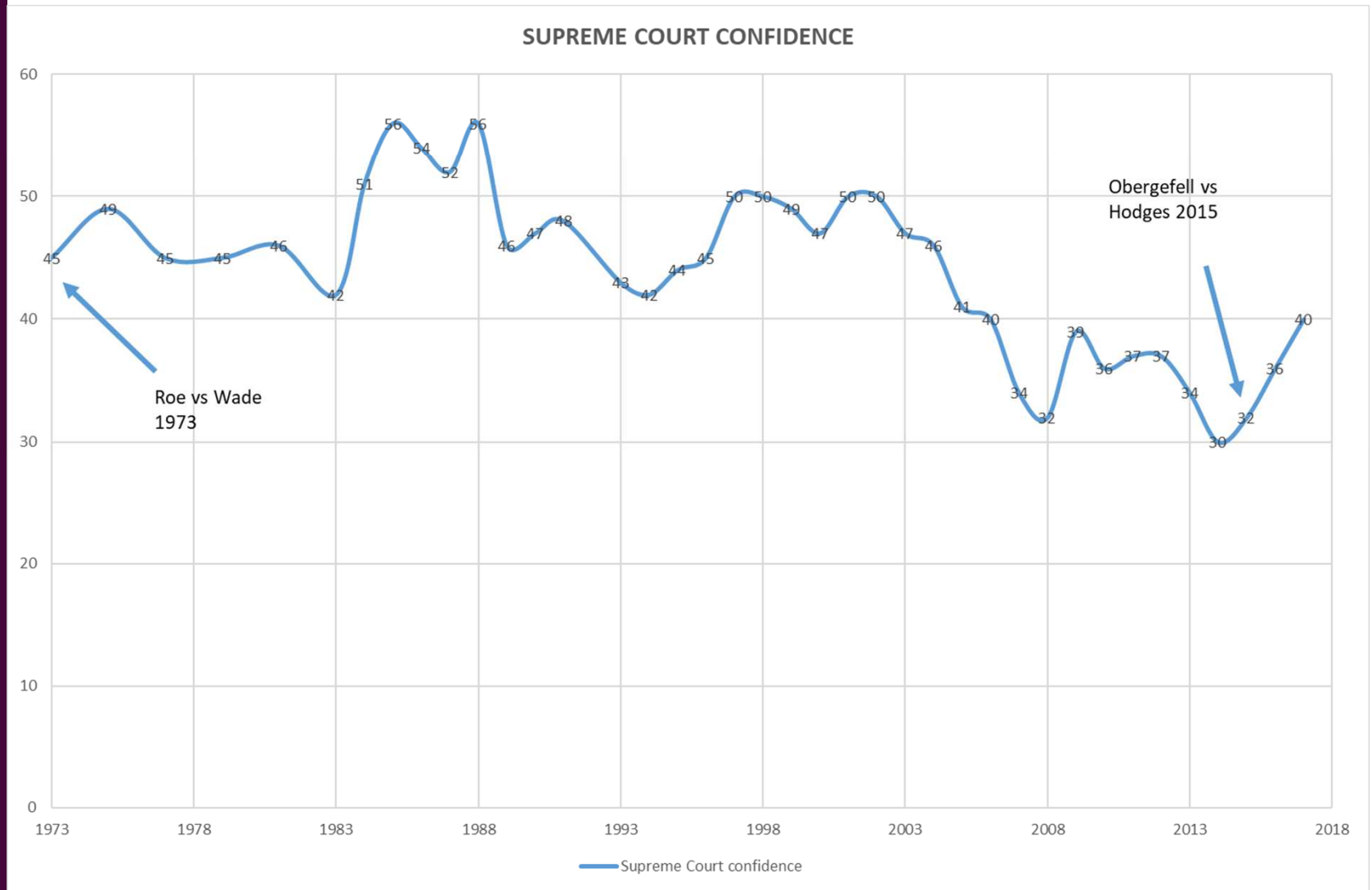
Poland - TFR and public spending on families 1990 - 2012





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Empirical verification (B)





Empirical verification (B)

Supreme Court Job Approval, by Political Party

% Approve

■ Democrats

■ Independents

■ Republicans



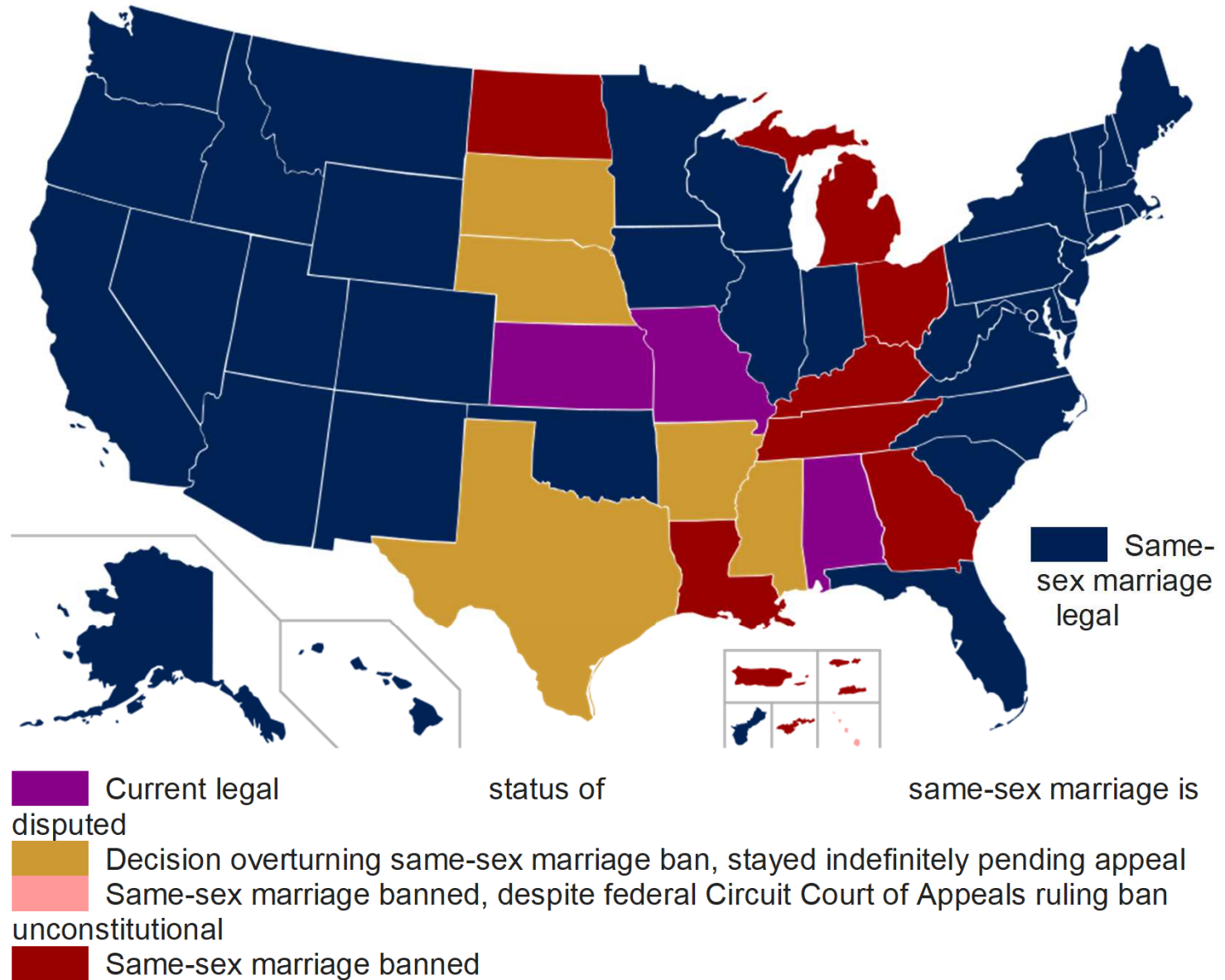
GALLUP®

Obergefell vs Hodges
2015



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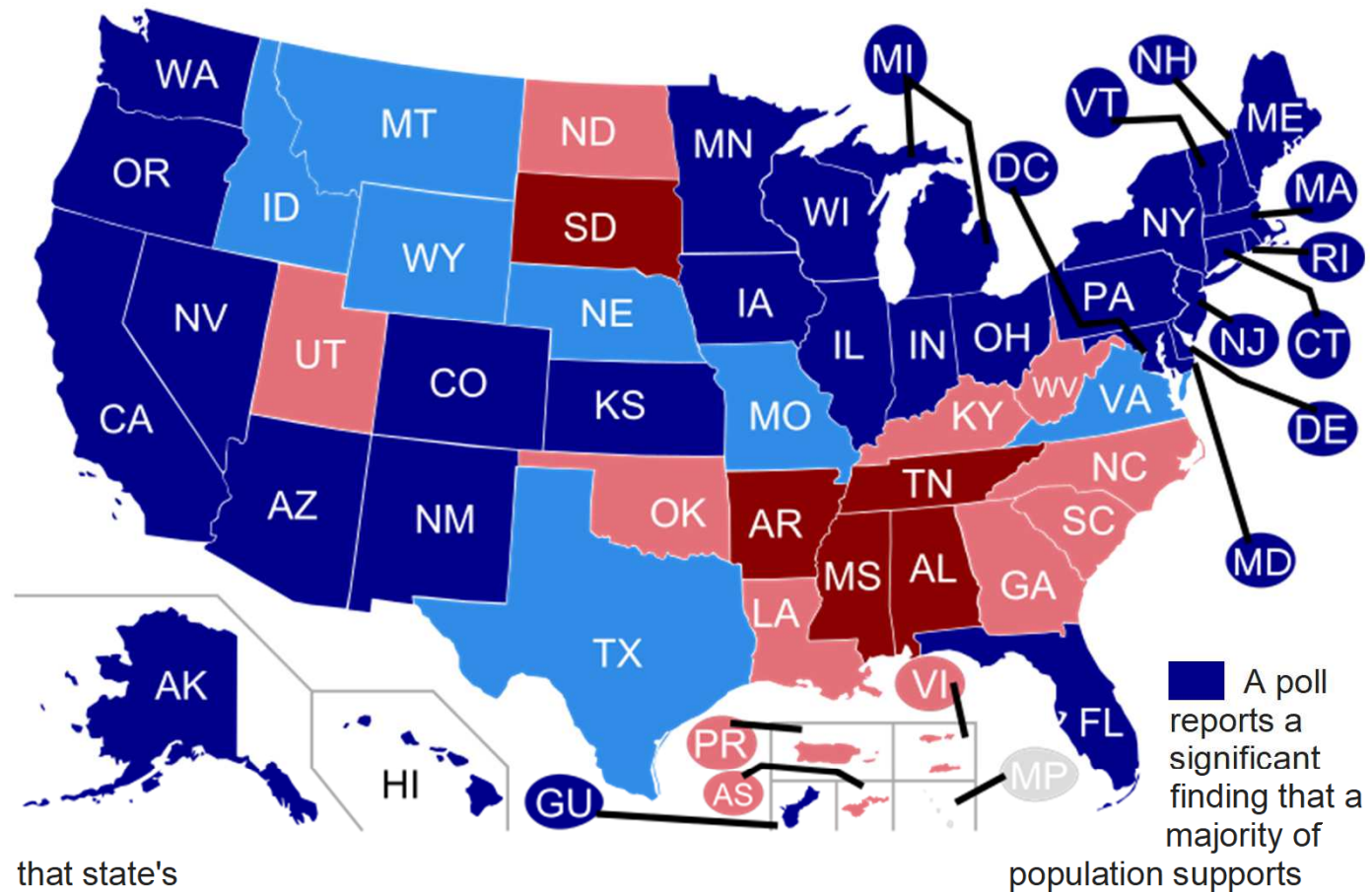
Legal Status of same-sex marriage prior to Obergefell vs Hodges





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Public opinion of same-sex marriage in the United States of America by state, federal district, or territory (19 March 2013)

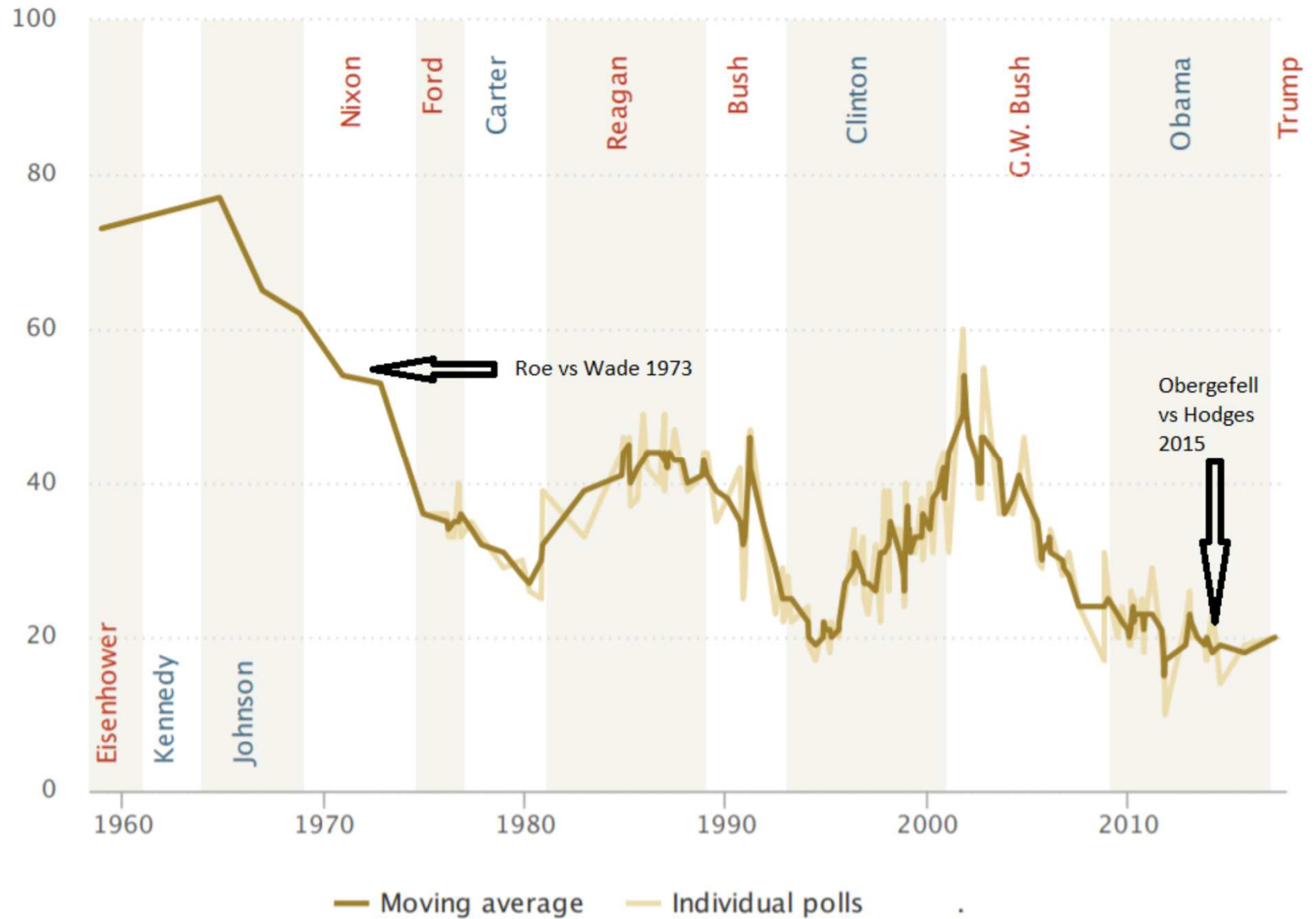




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Government trust in the US

% who trust the govt in Washington always or most of the time





Empirical verification (B)

Case study – anti-abortion laws in the US

Roe vs Wade (1973) legalized abortion in the United States.

Even though nationwide the majority is in favour of abortion, there remain states where majority opposes abortion.

These states adopted laws that in fact limit the access to abortion, e.g.:

- Mississippi – 99% of counties have no abortion clinics
- Texas – 97% of counties have no abortion clinics
- Arkansas – 97% of counties have no abortion clinics

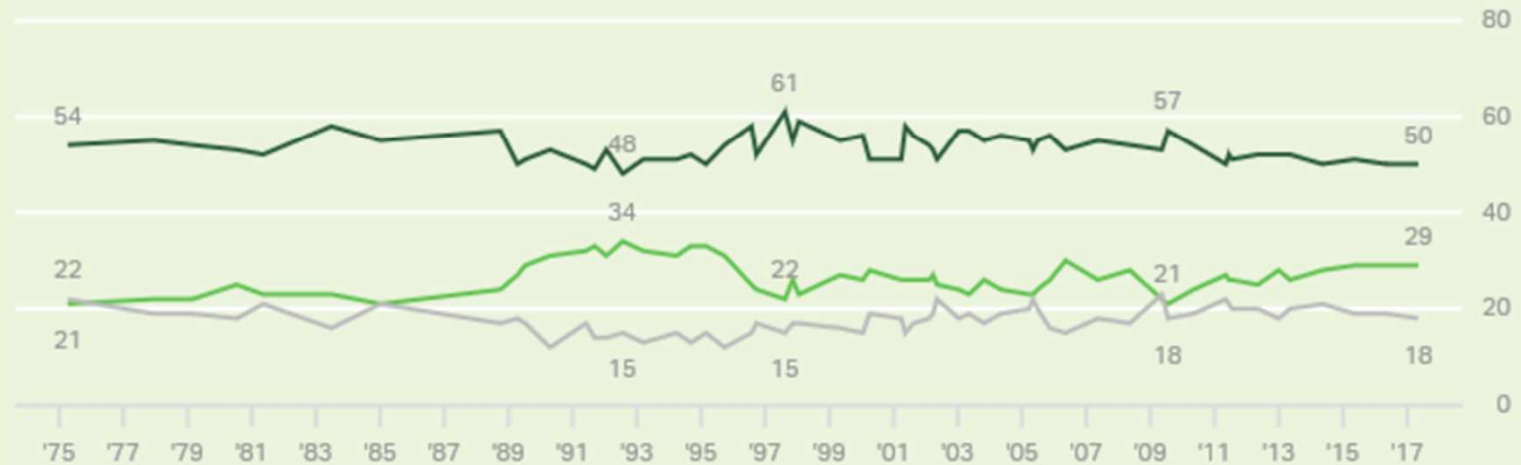
States with regulations resulting in actual ban have more conservative communities in general.



Abortion (Gallup)

Do you think abortions should be legal under any circumstances, legal only under certain circumstances or illegal in all circumstances?

■ % Legal under any circumstances ■ % Legal only under certain circumstances
■ % Illegal in all circumstances



GALLUP



Abortion (Gallup)

Thinking about how the abortion issue might affect your vote for major offices, would you -- [ROTATED: only vote for a candidate who shares your views on abortion (or) consider a candidate's position on abortion as just one of many important factors (or) not see abortion as a major issue]?

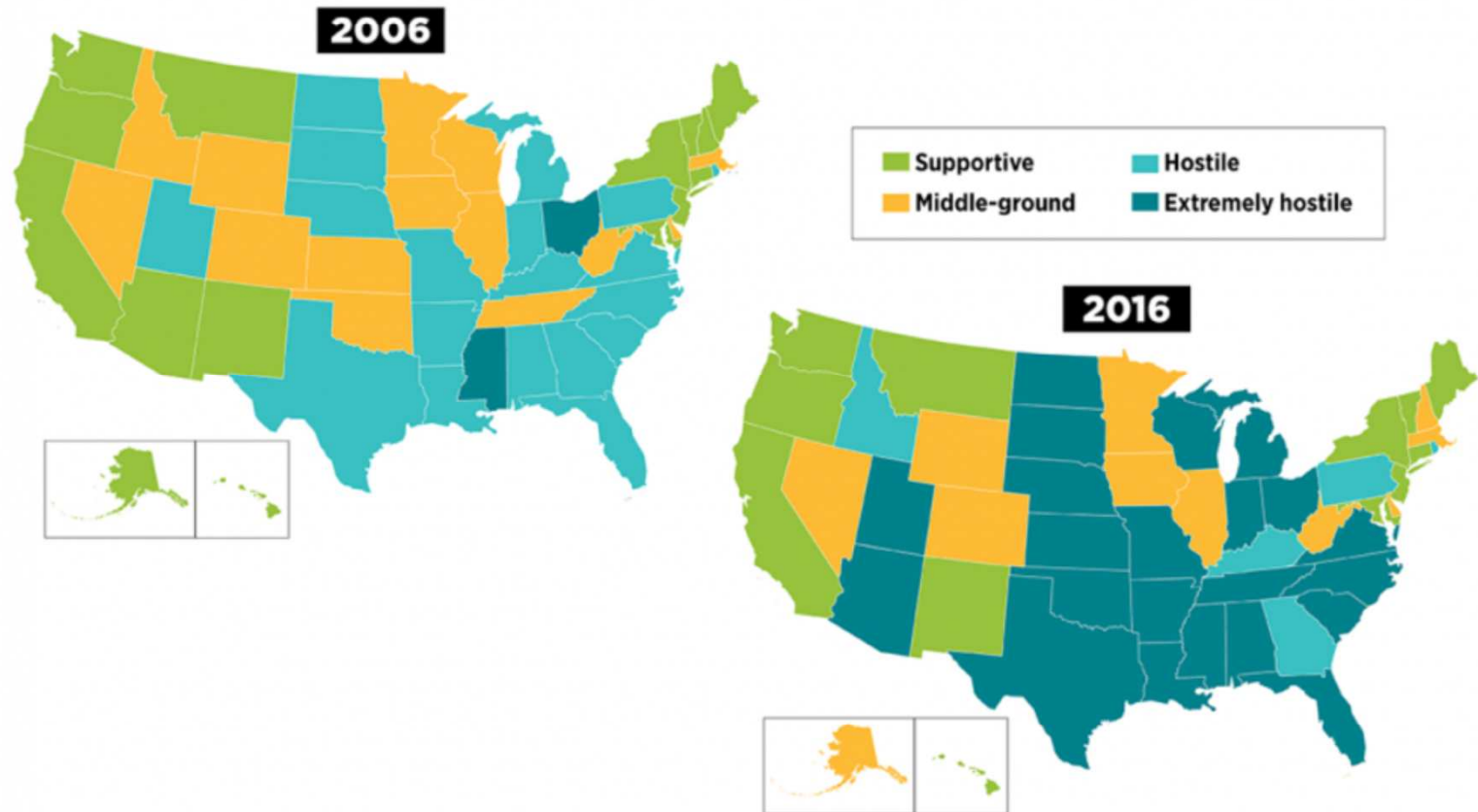
	Candidate must share views %	One of many important factors %	Not a major issue %	No opinion %
Registered voters				
2016 May 4-8	20	51	27	3
2015 May 6-10	19	49	28	4
2014 May 8-11	19	49	27	4
2012 Sep 24-27	17	45	34	4
2007 May 10-13	16	60	23	2
2004 Oct 14-16	17	46	35	2
2004 May 2-4	14	46	39	1
2001 May 10-14	21	52	25	2
2000 Mar 30-Apr 2	14	52	32	2
1999 Apr 30-May 2	19	52	26	3



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Case study – anti-abortion laws

22 states are extremely hostile to abortion



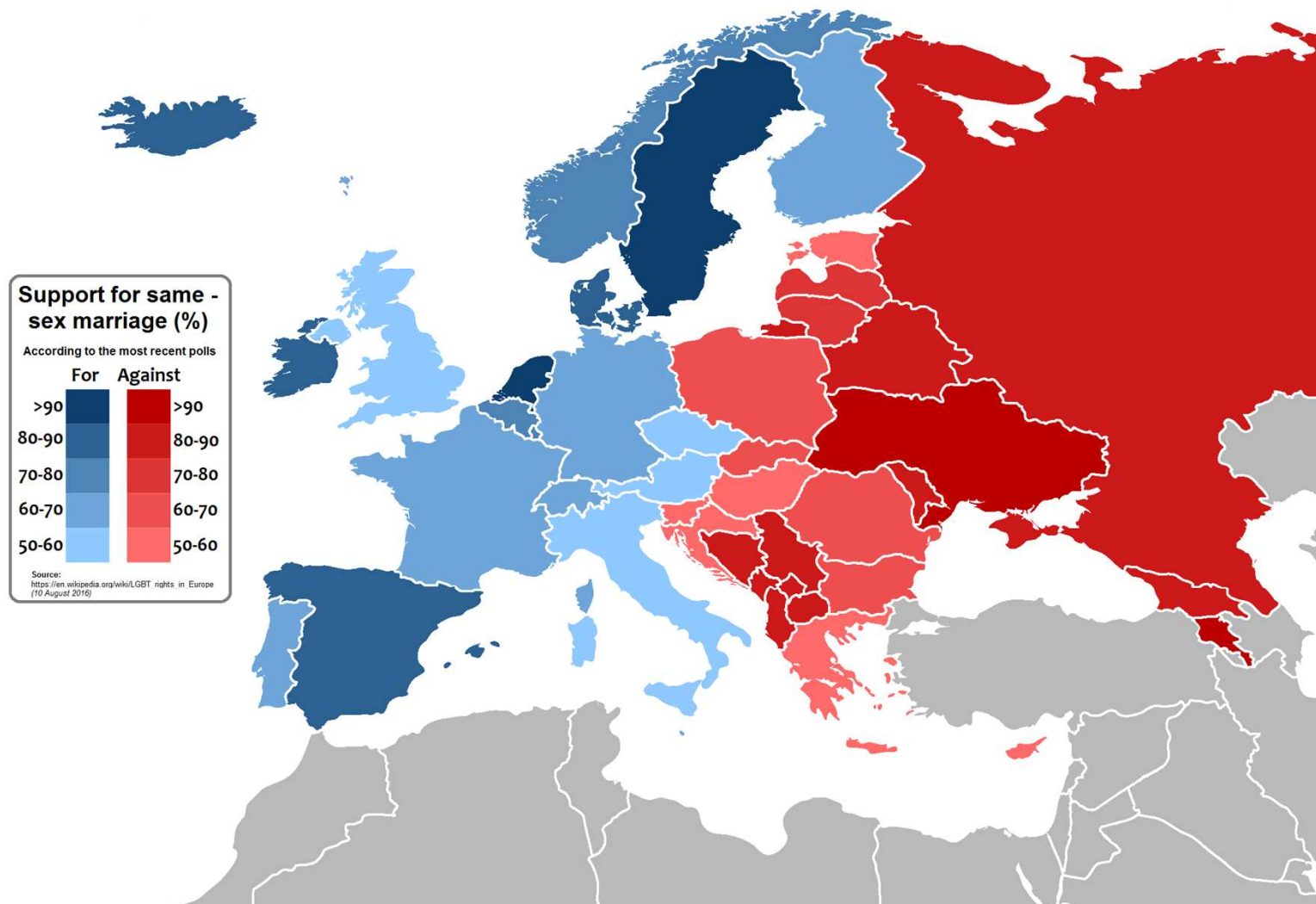
Empirical verification (B)

- **Poland** [anecdotal evidence, no public opinion polls known]
 - Attitude towards the EU influenced by the discussion on the ***Convention on preventing and combating violence against women and domestic violence*** (even though the Convention is not a product of the EU, but of the European Council)
 - ECHR in *Taddeucci&McCall vs Italy* stated that deprivation of same-sex couple (which according to state legislation could not be legally married) of benefits – legally due to traditional marriages – violates the prohibition of discrimination in private life.
 - Would a successful strategic litigation lower the trust of Polish to EU? (ECHR is often confused with EU institutions)



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Same-sex marriage support in EU



Empirical verification (B)

- In vitro on local level in Poland:
- 1 July 2016 – government stops in vitro fertilization financing in Poland.
- Municipalities:
 - Częstochowa
 - Łódź
 - Sosnowiec
 - Dąbrowa Górnicza
 - Poznań

launched or plan to launch local programs.

Findings

(A¹) improved family policy through mutual learning and competition in a decentralised system?

inconclusive

(A²) decentralisation as a tool to better define optimum strategic units for economic growth - **yes**
but – increased spending does not necessarily translate into birth-rates

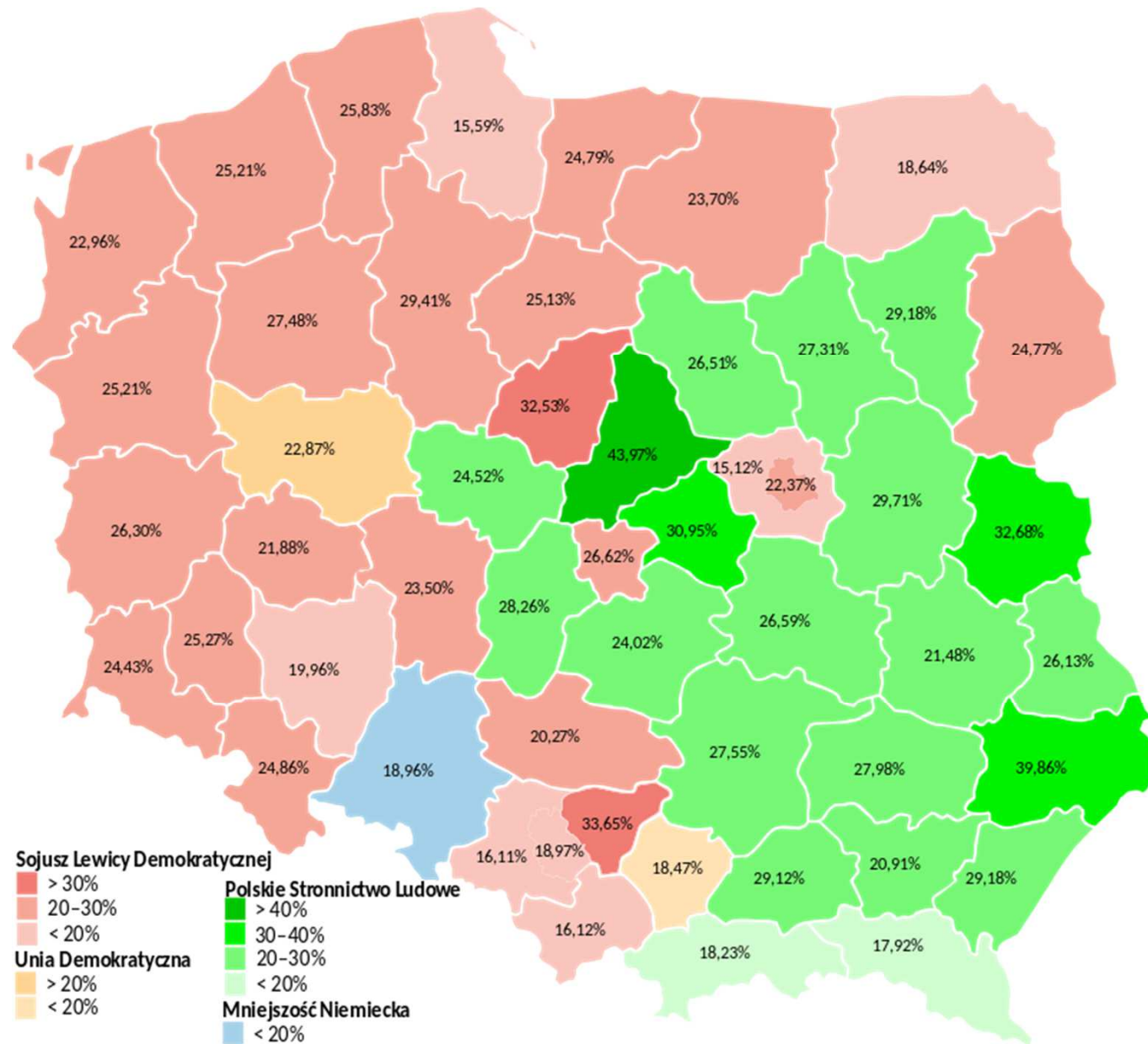
(B) federal/central preemption threatens cohesion of the union/federation/country - **yes**



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Lessons for Poland

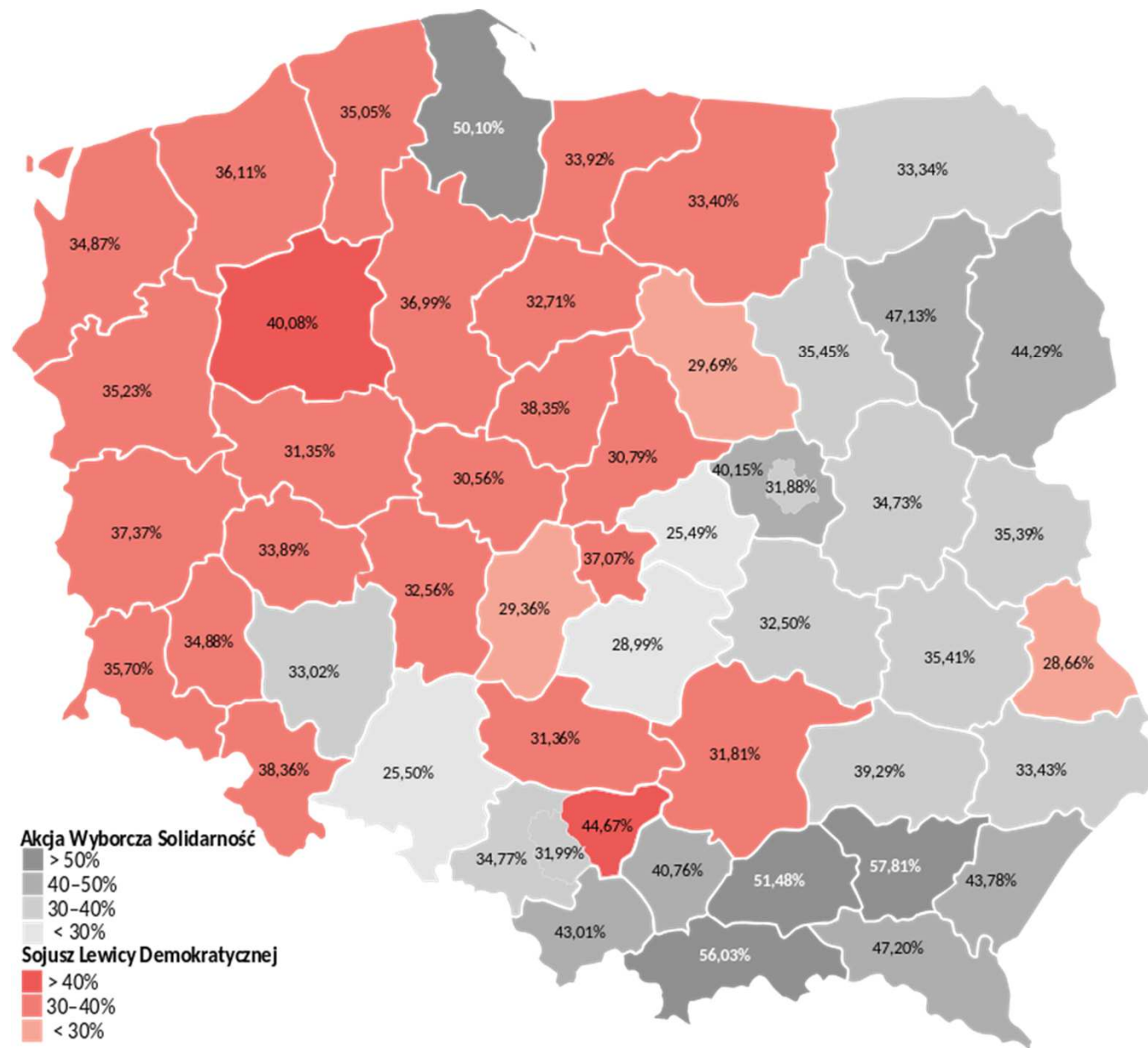
Elections 1993





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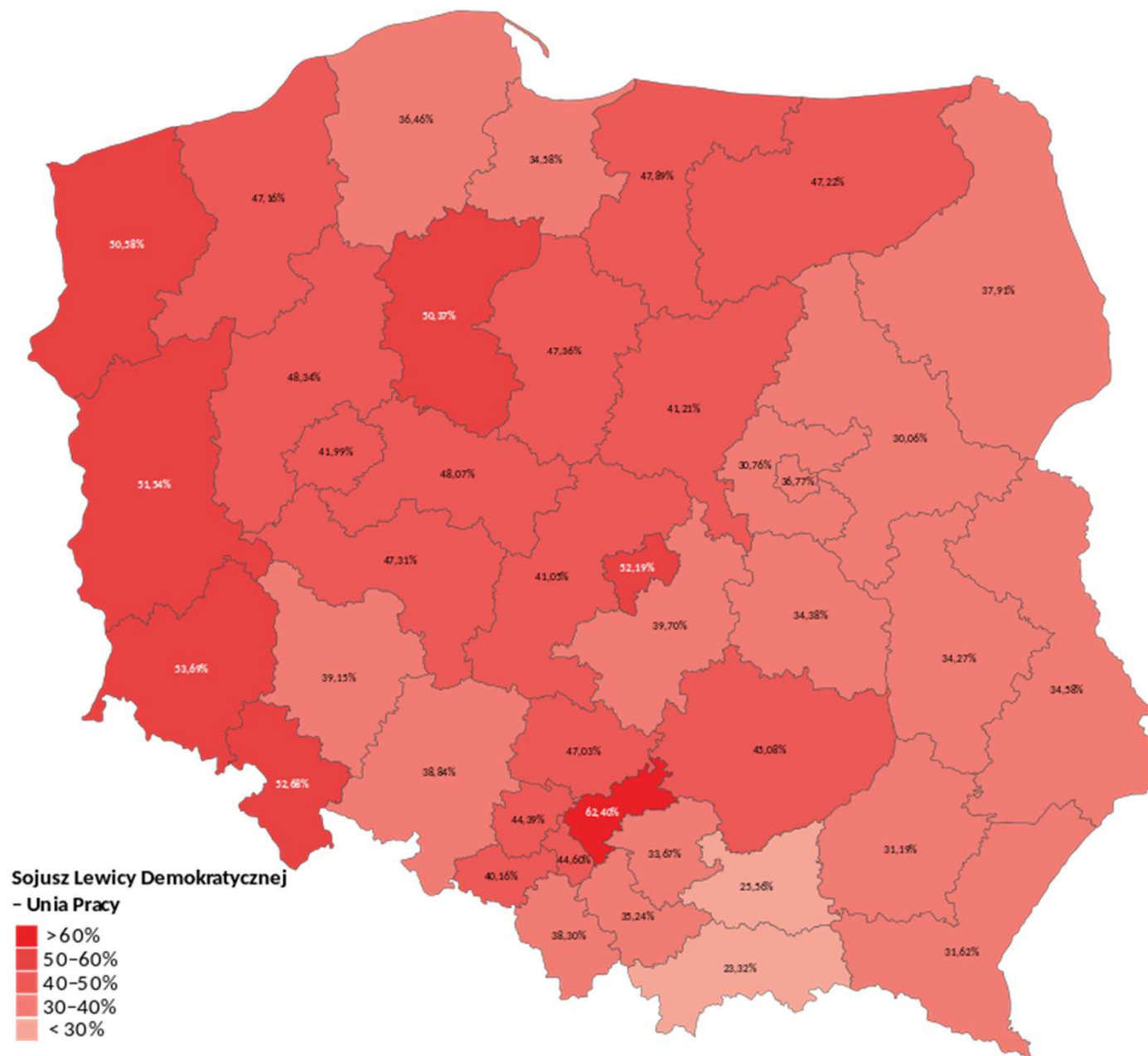
Elections 1997





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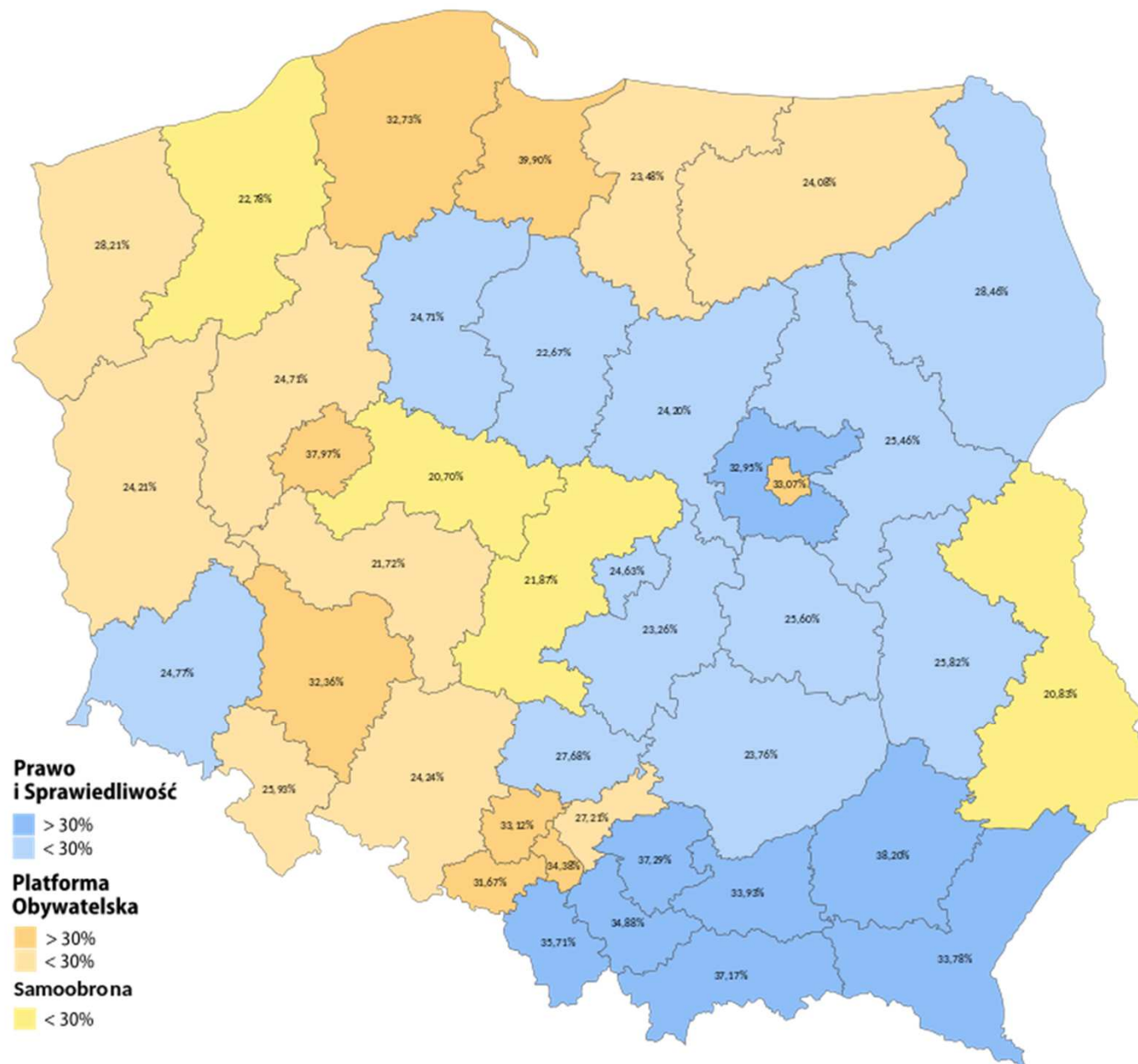
Elections 2001





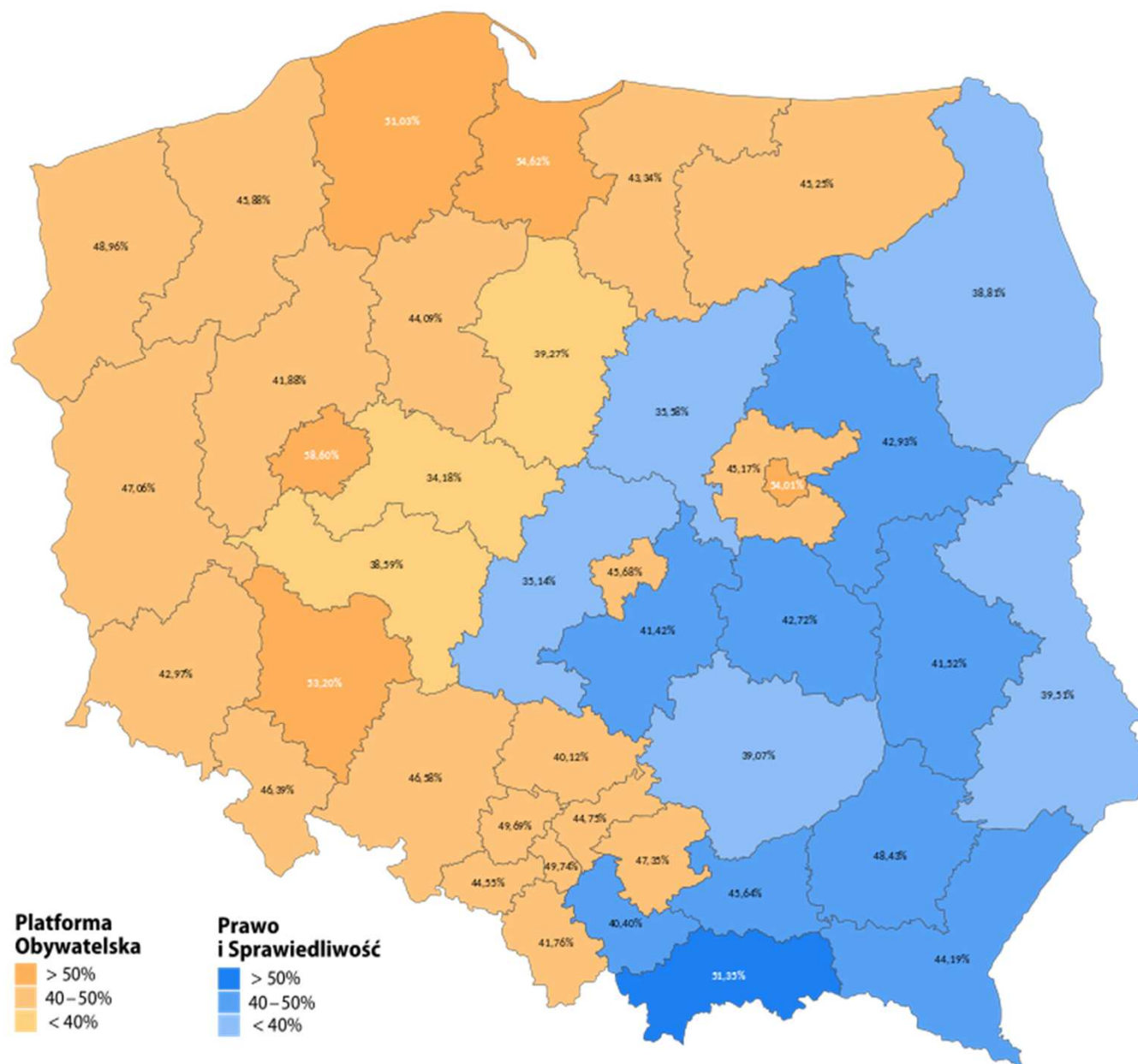
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Elections 2005





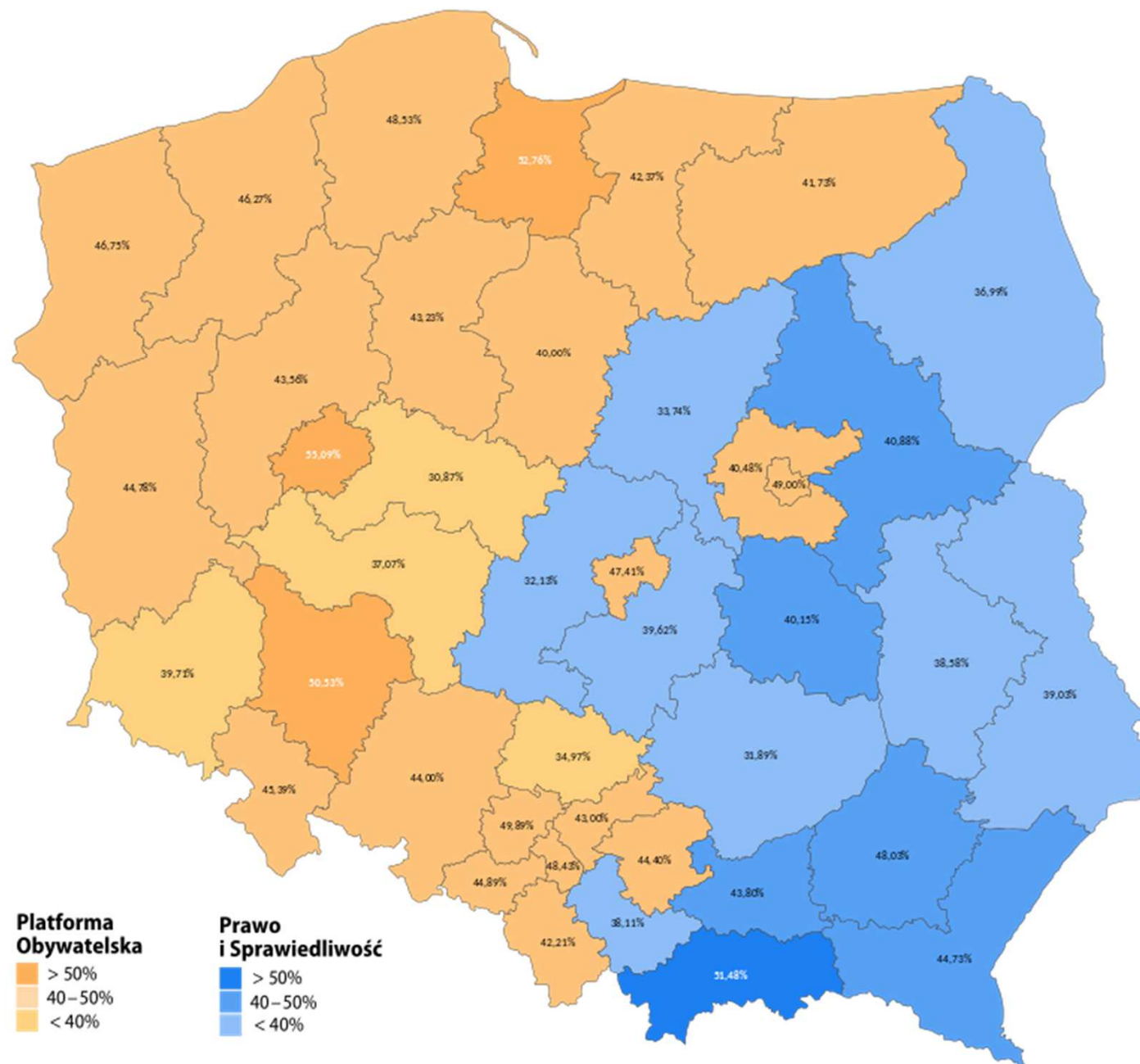
Elections 2007





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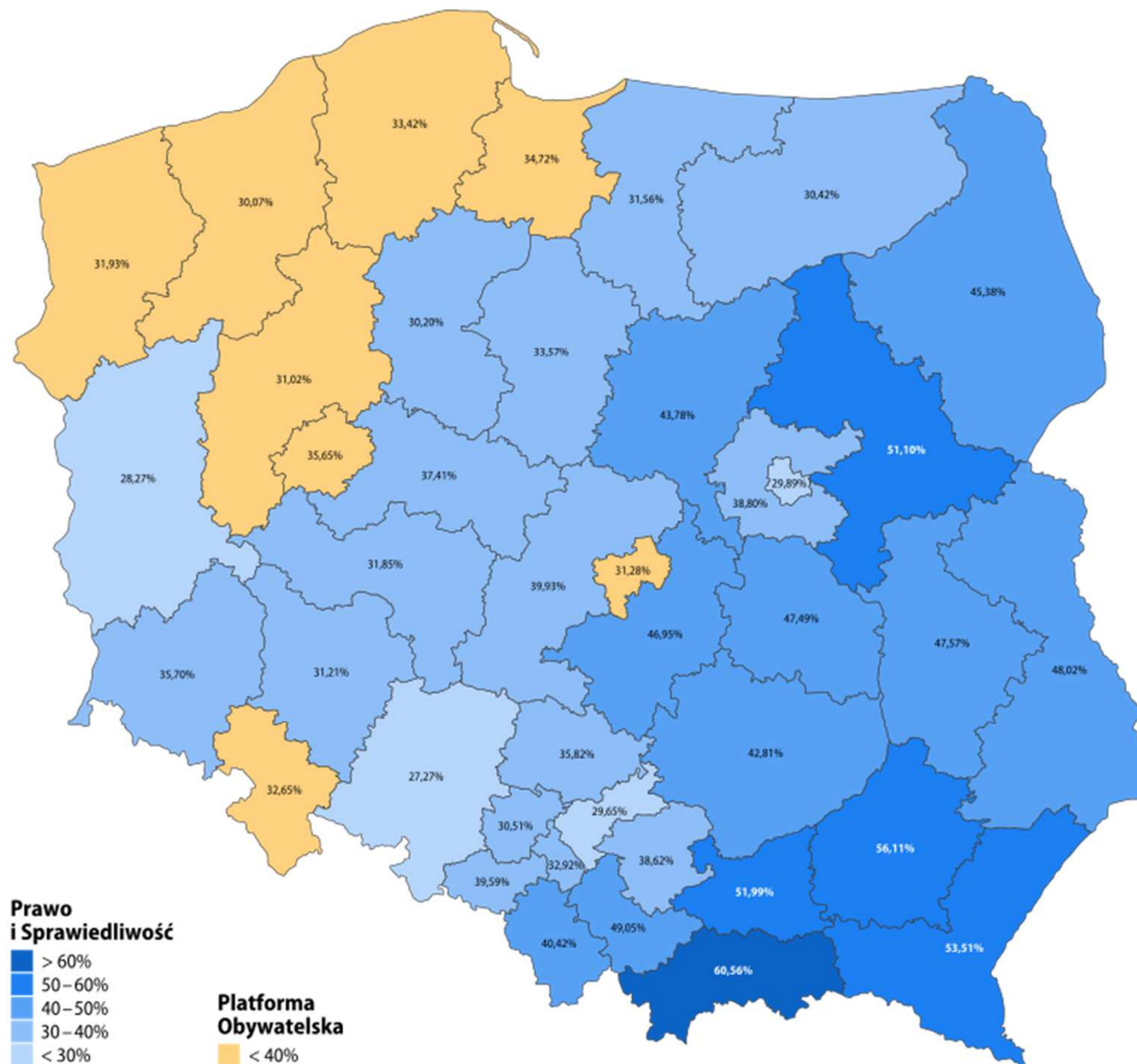
Elections 2011





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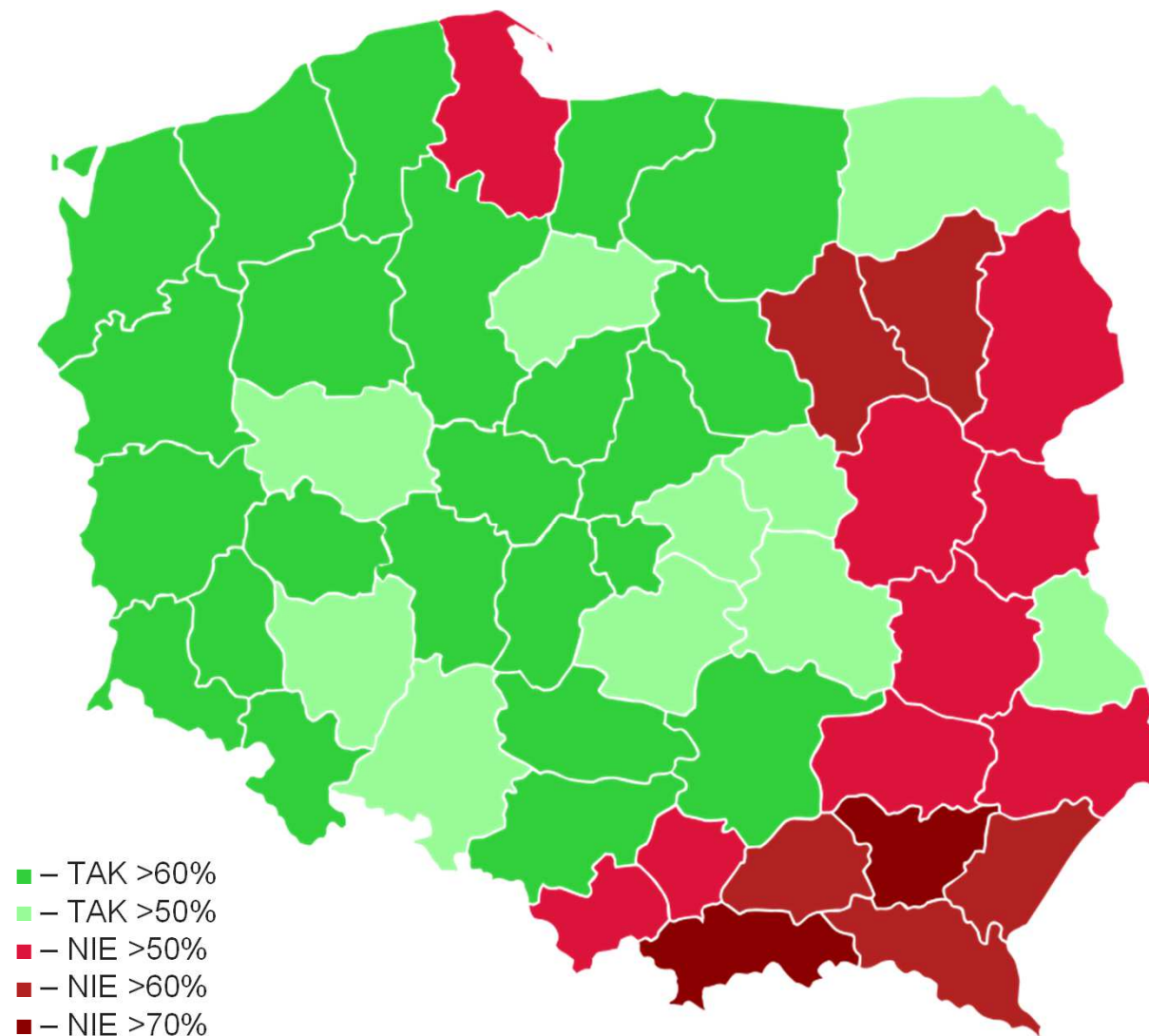
Elections 2015





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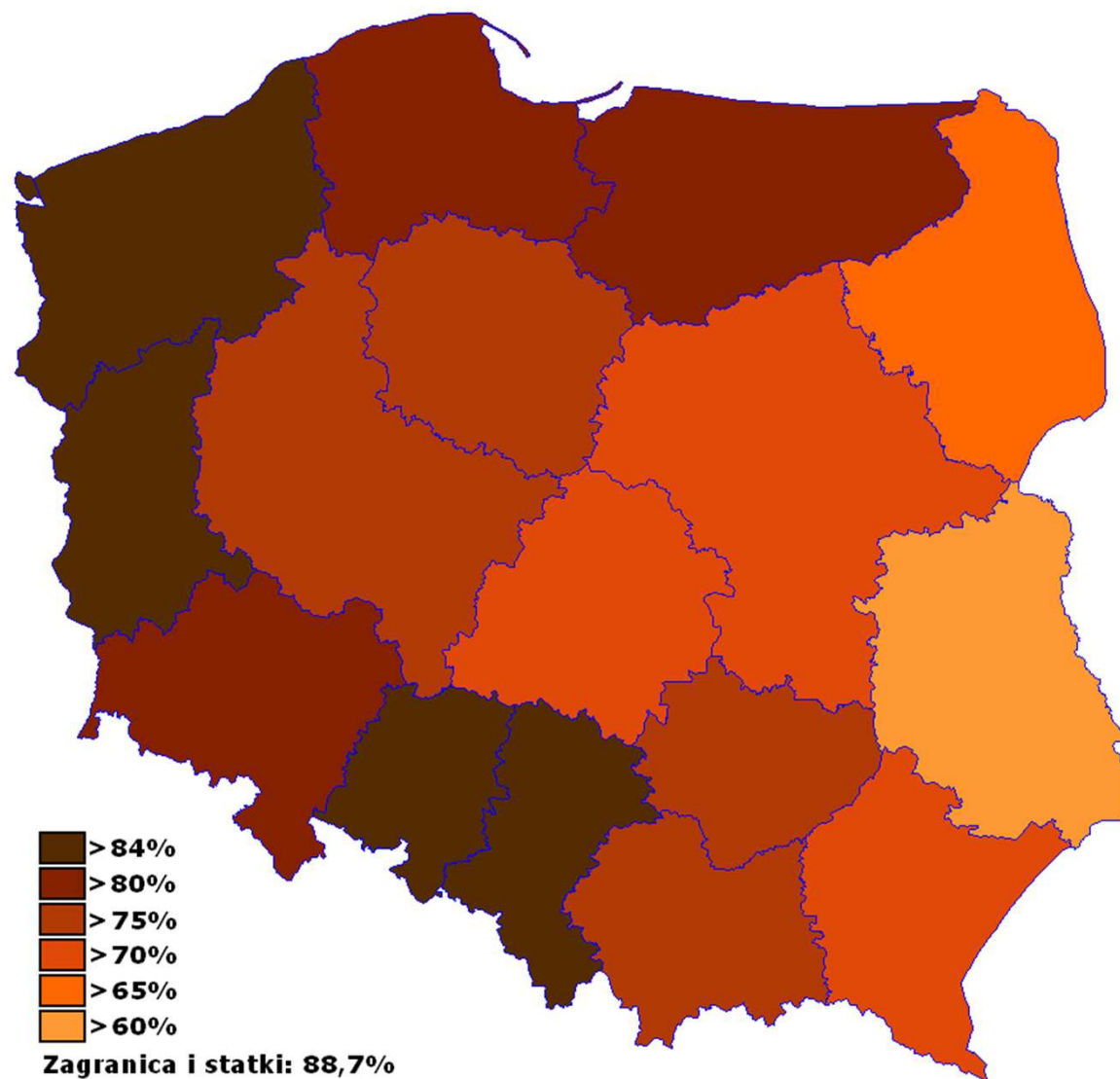
Constitutional referendum 1997





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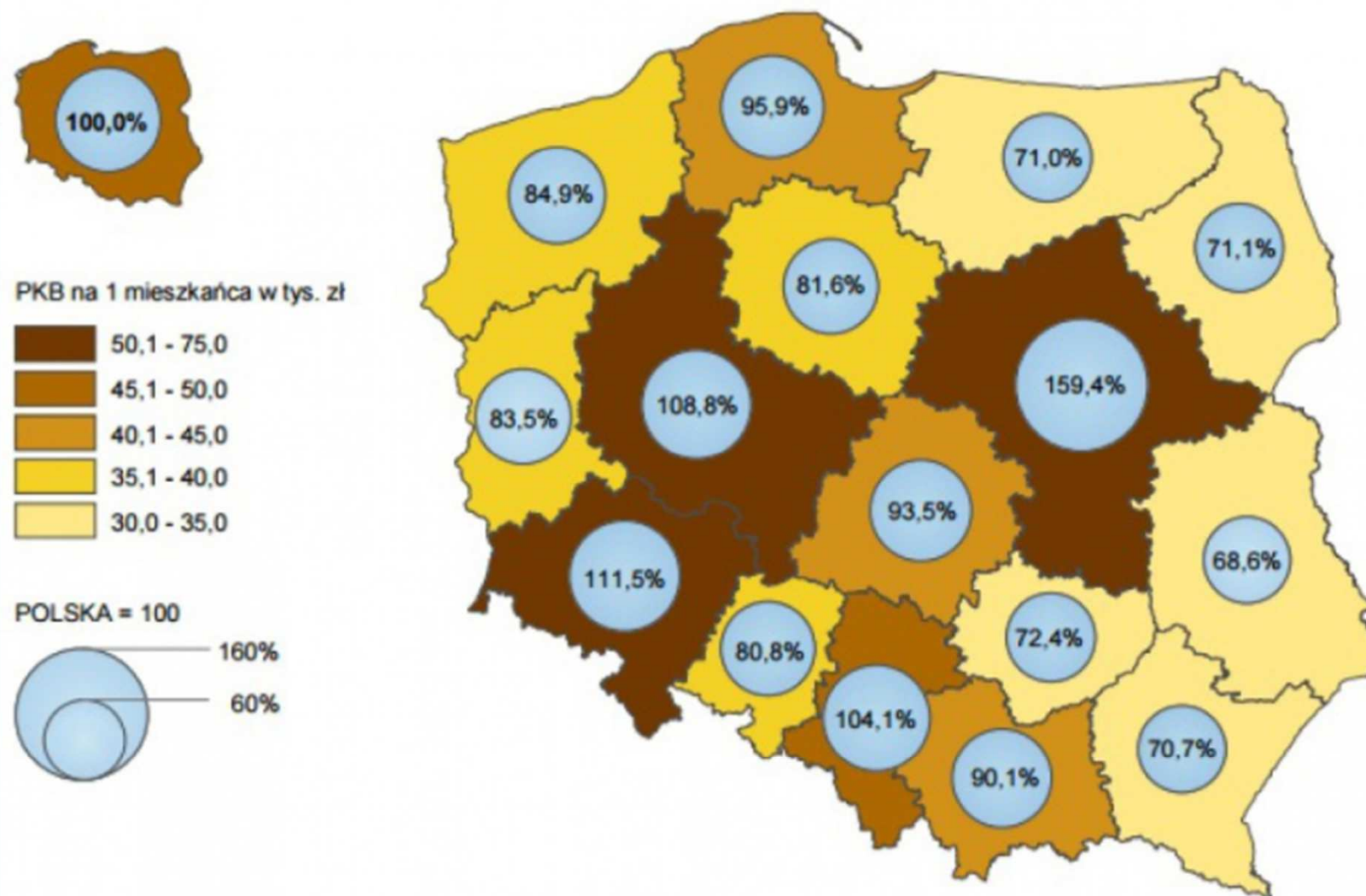
Polish EU referendum 2003 (YES voters).





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GDP per capita in voivodeships



Produkt krajowy brutto na 1 mieszkańca według województw w 2015 r. - ceny bieżące. (źródło: GUS)



Conclusions and recommendations for Poland

- Decentralisation could help overcome societal divide (values) as well as develop fitting (region-specific) development policies. The latter should boost Poland's growth.
- Yet, it is not obvious that such a growth will directly translate into changes (improvements) in regional family policies nor is it conclusive that economic growth will result in positive change in the birth rate (on average a reverse correlation can be established).



Thank you for your attention!

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