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# EUROPE AND ITS DISCONTENTS: POLAND'S COLLISION COURSE WITH THE EUROPEAN UNION

Piotr Buras

## SUMMARY

- Poland's Law and Justice Party (PiS) has embarked on a process of 'de-Europeanisation' to give the country a greater sense of sovereignty and to push back against the socio-cultural model that it feels is imposed by western Europe.
- Poland's efforts to distance itself from the EU are motivated by both ideological and economic concerns. Ideologically, PiS believes that the country's values and identity are threatened by the EU, and economically, PiS feels that its ambition to become one of Europe's big trading centres is limited by its current position in the EU value-chain.
- In pursuit of its goals, PiS has pushed Berlin, its longstanding partner, away. Instead, it has sought to ally itself with the UK and the Visegrád states to form a counter-weight to Berlin. But this has been less successful than hoped.
- In the process of 'de-Europeanisation' Poland has diminished its influence in the EU by prioritising NATO over CSDP, undermining democratic institutions, and miring itself down in spats with the EU, among other things. Poland can only avert its collision course with the EU by protecting its democratic institutions and proving that it is deeply anchored in a changing Europe.

On 25 October 2015, Polish politics was well and truly turned on its head. After years of liberalism and increased European integration, the nationalist-populist Law and Justice party (PiS) was elected with a majority in both the upper and lower houses of parliament. In less than two years the policies of PiS have transformed Polish politics and the Polish state.

Since that election, PiS has been boldly chipping away at the country's democratic institutions and undermining the separation of powers that allow for a functioning democracy. Just a few months after PiS was elected, it reformed the Polish Constitutional Court, violating the constitution and effectively putting an end to the Court's independence.<sup>1</sup> PiS also turned the publicly owned media into an instrument of government propaganda, helping soften public opinion. The ruling party's disregard for parliamentary procedures – for example, by adopting laws without giving the opposition an opportunity to voice their opinion – also aggravated conflicts within the political class. The Rule of Law Dialogue, which the European Commission initiated in January 2016 as a deterrent strategy and to “guarantee the fundamental values of the Union” in Poland, has had little to no effect on the Polish government's approach to ruling the country.<sup>2</sup>

The PiS government set about initiating its next major reform in July 2017. In a bid to put an end to the independence of the judiciary and subjugate it to the government it hoped to rush three controversial bills through parliament.<sup>3</sup> Mass protests against the proposed bills led President Andrzej

<sup>1</sup> “Poland's Constitutional Court clashes with new government”, *BBC News*, 9 March 2016, available at <http://www.bbc.com/news/world-europe-35766482>.

<sup>2</sup> “Rule of law in Poland: Commission starts dialogue”, the European Commission, 13 January 2016, available at [http://europa.eu/rapid/press-release\\_WM-16-2030\\_en.htm](http://europa.eu/rapid/press-release_WM-16-2030_en.htm).

<sup>3</sup> Andrzej Mendel-Nykorowycz, “A one-two punch to the rule of law in Poland”.

Duda to veto two of the three.<sup>4</sup> This came as a shock to many, since the president, until then, was widely seen as a loyal lapdog of PiS chair Jarosław Kaczyński, who himself supported the bills. For the first time, there was mutiny in the ranks.<sup>5</sup>

The political turmoil of Poland's summer may have profound implications not only for the country's domestic situation but also for its relations with European partners and European Union institutions. The EU has already begun to bear down on Poland. First, the European Commission opened a procedure giving Poland one month to resolve the issue of the independence of its judiciary, threatening to use the so-called 'nuclear option' to ask the European Council to trigger sanctions against Poland according to Article 7 of the Treaty on European Union – an option which the European Commission ultimately abstained from after Duda's dramatic veto.<sup>6</sup> But even the regular infringement procedure sparked a harsh reaction from the Polish government and opened a new chapter in the ongoing spat between Warsaw and Brussels.

Kaczyński was one of the key figures responsible for escalating the incident even further. Instead of taking up the domestic power struggle with the president, which would have highlighted fault-lines at the heart of the ruling party, he directed his verbal attacks mostly towards Brussels, Berlin, and more generally 'the West'. Kaczyński maintained that the operation against the judicial reform was "to a large extent international" and alluded to "external interference" in Polish affairs.<sup>7</sup>

The worsening of the conflict with Brussels and rising anti-Western propaganda in the media and from PiS themselves points to the most fundamental turnaround introduced by PiS since they came to power in 2015: the 'de-Europeanisation' of Polish domestic and foreign policy. While Europeanisation and emulation of the western European model of state and society were the dominant political narratives during Poland's transition from communism to liberal democracy, the opposite trend is increasingly shaping political discourse and policy choices in Poland today.

To be clear, 'de-Europeanisation' does not go hand in hand with opposition to EU membership in Poland. Indeed, the latest polls show that 88 percent of Poles support EU membership and only 5 percent want a 'Polexit'.<sup>8</sup> Even

the Eurosceptic PiS party does not question Poland's EU membership. Rather, PiS and a large proportion of the public desire emancipation from the influence of western European partners and want a greater sense of sovereignty.

This policy brief seeks to explain the sources and implications of Poland's trend towards 'de-Europeanisation', particularly in relation to foreign policy cooperation with the EU.<sup>9</sup> It shows that the ideological roots of this process lie primarily in the deeply ingrained convictions about nation, culture, and Europe within the ruling PiS party and among its core electorate. In this sense, PiS has intentionally moved away from the path adopted by liberal Polish governments in the 1990s and early 2000s in their quest for modernisation and a new model for foreign policy. The ruling party does not frame Europe – in terms of the European integration process and the European model of society – as an opportunity for Poland anymore. It sees it as a risk instead.

However, Poland's 'de-Europeanising' impulse is not born of ideology alone. There are also structural reasons for this process, such as the large share of foreign capital in some key sectors of the economy, like the media and banking sectors, and Poland's role as a key outsourcing destination for sectors of the German economy. While these factors do not in themselves constitute reasons to push back against EU integration, they have led Poland to question the EU-friendly narrative of past governments and the rationale for Poland's support for deeper integration.

In many ways, Poland occupies an important but often awkward place in the EU. It aspires to be one of the 'big six' member states (or 'big five' after Brexit), but, as a relatively new member of the EU, it does not have adequate resources to catch up with the more established, larger member states. Poland has proven that it fills an important gap in the EU by being one of the few large member states that straddles east and west as well as eurozone-EU divides. Due to its potential and its often-pivotal role in the EU, Poland's shift towards 'de-Europeanisation' could damage the EU's internal cohesion and hamper the credibility of the bloc's external actions, even if the Polish government does not want to quit it altogether.

4 See: Michał Bilewicz, "Poland's ruling party tried a judicial power grab – and then saw it backfire. Here's why.", the *Washington Post*, 31 July 2017, available at [https://www.washingtonpost.com/news/monkey-cage/wp/2017/07/31/polands-ruling-party-tried-a-judicial-power-grab-and-then-saw-it-backfire-heres-why/?utm\\_term=.28ccf02ccce](https://www.washingtonpost.com/news/monkey-cage/wp/2017/07/31/polands-ruling-party-tried-a-judicial-power-grab-and-then-saw-it-backfire-heres-why/?utm_term=.28ccf02ccce).

5 Joanna Hosa, "Poland: The importance of being president", the European Council on Foreign Relations, 25 July 2017, available at [http://www.ecfr.eu/article/commentary-poland\\_the\\_importance\\_of\\_being\\_president](http://www.ecfr.eu/article/commentary-poland_the_importance_of_being_president).

6 However, according to press reports, the European Commission President Jean-Claude Juncker asked commissioners to lobby in favour of sanctions against Poland. See "Juncker und Merkel streiten über Polen", *Der Spiegel*, 26 August 2017.

7 Eстера Flieger, "Kaczyński w TV Trwam: Celem jest "dekomunizacja sądownictwa" i "dekoncentracja mediów". Zalatwimy to, choć będzie opór", *Gazeta Wyborcza*, 27 July 2017, available at <http://wyborcza.pl/7,75398,22238501,jaroslaw-kaczynski-w-tv-trwam.html>.

8 Michał Wilgocki, "Polexit? Nie ma na to zgody. W Grupie Wyszehradzkiej Polacy są największymi euroentuzjastami", *Gazeta Wyborcza*, 16 August 2017, available at <http://wyborcza.pl/7,75398,22238501,polexit-nie-ma-na-to-zgody-w-grupie-wyszehradzkiej-polacy.html?disableRedirects=true>.

9 For a very good definition of this term see Gunther Hellmann, et al., "De-Europeanization by Default? Germany's EU Policy in Defense and Asylum", *Foreign Policy Analysis*, (2005) 1, pp.143–164, available at <http://onlinelibrary.wiley.com/doi/10.1111/j.1743-8594.2005.00007.x/abstract>.

## Europeanisation and its discontents

While PiS neither rejects the EU as such, nor opposes Poland's EU membership, its critical stance towards EU integration goes beyond commonplace complaints about violations of the EU's subsidiarity principle, German hegemony, overregulation, or the centralisation of power in Brussels. Most notably, PiS rejects the paradigm of 'Europeanisation' that has informed Poland's transformation over the last 25 years.

Poland's successful reorientation towards a Western political and socio-cultural model was fuelled by the aspirations of Polish society and was a source of its credibility as a player in Europe. But that credibility is waning because PiS questions the very approach towards western Europe that brought Poland to where it is today.

### *An ideological backlash*

PiS's party leaders and chief ideologists have disparaged Poland's westward outlook as based on a "policy of imitation" entailing submission to Western or German "fashions".<sup>10</sup> The emulation of western European ideas, such as political and economic liberalism, is no longer seen as desirable by PiS. Rather, such an approach is treated with mistrust. Some have even claimed that Western liberal ideas are not compatible with Polish traditions or identity.<sup>11</sup> While sovereignty and nation are the key organising principles of the party's national-conservative ideology, PiS believes Polish values are under threat from the policies of grand supranational institutions and external influences. PiS's rejection of Europeanisation has resulted in a profound reframing of the public discourse away from Europe, and back towards the nation.

For PiS's leading politicians and intellectuals the EU is a project that abandoned its Christian-conservative and economic roots long ago. For them, it was captured by a generation of left-wingers empowered by the protests of May 1968 and has turned into an ideologically driven instrument designed to gradually homogenise Europe and impose a single socio-cultural model upon the whole bloc.<sup>12</sup> PiS's rhetoric often falls back on the theme of left-wing social engineering, which it claims has ploughed through Western societies to achieve a vision of progress associated with secularisation, ecology, glorification of

minorities, cosmopolitanism, and multiculturalism.<sup>13</sup> PiS, and those who support its manifesto, often believe that Poland represents the 'real West', whereas western Europe has betrayed the original Western values.<sup>14</sup> PiS directs its mistrust towards foreign ideological currents, state governments, or European institutions that allegedly seek to rebuild societies according to values contrary to its own. But PiS believes the social transformation of European societies according to the EU's values to be reversible. They do not see the change in their society as an organic process deriving from the transfer of values and ideas – something that no one can ever really control.<sup>15</sup>

The EU's decision to monitor the rule of law in Poland, beginning in January 2016, solidified the Polish government's opposition to the EU's supranational institutions. The refugee crisis and the EU's reaction to it – most notably the adoption of the relocation mechanism in September 2015 and, with it, refugee quotas – only served to further harden PiS's position. For PiS, the imposition of refugee quotas served as a proof of EU's attempt to enforce the "failed" multicultural model of society on central and eastern Europe.<sup>16</sup>

### *An economic backlash*

Despite Poland's relative economic success since emerging from communism, the backlash against Europeanisation also has economic sources. The country's economic transformation over the last 25 years was mainly driven by its integration with the western European market, receipt of EU funding, and participation in the German value chain (with Polish companies, for example, in the automotive industry acting as subcontractors for large German companies). This combination of factors led Poland to develop an economic model based on low wages, a large share of foreign capital, and high dependence on external factors, such as EU subsidies and developments in foreign markets.

PiS's own modernisation plan, known as the 'Morawiecki Plan' – designed by the powerful minister for economic development and finance Mateusz Morawiecki – rests on the idea of moderate 'renationalisation' of economic assets, especially in the financial sector, and greater investment by the state in advanced technologies such as electric vehicles. PiS predicates its economic model on Poland's continued ability to tap into EU funds. But the party is often critical of the EU's effect on the Polish economy, which, it believes, serves to maintain Poland as a peripheral actor and the backyard of the German economy. Indeed, Poland has also found that EU policy and legislation have put key sectors, such as energy

10 "Zdzisław Krasnodębski o modernizacji Polski", *Rzeczpospolita*, 5 November 2011, available at <http://www.rp.pl/artykul/653010-Zdzislaw-Krasnodebski-o-modernizacji-Polski.html#ap-1>; "Jarosław Kaczyński na kongresie PiS: Suwerenność jest wartością samą w sobie, jest sprawą godności narodu. Nie poddamy się koncepcjom Sorosa!", *wPolityce.pl*, 4 June 2017, available at <https://wpolityce.pl/polityka/295423-jaroslaw-kaczynski-na-kongresie-pis-suwerennosc-jest-wartoscia-sama-w-sobie-jest-sprawa-godnosci-narodu-nie-poddamy-sie-koncepcjom-sorosa?strona=3>. For an extensive analysis of this discourse see Adam Balcer, Piotr Buras, Grzegorz Gromadzki, Eugeniusz Smolar, "Change in Poland but what change? Assumptions of Law and Justice's foreign policy", Stefan Batory Foundation, available at <http://www.batory.org.pl/upload/files/Programy%20operacyjne/Otwarta%20Europa/Change%20in%20Poland.pdf>. (hereafter, Adam Balcer et al., "Change in Poland but what change?").

11 See "Jarosław Kaczyński. Nie pozwolimy na niszczenie tradycyjnych, polskich wartości", PiS.org, 6 April 2017, available at <http://pis.org.pl/aktualnosci/nie-pozwoimy-na-niszczenie-tradycyjnych-polskich-wartosci>.

12 Krzysztof Szczerski, *Utopia europejska: Kryzys integracji i polska inicjatywa naprawy*. (Kraków: Biały Kruk, 2017). (hereafter, Krzysztof Szczerski, *Utopia europejska*).

13 See this interview with Witold Waszczykowski: "Haben die Polen einen Vogel?", *Bild*, 3 January 2016, available at <http://www.bild.de/politik/ausland/polen/hat-die-regierung-einen-vogel-44003034.bild.html>.

14 Andrzej Zybortowicz, "Trójmorze to nie projekt antyunijny. Przeciwnie, ma wzmocnić UE", *the Polska Times*, 7 July 2017, available at <http://plus.polskatimes.pl/opinie/a/andrzej-zybertowicz-trojmorze-to-nie-projekt-antyunijny-przeciwnie-ma-wzmocnic-ue.12246763>.

15 Adam Balcer et al., "Change in Poland but what change?"

16 "Minister Błaszczak mocno o multi-kulti: 'uleganie poprawności politycznej, to przynosi tragiczne zniwo'", *Telewizja Republika*, 4 June 2017, available at <http://telewizjarepublika.pl/minister-blaszczak-mocno-o-multi-kulti-uleganie-poprawnosci-politycznej-to-przynosi-tragiczne-zniwo.49478.html>.

and defence, under pressure. For example, Poland is heavily dependent on coal, so the EU's climate policy, which proposes member states move away from using fossil fuels, represents a direct challenge. Meanwhile, PiS fears that European Commission plans to gradually integrate the European defence industry will threaten Poland's ambitions to establish its own big businesses in this sector.

This situation is sometimes called the 'Europeanisation paradox': Poland cannot develop without the EU but the EU is, at the same time, perceived to be holding Poland back from achieving its economic ambitions.<sup>17</sup>

## Bye-bye, Berlin

Driven by its own idea of modernisation and by mistrust of any track that could lead Poland to continue 'Europeanising', PiS has clearly prioritised domestic policy change over foreign policy ambition. Its mission to introduce a different and illiberal model of democracy has proved an impediment to the country's external agenda, as it has led to conflicts with the European Commission and undermined Poland's trustworthiness in the eyes of other EU capitals. The sovereigntist imperative in Poland has become a leading feature of the government's rhetoric and actions. As a result, domestic 'de-Europeanisation' has, unsurprisingly, triggered a similar process in the realm of EU foreign policy cooperation. The Ministry of Foreign Affairs marked this shift by changing the motto of its diplomatic service. The initial wording, "To serve Poland – to build Europe – to understand the world" was replaced with a phrase attributed to the Polish underground army in the second world war, and with no mention of Europe: "Faithful to my Homeland, the Republic of Poland".<sup>18</sup>

As part of this change in approach, PiS has made clear that it wants to redefine who its main foreign policy partners are in the EU. Presenting his foreign policy goals in January 2016, the foreign minister, Witold Waszczykowski, made clear that Germany was no longer Poland's top priority. PiS well and truly abandoned the former mantra that "the road to Europe goes through Germany".

Breaking with a tradition that had held since 1989, the newly re-orientating Poland replaced Germany with the United Kingdom – which later that year would vote to leave the EU. This shift in alliances was remarkable, not only because of Berlin's former role as a major economic and political partner for Poland, but because Poland's close relationship with Germany formed the cornerstone of its foreign policy, particularly between 2007-2015. The concept of a "partnership for Europe" with Germany, endorsed by former foreign minister, Radosław Sikorski, determined the horizons of Poland's foreign policy ambitions, and cemented

it as a country that aspired to be part of Europe's core.<sup>19</sup>

By pivoting to the UK, the PiS government effectively rejected Germany and the strong bonds the two countries have built. Indeed, PiS claimed that their current foreign policy required Poland to bend the knee to Germany and follow its example<sup>20</sup> and that trying to be a mainstream EU member state had not brought anything positive to Poland.<sup>21</sup> Instead of seeking cooperation with Germany and alignment of German-Polish interests, Warsaw shifted camps by allying itself with the more Eurosceptic-leaning Visegrád states and the UK, and thereby adding to the counterweight against Berlin.

This remarkable shift in Poland's orientation, above all, reflected the new government's ambition to push the integration process in a different direction. PiS's decision to move away from the Europeanisation paradigm seemed also to reflect PiS's conviction that the party was at the vanguard of Europe's transformation. But times have changed.

When the party came into power in autumn 2015 the concepts of strengthening the nation state, renationalising the economy, opposing deeper EU integration, and criticising liberal democracy were on the rise across Europe. The populist revolt against the establishment seemed to validate PiS's claim that popular sentiment across the EU was on their side. 'Euro-pessimism' – the conviction that the EU in its current institutional setup and political framework is doomed to fail – chimed with the new Polish government's belief that its ideas for the EU's renewal would gather momentum.<sup>22</sup> The political climate at that time provided the opportunity for Poland to align itself with Visegrád states and the UK in the quest to reform the EU in line with its sovereigntist agenda.

Before the PiS government came to power, Poland worked hard to keep its ties with Berlin and Paris as close as possible to 'punch above its weight' or, as Polish diplomats framed it, keep Poland's foot in the door. This outlook was always grounded in Poland's belief that Germany should use its power within the EU for Europe's benefit. And the best way of ensuring that Germany could act in the broader interest of Europe was to keep it deeply anchored in and committed to the EU through a close, trust-based relationship that took into account Poland and Germany's different interests.<sup>23</sup>

19 "Wizyta Ministra Spraw Zagranicznych RP Radosława Sikorskiego" Instytut Zachodni, 26 June 2008, available at <http://www.iz.poznan.pl/aktualnosci/wydarzenia/wizyta-ministra-spraw-zagranicznych-rp-radoslaw-sikorskiego>.

20 In her reaction to the European Commissions rule of law process, Polish Prime Minister Beata Szydło stated that she will "defend Poland's reputation. (...) In Brussels, I will be talking facts. Don't you think that we will lead our foreign policy on our knees". See: Beata Szydło "Będę bronić dobrego imienia Polski", PIS.org, 13 January 2016, available at <http://pis.org.pl/aktualnosci/bede-bronic-dobrego-imienia-polski>.

21 In their 2014 manifesto PiS stated that the decision of previous governments to "strive for Berlin and Brussels' recognition has led to dire decisions being made, such as the climate accord, or the renouncement of the veto right". See: "Program Prawa I Sprawiedliwości", PIS.org, 2014, p.23, available at <http://pis.org.pl/document/archive/download/128>.

22 This was one of the main reasons why Warsaw effectively ignored the European Commission's rule of law mechanism, believing that the commission's instrument was not only toothless but at odds with the new anti-Brussels trend in Europe.

23 "Sikorski: German inaction scarier than Germans in action", *The Economist*, 29 November 2011, available at <https://www.economist.com/blogs/easternapproaches/2011/11/polands-appeal-germany>.

17 Tomasz Grzegorz Grosse and Łukasz Hardt, "Unijna Pulapka", *Rzeczpospolita*, 14 February 2014, available at <http://www.rp.pl/artykul/1086800-Unijna-pulapka.html#ap-1>.

18 See the current website of the Polish Ministry of Foreign affairs here: <http://www.msz.gov.pl/en/>; and the archived page with the previous standfirst here: <https://web.archive.org/web/20170313153402/http://www.msz.gov.pl:80/en/>.



The Polish approach to Germany was also based on the conviction that the political and economic strength of Berlin in central and eastern Europe could anchor the region in Europe. In that sense, close cooperation among the 'Visegrád states' of Poland, Hungary, the Czech Republic, and Slovakia, and good relations with Germany could go hand in hand. This was the case even if the Visegrád grouping was instrumentalised by Poland from time to time to confront Berlin on specific policy issues, such as climate change or energy policy.

However, under PiS, Poland does not perceive Germany's dominant position in Europe, or its strong commitment to the EU, as objective factors to take into account when formulating strategy towards its neighbour. Instead, in keeping with its domestic political positioning, PiS has framed Germany as the source of Europe's refugee crisis and claimed it has been trying to impose its policy of multiculturalism onto the rest of the EU.

The Polish government has even instrumentalised anti-German rhetoric to boost public support for itself and its manifesto. The high profile of the refugee issue in Polish public debate offered the PiS government a useful opportunity to attack Brussels and Berlin. While many Poles are against accepting refugees – perceiving them as a threat – the government has been instrumental in using this issue to shore up public support for itself. This has had the knock-on effect of consolidating Polish opposition to perceived diktats from the EU.

In early 2017, Kaczyński attacked Germany after the European Council re-elected Donald Tusk as its president. Kaczyński dubbed him the "German candidate", and claimed that Angela Merkel forced other countries to vote against the PiS government.<sup>24</sup>

Then PiS launched another, even stronger, wave of anti-German propaganda after the judicial reform crisis. Kaczyński, party members, and public media outlets accused Germany of supporting street protests against the reforms. As the issue coincided with the 73rd anniversary of the Warsaw uprising, the question of German guilt and responsibility was instrumentalised to depict Germany and Germans negatively. PiS also went as far as to claim that Germany still owed them reparations for the second world war – a debate that has been dredged up from the past by PiS.<sup>25</sup> While such rhetoric may have boosted PiS's profile within Poland, it has significantly limited its goodwill and room for manoeuvre in Brussels.

The irony is that, the refugee issue aside, Poland and Germany are better aligned than ever before on key strategic issues. Differences remain, of course, in areas such as security policy. But even there Germany's contribution to

implementing the outcomes of the Newport and Warsaw NATO summits shows that the gap between Poland's expectations and Germany's policies is not as large as might be thought. Indeed, their differences may even be shrinking. One political win for the PiS government is that Berlin has abstained from articulating any criticism itself about the state of the rule of law in Poland. It has effectively outsourced that role to the European Commission. Germany has come to realise that open criticism of Poland is more often than not counterproductive – limiting Germany's credibility as a broker of compromises within the EU.

With this in mind, on the question of the future of the EU, Germany has been hesitant to push forward the idea of differentiated integration or a multi-speed Europe, which could leave Poland behind. Instead it has been a key advocate of continued institutional cohesion among the EU27.

The main point of contention between Germany and Poland remains the Nord Stream II gas pipeline, which Polish governments of all colours have consistently criticised. PiS's main argument is that the pipeline will not further diversify the supply route of the energy into the EU – a specific goal of the EU's Energy Union. The pipeline could also have an adverse geopolitical effect by weakening Ukraine and strengthening Gazprom's presence on the EU market. Moreover, from a purely domestic perspective, it would run against Polish plans to import Norwegian liquid natural gas (LNG) for consumption in the central European market, which remains heavily dependent on Russian gas.<sup>26</sup>

Warsaw's pivot away from Berlin, made to Germany that its role as a central European power is no longer unquestioned – at least in Warsaw. The Visegrád countries did not invite it to join their post-Brexit discussions. Nor was Germany involved in the wider regional Three Seas Initiative (TSI) launched by Warsaw to boost ties between former communist countries in eastern Europe and the United States. Poland has instead sought to align itself with other member states that have also come to oppose Europeanisation in a bid to isolate Germany and portray it as the lonely leader of the EU.

## Poland, the UK, and Visegrád

Poland's political affinity with the UK was first born of PiS and the Conservative Party's membership of the same group in the European Parliament – the European Conservatives and Reformists. But they are also broadly united in their overarching vision of what Europe means and what it represents. PiS has always seemed to sympathise with Britain's principled stance on the primacy of nation states in the EU; its rejection of the single currency; its Atlanticism; its scepticism about the EU's defence ambitions; and the emphasis Britain places upon the single market as the key pillar of EU integration, as opposed to its political dimension. The British approach to Europe appealed to PiS, but the party took issue with London's ambition to reduce the EU

<sup>24</sup> "Jarosław Kaczyński: Donald Tusk to kandydat Angeli Merkel", *Rzeczpolita*, 5 March 2017, available at <http://www.rp.pl/Prawo-i-Sprawiedliwosc/170309468-Jaroslaw-Kaczynski-Donald-Tusk-to-kandydat-Angeli-Merkel.html>.

<sup>25</sup> Piotr Buras, "Reparations and the crisis of Poland's foreign policy", European Council on Foreign Relations, 24 August 2017, available at [http://www.ecfr.eu/article/commentary\\_reparations\\_and\\_the\\_crisis\\_of\\_polands\\_foreign\\_policy\\_7224](http://www.ecfr.eu/article/commentary_reparations_and_the_crisis_of_polands_foreign_policy_7224).

<sup>26</sup> Agata Łoskot-Strachota, "The case against Nord Stream 2", *Energypost.eu*, 23 November 2015, available at <http://energypost.eu/case-nord-stream-2/>.

budget and the British desire to limit labour migration from EU countries and alter the social rights of EU citizens already living in the UK. Despite this, PiS saw in the UK an ally that could help it to jointly change the balance of power in the EU and work towards a new model that would limit the EU to being a union of sovereign states.

The UK's decision to vote in favour of 'Brexit' and the fast-evolving debate about the future of the EU caused the foundations of this initiative to crumble. Poland even thought it had some security in the form of its efforts to keep the UK in the EU by giving its blessing to the new position David Cameron had negotiated with the EU for a 'migration cap' just months before the referendum. But the UK voted for Brexit anyway, rendering obsolete this gesture of goodwill and weakening the team of 'renationalisers' within the EU that Poland had been trying to build. Betting on the UK as a key ally within the EU had proven to be a short-sighted strategy for Poland and it scuppered its plans. Britain's decision to leave also triggered a broader debate about EU reform that caught Poland off guard. Instead of reverting to an EU defined by individual nation states interacting with a single market the new trend became 'differentiated integration' and 'revival of the Franco-German axis'. The expected momentum Poland felt it was building for a major overhaul of the EU did not materialise, not least because the anti-establishment trend that had seemed so powerful just months before had been suppressed in key countries such as Austria, France, and the Netherlands.

For Warsaw, the Visegrád group became the second key alliance for pushing forward a new vision of EU integration and counterbalancing Germany. During the refugee crisis, Poland largely won the Visegrád states over to its side. Despite three Visegrád states – Slovakia, Hungary, and the Czech Republic – voting against refugee quotas, they were overruled by a qualified majority vote in September 2016, leading to bad feeling towards the EU in each of these states. For PiS, and other governments in the region, the EU had crossed a red line, and its actions raised questions in these capitals about the limits of European power. In particular, they began to question whether the EU should have the right to interfere with the identity and social model of member states.

## Shaping the future of the EU

PiS is unhappy with the trajectory of the EU, and, in its own 'de-Europeanisation' process the government has sought to shape the future of the Union in a way that fits with its sovereigntist vision for the future. However, Warsaw has ultimately failed to shape the debate about the future of the EU for three reasons: its political miscalculations, the lack of planning behind its proposals, and its divide-and-rule approach to EU reform.

First, when it came down to it, Poland was the only country in the EU openly advocating EU treaty reform in the summer of 2016.<sup>27</sup> At the same time, it struggled to clearly present a time span for its proposed reform process or even concrete ideas for how the EU could be reformed. While Kaczyński promoted the idea of treaty change in response to Brexit, elected PiS representatives adopted much more moderate language. According to Poland's minister for European affairs, "treaty reform is not a taboo", but there is no time limit on when it should be carried out.<sup>28</sup>

Second, Polish demands at EU level have remained vague, and the only concrete idea about how to "restore the ownership of the EU project to the real political – democratic and national – communities" was the introduction of the so-called 'red card' mechanism, by which individual member states, binding together to account for 56 percent of the 28 national parliaments, can force a review of pieces of EU legislation.<sup>29</sup> The recurrent PiS refrain has been that the EU should ultimately respect the decisions of sovereign states and national parliaments.

Third, the Polish initiative for the renewal of the EU focused on the institutions and procedures of the EU, while most other member states directed their energies towards developing a more pragmatic approach to the EU, seeking quick deliverables and policy solutions to restore people's confidence in it.

Poland's support for the 'red card' option, which marginally strengthened the possibility of intergovernmentalism, has received only lukewarm support in the Visegrád states. While the Visegrád group speaks loudly with one voice about the refugee policy, preaching "flexible solidarity", it has been far less united when it comes to the issue of EU reform.<sup>30</sup> The Czech Republic and Slovakia rejected flat-out the idea of treaty reform and even Hungary was far from enthusiastic about it.<sup>31</sup> As a result, joint Visegrád declarations on the future of Europe have been less ambitious and less specific than the statements from the Polish government. The idea

27 "Poland to push for 'radical' new EU treaty", *euobserver*, 28 June 2016, available at <https://euobserver.com/institutional/134070>.

28 See: Konrad Szymański, "Polska chce uzdrowić Unię Europejską", *Rzeczpospolita*, 24 August 2016, available at <http://www.rp.pl/Rozmowy-czwartkowe/308249904-Konrad-Szymanski-Polska-chce-uzdrowic-Unie-Europejska.html>. (hereafter, Konrad Szymański, "Polska chce uzdrowić Unię Europejską").

29 Konrad Szymański, "Polska chce uzdrowić Unię Europejską".

30 Georgi Gotev, "'Flexible solidarity' becomes new tool in response to refugee crisis", *Euractiv*, 19 September 2016, available at <https://www.euractiv.com/section/justice-home-affairs/news/flexible-solidarity-becomes-new-tool-in-response-to-refugee-crisis/>.

31 See: "Future EU: Does Visegrád have a plan?", *Euractiv*, 16 February 2017, available at <https://www.euractiv.com/section/economy-jobs/news/future-eu-does-visegrad-have-a-plan/>.

of a “union of trust and action” promoted by the Visegrád states underlines the importance of maintaining the single market, not discriminating against non-eurozone countries, and protecting the EU’s external borders.<sup>32</sup> However, they have very little to say about the institutional issues with which Poland is so concerned.<sup>33</sup>

## What about the European Defence Union?

The view among certain diplomats and ministers in western Europe is that the PiS government performed a “180 degree turn away from the EU in the realms of security and defence”.<sup>34</sup> This opinion may overstate the shift in Poland’s position, as it has traditionally – and increasingly since Russia’s aggression against Ukraine in 2014 – prioritised its partnership with the United States to guarantee its security. And there is no doubt that the conclusions of the Warsaw NATO summit in July 2016 form the cornerstones of Poland’s security policy. Provisions strengthening NATO’s eastern flank, which both former and current Polish governments fought for, met Polish expectations even if they fell short of the maximalist demand for a permanent (rather than rotational) presence of NATO troops in Poland and the Baltic states. America’s decision to deploy one of its own brigades to Poland alongside a NATO battalion (under American leadership) cemented Poland’s security partnership with the US. The agreement represented a historic breakthrough because NATO troops will now be stationed on Polish territory for the first time.

Most importantly, at the Warsaw summit NATO members decided that the alliance should have a permanent physical presence rather than just a rotational presence on the eastern flank. They also agreed to coordinate NATO troops in Poland, Lithuania, Estonia, and Latvia through the command structures in Elbląg, near the border with Kaliningrad.

The striking military imbalance between Russia and NATO in eastern Europe is what makes the forward presence of NATO and American forces so important for Poland. As one adviser to the Polish Ministry of Foreign Affairs put it: “Only the military dominance of America and a strong position within NATO can defend Poland against Russia’s military pressure or blackmailing. The war in Ukraine generally confirms the uselessness of the EU as a security structure”.<sup>35</sup>

While Poland’s ‘NATO-first’ policy is nothing new, it has impacted its approach to the EU’s Common Security and Defence Policy (CSDP). It too reflects a change in a strategic thinking about Poland’s place in Europe and its relations with Germany and France following the new paradigm of ‘de-Europeanisation’. In the past, Poland’s interest in CSDP

– especially within the framework of the Weimar Triangle, comprising France, Germany, and Poland – was more of a “compensation strategy” aiming to place Poland at the political centre of Europe.<sup>36</sup> Having not joined the eurozone and still being a relatively new EU member state, Poland under Tusk perceived CSDP as one of the main areas of integration in which it could make a substantial contribution. Poland’s efforts in this area sent a clear signal concerning Warsaw’s ambition to be part of the EU mainstream.

Undoubtedly, the negative geopolitical trends in eastern Europe as well as the NATO summit in Warsaw in July 2016 also help explain this shift towards ‘de-Europeanisation’ of security and defence as they highlighted the importance for Poland of the hard security guarantees associated with NATO rather than the crisis management focus of the EU.

In terms of defence cooperation actions also speak louder than words. Poland damaged its relationship with France in October 2016 by disputing and then rejecting the terms a deal to buy Caracal helicopters from Airbus after months of negotiations.<sup>37</sup> Poland’s preference for cooperation with the US rather than the EU in the defence sector is widely acknowledged in the EU as the key motivation for Warsaw’s decision, which caused Polish-French relations to reach their lowest point since 1989. Interestingly, this rupture with France came just weeks after a relatively successful meeting of the Weimar Triangle group at which minister for foreign affairs Witold Waszczykowski expressed an interest in deepening Poland’s defence and security cooperation in the EU. But in the following months, several other decisions seemed to indicate that the ‘de-Europeanisation’ impulse had also infected Polish CSDP. Chief among them was Poland’s surprise decision to withdraw from the Multinational Multi-Role Tanker Transport Fleet project as well, led by the European Defence Agency, to reduce the cost of hardware by proposing joint acquisition and use of that hardware. In withdrawing from the project Poland cited the same disputes over offset revenue that caused it to pull out of the Airbus deal with France.<sup>38</sup>

Poland irked European partners even more by deciding to withdraw most of its officers from the Eurocorps – an intergovernmental military unit that is formally separate from CSDP. If it was not clear already, this confirmed the direction of Poland’s security policy. Warsaw argued that it needed the officers on NATO’s eastern flank and that – despite Poland’s complaints – the Eurocorps was only prepared for CSDP missions and had not been trained to perform tasks they may face if NATO’s mutual defence clause were to be triggered.<sup>39</sup>

Poland’s decision to reduce its cooperation within the Eurocorps framework to the minimum level is symptomatic

32 See: “Joint Statement of the Heads of Governments of the V4 Countries, “Strong Europe – Union of Action and Trust”, 2 March 2017, available at <https://www.vlada.cz/en/media-centrum/aktualne/joint-statement-of-the-heads-of-governments-of-the-v4-countries-strong-europe-union-of-action-and-trust-154008/>. (hereafter, “Joint Statement of the Heads of Governments of the V4 Countries”).

33 “Joint Statement of the Heads of Governments of the V4 Countries”.

34 Personal interview with a diplomat from an EU member state, March 2017.

35 Zbigniew Rau and Przemysław Zurawski vel Grajewski, “Polska Polityka zagraniczna: Nic o nas bez nas”, Rzeczpospolita, 10 August 2015, available at <http://www.rp.pl/Publicystyka/308099882-Polska-polityka-zagraniczna-Nic-o-nas-bez-nas.html#p-4>.

36 This expression was used by a leading Polish diplomat during the Tusk government in a private conversation with the author.

37 “Airbus fury as Poland scraps helicopters deal and gives Lockheed \$3.5bn order instead”, the *National*, 11 October 2016, available at <https://www.thenational.ae/business/airbus-fury-as-poland-scraps-helicopters-deal-and-gives-lockheed-3-5bn-order-instead-1.162158>.

38 “Latające cysterny: Polska miała kupić z sojusznikami, chce ‘w trybie narodowym’”, tvn24, 3 March 2017, available at <http://www.tvn24.pl/wiadomosci-z-kraju.3/latajace-cysterny-dla-polskiego-wojska-program-karkonosze.720262.html>.

39 “Komunikat MON”, Polish Ministry of Defence, 28 March 2017, available at <http://www.mon.gov.pl/aktualnosci/artykul/najnowsze/komunikat-mon-s2017-03-28/>.

of its broader scepticism regarding plans to develop specific CSDP institutions or engage in defence capability planning within CSDP, which is currently one of the key developments being discussed in the context of Permanent Structured Cooperation (PESCO). European defence planning focuses on crisis management rather than the hard security threats covered by Article 5 of NATO and which Poland is most worried about. Warsaw argues, therefore, that EU defence capability planning contradicts the parallel NATO process. But the substance of Poland's concern and hesitation towards CSDP is not new. What made its stance significant was that it began to detach itself from CSDP just when it was gaining traction again, in the wake of Donald Trump questioning NATO.

### 'Three Seas initiative' and the chance of regional emancipation

If Poland has made clear its scepticism about CSDP, then Europe has made clear its scepticism about the Polish-led TSI. Launched formally in August 2016, the initiative unites the 12 EU member states between the Baltic, Adriatic, and Black Seas, and its goal is to promote improved cooperation on all levels.<sup>40</sup> Its main priority, however, is to push forward the development of infrastructure projects along the North-South axis of the EU, since most of the main transit routes run west to east. One of the key projects is to enable LNG terminals, at Świnoujście and at the Croatian island Krk to transport their energy into eastern Europe and the Balkans through energy interconnectors and transport corridors. Naturally, the EU is wary of the prospect of a bloc of relatively new member states forming a separate alliance under the auspices of a 'de-Europeanising' Poland. Member states are particularly concerned that the project could further weaken EU unity and divert the energy and attention of some member states away from EU-centric initiatives.

Energy plays a central role in Warsaw's calculations for the TSI, not only because it strives for energy independence from Russia, but because it wants to become an energy hub itself in central and eastern Europe. Poland believes it can provide real gas diversification in a region expected to consume around 70bcm of natural gas per year. Poland already has one fully operational LNG terminal in Świnoujście, and wants to build a pipeline through Denmark that would connect Poland to Norwegian gas fields.

However, building a new transport and energy infrastructure in the region will require more investment than the countries in central and eastern and south-eastern Europe could ever afford. That is where the TSI comes in.

Poland hopes that strong cooperation between members of the TSI can attract foreign investors to the project. Poland has its eye on the US purse in particular. The first shipment of American LNG to Poland in June was welcomed by Poland as a sign of future cooperation between the two countries,

40 "Three Seas initiative countries sign joint declaration", *Prezydent.pl*, 25 August 2016, available at <http://www.prezydent.pl/en/news/art.245.three-seas-initiative-countries-sign-joint-declaration.html>.

with hopes of future US investment running high.<sup>41</sup> The nexus between energy, infrastructure, and security is crystal clear following the Ukraine-Russia gas disputes. For Poland, having the US as a stakeholder in the region's prosperity is as important as the US deploying its own brigade in the country this year. The attendance of US President Donald Trump at the TSI summit in Warsaw in July 2017 emboldened Poland to seek out US investment.

Poland's economic motivations are deeply entwined with its political ones – it sees the TSI as a means of strengthening the region's partnership with the US, and believes it will also improve its position within the EU.

While Warsaw is keen to emphasise that the project is not intended to snub Germany or Brussels, it maintains that there needs to be a counterbalance to German hegemony in Europe.<sup>42</sup> But no matter how Poland frames it, it is difficult to see the TSI as anything other than a political tool for this purpose. Berlin is concerned by the prospect of being pushed away from central and eastern Europe, as this would run against its desire to be strategically anchored in Europe's east and west at the same time.

The argument that the TSI is not only aligns with the goals of the EU, but is also in its interest, is valid. Strengthening the north-south axis could boost economic growth in the region to the benefit of the whole EU. Arguably, the initiative will not be able to thrive without strong support from the EU institutions and key EU member states. Precisely for this reason Warsaw's worsening relations with the European Commission and Berlin are counterproductive. Three commissioners were invited to attend sessions in Warsaw devoted to business and investment relations during the TSI summit in July 2017, but were not granted access to the political meetings. In the end, they declined the invitation, strengthening the impression that Warsaw has done far too little to convince member states that the activities of the TSI are truly plugged in to the EU agenda.

Most countries that have signed up to the TSI are far less ready than Warsaw to invest in it politically, due to fears that it might come at the expense of strained relations with Berlin or Brussels. Austria and the Czech Republic, both of which have reservations about the initiative, deliberately avoided participating in the summit at a presidential level. Most other countries, including Romania, Slovenia, and Slovakia, strongly oppose any politicisation of the project that could spoil their relations with Berlin or Brussels. In 2016 Poland proposed the creation of a permanent secretariat for the initiative. But the other members rejected this outright. While some of the projects are already under way, diverging interests between partner states and lack of sufficient funding

41 Maciej Martewicz, "U.S. LNG Expands to Eastern Europe as Poland Avoids Russian Gas", *Bloomberg*, 27 April 2017, available at <https://www.bloomberg.com/news/articles/2017-04-27/u-s-lng-expands-to-eastern-europe-as-poland-avoids-russian-gas>.

42 See: "Andrzej Zybortowicz: Trójmorze to nie projekt antyunijny. Przeciwnie, ma wzmacnić UE", the *Polska Times*, 7 July 2017, available at <http://plus.polskatimes.pl/opinie/a/andrzej-zybortowicz-trojmorze-to-nie-projekt-antyunijny-przeciwnie-ma-wzmacnic-ue.12246763>. The author is one of PiS's key political advisors.



mean that the project will unlikely find its feet just yet.<sup>43</sup>

## Eastern policy in the shadow of 'de-Europeanisation'

Poland's imprint on the EU's eastern policy since it joined the EU in 2004 is undeniable. The Eastern Partnership (EaP) – a Polish-Swedish initiative launched in 2008 – gave birth to and formalised the EU's approach to its eastern partners. It has resulted in the EU granting association agreements, economic support, and visa liberalisation to several of them. As noted, Poland has always been one of the EU member states most supportive of democratisation and the European ambitions of its eastern neighbours. But the domestic and foreign policy trend towards 'de-Europeanisation' threatens to undermine this role.

Poland's influence in eastern Europe and its impact on EU policy derive not only from its historical ties with the region, but also from geographical proximity and strong political and economic interests. EU neighbours, such as Ukraine, Georgia, and Moldova often engaged with Poland because they knew it had a good reputation in the EU and close relations with Germany. They also viewed it as a credible example to candidate nations who were aware of how successfully it had Europeanised following the end of communism. Poland became the key to engaging with these candidate countries, which benefited Warsaw by allowing it to have a role in shaping policy.

The conviction that the transfer of experience and best practice from west to the east is the best guarantee of resilience to Russia's influence among eastern European states is deeply rooted in Polish political thinking. It goes back to the 1970s and to the so called 'Giedroyc doctrine', which argued that Poland should give a clear preference to promoting and supporting the sovereignty of Ukraine or Belarus over any interests it may have in bilateral relations with those countries. And while territorial revisionism could have been an issue in the region, there has been virtually none since 1989 with regard to the former Polish territories.

If some eminent political observers and practitioners say that current Polish eastern policy represents a "farewell to Giedroyc", it is because of the 'de-Europeanisation' paradigm shift in Polish politics.<sup>44</sup> The ideas of Europe and liberal democracy are no longer cornerstones of Poland's foreign policy thinking, even though they are the key assets of Poland's eastern policy. Instead, support for Polish culture and language, and for the Polish minorities in neighbouring countries, has become the priority of its eastern policy. While the Polish state has a constitutional duty to take care of Polish communities abroad, the interest it has attached to these activities has clearly grown, and

43 Paweł Ukielski, "Mapa Trójmorza. Przegląd punktów wspólnych i rozbieżności w polityce 12 państw regionu", Centrum Analiz: Klubu Jagiellońskiego, March 2016, available at <http://cakj.pl/wp-content/uploads/2016/11/Raport-3-2016.pdf>.

44 Katarzyna Pelczyńska-Nałęcz, "Farewell to Giedroyc", Stefan Batory Foundation, January 2017, available at <http://www.batory.org.pl/upload/files/Programy%20operacyjne/Otwarta%20Europa/A%20farewell%20to%20Giedroyc%20-%20K%20Pelczyńska-Nałęcz%20-%20Batory%20Foundation%20.pdf>.

resulted in a gradual shift in Poland's approach to its eastern neighbours, especially in relation to Ukraine.

While past Polish governments were careful to keep discussions about the difficult parts of Polish-Ukrainian history separate from political dialogue, PiS's insistence on defending 'historical truths' as well as fighting instances of anti-Polish 'revisionism of memory' has led to heightened tensions with key partners such as Kyiv. On the anniversary of the Volhynien massacres in which tens of thousands of Poles were killed by Ukrainians in 1943, the Polish parliament adopted a declaration accusing the Ukrainians of 'genocide'.<sup>45</sup> Kaczyński maintained that Ukraine cannot enter Europe while it glorifies the actions of Stepan Bandera, the wartime nationalist leader of Ukraine.<sup>46</sup>

These historical disputes have dominated Polish-Ukrainian relations in the last two years and contributed to a deterioration of mutual trust between elites. Given the tense domestic situation in Ukraine coupled with a new wave of patriotism and national pride, the Polish-Ukrainian clash of memories played into the hands of Ukrainian nationalists, strengthening tendencies that are at odds with the broader Europeanising force in the country.

In August 2017, Warsaw ramped up the tension yet again with other eastern partners by proposing that Polish citizens would be able to design their own passport documents and to adorn them with motifs from former as well as current Polish cities, including Vilnius which is now Lithuania, Lviv which is now Ukraine, or Grodno which is now Belarus. Reactions to this proposal among Poland's eastern neighbours were overwhelmingly negative.<sup>47</sup>

Poland's support for Ukraine at the EU level has also waned. According to some Ukrainian elites Warsaw has become less supportive of Ukraine's ambition to join the EU due to its increasingly negative view of the bloc and the deterioration of its relations with Germany. Germany has now taken Poland's place as Ukraine main ally in the EU. Today very few in Kyiv believe that Warsaw could, or is willing to do anything more for it than Berlin, which plays a key role in the Normandy format. For liberal elites in Ukraine Poland's domestic rule of law problems are also a serious impediment to bilateral relations.

Finally, Poland has only half-heartedly continued to support the EaP, its own flagship project. In his first speech before the opening of parliament in January 2016, foreign minister Witold Waszczykowski declared the project a failure and announced that Poland would devise a different initiative

45 "Uchwała Sejmu w sprawie oddania holdu ofiarom ludobójstwa dokonanego przez nacjonalistów ukraińskich na obywatelach II RP w latach 1943–1945", 22 July 2016, available at <http://www.sejm.gov.pl/Sejm8.nsf/komunikat.xsp?documentId=2D76E3019FA691C3C1257FF800303676>.

46 "Kaczyński do Ukraińców: 'Z Banderą do Europy nie wejdzicie'. I wieszcy kolejny 'pucz'", *Wiadomości*, 8 February 2017, available at <http://wiadomosci.gazeta.pl/wiadomosci/7,114871,21345537,kaczynski-o-wejsciu-ukrainy-do-ue-z-bandera-do-europy-nie.html>.

47 "Wilno i Lwów w polskich paszportach. Litwa: 'To nie do przyjęcia'", *Wiadomości*, 3 August 2017, available at <https://wiadomosci.wp.pl/wilno-i-lwow-w-polskich-paszportach-litwa-to-nie-do-przyjecia-6150899464275585a>.

for eastern partners.<sup>48</sup> This pledge has never materialised. Warsaw ultimately returned to cultivating the EaP and put forward several proposals in the run-up to the November 2017 EaP summit. However, the political support and enthusiasm for EaP activities seems to be much weaker than in the past – something that has been noted by key Polish partners in the EU. It remains unclear whether the main reason for Poland taking a step back is that it no longer believes in the project, or it is symptomatic of the general passivity of the Polish government when it comes to international matters.

## Is de-Europeanisation here to stay?

The notion that Poland has the potential to be an awkward partner in Europe is not new.<sup>49</sup> It is a large country that has high political aspirations but relatively few resources with which to pursue them. The size and potential of Poland means that it occupies an uneasy position between European superpowers, which are the policymakers, and smaller states that do not have the clout within the EU to move beyond being policy-takers. Poland is also a country with very specific interests that are not widely shared across Europe. This means that not even all eastern European countries agree with, say, how high Poland's security threat perception is vis-à-vis Russia, or sympathise with the concerns it has over energy policy deriving from its own particularly large coal industry.

To achieve its goals Poland needs to navigate carefully in Europe, be willing to compromise, and at the same time be tough when its vital interests are at stake. Poland needs skilful diplomacy, rather than irking its partners by single-mindedly and dogmatically attempting to preserve its ethnic and religious homogeneity in an era of globalisation and migration. Without such deft diplomacy Poland will end up on a collision course with other partners and institutions. And the odds of winning any battle with the EU are stacked against it.

But Poland is already picking some fights. In August 2017, the Polish government set a precedent by ignoring a decision by the European Court of Justice that required Warsaw to stop logging in the Białowieża forest, which is temporarily under environmental protection until the final ruling of the case is issued. Poland also refused to fulfil its obligation to take in its quota of refugees in accordance with the refugee relocation mechanism, which was adopted by the EU in September 2015.<sup>50</sup> Combined with the infringement procedures against Poland following its proposed judicial reforms, all three cases are highly politicised and have damaged Poland's relations with the EU.

48 "Minister Witold Waszczykowski o priorytetach polskiej dyplomacji. Cały tekst wystąpienia", *tvn24*, 29 January 2016, available at <http://www.tvn24.pl/wiadomosci-z-kraju/3/minister-waszczykowski-w-sejmie-cale-wystapienie.614739.html>.

49 Aleks Szczerbiak, *Poland within the European Union: New awkward partner or new heart of Europe?* (Oxford: Routledge, 2011), p.76.

50 The latest judgement by the European Court of Justice will force Poland to take its share of refugees, see: Jennifer Rankin, "EU court dismisses complaints by Hungary and Slovakia over refugee quotas", the *Guardian*, 6 September 2017, available at <https://www.theguardian.com/world/2017/sep/06/eu-court-dismisses-complaints-by-hungary-and-slovakia-over-refugees>.

In some cases the damage is already done, and a simple change of government will not necessarily get Poland back into the EU's good books. Were Poland's liberal opposition to win power, it would no doubt rekindle good relations with Germany and France and reverse many of the illiberal decisions by the PiS government, which is currently the main drag on the country's standing in Europe. In this sense 'de-Europeanisation' would cease. But it could live on in other areas, such as energy and climate, migration, or defence, where Polish interests often diverge from the EU mainstream.

Energy and climate policy is a case in point. Poland's defence of coal as its key energy resource and export has already led to a major standoff with the rest of the EU. In February, Poland tried to block reforms to the Emissions Trading System (ETS), which would negatively impact it. Poland went on to accuse the EU institutions of breaking the EU treaty by claiming the proposal required unanimity.<sup>51</sup> The Polish government argues that the reform to the ETS threatens all EU countries that rely on coal. In addition, the so called 'winter package' regulating the electricity market forbids the subsidy of high emission energy blocks, which would render most of the Polish power plants incompatible with the law.<sup>52</sup> The Polish government now needs to rethink its strategy of placing coal at the heart of Poland's energy security, since it is clearly incompatible with the direction of EU energy and climate policy, which Poland will be unable to change in the long run. Future EU energy legislation will only be a source of further tension between Warsaw and Brussels, and could cause huge problems for the Polish energy sector.

Poland's defence procurement policy, which is geared towards helping the domestic defence industry, is increasingly at odds with the European trend for more power-sharing and industrial cooperation and integration. Standing on the side-lines as a European defence union takes shape would deprive Poland of all the potential benefits of this process, and deny it any influence over the direction of European defence.

If Poland continues to 'de-Europeanise', there is a risk that it will enter a vicious circle: it will benefit less from the EU than in the past because it will not be able to take a leading role in policies and cooperation formats that involve high-level solidarity among member states, financial support, and political influence. Poland may instrumentalise this relative loss of power and benefits against the EU and its largest member states.

The problem will only be exacerbated if the so-called *L'Europe qui protège* introduces policies that protect some members at the expense of others.<sup>53</sup> The proposed measures against

51 "Większość państw UE za ambitną polityką klimatyczną. Polska była przeciw", *Biznesalert*, 28 February 2017, available at <http://biznesalert.pl/wiekszosc-panstw-ue-ambitna-polityka-klimatyczna-polska-byla-przeciw/>.

52 "PGNiG Termika: Pakiet zimowy uderza w plany energetyki w Polsce", *Biznesalert*, 14 April 2017, available at <http://biznesalert.pl/pgnig-termika-pakiet-zimowy-uderza-plan-energetyki-polsce/>.

53 Mark Leonard, "L'Europe Qui Protège: Conceiving The Next European Union", the European Council on Foreign Relations, 30 August 2017, available at [http://www.ecfr.eu/page/-/LEUROPE QUI PROTEGE \(EN\).pdf](http://www.ecfr.eu/page/-/LEUROPE QUI PROTEGE (EN).pdf).

social dumping (the use of cheaper migrant labour than is usually available among the native population) which eastern European countries allegedly practise, is a good example.<sup>54</sup> Imposing more restrictions on the employment of ‘posted workers’, now proposed by France’s Emmanuel Macron or Austria’s Christian Kern, could limit the access of thousands of Polish workers to the western European labour market.<sup>55</sup>

Here at least, on the issue of labour migration, Poland can still claim to be a champion of Europeanisation and a defender of the four fundamental freedoms of the EU against protectionist tendencies in western Europe. But any labour mobility restrictions that enter into force within the EU to address concerns in ‘old’ member states about cheap labour from the ‘east’ may trigger further de-Europeanisation in Poland.

In the coming months, Poland will face difficult negotiations on the next Multiannual Financial Framework, where Brexit, the changing philosophy of the EU budget away from grants and towards more advanced financial instruments, and possible *ex ante* conditionalities related to the rule of law will make it more difficult for Poland to tap into the EU funds it needs.

## Conclusion

Poland’s sovereigntist backlash has put it in a peculiar position. On the one hand, Poland’s reaction to proposals to make the EU more flexible was negative, with foreign minister Witold Waszczykowski commenting that putting flexible integration on the table was “a recipe for failure, division and separation” and that such proposals may give rise to “hegemonic” solutions that would leave behind any countries that do not fully integrate.<sup>56</sup> On the other hand before there was a political debate about a ‘flexible Europe’. Polish politicians were much less critical about the prospect. In fact, Warsaw maintained that the EU cannot function according to the principle of ‘one size fits all’. Instead, the Polish view was that the EU needs to allow member states to integrate as much as they want while allowing those who do not want to integrate further to preserve the full benefits of integration.

The idea of advocating flexible ‘opt-out’ mechanisms resembled a ‘Europe à la carte’ in which each country can pick and choose cooperation formats that best suit their interests. But this has never been a viable option. Indeed, Poland faces a dilemma in its European policy: it wants to benefit from the single market and cohesion fund but is not ready to participate in integration projects that constitute

54 See: Macron’s four propositions on the reformulation of the Posted Workers Directive 1996: “Travailleurs détachés: les quatre propositions de Macron qui créent la polémique en Europe”, the *Huffington Post*, 23 August 2017, available at [http://www.huffingtonpost.fr/2017/08/23/travailleurs-detaches-les-quatre-propositions-de-macron-qui-creent-la-polemique-en-europe\\_a\\_23157099/](http://www.huffingtonpost.fr/2017/08/23/travailleurs-detaches-les-quatre-propositions-de-macron-qui-creent-la-polemique-en-europe_a_23157099/); or see Christian Kern’s Plan for Austria: “Unser Plan A”, *worauf-warten.at*, January 2017, available at [http://www.worauf-warten.at/unser\\_plan\\_a](http://www.worauf-warten.at/unser_plan_a).

55 In 2015, there were approximately 460,000 Polish citizens working in other EU member states. This makes it the country with the most foreign workers in the EU. For full statistics please see: “Posted Workers in the EU”, the European Commission, available at <http://ec.europa.eu/social/BlobServlet?docId=15181&langId=en>.

56 “Witold Waszczykowski, La Ue va riformata ma no all’egemonia di alcuni Paesi. Sarebbe la fine”, *Repubblica*, 22 March 2017, available at [http://www.repubblica.it/esteri/2017/03/22/news/witold\\_waszczykowski\\_la\\_ue\\_va\\_riformata\\_ma\\_no\\_all\\_egemonia\\_di\\_alcuni\\_paesi\\_sarebbe\\_la\\_fine\\_-161126671/](http://www.repubblica.it/esteri/2017/03/22/news/witold_waszczykowski_la_ue_va_riformata_ma_no_all_egemonia_di_alcuni_paesi_sarebbe_la_fine_-161126671/).

the foundations of real solidarity and cooperation. When it comes to the single currency, migration policy, defence policy, or social policy – all areas where forms of enhanced cooperation among groups of member states may come into being – Poland’s government and society share a high level of scepticism, if they do not openly oppose them. If the future of the EU is based upon such coalitions of the willing, Poland’s approach will come to be more and more at odds with the EU’s direction. Brexit makes this dilemma even more significant because, without the UK, the ability of the non-eurozone countries to influence the direction of EU integration will be more limited still. The Polish position that the “EU needs to accept that it is not a one-currency union” will be very difficult to credibly uphold to the important member states in the eurozone.<sup>57</sup>

It will require a lot of political courage for Poland’s government to redefine the country’s national interests in line with the development of the EU. But it might be one of the only things Poland can do to move away from the collision course it is currently on.

It is not clear whether the PiS government has the political courage or will to change tack. Indeed, it is not clear that the idea of an ambitious and responsible Poland, which is willing to compromise and make difficult choices within the EU, would receive strong public support. Even though approximately 84 percent of Poland’s public is in favour of EU membership, support is often shallow and rarely extends beyond membership of the single market to support for more integration.<sup>58</sup> What is more, the national-conservative rhetoric of PiS does resonate positively with a large and politically active segment of society.<sup>59</sup>

Poland needs to legitimise the idea that it is deeply anchored in a changing EU. But that will not be possible unless it upholds the rule of law and protects its democratic institutions. New and more ambitious EU integration projects are on the table, in the realms of security, migration, and the eurozone, but Poland will be powerless to shape them if it continues to de-Europeanise. The prospect of Poland leaving the EU is not in sight yet, but the PiS government needs to be careful. If it continues to drift away from Europe, it may be the EU that leaves Poland behind, not the other way around, as it embarks on ever greater integration initiatives. But this time, without its eastern partner.

57 “Konrad Szymański, Polska chce uzdrowić Unię Europejską”, *Rzeczpospolita*, 24 August 2016, available at <http://www.rp.pl/Rozmowyczwartkowe/308249904-Konrad-Szymanski-Polska-chce-uzdrowic-Unie-Europejska.html?template=restricted>.

58 “Polacy nie chcą opuszczać UE”, *Rzeczpospolita*, 3 July 2017, available at <http://www.rp.pl/Unia-Europejska/307039951-Polacy-nie-chca-opuszczac-UE.html#ap-1>.

59 See: Adam Balcer, Piotr Buras, Grzegorz Gromadzki, and Eugeniusz Smolar, “Polish views of the EU: The Illusion of a consensus”, Stefan Batory Foundation, January 2017, available at [http://www.batory.org.pl/upload/files/pdf/rap\\_otw\\_eu/Polish%20views%20of%20the%20EU.pdf](http://www.batory.org.pl/upload/files/pdf/rap_otw_eu/Polish%20views%20of%20the%20EU.pdf).

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## About the author

*Piotr Buras* is a journalist, author, and expert in German and European politics. He has been the head of the ECFR Warsaw office since 2012. Between 2008 and 2012 he worked as a columnist and Berlin correspondent for *Gazeta Wyborcza*, the biggest Polish daily newspaper. Before this he worked at the Center for International Relations in Warsaw and the Willy Brandt Center for German and European Studies at the University of Wrocław. He was also a researcher at the Institute for German Studies at the University of Birmingham and a visiting fellow at the Stiftung Wissenschaft und Politik in Berlin. His book *Muslims and the other Germans: The Reinvention of the Berlin Republic* was published in Polish in 2011.

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United Kingdom

[london@ecfr.eu](mailto:london@ecfr.eu)