

Poland in the EU

Unavoidable marginalisation with a small question mark

by GRZEGORZ GROMADZKI

February 2018

- Under the current Law and Justice (PiS) government, Poland's relations with EU institutions have sunk into a deep crisis. However, the problems occurred long before this. Looking at the last quarter-century, one notices a significant change in paradigms regarding Poland's relations with the EU. These changes have taken the country away from the main trend of European integration, from **pro-integrational determination** from the times of its accession to the EU, through **integrational stagnation** which lasted until the end of the PO-PSL coalition government, up to the **regress in integration** which started when PiS came to power in 2015.
- The most likely scenario for Poland's relations with the EU until the end of the next Sejm in 2023, provided PiS continues to rule Poland, is that the sharp conflict with European institutions over Poland's government breaching the rule of law will continue. Less probable is that Poland under PiS will reach a *modus vivendi* with the European Union (the second scenario), as this would require Warsaw to back down from actions that pose a threat to liberal democracy. Even more unlikely is a third scenario – an attempt to return to the situation that existed before the PiS government – if the current opposition wins in 2019, of which, as yet, there are no indications. All three scenarios spell Poland's unavoidable marginalisation in the EU. The first one would end with Poland being ostracised. The second scenario would mean further tense relations between Warsaw and Brussels, as the *modus vivendi* would be seen by Poland as having been imposed. The third scenario would in turn lead to a significant improvement in relations with the EU, but Poland would still remain outside the eurozone.
- Only the fourth scenario predicts Poland's joining the mainstream of European integration by becoming a member of the eurozone. This would only be possible if there was a deep crisis after PiS won the elections in 2019, which would lead to fundamental changes in sentiment amongst the public.

Table of Contents

1. Introduction	2
2. Main factors	3
3. Four scenarios	6
4. Final remarks	10

1. Introduction

The last two years should be seen as the most difficult time in Poland's relations with the European Union (EU) not only since becoming a Union member in 2004 but in the last quarter of a century. Poland's rulers define their European policy as regaining sovereignty, as "getting up off their knees", which in their opinion has come across unjustifiably harsh opposition from the EU institutions, the European Commission (EC) in particular, which is unlawfully interfering in Poland's domestic affairs. On the other hand, the opposition thinks that the actions of the Law and Justice party (PiS) are leading to Poland's achievements and position in the EU up till now being ruined, which in consequence means its marginalisation in the European Community. These two opinions demonstrate that one can talk about a "state of emergency" in relations between Warsaw and Brussels.

The future of relations with the EU is of fundamental importance for Poland. Relations with Poland are in turn also important to the EU. Therefore it is worthwhile to think about the possible scenarios for these relations in the future. The prognosis presented in this text will cover the period of almost the next six years. Reducing considerations to this period is due to the election cycle in Poland. The next parliamentary term, which can be foreseen to some extent today, should end in autumn 2023. Anticipating the even more distant future would be purely speculation. For a better understanding of what might happen between Poland and the EU, one should see this question in the context of the past – of at least the last

quarter of a century, both from the perspective of Poland and of the EU.

From Poland's perspective three stages in the country's relations with the EU are noticeable, each being characterised by a different paradigm that shaped Poland's strategy towards the EU. The first can be described as **pro-integrational determination**. The 1990s and the beginning of the current century, up to Poland's becoming a member of the EU, was a period dominated by the idea of having to return to Europe and becoming a part of the Western World. That was the standpoint of almost the whole of the political elite and the majority of society.¹ Poland was no exception. A similar situation also occurred in other post-communist countries, like the Visegrád Group or the Baltic states (Estonia, Latvia and Lithuania). After joining the EU, pro-integrational determination in Poland started to erode. Even though there was a will to join the group of states that were leaders of integration so as to avoid being a second class member (this explains Poland's efforts to enter the Schengen Area as quickly as possible, which took place in December 2007 nearly four years after joining the EU)², there was a lack of firmness in a key matter, i.e. joining the eurozone. That is why we can say that halfway through the last decade there took place a smooth transition from the paradigm of **pro-integrational determination** to another one which can be called **integrational stagnation**. Opposition towards quick adoption of the euro was noticeable even when PiS ruled for the first time in the years 2005–2007.³ Later, with the coalition of the Civic Platform (PO) and the Polish People's Party (PSL) in power, rhetoric on joining the eurozone⁴ quickly resurfaced again, but in fact little was done to bring it about. In the following years of the coalition's administration, in their second term in particular, adopting the euro was expected but at an unknown future date. Some of the countries of the region that joined the EU together with Poland have taken a different path. Slovakia joined the eurozone as early as in 2009, Estonia in 2011, Latvia in 2014 and Lithuania in 2015. Despite remaining outside the eurozone under the PO-PSL coalition, Poland had a relatively strong position in the EU due to, among other things,

1. It was then that territorial borders and in March 2008 air space and maritime borders were opened.

2. It was then that territorial borders and in March 2008 air space and maritime borders were opened.

3. That was the standpoint announced by Jarosław Kaczyński (http://www.bbc.co.uk/polish/domestic/story/2005/09/printable/050921_economy.shtml), however, one should emphasize that there were opinions of politicians from that party in favour of the adoption of a common currency – the Deputy Prime Minister and the Minister of Finance, Zyta Gilowska, thought that Poland would be ready to adopt the euro in 2012 (<http://biznes.interia.pl/news/euro-kiedy-polska-ustali-kurs-wymiany-zlotego,900992>).

4. Poland's road map for adopting the euro, published by the Ministry of Finance in October 2008 under the PO-PSL coalition, assumed Poland would be ready to enter the euro area as early as in 2012, www.mf.gov.pl/documents/764034/1432744/2_Mapa_Drogowa_28_10_2008.pdf.

good relations with the most important member states – Germany, France and Great Britain – and due to the healthy economic situation at a time of deep crisis. However, how long such a situation could last remained an open question. When the Eurosceptic PiS came to power in 2015 it meant the adoption of a new paradigm for Poland's relations with the EU, one which can be dubbed **regress in integration** (in its extreme version it could even be negation of integration). This implies, among other things, a return to the European Community, which has not existed for a long time and which would be limited to the common market and would mean an illusion of a sovereign Poland in a Europe of "homelands". Looking back at the past quarter of a century, one can see a significant change in paradigms for relations with the EU, a change which takes Poland away from the mainstream of European integration. In the case of the EU, the dilemma has been whether one should deepen integration or remain at the current level. Further integration has often been forced by a crisis, with changes in the eurozone being an example of this, but also in this case the power of inertia has been very big, as can be seen by the as yet unfinished process of constructing a banking union. Therefore one can say that activities in the EU have been vacillating between **deepening integration and inertia**. The question about further integration had one more level that referred not to "whether" integration should take place but "how" it should proceed, with whose participation? Cooperation within a limited group rather than all member countries has been, and still is, an option supported by many in the EU, albeit definitely not by every

one⁵. Its supporters have strong arguments in the shape of the Schengen Area and a common currency, which both came to life as initiatives of just some of the member states and till today are not shared by everyone. The conflict over whether, and how, to deepen European integration is of key importance for Poland's future place in the EU. Every government in Warsaw, irrespective of its political provenance, will have to present its standpoint over this matter and take actions that will either include or exclude Poland from integrative processes. Before the four scenarios for Poland's possible relations with the EU over almost the next six years are presented, the main factors will be sketched out that will have an influence on these relations both on the part of the EU and Poland. These shall not be analysed exhaustively but will simply be indicated for the mere purpose of giving a better understanding of the scenarios. The aim of the text is not to present a full analysis of the very complex relations between Poland and the EU, but instead a consideration of their general form in the near future. Therefore, numerous aspects of these relations will be omitted, e.g. issues regarding the four freedoms, appointments to key positions in European institutions the next time they are doled out, the attitudes of the most important member states towards Poland, or the positions of current Polish opposition political parties on EU matters.

2. Main factors

The Eurozone as a *de facto* Union

Deepening the eurozone in the coming years is supported by a majority of politicians from EU institutions and member states⁶. This process needs to result in more differences between the eurozone and member states that remain outside of it, which in consequence will lead to the emergence of two Unions: a Union *de jure*, i.e. the EU-27 after Britain leaves the EU, and a *de facto* Union, i.e. the eurozone EU-19, which might be joined by several other countries in the medium and long term. When the U.K. has left the EU, the eurozone will comprise as much as 85 per cent of the Union's GDP. Economic disproportions will be immense, as

5. The idea of common action by all member states is traditionally supported by the European Commission. Its current President, Jean-Claude Juncker, gave an example of this in last year's State of the Union Address: "My hope is that on 30 March 2019, Europeans will wake up to a Union where we stand by all our values. Where all Member States respect the rule of law without exception. Where being a full member of the euro area, the Banking Union and the Schengen area has become the norm for all." http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm.

6. See for example *The Five Presidents' Report – Completing Europe's Economic and Monetary Union* published in June 2015 (https://ec.europa.eu/commission/publications/five-presidents-report-completing-europes-economic-and-monetary-union_en) and the *Reflection Paper on the Deepening of the Economic and Monetary Union* prepared by the European Commission and signed by Valdis Dombrovskis and Pierre Moscovici, published on 31st May 2017 (https://ec.europa.eu/commission/sites/beta-political/files/reflection-paper-emu_en.pdf).

will those relating to the number of member states: the eurozone – 19 members, the rest – 8 members. Such a distribution suggests that an unavoidable consequence will be the concentrating of efforts within the EU on the eurozone at the expense of those outside it. The clear dominance of the eurozone in the EU will become a fact of life not only if separate mechanisms and institutions – such as a budget or a parliament – are created for it. This scenario, which is preferred by France, among others, seems less probable than strengthening the eurozone within the already existing mechanisms and institutions. This could be done, for instance, through creating a special line in the EU budget to which large financial resources would be allocated, creating the position of a Minister of Finance within the European Commission – who simultaneously would be the president of the Euro Group – or converting the European Stability Mechanism into a European Monetary Fund. The latter scenario is surely no less dangerous for the countries outside the eurozone than the first one, as it will lead to deep division within the EU-27 (though in a less spectacular, but still important, way). It is hard to predict how fast the process of intensifying cooperation within the eurozone will take place. Maybe the inertia in the EU's actions, which was mentioned in the Introduction, will significantly slow down the process of intensification in the coming months or maybe even years.

Increased importance of military cooperation

Increased cooperation will not only relate to the military but also to the arms industries in the member states. Most probably it will be the cooperation in this field that will be more important, as there are plans to allocate substantial financial resources to it. It will surely contribute to the development of new technologies and the improvement of existing ones. The first sign in 2017 of such a development was the proposal to earmark funds from the EU budget for cooperation

between arms industries and for creating a European Defence Fund.⁷ The key players in this cooperation will surely be the countries of the eurozone, such as France, Germany, Italy and Spain, which lead the EU when it comes to the production of military equipment. Cooperation between the armies of some EU countries should go much further than efforts have up to now, such as the European Corps, which was founded in the first half of the 1990s, or the Franco-German Brigade established in the 1980s. This is necessary to increase the combat readiness of European nations' armies, bearing in mind that the US military presence in Europe will surely remain at a relatively low level. Both aspects of increased cooperation are supposed to be possible thanks to the Permanent Structured Cooperation (PESCO) in the field of defence, an initiative initiated at the EU summit on 22nd June 2017 and is enshrined in EU law, and whose founding was supported by the vast majority of member states.⁸

Brexit as catalyst for change

Britain's decision to leave the EU has been, to quite an extent, a catalyst for both processes, i.e. the revitalisation of military cooperation and the deepening of the eurozone, which were hindered due to objections, or at least unwillingness, on the part of London. In particular, European cooperation in military affairs was made difficult by Great Britain, which was afraid that deepened military cooperation within the EU might lead to transatlantic bonds, and thus NATO,⁹ being weakened. In the case of the euro, Great Britain – one of the key players in the EU and whose opinion Germany and France have had to reckon with – might at the very least have delayed accepting a decision which might have resulted in greater distance between the eurozone and the other member states. For countries outside the eurozone, Britain's membership of the EU was to some extent a guarantee that the EU would not have two "emanations", i.e. a Union *de jure* and a Union *de facto* (the eurozone).

Immigration as a shared challenge

Europe will in the foreseeable future remain a continent of immigration. In comparison with today's situation, this process may even increase not only due

7. To find out more about the Fund, see Sophia Besch, *What future for the European Defence Fund?*, 28th June 2017, <http://www.cer.eu/insights/what-future-european-defence-fund>.

8. <http://www.consilium.europa.eu/pl/press/press-releases/2017/11/13/defence-cooperation-23-member-states-sign-joint-notification-on-pesco/>.

9. *Brexit opens door for EU military technology fund*, "Financial Times", 15th May 2017, <https://www.ft.com/content/c149c4b4-3891-11e7-821a-6027b8a20f23?mhq5j=e5>.

to the outbreak of new military conflicts that lead to new waves of refugees, but also due to climate change resulting in rapid migrations from Africa and Asia. Because of this, it will be necessary to take joint action within the EU, action based on a more just allocation of arriving refugees than that previously carried out, and also on granting significant financial help to receiving countries that take them in. Due to demographic reasons, immigration – from Muslim countries, among others – will be necessary for all EU member states, including those that are against accepting refugees (e.g. Poland) or migrants in general (e.g. Hungary).¹⁰ Actions within the EU will not be concerned with stopping immigration, including the inflow of refugees to the EU, but with gaining as much control as possible over this phenomenon and making all member countries take joint action.¹¹

The EU as a community of values

The question of shared values within the EU is gaining fundamental importance, as was underlined by Jean-Claude Juncker in his speech last year on the state of the Union.¹² There are at least two reasons for this which have a direct influence on relations between Poland and the EU. Firstly, problems with the rule of law and the independence of the judiciary in one member state make it difficult, or more precisely impossible, for various Union policies to function cor-

rectly, including the single market. The second reason is that increased populism in many member states is a threat to liberal democracy: this has already become a reality in Hungary and Poland, countries that are openly moving towards authoritarianism. This is why the European Commission and other European institutions, including the European Council and the European Parliament (EP), have taken action against Poland on the grounds of Polish authorities breaching the rule of law: in January 2016, for the first time in the history of the European Union, the European Commission began the procedure relating to the rule of law, which in December 2017 led to triggering Article 7 of the Treaty on European Union.

Elections in Poland

Of key importance to Poland's relations with the EU is who will rule Poland after the next parliamentary elections in 2019, and presidential election in 2020. The results of both elections are an open question, even though opinion polls currently suggest another term for PiS and the re-election of president Andrzej Duda. If PiS wins the parliamentary election, a lot depends on the scale of their victory. Three variants are possible: a coalition government (probably with the Kukiz '15 movement), further government with an absolute majority, or government with just a constitutional majority, which seems the least probable possibility. If the opposition wins the next election, one thing is certain – the future government will be a coalition government. An open question remains only how broad the coalition will be. It would probably have to include the current parliamentary opposition (PO, Nowoczesna, PSL) but also leftist parties which are currently outside of the parliament, and still it would have only a slight majority in the Sejm.

Public mood regarding the EU

Very high public support for Poland's membership of the EU, which continuously exceeds 80 per cent, is misleading.¹³ Similarly, the significant support for Poland's further deep integration within the EU and Poland's participation in it does not correctly reflect the attitude of the Polish people to the changing Union.¹⁴

10. The case has been clear to demographers for years. See for example the 2011 publication by Eurostat, Giampaolo Lanzieri, *Fewer, older and multicultural? Projections of the EU populations by foreign/national background*, <http://ec.europa.eu/eurostat/web/products-statistical-working-papers/-/KS-RA-11-019?inheritRedirect=true&redirect=%2Feurostat%2Fweb%2Fpopulation-demography-migration-projections%2Fpublications>

11. See the report *Sharing responsibility for refugees and expanding legal immigration* published in 2017 within Mercator Dialogue on Asylum and Migration, <https://www.ceps.eu/publications/sharing-responsibility-refugees-and-expanding-legal-migration>.

12. „Europe is more than just a single market. More than money, more than a currency, more than the euro. It was always about values... The rule of law is not optional in the European Union. It is a must. Our Union is not a State but it must be a community of law.” http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm.

13. „In April 2017 it reached as much as 88 per cent. See *Jakiej Unii chcą Polacy?* CBOS 50/2017, April 2017, p. 2.

14. Exactly half of Poles are in favour of Poland belonging to a group of countries that closely cooperate with each other. 35 per cent support the idea that Poland should loosely cooperate with other countries in the EU. Only 4 per cent think that Poland should leave the EU and 12 per cent have no opinion (ibid. p. 9). 48 per cent, on the other hand, think that Europe should integrate even more, and only 24 per cent are of the opinion that European integration has already gone too far. 20 per cent are ambivalent and 8 per cent are not able to take a stand (ibid. p. 3).

A key matter is that Poles have a very negative opinion on the two questions that are fundamental to the EU's future – the eurozone and refugees. Almost three quarters (72 per cent) are against Poland accepting the common currency, while only little more than one fifth are in favour of it (22 per cent).¹⁵ The results of opinion polls on accepting refugees from Islamic countries are similar: 70 per cent of Poles are against and 25 per cent are for it.¹⁶

An attack on liberal democracy

From the perspective of the last two years we can see the consequences of the government's and the president's actions to weaken liberal democracy in Poland. They did this by taking control of state media, liquidating the civil service, subjugating the Constitutional Tribunal, even to attempting to take control of the whole judiciary.¹⁷ Many things suggest that the government will further seek to destroy liberal democracy, proof of which is that in December 2017 President Andrzej Duda signed bills on the Supreme Court and the National Council of the Judiciary, both of which are contradictory to the Polish Constitution and the rule of law. This attack on liberal democracy

15. Ibid., p. 11.

16. See *Oczekiwania pod adresem polskich polityków w związku z kryzysem migracyjnym w UE*, CBOS 65/2017, May 2017, p. 2. For more on the attitude of Poles to the EU, see Adam Balcer, Piotr Buras, Grzegorz Gromadzki, Eugeniusz Smolar, *Polish views of the EU: the illusion of consensus*, Stefan Batory Foundation, January 2017, http://www.batory.org.pl/upload/files/pdf/rap_otw_eu/Polish%20views%20of%20the%20EU.pdf.

17. See Adam Balcer, Piotr Buras, Grzegorz Gromadzki, Eugeniusz Smolar, *In a clinch. The European policy of the PiS government*, Stefan Batory Foundation, September 2017, http://www.batory.org.pl/upload/files/pdf/rap_otw_eu/In%20a%20clinch-report.pdf.

18. See Adam Balcer, Piotr Buras, Grzegorz Gromadzki, Eugeniusz Smolar, *Change in Poland, but what change? Assumption of Law and Justice party foreign policy*, Stefan Batory Foundation, May 2016, <http://www.batory.org.pl/upload/files/Programy%20operacyjne/Otwarta%20Europa/Change%20in%20Poland.pdf>.

19. One should note that 35 per cent are in favour of Poland being between the East and West, and 3 per cent are of the opinion that Poland should be a part of the East. See *Globsec Trends 2017. Mixed Messages and Signs of Hope from Central & Eastern Europe*, https://pl.scribd.com/document/349306275/Globsec-Trends-2017-Final-Preview3#fullscreen&from_embed.

20. They were not supported by 50 per cent, though. See *Kto nie lubi "dobrej zmiany"?*, CBOS 115/2017, p. 1.

21. Only 12 per cent were against the vetoes. See *Krajobraz po wetach*, CBOS 112/2017, September 2017, p. 2.

22. Ibid., p. 8.

23. *Kto nie lubi "dobrej zmiany"?*, CBOS 115/2017, p. 2.

has been accompanied by the government's distancing itself from the West. The latter is played off against Poland, or more broadly speaking, Central Europe as a region that has its own truly European identity which is based on a Christianity that is different from that in the West.¹⁸

The extent of social opposition

However, most Polish people identify with the Western World – 45 per cent think that Poland should be part of the West, which will surely weaken the effects of the government's anti-West propaganda.¹⁹ Protests against changes to the judiciary system that took place in many cities in the summer of 2017 were significant, but they were supported by less than half of Poles (42 per cent).²⁰ However, a vast majority (69 per cent) supported President Andrzej Duda's vetoes of the two bills on courts of law that had been passed by PiS.²¹ The opposition demanded that they be rejected (along with a third bill that was eventually signed by the President), as they deemed them unconstitutional. On the other hand, 60 per cent of Poles think that PiS wants to subjugate the judiciary and seize power in Poland completely.²² The Black March, which took place almost one year prior to that (on 3rd October 2016) in protest against plans to tighten the already restrictive anti-abortion law, was supported by 52 per cent of Poles.²³ One can assume that the support for protests will be on a similar level, and it may be even higher if the government continues to govern in an increasingly authoritative way.

3. Four scenarios

The key issue for sketching out the four scenarios of Poland's future relations with the EU is who will govern over Poland in the future. Therefore, the first two scenarios refer to a situation whereby PiS is still in power both before and after parliamentary elections in 2019. The next two assume that the current opposition takes over the government in the elections in 2019 or later. Even though the scenarios have been ordered with the focus on Polish affairs, the other side, i.e. the EU and possible actions by EU institutions against Poland, will also be discussed – presented in a broader con-

text of probable changes within the EU itself. The order in which the scenarios are presented is not accidental, it results from the possible order of their occurrence within almost the next six year.

First scenario – Head-on collision

In the first scenario it is assumed that the Polish government will continue its current policies, which have led to a head-on collision with the EU (as shown by the unprecedented act that was the European Commission's triggering of the procedure provided for in Article 7 of the Treaty on European Union). Over the last two years, the Polish government has not backed away from any of the actions it is accused of regarding the judicial system. Additionally, it has entered into a dispute with the Commission over felling trees in Białowieża Forest and ignored an order to suspend it issued by the European Court of Justice in Luxembourg in June 2017.²⁴ Such an attitude from the government results first of all from the determination of the party's chairman, Jarosław Kaczyński. He has forced through revolutionary changes, the result of which will be the creation of a new political system in Poland that will be a negation of liberal democracy regardless of the consequences it might cause.²⁵

24. The government is trying to argue that the logging is legal as it is conducted for the sake of ensuring public safety..

25. The leader of PiS said on 10th September 2017 the following words: "...one day we shall be able to say that we live in the IV Republic of Poland, that Poland has been repaired [...], that Poland is as we want it to be: a fair Poland, a Poland that is sovereign, free and strong [...]. And I assure you that one day we will live in a Poland where nobody from outside will dare to impose their will on us, that even if we are alone over some matters in Europe, we will be and remain an isle of freedom and tolerance [...]", <http://www.rp.pl/Katastrofa-smolenska/170919928-Miesiecznica-smolenska-Jaroslaw-Kaczynski-Bedziemy-wyspa-wolnosci-i-tolerancji.html>.

26. Unanimity in the European Council votes is necessary at this particular stage, see Barbara Grabowska-Moroz, Małgorzata Szuleka, *Unijna procedura kontroli praworządności – panaceum czy placebo?*, Helsinki Foundation For Human Rights, Warsaw, April 2016, p. 8, http://www.hfhr.pl/wp-content/uploads/2016/05/HFPC_unijna_procedura_kontroli_praworzadnosci.pdf.

27. <http://www.consilium.europa.eu/en/council-eu/voting-system/unanimity/>.

28. The here discussed procedure of checking the observance of the rule of law foresees three rounds of voting. The first round is about determining whether there is "a clear risk of a serious breach by a Member State of the values set out in Article 2". This round takes place in the Council of the European Union and requires a qualified majority. The second round (at which unanimity is necessary) takes place in the European Council and is about determining a serious and persistent breach by a Member State of the values set out in Article 2. Only in the third round, which takes place in the Council of the European Union, is a decision made on imposing sanctions on that Member State. To apply them, a qualified majority is needed. Considerations about Hungary's possible actions refer only to the second and third rounds of voting.

In the next few months one may expect a further escalation in tensions between Poland and the European Commission, particularly in regard to new legislation on the judiciary.

Among members of the Polish government, the conviction will surely prevail that EU institutions are powerless and will have to accept the actions of the Polish government and thus an agreement between Poland and the EU will be reached on conditions set out by Warsaw. What is more, Poland's good economic situation, which probably will not deteriorate at least until the next parliamentary elections in 2019, may additionally encourage the government to maintain a hostile attitude towards European institutions. The Polish government is also counting on Hungary's veto, which would block the imposition of politically the most severe penalty, i.e. being stripped of voting rights in the European Council.

This may be a miscalculation. One may expect a firm stance from European institutions, in particular from the European Parliament and the European Commission but also the European Council. This results from two issues relating to the EU as a community of values as presented in the previous chapter, even if the European Commission and the member states will expect Hungary to veto the proposal that Poland has seriously and persistently been breaching the values laid down in Article 2 of the Treaty.²⁶ In the event of Hungary's veto, which is almost certain, the idea may again be raised of linking the EU's financial help with obeying the rule of law, something which has already been signalled on several occasions.

However, one should not rule out the possibility of silent support from Budapest for the European Commission and a majority of member states in their dispute with Poland. At a key vote in the European Council, where unanimity is necessary, Hungary does not need to support the proposal, it is enough that it abstains, as according to EU rules: "Abstention does not preclude a decision from being taken".²⁷ Later, at the vote on imposing sanctions on Poland, it may well vote against it, but the proposal does not need to be accepted unanimously, as a qualified majority is enough.²⁸

Poland's case is unprecedented. Therefore, one cannot relate it to any other situation so far. However, it seems very probable that the process of assessing Poland will be accelerated in the event that it continues to break the rule of law. The above mentioned vote will probably take place as early as in 2018. Poland being pushed to the sidelines of the EU, caused by Warsaw's self-isolation, will be extremely dangerous to PiS. A considerable section of the public, or maybe even the majority, may see it as troubling on the part of the ruling party which will be dangerous to Poland's future. But still quite a considerable section of society would support PiS. This would lead to an even more severe polarisation in society, even though Polish society is currently already far more deeply divided than ever since 1989. Therefore, one cannot rule out the possibility that PiS might strive for "Polexit", because the situation may spiral out of control.²⁹ Given the necessity to "save face", particularly in front of one's own voters, fierce anti-EU – and at the same time anti-Western – rhetoric will be necessary. In the event of a severe crisis, one cannot rule out the possibility that extremist nationalist circles may attempt to come to power with not inconsiderable public support built above all on open hostility towards the West.³⁰

Second scenario – searching for a *modus vivendi*

The EU will certainly show a readiness to search for agreement due to, among other things, its unwillingness to resort to extreme measures like sanctions. However, Poland would need to show a willingness to change its policies, which would entail

backing away from attacks on liberal democracy, at least partially. This in turn will be something that Jarosław Kaczyński (together with those surrounding him) will not be willing to agree to, because this is the whole point of them hanging onto power. That is why this option is less probable than a head-on crash in the short term, but it cannot be ruled out in the mid- and long-term – particularly when assuming that the EU will pursue a tough policy towards Poland (as described in the first scenario). This tough approach will come up against strong opposition from the liberal part of society, opposition from some in the hierarchy of the Catholic Church (even from conservative bishops who are opposed to destroying the constitutional order and the growth of nationalism and xenophobia), economic difficulties that translate into budget problems and, last but not least, pressure from the USA – even under Trump administration.³¹ An important reason for seeking agreement with the EU will surely be the wish (necessity) to use EU funds. Finding some kind of *modus vivendi* with the EU will not prevent the further marginalisation of Poland in the EU, but Warsaw would avoid being ostracised.

The above scenario must be distinguished from another possibility, i.e. that of the Polish government merely feigning to seek agreement. Currently the government is trying (mainly for domestic purposes but also at the EU forum) to argue that the changes introduced to the judiciary system are compliant with European standards. It also argues that elements of them are present in other member states, and that the actions of the EU towards Poland (in particular of the European Commission) are unjustified. In the future one can expect to see proposals for ostensible concessions regarding the judiciary, but ones which will nevertheless still contravene the Polish constitution and the rule of law. Such actions of the Polish authorities should be seen as part of the first scenario, i.e. the head-on crash. They will undoubtedly be dismissed by European institutions, but at least they might let Warsaw play its game to some extent in order to gain time. However, it cannot be ruled out that the EU will let Poland act like this due to inertia in European institutions, which will not be able to take decisions. In the event of both scenarios regarding the future fate of the PiS government, it needs to

29. Currently, PiS politicians unequivocally dismiss the possibility of Poland leaving the EU. See for example Prime Minister Beata Szydło's statement, <http://wiadomosci.dziennik.pl/polityka/artykuly/557721,beata-szydlo-polexit-bruksela-unia-europejska.html>.

30. Even today these circles play quite a significant role in the movement Kukiz '15 in particular, and its meaning may continue to rise in the coming years. It cannot be ruled out that some PiS politicians will also be interested in such a development.

31. PiS government has been criticised by the spokesperson for the United States Department of State Heather Nauert: "[...] we are concerned by the Polish government's continued pursuit of legislation that appears to limit the independence of the judiciary and potentially weaken the rule of law in Poland. A strong and healthy democracy in Poland is a vital component of U.S.-Polish relations. We continue to stress the importance of the rule of law in Poland and we continue to watch the situation there closely", reads an extract from a briefing on 21st July 2017, <https://www.tvn24.pl/wiadomosci-ze-swiate,2/cale-oswiadczenie-rzeczniczki-departamentu-stanu-usa-w-sprawie-polski,758750.html>.

be assumed that Poland will not agree to accepting refugees from Islamic countries, which will additionally inflame relations with European institutions. Of course, any actions to join the eurozone will also be out of the question. However, membership of PESCO regarding defence will be used to hinder it or even question it as being dangerous to NATO. Changing the Prime Minister (December 2017) and the Minister of Foreign Affairs (January 2018) probably will not lead to a shift in the European policy of PiS, which is above all dependent on its domestic policy. The latter is connected with introducing a non-liberal political system by, among other things, passing laws that breach the rule of law. Prime Minister Mateusz Morawiecki and minister Jacek Czaputowicz will strive for better relations with EU institutions (particularly the EC) than was the case with their predecessors, while continuing current policy at the same time. Their presence as Prime Minister and Minister of Foreign Affairs may also make the occurrence of the second scenario more probable.

Third scenario – an attempt to return to the situation before the PiS government

This is the first of the two scenarios based on the current opposition taking power. In this event this would happen in parliamentary elections in 2019. This means a significant (or even fundamental) improvement in relations with EU institutions and the main member states, Germany and France in particular. An important element in the scenario would be Poland's actual participation in military cooperation, but with the reservation that NATO needs to keep the most important role when it comes to hard security, and that EU cooperation in this field could not take place at its expense, but would need to add value to the transatlantic relationship. Shared EU member state actions in military areas is intended to strengthen the potential for the defence of EU member state territories and it should not be exclusively (above all) aimed at missions outside

the EU, e.g. in Africa. Such a position as held by Poland may encounter a negative reception in some of the member states of the EU which are located far from Russia, like for example France. Participation in military cooperation will also be difficult due to one more reason – the necessity to regear the Polish arms industry from autarchy to increased cooperation with armament companies from other member states, which will surely mean the necessity to give up some superfluous slack.

One key problem for Polish-EU relations in this scenario will be the lack of political will to intensify actions to join the eurozone. The government is bound to come across a realistic obstacle – its lack of a constitutional majority in the Sejm (at least in the parliamentary 2019–2023 term), which is necessary to introduce amendments to the constitution that will be necessary for Poland to adopt the euro. PiS itself will have a blocking minority, or even more so PiS together with the equally Eurosceptic Kukiz '15 movement. This is why there is little probability that the government will conduct intensive social action with the aim of changing the Polish people's highly negative attitude to a shared currency. Due to public mood the authorities will reluctantly cooperate as regards the Union's migration and refugee policies. There will be a change in rhetoric in comparison with the PiS government, but there will be too few concrete actions, though one cannot rule out that a symbolic number of refugees from Islamic countries will be accepted.³²

Such an attitude will *de facto* mean that the new government will remain a "soft" PiS regarding the euro and refugees. An attempt to return to the politics of the years 2007–2015 would result in a much worse position for Poland in the EU in comparison with the situation before the PiS government. This would be due to changes within the very Union itself, which will be quite different from that of a decade ago.

Fourth scenario – joining the mainstream of integration

This scenario assumes Poland joining the eurozone as quickly as possible, real cooperation in

32. The authorities might for example use the idea of humanitarian corridors, as suggested by the Polish Catholic Church, in the hope that having the support of the leadership of the Catholic Church might diminish society's opposition and soften the attack from PiS and Kukiz '15.

migration and asylum policies and entering active military cooperation (to a deeper extent than in the third scenario). This would involve a breakthrough in the parties' way of thinking, and as a consequence in the approach of the current opposition.

This would surely stir up strong objections not only from PiS and Kukiz '15 but also from a vast section of society. Voters who are against adopting the euro and accepting refugees will not disappear, but will no doubt become a firm fixture in the political landscape. Winning the support of the majority of the public for joining the eurozone and letting in refugees will undoubtedly be a very difficult but still possible task. A lot depends on whether today's opposition started such actions only after winning the election (a worse solution) or earlier, starting "now" (a better solution).

As has been said before, it will be impossible for today's opposition to have a constitutional majority in the next Sejm (2019–2023) so, due to formal reasons (the necessity to introduce amendments to the constitution, as has been said before), it will be impossible to enter the eurozone. A difficult issue will be that of regaining the trust of Poland's EU partners (the EC, the member states, the EP). Even if they strongly support the new government in Warsaw, they may be afraid of a "recidivist" anti-European PiS government returning, or another group with a similar range of views.³³

The probability that the fourth scenario will materialise increases in the event of a severe crisis caused by a PiS government, which was mentioned in the first scenario. Such a crisis might bring completely different results: on the one hand, an authoritarian extremely anti-European government as mentioned in the first scenario. On the other hand there could be a rapid acceleration of the process of Poland joining the mainstream of European integration. Even with the support of European partners and a big dose of trust from them, the process of

joining the eurozone will have to last at least several years. This means that Poland's membership of the zone can be expected not earlier than 2025 (an optimistic scenario), i.e. sixteen years after Slovakia and ten years after Lithuania.

An additional problem for any pro-European actions on the part of the new government, as presented both in the third and particularly the fourth scenario, would be the re-election of President Andrzej Duda or another PiS candidate in the presidential election of 2020. A president from the current ruling political group could easily block pro-integration initiatives by regularly using a veto.

4. Final remarks

From among the four scenarios the most probable seems the first one – that of a **head-on collision with the EU** with consequences that are hard to predict, as the situation is unprecedented in the history of the European Community. The second scenario (that of seeking a *modus vivendi*) is less probable. Even less so is the third scenario – **an attempt to return to the situation that existed before the PiS government**. All these scenarios mean that Poland will remain on the peripheries of European integration for a long time. However, the third scenario would lead to a fundamental improvement in relations with the EU.

Only the fourth scenario (which is more probable than the third one, but much less probable than the first or even the second one) suggests a possibility of **belonging to the mainstream of integration**. For this to happen it would not be enough for there to be a confluence of factors like, for example, PiS losing the parliamentary elections in 2019 or Andrzej Duda (or another PiS candidate) losing the presidential election in 2020, as it is this particular political circle (even more so with Kukiz '15) that would have the already mentioned blocking minority in the Sejm. Paradoxically, the biggest chance to join the *de facto* Union, which would be based on the euro, would not be the victory of the opposition in the elections in 2019, but further rule by PiS, which would end in a deep crisis in the first few years of the next decade, as mentioned in the first scenario. A deep

33. The European Commissioner Elżbieta Bieńkowska pointed out that: "We will never have as strong a negotiating position as we used to have when we joined the EU. We'll always be treated with suspicion, as we are undermining the Union's values and this poses a bigger threat to the EU than Brexit", <http://efni.pl/elzbieta-bienkowska-o-bezpiecznej-przyszlosci-polski-ue/>.

shock is exactly what is needed, one which would totally change the attitude of society towards the evolving Union. However, this does not mean that political parties which want deep Polish integration in the Union should wait. Even today it is necessary to significantly or even completely change their way of thinking on European matters and to get rid of their fear of the public mood being unfavourable to both membership of the eurozone and accepting refugees, or more broadly speaking - immigrants, particularly from Islamic countries.

Of course, the four presented scenarios do not exhaust the possible variants for the development of Poland's relations with the EU. One cannot rule out others which currently seem quite improbable, e.g. the current opposition winning a constitutional majority in the 2019 elections or other scenarios which are too difficult to predict.³⁴

One should also remember that there are at least two extra factors that push Poland even further towards the peripheries of the EU. The first one is its unwillingness to take part in the energy revolution, one of the main causes of which is the climate policy of preventing global warming. Poland will probably continue to remain in the rearguard of that process, irrespective of the political provenance of its government. The second factor is the far-reaching conservatism of most of the political elite and Polish society in cultural matters, like abortion or attitudes towards the LGBT community, which means the cultural chasm between the majority of EU countries and Poland will persist.

Looking through the prism of the three paradigms of relations between Poland and the EU (discussed at the beginning of this text) over the last quarter of a century, many things suggest that the current paradigm of **regress in integration** is here to stay for a long time. Especially because the first two scenarios that assume further government by PiS after 2019 fit this paradigm exactly. A possible change of government in 2019 most probably will not bring much more than a transition to **integrational stagnation**. The possibility of the paradigm

of **prointegrational determination** – which reigned at the time of Poland's efforts to join the EU – occurring once more is from today's perspective very small. Years of absence from the mainstream will surely mean a growth in the distance between Poland and the *de facto* Union (the eurozone), which will be hard to reduce in the event of a fundamental pro-European political change. A lot will depend on the pace of changes in the eurozone which Poland will have no influence on whatsoever.

34. Both these categories are referred to as the so called black swans. See Nassim Nicholas Taleb, *The Black Swan. The Impact of the Highly Improbable*, Random House 2007.

About the Author

Grzegorz Gromadzki is an independent expert on Poland's European integration and Poland's Eastern policy. He used to work as an expert at The Marek Karp Centre for Eastern Studies (OSW) as well as at the Stefan Batory Foundation.

Review:

dr Michał Natorski, PhD, Maastricht University

Translation & Proofreading:

Alasdair Cullen

Imprint

Friedrich-Ebert-Stiftung, Representation in Poland
Podwale 11 | 00-252 Warszawa

Responsible person:
Knut Dethlefsen | Director of the FES Office in Warsaw
Tel. +48 22 831 78 61
<http://www.feswar.org.pl>

Orders:
biuro@feswar.org.pl

Commercial use of the materials issued by Friedrich-Ebert-Stiftung (FES) is forbidden without the prior written consent of the Foundation.