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## The Polish "Good Change" What does it mean for relations with Germany and the rest of Europe?

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Under the current Polish government, Polish-German relations seem to be deteriorating. However, the divergence of national interests is not the core of the problem. The main reason for this development is the fact that a nationalistic, right-wing Polish government defines its identity in opposition to Germany, aspiring to copy the Hungarian model of majoritarian illiberal democracy. Due to their size and the significance of the bilateral relationship in the EU, divergence between Poland and Germany will not be limited to a bilateral dimension, as it will also carry implications for the rest of Europe. And on top of that, the vote for Brexit will likely cause the current lukewarm attitude of Poland's new government towards the European Union (EU) to shift to open Euroscepticism.

### BACKGROUND

The Law and Justice Party, immediately after winning a parliamentary majority in the October 2015 elections, launched a policy called "Good Change" which closely follows the Hungarian model of majoritarian illiberal democracy identified by Freedom House as a gradual authoritarian slide.

The "Good Change" began with a law that seriously limited the competences of the Polish Constitutional Court. According to the ruling of the Constitutional Court, this new law violates the constitution on several points. However, the Polish government has refused to implement the Court's ruling.

The "Good Change" policy was met with a strong reaction from EU institutions. In January 2016 the European Commission launched, for the first time ever, a structured dialogue with Poland under the Rule of Law Framework. In April 2016, the European Parliament voted with an overwhelming majority on a resolution calling the Polish government to implement the verdict of the Constitutional Court. The Law and Justice Party managed to gather only 20% of votes against the resolution, mostly from other nationalistic and Eurosceptic parties which are outside the European mainstream. The main defenders of the Polish government were the British Conservative Party and the Hungarian Fidesz. Finally, on 1 June 2016, the European Commission issued a negative opinion on the Rule of Law situation in Poland.

Even the United States has distanced itself from the Polish government, as it did in the case of Hungary. The internal politics of the current Polish government was labelled anti-democratic by prominent US Senators (e.g. John McCain, the Republican presidential candidate in 2008) and former US President Bill Clinton.

Certainly, some of the criticism directed towards the new Polish government was unfair and exaggerated (a *coup d'état*, comparisons to the communist regime or Putin), yet the Law and Justice Party is vehemently rejecting any criticism launched against it. Indeed, the Polish ruling elite reacted harshly to Western critics, in a way that would have been unthinkable just a couple of years ago.

The German media are particularly strong in their criticism of Poland's Good Change, while key German politicians, including Angela Merkel, Frank-Walter Steinmeier, Sigmar Gabriel or Wolfgang Schäuble, have shown

restraint and refrained from publicly criticising the Polish government. Yet, the Law and Justice Party has focused its counteroffensive specifically on Germany. Their preoccupation with Germany stems from the fact that Jaroslaw Kaczynski, the head of the Law and Justice Party, perceives Germany as the main "other", in opposition to which he is trying to rebuild the Polish national identity. Not accidentally, a radical deterioration of Polish-German relations also occurred during the previous period when the Law and Justice Party was in power (2005-2007).

Between 2007 and 2015, Poland and Germany experienced a considerable enhancement of cooperation in all spheres. Poland strengthened its status as a key economic and political partner of Germany in the EU behind France and the United Kingdom, and almost on an equal footing with Italy. Yet, the significance of Poland for Germany is still insufficiently recognised in both countries and in Europe. Poland's share in Germany's trade turnover has increased substantially in recent years and is approaching 5%.<sup>1</sup> Poland has become Germany's seventh most important trade partner in the world and the fifth in the EU; Poland is about to surpass Italy as it is close to becoming Germany's fourth main trading partner in the EU. German foreign direct investment (FDI) in Poland is also just slightly smaller than German FDI in Italy. German investments in Poland have contributed significantly to the strong performance of the German industrial sector during the global economic crisis. Poland's favourable conditions for doing business provided German companies with competitive advantages on the global stage. At the same time, Polish companies began playing a stronger role in Germany's value chains as sub-contractors of the German industrial machine.

Social ties between Poles and Germans are also very well developed. At least 15% of the German population historically originate from Poland.<sup>2</sup> Every day, hundreds of thousands of Poles and Germans cross the border between the two countries. Around 20% of Poles are fluent in German, the highest share after the Dutch among EU states.

The increasing ties also resulted in a substantial improvement of mutual perceptions of both nations. For instance, according to opinion polls conducted regularly since the beginning of the 1990s, sympathy of Poles towards Germans reached the highest level (almost 45%) and antipathy dropped to the historical lowest level (slightly above 20%).<sup>3</sup>

However, the positive attitude of Poles towards Germans remains fragile and even started to curdle this year. The Polish-German relationship has not managed to cross the Rubicon and move to the next stage. A key reason for this relates to the fact that the previous Polish government was not able to convince its public that the country should join the eurozone. Despite very close economic ties, many Polish citizens mostly identify the common currency with problems related to the 'eurocrisis' and not with potential economic benefits. Undoubtedly, Polish accession would have been a strong sign of confidence in the common currency, bringing a large and very dynamic economy into the euro area for the first time since 1999. It could have also encouraged other Central European states to join the common currency.

## STATE OF PLAY

The substantial increase of political, economic and social ties between Poland and Germany was met with serious anxiety in the leadership of the Law and Justice Party. Germany occupies a central negative place in Jaroslaw Kaczynski's ideological worldview. In his attitude towards Germany, Kaczynski is an inheritor of Roman Dmowski, the father of Polish nationalism who perceived Germans as eternal and existential enemies of Poles. In his political statements, Kaczynski pays much more attention to Germany than Russia. He perceives Germany as a bigger threat to Polish national identity than Russia because of its civilisational attractiveness and economic potential. According to Kaczynski, Germany constitutes a multidimensional "soft" threat linked to multiculturalism and civic nationalism as opposed to traditional Polish culture based on ethnic nationalism and conservative Roman-Catholicism.<sup>4</sup>

At the same time, Kaczynski's attitude towards Germany is full of contradictions. For instance, while feeling threatened by German power, he considers Germany as an exemplification of the decay of Europe. The declarations of German politicians, including Angela Merkel's statement that "Islam belongs to Germany", or the *Willkommenskultur* to refugees are perceived very negatively by Kaczynski. According to him, Germany pushes for the relocation of Muslim refugees to Poland in order to water down the Polish ethnic homogeneity and to impose multiculturalism on the country.

The Law and Justice Party believes that an economic symbiosis between Poland and Germany is a blind alley and a recipe for Poland to fall into the middle income trap. Poland will thus get stuck at a level of economic development below the one of Western European countries, thereby petrifying Poland's status as Germany's economic subcontractor and a reservoir of cheap labour. Moreover, they believe that the asymmetric character of

this relationship is transforming Poland into Germany's political and economic vassal.<sup>5</sup> Law and Justice politicians do not recognise that the Czech Republic established an even closer economic relationship with Germany and managed to rapidly increase the innovativeness of its economy, leaving Poland far behind.<sup>6</sup>

Most importantly, Kaczynski perceives Germany as the main threat to Poland's sovereignty, simultaneously conflating his own party interests and Polish national interests in external affairs. The internal consolidation of the Law and Justice Party's power, achieved through a severe limitation of judicial authority is treated as a precondition to strengthen Polish influence on the international arena. Therefore, the Law and Justice Party considers any external criticism of its government policy as an attack against Poland's sovereignty and by default its position in the world.

On the other hand, Germany is very sensitive to the issue of rule of law (*Rechtstaat*). This is exemplified by the crucial role played by the Federal Constitutional Court in the German political system. As the Polish-German Professor Klaus Bachmann noticed, "an attempt to paralyse its own Constitutional Court is something no German will ever understand. No one can imagine what would happen if a German government dared to do that. This is even hard to imagine that any government could do that."<sup>7</sup> In other words, the "Good Change" is viewed in Germany as a worrisome anomaly and puts Poland and Germany almost on an inevitable collision course.

In order to stoke anti-German fears, Kaczynski often exploits historical arguments. He declares that Germany wants to subdue Poland because it dreams of the territories lost to Poland after the Second World War. Someday, Kaczynski believes Germany might realise its dreams and "we will wake up in a smaller Poland".<sup>8</sup> Therefore, for Kaczynski, German investments in Poland pose a direct threat to the country's security. Hence, it should come as no surprise that Kaczynski stated that the 2015 elections brought the liberation of Poland from Germany's tutelage. Until then, Poland was a German colony.<sup>9</sup> According to him, politicians in the Polish opposition accept Poland's submission to German domination due to their own personal interests.

Jaroslaw Kaczynski has compared the German media criticism of his party to the Soviet intervention in Hungary in 1956 and the current Germany to the Weimar Republic, which evolved into the Nazi regime.<sup>10</sup> Kaczynski has also declared that the German government stands behind the media criticism. His Minister of Internal Affairs was even more outspoken in attacking German politicians. He did not allow them to criticize Poland, recalling that German state officials destroyed Warsaw in 1944, killing 50,000 Poles in three days in one city district.<sup>11</sup> In the Law and Justice Party's discourse, Germany is quite often presented as a traditional ally of Russia who, together with Moscow, wants to divide Poland – as had happened several times in the past. In fact, when Kaczynski was in the opposition, he often referred to the risk of Poland as a German-Russian condominium.

The negative attitude of the Law and Justice Party towards Germany reverberates on the Polish government's views of the EU. The increase of German leverage in Europe after 2008 strengthened the identification of the EU with Germany in the Law and Justice Party discourse. It believes that Germany is also standing behind the EU criticism of the Polish government. In order to counterbalance the German predominance in the Union, at the beginning of 2016, Poland announced that the United Kingdom will replace Germany as the most important partner for Poland in the EU. This replacement was strongly related to a particular vision of Europe shared with Eurosceptic forces in the UK.<sup>12</sup> According to the current Polish government, EU integration went too far and should be reversed. The EU should be turned into a very loose association of very strong sovereign nation states – a vision of Europe not widely shared in Germany.

## PROSPECTS

The importance of the Polish-German relationship for the EU and the worrying internal trajectory of Poland, the sixth largest member state of the EU, mean that the exacerbation of tensions between Berlin and Warsaw will likely have wider European implications. A deep deterioration of relations should be treated as a probable scenario as the Law and Justice Party appears very determined to follow Victor Orbán's path towards illiberal democracy.

The EU will put the Polish government under pressure through the Rule of Law mechanism and the European Parliament is planning to pass the next resolution concerning the situation in Poland.<sup>13</sup> Yet, this strategy may not work. The Polish parliament has already passed or is going to endorse several laws (including a police bill, anti-terrorist law, farmland bill, media law, judiciary law, law on prosecutor's office), which the Polish ombudsman is submitting to the Constitutional Court and evaluating as unconstitutional. As a consequence, the decline of Polish democracy could become so serious that key German and other European politicians will be under pressure to decide on how to react against the further "Orbanisation" of Poland.

Kaczynski holds that Poland can afford to confront Germany and others because it is about four times stronger than Hungary in terms of the size of its economy and population, and Berlin and Brussels will be preoccupied with many other challenges. At the same time, since Poland is economically and politically more important than Hungary, there is a risk that the "Orbanisation" of the country could be an additional source of inspiration for other populists in the EU.

Moreover, the withdrawal of the UK from the EU may have serious implications for the scale of Polish-German tensions. The current Polish government saw Britain as its main ally to counterbalance Germany's "domination" in the EU. Hence, a Brexit could lead to an even more substantial decrease of EU attractiveness for the current Polish government. The Law and Justice Party is likely to move towards more Eurosceptic positions and the idea of following the UK path may even appear on the political agenda of the Law and Justice Party. In this case, Poland might entrench its status as an *enfant terrible* – one of the main troublemakers – through gradually marginalising and isolating itself. Such a development would not be in the interest of Poland nor of the EU, given the many crises with which Europe is already struggling to cope.

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*Disclaimer: The views expressed in this Policy Brief are the sole responsibility of the author.*

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